

IHL BIBLIOGRAPHY

4th Quarter 2014

International Humanitarian Law

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



ICRC



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Introduction

The International Committee of the Red Cross Library

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

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

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

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

Origin and purpose of the IHL bibliography

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

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

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

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

How to use the IHL Bibliography

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

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

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

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

Access to document

Whenever an article is electronically available in full text, a link allows you to access the document directly. Some links only work from within ICRC HQ premises such as the library. Some links require an ICRC login. All documents are available for loan at the ICRC Library. “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)

Adapter les Commentaires des Conventions de Genève et de leurs Protocoles additionnels au XXI^e siècle

Jean-Marie Henckaerts. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/4, p. 375-380
<http://www.cid.icrc.org/library/docs/DOC/irrc-888-henckaerts-fre.pdf>

L'indérogeabilité au service de la défense de la dignité humaine

Delphine Olivia Hayim. - In: Le concept d'indérogeabilité en droit international : une analyse fonctionnelle des normes indérogeables : entre unité et contingence. - Saarbrücken : Presses Académiques Francophones, 2014. - p. 210-546

The law regulating cross-border relief operations

Emanuela-Chiara Gillard. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 351-382
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-gillard.pdf>

Order within anarchy : the laws of war as an international institution

James D. Morrow. - New York : Cambridge University Press, 2014. - XIV, 354 p.

II. Types of conflicts

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

Active and passive precautions in air and missile warfare

by Marco Sassòli and Anne Quintin. In: Israel yearbook on human rights Vol. 44, 2014, p. 69-123

The applicability and application of international humanitarian law to multinational forces

Tristan Ferraro. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 561-612
<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-ferraro.pdf>

Applicability test of Additional Protocol II and common article 3 for crimes in internal armed conflict

Noëlle Quénivet. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 31-60
<http://tinyurl.com/39259-Quenivet>

The definition of internal armed conflict in asylum law : the 2014 Diakité judgment of the EU Court of Justice

Céline Bauloz. In: Journal of international criminal justice Vol. 12, no. 4, September 2014, p. 835-846
<http://icj.oxfordjournals.org/content/12/4/835.full.pdf>

How does the involvement of a multinational peacekeeping force affect the classification of a situation ?

Eric David and Ola Engdahl. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 659-679
<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-david-engdahl.pdf>

International humanitarian law in the maritime context : conflict characterization in judicial and quasi-judicial contexts

Rob McLaughlin and Dale Stephens. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 103-132

Jus ad bellum and jus in bello considerations on the targeting of satellites : the targeting of post-modern military space assets

by Michel Bourbonnière and Ricky J. Lee. In: Israel yearbook on human rights Vol. 44, 2014, p. 167-217

The Mavi Marmara incident and the application of international humanitarian law by quasi-judicial bodies

Russell Buchan. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 479-503

The protection of civilians and civilian objects from the effects of air and missile warfare : are there any differences between the immediate battlefield and the extended battlefield ?

by Charles H.B. Garraway. In: Israel yearbook on human rights Vol. 44, 2014, p. 125-144

Reflections on the Colombian case law on the protection of medical personnel against punishment

Ekaterina Ortiz Linares and Marisela Silva Chau. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 251-265
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-ortiz-linares-chau.pdf>

Reflections on the law of neutrality in current air and missile warfare

by Peter Hostettler. In: Israel yearbook on human rights Vol. 44, 2014, p. 145-166

Second annual transatlantic workshop on international law and armed conflict : report : July 17-18, 2014 at Pembroke College, University of Oxford

prepared by Gilles Giacca and Eleanor Mitchell. - [S.l.] : [s.n.], 2014. - 13 p.

States' obligations to mitigate the direct and indirect health consequences of non-international armed conflicts : complementarity of IHL and the right to health

Amrei Müller. In: International review of the Red Cross Vol. 95, no. 889, spring 2013, p. 129-165
<http://www.cid.icrc.org/library/docs/DOC/irrc-889-muller.pdf>

Targeting in air warfare

by Kenneth Watkin. In: Israel yearbook on human rights Vol. 44, 2014, p. 1-67

Vulnerabilities in detention : selected issues

Ramin Mahnad, Françoise Hampson. In: Collegium No 44, Automne 2014, p. 17-35
https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Defensive killing

Helen Frowe. - Oxford : Oxford University Press, 2014. - XII, 227 p.

IV. Multinational forces

Accountability and protection of UN peacekeepers in light of MONUSCO

Tomas Macura. In: Die Friedens-Warte : journal of international peace and organization Bd. 88, H. 3-4, 2013, p. 143-156

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<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-david-engdahl.pdf>

International humanitarian law interoperability in multinational operations

Marten Zwanenburg. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 681-705

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-zwanenburg.pdf>

A NATO perspective on applicability and application of IHL to multinational forces

Peter M. Olson. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 653-657

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-olson.pdf>

Observance of international humanitarian law by forces under the command of the European Union

Frederik Naert. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 637-643

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-naert.pdf>

Perspective on the applicability and application of international humanitarian law : the UN context

Katarina Grenfell. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 645-652

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-grenfell.pdf>

The protection of civilians mandate in UN peacekeeping operations : reconciling protection concepts and practices

Haidi Willmot and Scott Sheeran. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 517-538

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-willmot-sheeran.pdf>

Some controversies of detention in multinational operations and the contributions of the Copenhagen Principles

Bruce 'Ossie' Oswald. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 707-726
<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-oswald.pdf>

V. Private entities

Status of NGOs in international humanitarian law

by Claudie Barrat ; foreword by Georges Abi-Saab. - Leiden ; Boston : Brill Nijhoff, 2014. - XIII, 384 p.

VI. Protection of persons

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

The African war refugee : using IHL to interpret the 1969 African Refugee Convention's expanded refugee definition

Tamara Wood. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 179-203

Ambulance and pre-hospital services in risk situations

ICRC. - Geneva : ICRC, November 2013. - 51 p.
<http://www.cid.icrc.org/library/docs/DOC/icrc-002-4173.pdf>

Attacks on medical missions : overview of a polymorphous reality : the case of Médecins Sans Frontières

Caroline Abu Sa'Da, Françoise Duroch and Bertrand Taithe. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 309-330
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-sada-duroch-taithe.pdf>

Can the incidental killing of military doctors never be excessive ?

Laurent Gisel. In: International review of the Red Cross Vol. 95, no. 889, Spring 2013, p. 215-230
<http://www.cid.icrc.org/library/docs/DOC/irrc-889-gisel.pdf>

Causation in international protection from armed conflict

Hélène Lambert. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 57-78

The definition of internal armed conflict in asylum law : the 2014 Diakité judgment of the EU Court of Justice

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Exclusion is not just about saying 'no' : taking exclusion seriously in complex conflicts

Geoff Gilbert. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 155-175

Expanding refugee protection through international humanitarian law : driving on a highway or walking near the edge of the abyss ?

Stéphane Jaquemot. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 79-98
<https://ext.icrc.org/library/docs/ArticlesPDF/39219.pdf>

A human rights approach to health care in conflict

Katherine H. A. Footer and Leonard S. Rubenstein. In: *International review of the Red Cross* Vol. 95, no. 889, Spring 2013, p. 167-187
<http://www.cid.icrc.org/library/docs/DOC/irrc-889-footer-rubenstein.pdf>

Inclusion of refugees from armed conflict : combatants and ex-combatants

Eric Fripp. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 128-154
<https://ext.icrc.org/library/docs/ArticlesPDF/39221.pdf>

Issues relating to the use of civilian "human shields"

by **Yoram Dinstein.** In: *Israel yearbook on human rights* Vol. 44, 2014, p. 273-291

The law regulating cross-border relief operations

Emanuela-Chiara Gillard. In: *International review of the Red Cross* Vol. 95, no. 890, Summer 2013, p. 351-382
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-gillard.pdf>

Laws of unintended consequence ? : nationality, allegiance and the removal of refugees during wartime

David James Cantor. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 345-372

The legal framework applicable to insecurity and violence affecting the delivery of health care in armed conflicts and other emergencies

Alexander Breitegger. In: *International review of the Red Cross* Vol. 95, no. 889, Spring 2013, p. 83-127
<http://www.cid.icrc.org/library/docs/DOC/irrc-889-breitegger.pdf>

The (mis)use of international humanitarian law under article 15(c) of the EU qualification directive

Céline Bauloz. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 247-269

Non-refoulement between "common article 1" and "common article 3"

Reuven (Ruvy) Ziegler. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 386-408

Non-refoulement, temporary refuge, and the "new" asylum seekers

Guy S. Goodwin-Gill. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 433-459

The notions of the responsibility to protect and the protection of civilians in armed conflict : detecting their association and its impact upon international law

Raphaël van Steenberghe. In: *Goettingen journal of international law* Vol. 6, no. 1, 2014, p. 81-114

Of autonomy, autarky, purposiveness and fragmentation : the relationship between EU asylum law and international humanitarian law

Violeta Moreno-Lax. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 295-341

Persecution and the nexus to a refugee convention ground in non-international armed conflict : insights from customary international humanitarian law

Vanessa Holzer. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 101-127

Promoting military operational practice that ensures safe access to and delivery of health care

ICRC. - Geneva : ICRC, August 2014. - 48 p.
<http://www.cid.icrc.org/library/docs/DOC/icrc-002-4208.pdf>

Protection against the forced return of war refugees : an interdisciplinary consensus on humanitarian non-refoulement

Jennifer Moore. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 411-432

The protection of civilians and civilian objects from the effects of air and missile warfare : are there any differences between the immediate battlefield and the extended battlefield ?

by Charles H.B. Garraway. In: Israel yearbook on human rights Vol. 44, 2014, p. 125-144

The protection of civilians mandate in UN peacekeeping operations : reconciling protection concepts and practices

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<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-willmot-sheeran.pdf>

Recruitment and other association of children with armed forces or armed groups

Matthew Happold, Tomaso Falchetta. In: Collegium No 44, Automne 2014, p. 99-119
https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

Reflections on the Colombian case law on the protection of medical personnel against punishment

Ekaterina Ortiz Linares and Marisela Silva Chau. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 251-265
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-ortiz-linares-chau.pdf>

Refuge from inhumanity ? : canvassing the issues

Jean-François Durieux and David James Cantor. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 3-35

Refuge from inhumanity ? : war refugees and international humanitarian law

ed. by David James Cantor and Jean-François Durieux. - Leiden ; Boston : Brill Nijhoff, 2014. - XVII, 494 p.

Revisiting the civilian and humanitarian character of refugee camps

Maja Janmyr. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 225-246

The scope of the obligation not to return fighters under the law of armed conflict

Françoise J. Hampson. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 373-385
<https://ext.icrc.org/library/docs/ArticlesPDF/39233.pdf>

Les services ambulanciers et préhospitaliers dans les situations de risque

CICR. - Genève : CICR, août 2014. - 53 p.
<http://www.cid.icrc.org/library/docs/DOC/icrc-001-4173.pdf>

Sexual violence

Hélène Tigroudja, Theo Rycroft, Gloria Gaggioli. In: Collegium No 44, Automne 2014, p. 63-97
https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

A simple solution to war refugees ? : the Latin American expanded definition and its relationship to IHL

David James Cantor and Diana Trimiño Mora. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 204-224

States' obligations to mitigate the direct and indirect health consequences of non-international armed conflicts : complementarity of IHL and the right to health

Amrei Müller. In: International review of the Red Cross Vol. 95, no. 889, spring 2013, p. 129-165
<http://www.cid.icrc.org/library/docs/DOC/irrc-889-muller.pdf>

The Vukovar hospital case from the perspective of a national investigative judge

Miroslav Alimpic. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 267-286
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-alimpic.pdf>

Vulnerabilities in armed conflicts : selected issues : proceedings of the 14th Bruges Colloquium, 17-18 October 2013 = Vulnérabilités en temps de conflits armés : quelques enjeux : actes du 14ème colloques de Bruges, 17-18 octobre 2013

CICR, Collège d'Europe. In: Collegium No 44, Automne 2014, 147 p.
https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

Vulnerabilities in detention : selected issues

Ramin Mahnad, Françoise Hampson. In: Collegium No 44, Automne 2014, p. 17-35
https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

Vulnerabilities in hostilities : the example of health care

Julia Grignon, Raymond Ouigou Savadogo, Marco Sassòli. In: Collegium No 44, Automne 2014, p. 37-61
https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

The "war flaw" and why it matters

Hugo Storey. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 39-56

What protection for persons fleeing indiscriminate violence ? : the impact of the European courts on the EU subsidiary protection regime

Evangelina (Lilian) Tsourdi. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 270-294

VII. Protection of objects

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

Can the incidental killing of military doctors never be excessive ?

Laurent Gisel. In: *International review of the Red Cross* Vol. 95, no. 889, Spring 2013, p. 215-230

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-gisel.pdf>

Environment and war : lessons from international cultural heritage law

Lucas Lixinski. - In: *War and the environment : new approaches to protecting the environment in relation to armed conflict.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 157-177

The ethics, principles and objectives of protection of the environment in times of armed conflict

Michael Bothe. - In: *War and the environment : new approaches to protecting the environment in relation to armed conflict.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 91-108

The legal framework applicable to insecurity and violence affecting the delivery of health care in armed conflicts and other emergencies

Alexander Breitegger. In: *International review of the Red Cross* Vol. 95, no. 889, Spring 2013, p. 83-127

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-breitegger.pdf>

The protection of civilians and civilian objects from the effects of air and missile warfare : are there any differences between the immediate battlefield and the extended battlefield ?

by Charles H.B. Garraway. In: *Israel yearbook on human rights* Vol. 44, 2014, p. 125-144

States' obligations to mitigate the direct and indirect health consequences of non-international armed conflicts : complementarity of IHL and the right to health

Amrei Müller. In: *International review of the Red Cross* Vol. 95, no. 889, spring 2013, p. 129-165

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-muller.pdf>

War and the environment : new approaches to protecting the environment in relation to armed conflict

ed. by Rosemary Rayfuse. - Leiden ; Boston : Brill Nijhoff, 2014. - X, 234 p.

VIII. Detention, internment, treatment and judicial guarantees

Interpretations of IHL in tribunals of the United States

Michael W. Lewis and Peter Margulies. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 415-449

Legitimacy and compliance with international law : access to detainees in civil conflicts, 1991-2006

Hyeran Jo and Catarina P. Thomson. In: British journal of political science Vol. 44, issue 2, April 2014, p. 323-355 : tabl., graph.

<https://ext.icrc.org/library/docs/ArticlesPDF/39656.pdf>

The scope of the obligation not to return fighters under the law of armed conflict

Françoise J. Hampson. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 373-385

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Some controversies of detention in multinational operations and the contributions of the Copenhagen Principles

Bruce 'Ossie' Oswald. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 707-726

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-oswald.pdf>

Vulnerabilities in detention : selected issues

Ramin Mahnad, Françoise Hampson. In: Collegium No 44, Automne 2014, p. 17-35

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

IX. Law of occupation

Le droit international humanitaire, le CICR et le statut d'Israël dans les territoires

Alan Baker. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/4, p. 333-343

<http://www.cid.icrc.org/library/docs/DOC/irrc-888-baker-fre.pdf>

Obstacles au droit international humanitaire : la politique israélienne d'occupation

Peter Maurer. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/4, p. 323-331

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The Occupied Palestinian Territory and international humanitarian law : a response to Peter Maurer

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X. Conduct of hostilities

(Distinction, proportionality, precautions, prohibited methods)

Active and passive precautions in air and missile warfare

by Marco Sassòli and Anne Quintin. In: Israel yearbook on human rights Vol. 44, 2014, p. 69-123

Can the incidental killing of military doctors never be excessive ?

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Issues relating to the use of civilian "human shields"

by Yoram Dinstein. In: Israel yearbook on human rights Vol. 44, 2014, p. 273-291

Jus ad bellum and jus in bello considerations on the targeting of satellites : the targeting of post-modern military space assets

by Michel Bourbonnière and Ricky J. Lee. In: Israel yearbook on human rights Vol. 44, 2014, p. 167-217

The strategic robot problem : lethal autonomous weapons in war

Heather M. Roff. In: Journal of military ethics Vol. 13, issue 3, October 2014, p. 211-227
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Targeting in air warfare

by Kenneth Watkin. In: Israel yearbook on human rights Vol. 44, 2014, p. 1-67

XI. Weapons

The strategic robot problem : lethal autonomous weapons in war

Heather M. Roff. In: Journal of military ethics Vol. 13, issue 3, October 2014, p. 211-227
<http://dx.doi.org/10.1080/15027570.2014.975010>

XII. Implementation

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

Applicability test of Additional Protocol II and common article 3 for crimes in internal armed conflict

Noëlle Quénivet. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 31-60
<http://tinyurl.com/39259-Quenivet>

Applying the laws of armed conflict in swiss courts

Roberta Arnold. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014.
- p. 317-333

Armed conflict and the Inter-American Human Rights System : application or interpretation of international humanitarian law ?

Shana Tabak. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014.
- p. 219-256

Aut deportare aut judicare : current topics in international humanitarian law in Canada

James Yap. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014.
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Beyond life and limb : exploring incidental mental harm under international humanitarian law

Eliav Lieblich. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014.
- p. 185-218

Commentaires iconoclastes sur l'obligation de faire respecter le droit international humanitaire selon l'article 1 commun des Conventions de Genève de 1949

par Robert Kolb. In: Revue belge de droit international = Belgian review of international law = Belgisch tijdschrift voor internationaal recht Vol. 46, 2013-2, p. 513-520

Domestic humanitarian law : developing the law of war in domestic courts

Ashley Deeks. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014.
- p. 133-164

The European Court of Human Right's engagement with the international humanitarian law

Samuel Hartridge. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 257-287

Les implications des obligations de non-reconnaissance et de non-assistance au maintien de la situation illicite issue de la politique de colonisation d'Israël pour les Etats tiers

par Isabelle Moulier. In: Revue belge de droit international = Belgian review of international law = Belgisch tijdschrift voor internationaal recht Vol. 46, 2013-2, p. 490-512

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Kimberley N. Trapp. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 165-182

The International Commission of Inquiry on Darfur and the application of international humanitarian norms

Makane Moïse Mbengue and Brian McGarry. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 451-478

International humanitarian law in Indian courts : application, misapplication and non-application

Chintan Chandrachud. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 389-413

International humanitarian law in the maritime context : conflict characterization in judicial and quasi-judicial contexts

Rob McLaughlin and Dale Stephens. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 103-132

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Interpretations of IHL in tribunals of the United States

Michael W. Lewis and Peter Margulies. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 415-449

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Derek Jinks, Jackson Nyamuya Maogoto and Solon Solomon. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 1-27
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Legitimacy and compliance with international law : access to detainees in civil conflicts, 1991-2006

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Observance of international humanitarian law by forces under the command of the European Union

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by Robert Cryer. In: Israel yearbook on human rights Vol. 44, 2014, p. 247-272

The role of the U.S. judicial branch during the long war : drone courts, damage suits, and Freedom of Information Act (FOIA) requests

Lesley Wexler. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 61-102

Second annual transatlantic workshop on international law and armed conflict : report : July 17-18, 2014 at Pembroke College, University of Oxford

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Status of NGOs in international humanitarian law

by Claudie Barrat ; foreword by Georges Abi-Saab. - Leiden ; Boston : Brill Nijhoff, 2014. - XIII, 384 p.

A steady race towards better compliance with international humanitarian law ? : the ICTR 1995-2012

Dominik Steiger. In: International criminal law review Vol. 14, issue 6, 2014, p. 969-1027
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XIII. International human rights law

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

Armed conflict and the Inter-American Human Rights System : application or interpretation of international humanitarian law ?

Shana Tabak. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 219-256

Complémentarité entre le CICR et les Nations Unies et entre le droit international humanitaire et le droit international des droits de l'homme entre 1948 et 1968

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Economic, social, and cultural rights in armed conflict

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The European Court of Human Right's engagement with the international humanitarian law

Samuel Hartridge. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 257-287

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Ramin Mahnad, Françoise Hampson. In: Collegium No 44, Automne 2014, p. 17-35
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XIV. International criminal law

The International Commission of Inquiry on Darfur and the application of international humanitarian norms

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XV. Contemporary challenges

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

The interaction of the international terrorism suppression regime and IHL in domestic criminal prosecutions : the UK experience

Kimberley N. Trapp. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 165-182

XVI. Countries/Regions

AFRICA

The African war refugee : using IHL to interpret the 1969 African Refugee Convention's expanded refugee definition

Tamara Wood. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 179-203

Refuge from inhumanity ? : war refugees and international humanitarian law

ed. by David James Cantor and Jean-François Durieux. - Leiden ; Boston : Brill Nijhoff, 2014. - XVII, 494 p.

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CAMBODIA

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CANADA

Aut deportare aut judicare : current topics in international humanitarian law in Canada

James Yap. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 355-387

COLOMBIA

Reflections on the Colombian case law on the protection of medical personnel against punishment

Ekaterina Ortiz Linares and Marisela Silva Chau. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 251-265
<http://www.cid.icrc.org/library/docs/DOC/irrc-890-ortiz-linares-chau.pdf>

DEMOCRATIC REPUBLIC OF THE CONGO

Accountability and protection of UN peacekeepers in light of MONUSCO

Tomas Macura. In: Die Friedens-Warte : journal of international peace and organization Bd. 88, H. 3-4, 2013, p. 143-156

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EUROPEAN UNION

The definition of internal armed conflict in asylum law : the 2014 Diakité judgment of the EU Court of Justice

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The (mis)use of international humanitarian law under article 15(c) of the EU qualification directive

Céline Bauloz. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 247-269

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Of autonomy, autarky, purposiveness and fragmentation : the relationship between EU asylum law and international humanitarian law

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What protection for persons fleeing indiscriminate violence ? : the impact of the European courts on the EU subsidiary protection regime

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INDIA

International humanitarian law in Indian courts : application, misapplication and non-application

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ISRAEL

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Le droit international humanitaire, le CICR et le statut d'Israël dans les territoires

Alan Baker. In: *Revue internationale de la Croix-Rouge : sélection française* Vol. 94, 2012/4, p. 333-343
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The role of the U.S. judicial branch during the long war : drone courts, damage suits, and Freedom of Information Act (FOIA) requests

Lesley Wexler. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 61-102

LATIN AMERICA

A simple solution to war refugees ? : the Latin American expanded definition and its relationship to IHL

David James Cantor and Diana Trimiño Mora. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 204-224

Refuge from inhumanity ? : war refugees and international humanitarian law

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NICARAGUA

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PALESTINE

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RWANDA

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SERBIA

The Vukovar hospital case from the perspective of a national investigative judge

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SIERRA LEONE

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SOUTH SUDAN

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SWITZERLAND

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UNITED KINGDOM

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UNITED STATES

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YUGOSLAVIA

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All with Abstracts

Accountability and protection of UN peacekeepers in light of MONUSCO

Tomas Macura. In: *Die Friedens-Warte : journal of international peace and organization* Bd. 88, H. 3-4, 2013, p. 143-156

Military personnel involved in United Nations peacekeeping operations have operated without an effective legal framework regulating their conduct since the end of the Cold War. The explosion of peacekeeping as a response to non-international armed conflict has too often resulted in poorly trained and under-equipped peacekeepers facing renewed hostilities because a party to the conflict has breached the terms of a ceasefire agreement. This article critically examines the protection granted to peacekeepers in such situations and how they can be held accountable for serious crimes in the context of international humanitarian law and international criminal law. MONUSCO, the United Nations Organization Stabilisation Mission in the Democratic Republic of Congo, is considered in light of the recent deployment of an intervention brigade to directly confront rebel forces.

Active and passive precautions in air and missile warfare

by **Marco Sassòli and Anne Quintin.** In: *Israel yearbook on human rights* Vol. 44, 2014, p. 69-123

This contribution constitutes a commentary and critical discussion of the HPCR Manual on International Law Applicable to Air and Missile Warfare produced by the Program on Humanitarian Policy and Conflict Research at Harvard University (HPCR Manual). It is largely based upon a report written by one of the authors for the Expert Group that drafted the HPCR Manual. The introduction first determines the status of the HPCR Manual and tackles some general questions about the relation between treaty law and customary law in air and missile warfare, as well as whether the same rules apply, on the one hand, to hostilities taking place on land, sea and in the air, and on the other hand, to both international and non-international armed conflicts. Following this, it then looks at the precautionary measures to be taken by the attacker. Before discussing the individual provisions contained in Article 57 of the 1977 First Additional Protocol to the Geneva Conventions (Protocol I), certain general questions on precautionary measures are addressed. Next, it details the precautionary measures recommended by Article 58 of Protocol I. For both sections, the methodology consists of first looking at each precautionary measure as foreseen in Protocol I and determining its status under customary law. The article then assesses how each rule has generally been interpreted, and more importantly how each rule has been applied to air and missile warfare, discussing what specific problems exist, particularly in the context of air-to-air hostilities.

Adapter les Commentaires des Conventions de Genève et de leurs Protocoles additionnels au XXI^e siècle

Jean-Marie Henckaerts. In: *Revue internationale de la Croix-Rouge : sélection française* Vol. 94, 2012/4, p. 375-380

C'est dans les années 1950 déjà que le Comité international de la Croix-Rouge (CICR) publiait les Commentaires des Conventions de Genève de 1949 et dans les années 1980 qu'il leur adjoignait les Commentaires des Protocoles additionnels de 1977. Depuis, les Conventions et leurs Protocoles n'ont cessé de faire leurs preuves et l'on a acquis une pratique considérable en matière d'application et d'interprétation de ces six traités. Soucieux de tenir compte de cette évolution, le CICR a entrepris un important projet de mise à jour des Commentaires qui leur ont été consacrés. Il entend par là contribuer à ce que le droit international humanitaire soit mieux compris et respecté – ce qui, à terme, devrait renforcer la protection des victimes de conflits armés.

<http://www.cid.icrc.org/library/docs/DOC/irrc-888-henckaerts-fre.pdf>

The African war refugee : using IHL to interpret the 1969 African Refugee Convention's expanded refugee definition

Tamara Wood. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 179-203. - Cote 325.3/495

The expanded refugee definition in Article 1(2) of the African Refugee Convention is the object of investigation of this chapter. This definition has often been praised for providing better protection to

persons fleeing war, conflict and generalised violence than its counterpart in the Refugee Convention. Recourse to other areas of international law, including IHL, has been described as the 'logical starting point' for interpreting the African definition's novel terms. Drawing on scholarship and her own field research, Wood provides detailed analysis of how IHL may be applied to the interpretation of the definition's four refugee-producing 'events' – external aggression, occupation, foreign domination and events seriously disturbing public order. While recognising that full interpretation requires these events to be considered in conjunction with the definition's other elements, her analysis of the events themselves illustrates both the potential and limitations of IHL in this regional context.

Ambulance and pre-hospital services in risk situations

ICRC. - Geneva : ICRC, November 2013. - 51 p. - Cote 356/260 (ENG)

This report sets out ways to make pre-hospital care and ambulance services operating in areas of armed violence safer. Written by the Norwegian Red Cross with support from the ICRC and the Mexican Red Cross, the report summarizes field experience in over 20 countries.

<http://www.cid.icrc.org/library/docs/DOC/icrc-002-4173.pdf>

The applicability and application of international humanitarian law to multinational forces

Tristan Ferraro. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 561-612

The multifaceted nature of peace operations today and the increasingly violent environments in which their personnel operate increase the likelihood of their being called upon to use force. It thus becomes all the more important to understand when and how international humanitarian law (IHL) applies to their action. This article attempts to clarify the conditions for IHL applicability to multinational forces, the extent to which this body of law applies to peace operations, the determination of the parties to a conflict involving a multinational peace operation and the classification of such conflict. Finally, it tackles the important question of the personal, temporal and geographical scope of IHL in peace operations.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-ferraro.pdf>

Applicability test of Additional Protocol II and common article 3 for crimes in internal armed conflict

Noëlle Quénivet. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 31-60. - Cote 345.22/249

Modern warfare raises important, often difficult questions about conflict classification and applicable legal frameworks. These challenges typically concern whether a conflict should be deemed as international or non-international and which legal regime applies in virtue of this classification. It is this issue that Noëlle Quénivet develops in this chapter. Focusing on non-international conflicts, she examines the impact of the international criminal tribunals' jurisprudence on the classification of non-international conflicts as either falling under Common Article 3 or under the Additional Protocol II. Quénivet sketches the difference between the two treaty regimes as far as application of IHL is concerned, with Common Article 3 permitting such application in cases of dissident groups fighting each other, whereas the Additional Protocol II requires the conflict to be between a government and internal belligerent forces. Proceeding to explain that the Additional Protocol II cannot be considered either *lex posterior* or *lex generalis* to Common Article 3, Quénivet illustrates this through reference to state practice, demonstrating that there exists a bifurcation as regards legal regulation for non-international armed conflicts. Consequently and based on these premises, Quénivet explores the applicability test of these two different treaties in the jurisprudence of various international criminal courts and tribunals.

<http://tinyurl.com/39259-Quenivet>

Applying the laws of armed conflict in swiss courts

Roberta Arnold. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 317-333. - Cote 345.22/249

With the entry into force, on 1st January 2011, of the amended Criminal Code (CC) and Military Criminal Code (MCC), and the new Criminal Procedure Code (CrimPC), which is now uniformly applicable at both federal and cantonal level, Switzerland has equipped itself with more efficient tools for the implementation of the Laws of Armed Conflict (LOAC) and the fight against impunity for their violations. At the same time,

the Swiss juridical world has already been acquainted with some cases involving application of the LOAC, having reached its gates. The purpose of this chapter is to map these developments in the Swiss legal landscape as well as mark some landmark cases that have highlighted application of IHL in the Swiss domestic jurisdiction, in particular the “G Case” and the “Niyonteze case”.

Armed conflict and the Inter-American Human Rights System : application or interpretation of international humanitarian law ?

Shana Tabak. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 219-256. - Cote 345.22/249

This chapter explores the complexities that arise when the Inter-American System of Human Rights is confronted with situations of armed conflict which may give rise not only to the application of human rights law, but also of international humanitarian law. International humanitarian law has been incorporated into the jurisprudence of the IASHR in two primary means: first, through direct application of the law of war and the subsequent holding that states were in violation of this law, and second, through utilization of IHL as *lex specialis* providing interpretive reference to the interpretation of human rights during times of armed conflict. This chapter discusses the Commission's and the Court's respective jurisprudence on cases that grapple with the interplay between these two branches of international law, and explores the implications of these two approaches to integration of IHL by judicial bodies whose *ratione materie* is limited to human rights law. The author suggests that the current position of international humanitarian law within the Inter-American Human Rights System is a result of jurisdictional restraints, and not to the substantive differences between the two areas of law.

Attacks on medical missions : overview of a polymorphous reality : the case of Médecins Sans Frontières

Caroline Abu Sa'Da, Françoise Duroch and Bertrand Taithe. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 309-330

The aim of this article is to carry out a preliminary analysis of issues relating to the types of violence that are directed against humanitarian medical missions. Starting from the observation that violence can cause some degree of disruption for a medical organisation such as Médecins Sans Frontières, despite its wide experience which has brought it much wisdom and generated numerous and sporadic responses to such events, the article offers a more subtle analysis of terms and of situations of violence so as to contribute to the establishment of a research project and, in a second phase, to an awareness-raising campaign focusing on these complex phenomena.

<http://www.cid.icrc.org/library/docs/DOC/irrc-890-sada-duroch-taithe.pdf>

Aut deportare aut judicare : current topics in international humanitarian law in Canada

James Yap. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 355-387. - Cote 345.22/249

The Canadian experience with international humanitarian law is dominated by cases involving foreign nationals accused of committing war crimes abroad. Canada has developed a system whereby these individuals can be pursued either through criminal prosecutions, or through immigration proceedings modeled after the Exclusion Clause in Article 1F(a) of the Refugee Convention. In practice, the immigration remedies are far more frequently pursued. In the context of a debate that is relevant in many countries, this chapter examines the comparative characteristics of the two types of procedures and the merits of relying, as Canada does, almost exclusively on the immigration option. The chapter also reviews other current topics in international humanitarian law in Canada, for instance the domestic civil liability of a Canadian corporation for complicity in war crimes committed in other countries, as well as the role that norms of international humanitarian law play in the extraterritorial application of Canadian constitutional law. The author concludes by calling upon international tribunals adjudicating war crimes and crimes against humanity to consider as a useful resource the now extensive body of cases emanating from courts in Canada and other countries that have decided similar issues in the context of refugee and immigration proceedings.

Beyond life and limb : exploring incidental mental harm under international humanitarian law

Eliav Liebllich. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 185-218. - Cote 345.22/249

In recent years, much effort has been made, in different forums, to clarify some of international humanitarian law's (IHL) vaguer standards. However, little attention has been given to the meaning of the concept of civilian harm. This chapter seeks to contribute to the understanding of harm by exploring, in a preliminary manner, an uncharted question: the issue incidental mental harm under the proportionality principle of *jus in bello*. The chapter asks first whether the inclusion of incidental mental harm in the proportionality calculus is a utopian suggestion, upsetting the delicate balance of IHL. It thereafter exemplifies IHL's seeming blind-spot with regard to the issue, concluding that the lack of direct treatment of the concept does not amount to its negation. The chapter then critically explores possible challenges to the recognition of incidental mental harm, positing that these are not convincing. All in all, the chapter asserts that it is high time that states, commanders, judges and fact-finding missions take incidental mental harm seriously, if IHL is to maintain its integrity as a legal field setting out to minimize civilian harm.

Can the incidental killing of military doctors never be excessive ?

Laurent Gisel. In: International review of the Red Cross Vol. 95, no. 889, Spring 2013, p. 215-230

Military medical personnel and objects, as well as wounded and sick combatants, are protected against direct attack under the principle of distinction in international humanitarian law. However, some authors argue that they are not covered by the principles of proportionality and precautions. This opinion note explains that military medical objects constitute civilian objects under the rules governing the conduct of hostilities. It also demonstrates that, in view of the object and purpose of the First Additional Protocol to the Geneva Conventions, expected incidental casualties of military medical personnel and wounded and sick combatants must be included among the relevant incidental casualties under the principles of proportionality and precautions. This stems in particular from the interpretation of the obligation 'to respect and protect' as the overarching obligation of the special protection afforded to all medical personnel and wounded and sick. Support for this conclusion can be found in a number of military manuals and in the Additional Protocol's preparatory work and Commentaries. This conclusion also reflects customary law.

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-gisel.pdf>

Causation in international protection from armed conflict

Hélène Lambert. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 57-78. - Cote 325.3/495

This chapter takes an empirical point of departure, arguing that armed conflict has changed to increasingly expose civilians to the effects of war. Even if the literature on civil war shows strong correlations between conflict, social disorder and economic collapse, courts are still wrestling with the challenge of conceptualising these links in legal terms. Lambert's contribution addresses the issue of causation as central to a proper understanding of how IRL can protect people fleeing the indiscriminate effects of generalised violence. In these cases, she argues, conventional causal analysis (or 'effective causation') does not adequately capture the complexity of contemporary refugee flows. Lambert advocates a 'constitutive causation' approach that opens up enquiry into the underlying material conditions that produce the threats that compel civilians to flee, and places weight on the experience and perceptions of the displaced. She asks whether IHL is currently equipped to play a significant role in our understanding of constitutive causation in the refugee context.

Combatants' life and human dignity

by Asa Kasher. In: Israel yearbook on human rights Vol. 44, 2014, p. 219-246

Much attention has been given in philosophical discussion and legal practice to the idea of the immunity of noncombatants and its implementations. Issues of who is immune from military attacks and under what circumstances have been thoroughly discussed. Much less attention has been paid to the idea of regarding, during an armed conflict, every person in military uniform of an enemy State as a legitimate target of attack. The present paper first reviews several aspects of the commonly held permissive attitude towards combatants, then outlines a proposal for an alternative conception and makes some constructive suggestions.

Commentaires iconoclastes sur l'obligation de faire respecter le droit international humanitaire selon l'article 1 commun des Conventions de Genève de 1949

par **Robert Kolb**. In: Revue belge de droit international = Belgian review of international law = Belgisch tijdschrift voor internationaal recht Vol. 46, 2013-2, p. 513-520

Cette contribution vise à vérifier si l'article 1 commun aux quatre Conventions de Genève de 1949 impose une obligation des Etats tiers d'agir pour faire respecter le DIH ou s'il prévoit uniquement une faculté en ce sens. La conclusion ici retenue s'oriente dans le sens de la faculté.

Complémentarité entre le CICR et les Nations Unies et entre le droit international humanitaire et le droit international des droits de l'homme entre 1948 et 1968

Katharine Fortin. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/4, p. 247-270

Le présent article montre qu'entre la rédaction de la Déclaration universelle des droits de l'homme en 1948 et la conférence de Téhéran en 1968, le droit international des droits de l'homme et le droit international humanitaire et leurs institutions garantes respectives, l'Organisation des Nations Unies (ONU) et le Comité international de la Croix-Rouge (CICR), n'étaient pas de conceptions aussi éloignées qu'on le laisse parfois entendre. Son propos est de renforcer la légitimité du droit des droits de l'homme dans les conflits armés et de montrer qu'il existe une longue tradition de coopération entre l'ONU et le CICR.

<http://www.cid.icrc.org/library/docs/DOC/irrc-888-fortin-fre.pdf>

Defensive killing

Helen Frowe. - Oxford : Oxford University Press, 2014. - XII, 227 p. - Cote 345.25/310

Most people believe that it is sometimes morally permissible for a person to use force to defend herself or others against harm. In *Defensive Killing*, Helen Frowe offers a detailed exploration of when and why the use of such force is permissible. She begins by considering the use of force between individuals, investigating both the circumstances under which an attacker forfeits her right not to be harmed, and the distinct question of when it is all-things-considered permissible to use force against an attacker. Frowe then extends this enquiry to war, defending the view that we should judge the ethics of killing in war by the moral rules that govern killing between individuals. She argues that this requires us to significantly revise our understanding of the moral status of non-combatants in war. Non-combatants who intentionally contribute to an unjust war forfeit their rights not to be harmed, such that they are morally liable to attack by combatants fighting a just war.

The definition of internal armed conflict in asylum law : the 2014 Diakité judgment of the EU Court of Justice

Céline Bauloz. In: Journal of international criminal justice Vol. 12, no. 4, September 2014, p. 835-846

In the European Union, asylum-seekers not only have the opportunity to apply for refugee status, but also for subsidiary protection when risking serious harm if sent back to their country of origin. This form of complementary protection is granted, inter alia, to those fleeing indiscriminate violence stemming from international or internal armed conflicts. While this serious harm has often been interpreted by national courts in light of international humanitarian law, in its *Diakité* Judgment of 30 January 2014, the Court of Justice of the European Union adopted a new definition of "internal armed conflict" differing from the humanitarian law understanding. The present article enquires into the reasons given by the Court to discard international humanitarian law as the appropriate interpretative framework and into the protective and systemic implications of such a distinct definition.

<http://jicj.oxfordjournals.org/content/12/4/835.full.pdf>

Domestic humanitarian law : developing the law of war in domestic courts

Ashley Deeks. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 133-164. - Cote 345.22/249

Several states have been engaged for years in armed conflicts against non-state actors outside their territory. These conflicts implicate a wide array of difficult questions related to international humanitarian

law ('IHL'). Yet for structural and political reasons, the international community has not attempted to craft a new treaty to regulate these armed conflicts, and state practice is not yet sufficiently robust to crystallize new rules of customary international law. Although we have no new international rules to guide states' conduct in these contexts, that is not to say that we have no new rules at all, to regulate these types of armed conflict. The new rules simply stem from non-international sources. Domestic courts of certain states have played a significant role in establishing new rules to govern how those states must conduct themselves during these armed conflicts. These courts have stepped in to interpret, extend, and craft laws applicable in armed conflict, producing what this chapter terms 'domestic humanitarian law' ('DHL'). DHL is important for two reasons. First, it establishes detailed, legally binding rules by which particular states' militaries must conduct themselves in extra-territorial conflicts. Second, the existence of DHL will have a significant effect on future IHL developments. DHL will affect the production and content of customary rules, the likelihood of future agreements about IHL, and the substance of those future rules in the event such an agreement emerges. The proliferation of DHL has the propensity to reduce international calls for a new treaty and complicates the initial negotiating positions of states whose courts have produced DHL. But DHL has advantages as well for IHL development, akin to the U.S. constitutional idea that U.S. states serve as experimental 'laboratories' in which different approaches to problems are tested. Because states will continue to face serious challenges in developing new IHL treaty rules on the international stage, the production of new interpretations and norms in U.S. and other domestic courts represents a potentially important phase in the development of IHL. As importantly, the phenomenon of DHL allows us fruitfully to explore the nature of domestic court decisions more generally in the project of international law creation.

Le droit international humanitaire, le CICR et le statut d'Israël dans les territoires

Alan Baker. In: *Revue internationale de la Croix-Rouge : sélection française* Vol. 94, 2012/4, p. 333-343

Cet article revient sur plusieurs assertions formulées par le président du CICR, Peter Maurer, dans un discours sur « les obstacles à l'action humanitaire dans les conflits actuels : la situation en Israël, au Moyen-Orient et dans un contexte plus vaste », repris et développé sous la forme d'un article dans le présent numéro de la *Revue internationale de la Croix-Rouge*. Le présent article aborde les obstacles au droit international humanitaire dans des situations où ses normes juridiques sont violées par l'une des parties. Il conteste certains postulats et affirmations du CICR en ce qui concerne le statut des territoires de Cisjordanie, le statut des accords entre Israël et les Palestiniens, du statut de la bande de Gaza, de la notion d'« occupation », de la politique d'Israël en matière d'implantations, de la barrière de séparation érigée par Israël et de Jérusalem-Est. L'article conclut en évoquant la politique de confidentialité du CICR, par opposition à ses prises de position publiques.

<http://www.cid.icrc.org/library/docs/DOC/irrc-888-baker-fre.pdf>

Economic, social, and cultural rights in armed conflict

Gilles Giacca. - Oxford ; New York : Oxford University Press, 2014. - XXI, 297 p. - Cote 345.1/623

Situations of actual or potential violence present a number of challenges to the application and implementation of human rights law in general and socio-economic rights obligations more specifically. This book sets out the legal framework, defining what constitutes a minimum universal standard of human rights protection applicable in all circumstances. It assesses the concept and content of ESC rights' obligations, and evaluates how far they can be legally applicable in various scenarios of armed violence. By looking at the specific human rights treaty provisions, it discusses how far ESC rights obligations can be affected by practical and legal challenges to their implementation. The book addresses the key issues facing the protection of such rights in times of armed conflict: the legal conditions to limit ESC rights on security grounds, including the use of force; the extraterritorial applicability of international human rights treaties setting out ESC rights; the relationship between human rights law and international humanitarian law; and the obligations of non-state actors under human rights law and with particular relevance to the protection of ESC rights. The book assesses the nature of these potential challenges to the protection of ESC rights, and offers solutions to reinforce their continued application.

Environment and war : lessons from international cultural heritage law

Lucas Lixinski. - In: *War and the environment : new approaches to protecting the environment in relation to armed conflict.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 157-177. - Cote 363.7/156

This study investigates what lessons, if any, can be drawn from the regime for the protection of cultural heritage in the event of armed conflict for the design of a new regime relating to protection of the

environment with respect to armed conflict. Before doing so, it provides an account as to why the environment has so far been mostly neglected in IHL. In this respect ecofeminism provides a useful theoretical framework. By feminising the environment, ecofeminism provides a narrative of the environment's relative neglect in certain fields (including the regulatory field). This explanation is necessary if we are to understand how we have arrived at this point, and whether a broader change of attitude towards the environment is necessary not only to ensure a regime is ever put into place, but that it is also embraced by States and becomes effective.

The ethics, principles and objectives of protection of the environment in times of armed conflict

Michael Bothe. - In: War and the environment : new approaches to protecting the environment in relation to armed conflict. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 91-108. - Cote 367.3/156

The purpose of this study is to attempt to clarify the ethical requirements concerning the legal protection of the environment in armed conflict. It takes as its starting point a number of assumptions. The first is that there is an ethical underpinning for the law relating to the protection of the environment in armed conflict. The second assumption is that certain principles can be derived from these underpinnings. Finally, the third assumption is that such principles have inspired and continue to inspire the objectives of designing and applying a legal regime. The point of this study is to demonstrate whether, and if so why, these assumptions are correct.

The European Court of Human Right's engagement with the international humanitarian law

Samuel Hartridge. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 257-287. - Cote 345.22/249

This chapter evaluates the jurisprudence to the European Court of Human Rights in order to ascertain how effectively it engages with international humanitarian law. The chapter briefly outlines the nature of the interaction between human rights and humanitarian law, including a discussion of the leading cases from the International Court of Justice and the concept of *lex specialis*. From that point, the chapter works to assess key cases relating to the extraterritorial application of the European Convention on Human Rights in situations of military occupation and armed conflict. This section will examine whether the basis for extending jurisdiction beyond the territorial limits of the Convention state is coherent with IHL. Another important facet of the Court's jurisprudence is its treatment of cases that have arisen in internal conflicts. In such cases, the Court has been even more unwilling to engage with humanitarian law. A brief case study of two subjects that are of central importance in armed conflicts, namely the use of lethal force and the grounds for detention, show that this reluctance is carried through to the interpretation and application of substantive Convention rights.

Exclusion is not just about saying 'no' : taking exclusion seriously in complex conflicts

Geoff Gilbert. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 155-175. - Cote 325.3/495

This contribution asks: what behaviour during a conflict ought to lead to exclusion from refugee status? Given that Article 1 F(a) of the Refugee Convention refers to both war crimes and crimes against humanity, it represents a conscious decision on the part of the drafters to refer to complex conflicts, not necessarily complex 'armed' conflicts. Since the exclusion clauses must be interpreted narrowly, Gilbert examines not only the serious crimes for which exclusion might arise, but also the attribution of individual responsibility. In doing so he assesses how far IRL may require an autonomous meaning for terms used within IHL, international criminal law and the wider corpus of international law in general.

Expanding refugee protection through international humanitarian law : driving on a highway or walking near the edge of the abyss ?

Stéphane Jaquemet. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 79-98. - Cote 325.3/495

Stéphane Jaquemet observes that the majority of refugee law experts and decision makers emphasise the differences between IHL and IRL rather than highlighting the points of convergence. By contrast, the United Nations Security Council is an enthusiastic — at times overenthusiastic — advocate of a more creative and protective interface between IRL, IHL and HRL. To get out of what he calls a 'sterile debate' between the pro and anti-IHL-reading, Jaquemet proposes a different approach that goes back to the

basics of both national and international protection. In a country at war, he argues, the indicators of national protection are squarely located in the interaction between IHL and HRL. Nolens volens, the existence of grave breaches of IHL and serious violations of HRL will indicate a failure of national protection and be the trigger for international protection. By using IHL (and HRL) to determine the scope of national protection, and IRL (and HRL) for that of international protection, the interface gains in depth whilst the integrity of each branch of law is preserved.

<https://ext.icrc.org/library/docs/ArticlesPDF/39219.pdf>

How does the involvement of a multinational peacekeeping force affect the classification of a situation ?

Eric David and Ola Engdahl. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 659-679

In this issue of the Review, we invited two experts in international humanitarian law (IHL) and multinational peace operations – Professor Eric David and Professor Ola Engdahl – to debate on the way in which the involvement of a multinational force may affect the classification of a situation. This question is particularly relevant to establishing whether the situation amounts to an armed conflict or not and, if so, whether the conflict is international or non-international in nature. This in turn will determine the rights and obligations of each party, especially in a context in which multinational forces are increasingly likely to participate in the hostilities.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-david-engdahl.pdf>

A human rights approach to health care in conflict

Katherine H. A. Footer and Leonard S. Rubenstein. In: International review of the Red Cross Vol. 95, no. 889, Spring 2013, p. 167-187

Attacks on and interference with health care services, providers, facilities, transports, and patients in situations of armed conflict, civil disturbance, and state repression pose enormous challenges to health care delivery in circumstances where it is most needed. In times of armed conflict, international humanitarian law (IHL) provides robust protection to health care services, but it also contains gaps. Moreover, IHL does not cover situations where an armed conflict does not exist. This paper focuses on the importance of a human rights approach to addressing these challenges, relying on the highest attainable standard of health as well as to civil and political rights. In particular we take the Committee on Economic, Social and Cultural Rights General Comment No. 14 (on Article 12 of the International Covenant on Economic, Social and Cultural Rights) as a normative framework from which states' obligations to respect, protect and fulfil the right to health across all conflict settings can be further developed.

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-footer-rubenstein.pdf>

Les implications des obligations de non-reconnaissance et de non-assistance au maintien de la situation illicite issue de la politique de colonisation d'Israël pour les Etats tiers

par Isabelle Moulier. In: Revue belge de droit international = Belgian review of international law = Belgisch tijdschrift voor internationaal recht Vol. 46, 2013-2, p. 490-512

Cette contribution analyse la portée et certaines implications des obligations internationales des Etats tiers, en liaison avec l'illégalité découlant de la politique de colonisation d'Israël. Une lecture croisée des obligations de non-reconnaissance et de non-assistance, envisagées et interprétées à travers le prisme de l'obligation de faire respecter le droit international humanitaire, révèle à cet égard toute la densité normative des obligations internationales des Etats tiers. Ce faisant, les obligations internationales des Etats tiers sont susceptibles de renforcer la mise en oeuvre de la responsabilité juridique des entreprises et de leurs dirigeants, pour les activités économiques qu'elles déploient dans les colonies de peuplement, au titre de l'obligation des Etats de faire respecter le droit international humanitaire.

Inclusion of refugees from armed conflict : combatants and ex-combatants

Eric Fripp. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 128-154. - Cote 325.3/495

Eric Fripp argues that the use of IHL as a complement to HRL in determining the protective ambit of Article 1A(2) of the Refugee Convention is true to the general rules of treaty interpretation, and that reference to IHL is valuable in assessing refugee claims made against a background of armed conflict. The thrust of his chapter is devoted to examining the interesting question of how IHL might be relevant to determining claims for refugee status under the Refugee Convention by those who cannot be considered as

civilians. His analysis is directed towards the situation of persons who remain combatants, as well as those who are no longer combatants (ex-combatants), and encompasses consideration of claims by those who were children when they fought (child soldiers).

<https://ext.icrc.org/library/docs/ArticlesPDF/39221.pdf>

L'indérogeabilité au service de la défense de la dignité humaine

Delphine Olivia Hayim. - In: Le concept d'indérogeabilité en droit international : une analyse fonctionnelle des normes indérogeables : entre unité et contingence. - Saarbrücken : Presses Académiques Francophones, 2014. - p. 210-546. - Cote 345/670 (I)

Le concept d'indérogeabilité, bien que d'usage fréquent dans le discours juridique, n'a été que rarement examiné de manière rigoureuse. Les normes, qui ne souffrent d'aucune dérogation, se retrouvent pourtant dans divers domaines du droit international. Cet ouvrage se fonde sur l'étude de trois espaces normatifs dans lesquels cette catégorie semble jouer un rôle central: le jus cogens, les droits humains et finalement, le droit onusien. L'hypothèse initiale est que le droit remplit, au sein de l'ordre international, des fonctions tant juridiques, systémiques qu'axiologiques, d'où le choix d'adopter une perspective fonctionnelle. Ce chapitre aborde l'indérogeabilité telle qu'elle existe et se déploie dans le domaine des droits humains, aussi bien en temps de paix que de guerre : droits de l'homme indérogeables, droit international humanitaire comme une branche indérogeable ne résonnent pas comme des slogans inédits. Une assimilation presque automatique est réalisée entre ces ensembles du droit international et le jus cogens, participant encore plus à la confusion entre indérogeabilité et impérativité. Il s'agira de saisir la spécificité de l'indérogeabilité quand elle est évoquée en lien avec la question de la protection internationale des droits humains et des libertés fondamentales. Cette indérogeabilité doit aussi remplir un certain nombre de fonctions et il faudra confirmer ou infirmer la présence des similitudes fonctionnelles entre cette dimension précise de l'indérogeabilité et celle attachée au jus cogens.

The interaction between domestic law and international humanitarian law at the Extraordinary Chambers in the Courts of Cambodia

Patricia Hobbs. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 289-314. - Cote 345.22/249

This chapter focuses on the law applied by the Extraordinary Chambers in the Courts of Cambodia (ECCC) to deal with the violations of humanitarian law that took place in Cambodia during the Khmer Rouge regime. After a survey of the events that characterised one of the most despicable periods of human rights and humanitarian law violations, the discussion will focus on the particular nature of the Chambers, as they constitute a hybrid tribunal rather than a pure international criminal tribunal in the shape of the ad hoc tribunals for Rwanda and the former Yugoslavia. The desire to bring standards and norms of international criminal justice within the Cambodia's judicial structure is evidence of Cambodia's twofold intent: first of all, to bring justice to the victims of the atrocities committed by the Khmer Rouge regime; secondly, to ensure that the ECCC's decisions are firmly rooted in the principles of international criminal justice, especially the legality principle. The importance of this approach cannot be underestimated, as Cambodia strives to deal with accountability and to avoid the pitfalls of the previous ad hoc tribunals. The discussion will then turn towards an analysis of the laws applicable by the ECCC, looking at particular examples to evaluate how the Chambers have used domestic laws, either to provide a better interpretation of a particular issue or to enable them to extend criminal liability in the light of current developments. Nonetheless, it will be seen that the Chambers decisions are guided by an elements of foreseeability in order to ensure compliance with the legality principle.

The interaction of the international terrorism suppression regime and IHL in domestic criminal prosecutions : the UK experience

Kimberley N. Trapp. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 165-182. - Cote 345.22/249

This chapter explores the interaction between terrorism suppression and international humanitarian law in the context of domestic terrorism prosecutions. The chapter sketches the relevant terrorism suppression treaty regime and explores the possible interpretations, which should be given to regime interaction clauses therein. In particular, this chapter argues that the interaction between terrorism suppression and international humanitarian law dictated by treaty results in both a floor and a ceiling on the exercise of domestic criminal jurisdiction—creating international law limitations on the right of State Parties to criminalise acts of war as 'terrorism'.

The International Commission of Inquiry on Darfur and the application of international humanitarian norms

Makane Moïse Mbengue and Brian McGarry. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 451-478. - Cote 345.22/249

Although the UN International Commission of Inquiry on Darfur found copious violations of human rights law and humanitarian law in the Sudan, it determined that there had been no specific intent to commit genocide. This chapter analyzes several related facets of the Commission's findings, both on their own merits and in comparison to the case law of the International Court of Justice, the International Criminal Court, and ad hoc criminal tribunals. These include the use of subjective criteria to classify victims as a protected people under the Genocide Convention, the relationship between considerations of motive and the *dolus specialis*, the attribution of paramilitary activities to the State in the absence of a clear governmental policy of genocide, and the value of distinctions between genocide and other atrocities such as ethnic cleansing. The authors ultimately connect inconsistent aspects of the Commission's reasoning on the genocide question to its stipulation that it is "not a judicial body," a very restrictive understanding of its role that limited cohesion with the standards of other legal bodies involved in the ongoing crisis.

International humanitarian law in Indian courts : application, misapplication and non-application

Chintan Chandrachud. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 389-413. - Cote 345.22/249

This chapter seeks to provide an analytical snapshot of international humanitarian law in the Supreme Court and High Courts in India. The bulk of the chapter is dedicated to an analysis of the application of international humanitarian law norms in post-independence judicial decisions. The case law has been categorised into four broad themes: occupation and annexation of territory; prisoners of war; terrorism and the war on terror; and the meaning of aggression. The chapter also critically analyses cases in which Indian courts have failed to appreciate the nuances of, and thereby misapplied, international humanitarian law. Finally, a few cases where Indian courts conspicuously omitted to cite international humanitarian law, where they could have done so, are briefly discussed.

International humanitarian law in the maritime context : conflict characterization in judicial and quasi-judicial contexts

Rob McLaughlin and Dale Stephens. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 103-132. - Cote 345.22/249

The development and application of modern international humanitarian law to the maritime environment has a considerably long pedigree, going back at least to the nineteenth century. The invocation of this body of law is frequent and is applied in highly calibrated ways by numerous States, particularly in recent times and especially by those States possessing 'blue water' Navies. Notwithstanding this considerable practice, international Judicial bodies such as the ICJ have been extremely resistant to exploring, applying or even opining on this volume of law, even in cases where such issues are squarely presented. It is unclear why this is so, especially given the recent growth of jurisprudence and scholarship on IHL in the land context. This article explores the opportunities presented to the ICJ to deal with this body of law and compares this nugatory experience with the role of quasi-judicial bodies that were commissioned in the wake of the 'Flotilla incident of 10 May 2010' where there was deep attention paid to issue of maritime IHL. The various Commissions of Inquiry in that instance were compelled to tackle key IHL issues in the maritime context and provided a valuable insight into the interpretation of this law, even if the outcomes reached resulted in widely divergent trajectories of reasoning. It is likely that this experience will provide fertile ground for international judicial machinery to draw upon in years to come. The analysis will encompass the issue of characterization of conflict, the challenges associated with particular problems of the law of blockade, the use of force, international human rights and the law-policy interface. It will also examine the methodologies employed and will touch on the nature of the liberal promise of invoking law to regulate violence in armed conflict.

International humanitarian law interoperability in multinational operations

Marten Zwanenburg. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 681-705

This article describes some of the challenges raised by multinational operations for the application of international humanitarian law. Such challenges are the result of different levels of ratification of treaties,

divergent interpretations of shared obligations, and the fact that there is no central authority that determines who is a party to an armed conflict. The article discusses methods that have been developed to ensure 'legal interoperability'. Some of these methods attempt to avoid situations where such interoperability is required. Where this is not possible, a 'maximalist' or a 'minimalist' approach can be taken, and in practice these are usually combined.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-zwanenburg.pdf>

Interpretations of IHL in tribunals of the United States

Michael W. Lewis and Peter Margulies. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 415-449. - Cote 345.22/249

Tribunals of the United States have been interpreting IHL ever since the nation was founded. Even before the enactment of the US Constitution, several Founding Fathers believed that membership in the community of nations should be a fundamental aim of the new republic. In the more than two centuries since the Constitution's enactment, US policy and practice have typically remained within the membership conception. This chapter has described both how the membership conception has influenced US judicial interpretations of IHL and how these interpretations have in turn influenced the international conception of that body of law. US departures from the membership conception of IHL have usually involved measures taken by the executive branch. US tribunals have responded to these departures in a variety of ways. Sometimes they have accepted these initiatives, but often they have rejected them or tailored the measures to IHL principles. This pattern emerged after the Civil War, when the US Supreme Court held in *Ex parte Milligan* that a military commission could not try a non-belligerent for acts committed outside the theater of war. In *In re Yamashita*, the Supreme Court upheld a military commission conviction based on a then-novel theory of command responsibility. That doctrine went on to become a key building block for international tribunals. The September 11 attacks provide the latest illustration of the membership argument. After the executive branch responded to the attacks with efforts to change IHL rules on interrogation, detention, and the jurisdiction of military commissions courts pushed back. These responses were often effective, although the Supreme Court's decision in *Hamdan v. Rumsfeld* classifying the struggle with al Qaeda as a NIAC may have raised more questions than it answered. With regard to detention courts have applied IHL principles to determine membership in armed groups and the US has begun to implement administrative reviews based on the Fourth Geneva Convention.

Introducing international humanitarian law to judicial and quasi-judicial bodies

Derek Jinks, Jackson Nyamuya Maogoto and Solon Solomon. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 1-27. - Cote 345.22/249

During the last decade, international humanitarian law has acquired a new vigor in the jurisprudence of international and domestic courts and tribunals. Alongside standard application in cases concerning refugees or war crimes prosecutions, recent jurisprudence has seen international humanitarian law acquiring an assertive stance on highly debated and complex issues, relating to the conduct of warfare. This chapter maps the judicial as well as institutional and thematic expansions international humanitarian law has undertaken during the last years, attempting to project also the field's preponderance in international and domestic jurisprudence also in the future. In this respect, the role of quasi-judicial bodies will be also stressed.

<https://ext.icrc.org/library/docs/ArticlesPDF/39258.pdf>

Issues relating to the use of civilian "human shields"

by Yoram Dinstein. In: Israel yearbook on human rights Vol. 44, 2014, p. 273-291

The article clarifies the use of civilian "human shield" with regard to the following issues: hostage-taking, perfidy, human shields other than civilians, the range of the prohibition, the criminalization of the use of civilian human shields, voluntary civilian human shield and direct participation in hostilities, how the principle of proportionality applies to involuntary civilian human shields and the use of warnings.

Jus ad bellum and jus in bello considerations on the targeting of satellites : the targeting of post-modern military space assets

by Michel Bourbonnière and Ricky J. Lee. In: Israel yearbook on human rights Vol. 44, 2014, p. 167-217

Through new economic structures, militaries are deconstructing the manner in which post-modern militaries use space assets, creating new ambiguous structures. From these new economic structures, a complex multidimensional interdependence in the use of military space assets has emerged, within which space assets may no longer be classified exclusively as military or civilian in nature. Even the concept of dual use space assets, often used by space jurists and popular in the context of technology control frameworks, is being severely challenged by the doctrine. This article reviews the legitimacy of the use of force in outer space and analyse its evolution within the new economic models for the post-modern military, particularly their implications on the present rules applicable to international armed conflicts that govern the targeting of space assets.

The law regulating cross-border relief operations

Emanuela-Chiara Gillard. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 351-382

In view of the challenges frequently encountered in providing assistance to civilians in opposition-held territories, consideration is sometimes given to cross-border relief operations. Such operations raise numerous legal questions, including whose consent is required ; what constitutes arbitrary withholding of consent ; what the consequences of withholding of consent are, both for those wishing to provide assistance and for the parties withholding consent ; and what alternatives exist for providing assistance in such circumstances.

<http://www.cid.icrc.org/library/docs/DOC/irrc-890-gillard.pdf>

Laws of unintended consequence ? : nationality, allegiance and the removal of refugees during wartime

David James Cantor. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 345-372. - Cote 325.3/495

IHL does offer certain forms of protection against refoulement or return to particular classes of war victims. David Cantor shows that — for civilians in the power of a party to the conflict — such protection may be located in the IHL provisions dealing with deportations, transfers and forced displacement. He begins by examining the degree to which the law of international armed conflict governing the treatment of civilians in occupied territories and that relating to the protection of aliens in the territory of a hostile belligerent provide for non-return in their provisions on transfers, deportations and repatriations. He also considers whether the provisions in the law of non-international armed conflict concerning forced displacement of civilians might offer protection against refoulement. Whilst the term 'non-return' maybe more accurate than 'non-refoulement' in describing the kinds of protection offered, he concludes that IHL does indeed offer some level of protection — albeit patchy — to civilians fearing return to armed conflict. Given the extensive ratification of IHL treaties, the practical implications of this finding for 'refugee' protection are not insignificant.

The legal framework applicable to insecurity and violence affecting the delivery of health care in armed conflicts and other emergencies

Alexander Breitegger. In: International review of the Red Cross Vol. 95, no. 889, Spring 2013, p. 83-127

Ensuring respect for, and protection of, the wounded and sick and delivery of health care to them were at the origin of the Red Cross and Red Crescent Movement, as well as the development of international humanitarian law (IHL). In today's armed conflicts and other emergencies, the problem is not the lack of existing international rules but the implementation of relevant IHL and international human rights law (IHRL) which form a complementary framework governing this issue. Against the backdrop of the different manifestations of violence observed by the ICRC in the field and expert consultations held in the framework of the Health Care in Danger Project, this article identifies commonalities between the two legal regimes, including with respect to obligations to provide and facilitate impartial health care; prohibitions of attacks against wounded and sick and health-care providers; prohibitions to arbitrarily obstruct access to health care; prohibitions to harass health-care personnel, in violation of medical ethics; or positive obligations to ensure essential medical supplies and health-care infrastructure and protect health-care providers against violent interferences by others. The article concludes by indicating certain areas where implementation of existing IHL and IHRL is needed, including in domestic normative frameworks, military doctrine and practice, as well as training of healthcare personnel on these international legal frameworks and medical ethics.

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-breitegger.pdf>

Legitimacy and compliance with international law : access to detainees in civil conflicts, 1991-2006

Hyeran Jo and Catarina P. Thomson. In: British journal of political science Vol. 44, issue 2, April 2014, p. 323-355 : tabl., graph. - Cote 400/153 (Br.)

Existing compliance research has focused on states' adherence to international rules. This article reports on state and also non-state actors' adherence to international norms. The analysis of warring parties' behaviour in granting the International Committee of the Red Cross (ICRC) access to detention centres between 1991 and 2006 shows that both governments and rebel groups adhere to the norm of accepting the ICRC in order to advance their pursuit of legitimacy. National governments are more likely to grant access when they are democracies and rely on foreign aid. Insurgent groups are more likely to grant access when they exhibit legitimacy-seeking characteristics, such as having a legal political wing, relying on domestic support, controlling territory and receiving transnational support.

<https://ext.icrc.org/library/docs/ArticlesPDF/39656.pdf>

The Mavi Marmara incident and the application of international humanitarian law by quasi-judicial bodies

Russell Buchan. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 479-503. - Cote 345.22/249

Whether Israel's enforcement of its naval blockade against the Mavi Marmara on 31 May 2010 was in conformity with international humanitarian law has been recently considered by four quasi-judicial bodies. This chapter compares and contrasts the four reports produced by these quasi-judicial bodies and identifies significant discrepancies between them as to the interpretation and application of international humanitarian law (the law of naval blockade). In the light of this, this chapter then locates the role of quasi-judicial bodies within the broader context of international adjudication; specifically, and although recognising the clear benefits of quasi-judicial bodies in a world order where judicial bodies proper are often unable to exercise their jurisdiction, this chapter flags up some of the potential problems that this new type of adjudication yields for international law generally and international dispute resolution in particular.

The (mis)use of international humanitarian law under article 15(c) of the EU qualification directive

Céline Bauloz. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 247-269. - Cote 325.3/495

It is important to bear in mind that beneficiaries of subsidiary protection in EU law are not Refugee Convention refugees, such that the source of protection obligations accepted on their behalf by EU Member States must be sought elsewhere. This, creates a normative challenge for refugee lawyers. In particular, the author examines the role of IHL for the purpose of interpreting Article 15(c). She suggests that one fundamental reason militates against a purely IHL interpretation of Article 15(c), namely: the distinct functions of IHL and subsidiary protection or, more broadly, IRL. This becomes apparent when analysing three key concepts in Article 15(c) – 'indiscriminate violence', 'civilian' and 'international or internal armed conflicts'. Since the IHL contents of these terms cannot, in her view, meet the protective purpose of subsidiary protection, she concludes that recourse to IHL carries the risk of restricting the scope of the latter to the detriment of those in need of international protection.

A NATO perspective on applicability and application of IHL to multinational forces

Peter M. Olson. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 653-657

Questions of the applicability and application of international humanitarian law (IHL) to multinational forces are of central interest to the North Atlantic Treaty Organisation (NATO, also referred to as 'the Alliance' or 'the Organisation'). Far from being incidental, multinational military coordination is the Organisation's *raison d'être* and the driving concept behind its methods, history and operations. Since the end of the Cold War, it has conducted a series of major multinational military operations – in and around the Balkans, Afghanistan, Libya and elsewhere – in which questions of the application of IHL have inevitably arisen.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-olson.pdf>

Non-refoulement between "common article 1" and "common article 3"

Reuven (Ruvi) Ziegler. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 386-408. - Cote 325.3/495

The duty to 'respect and ensure respect' for the 1949 Geneva Conventions contains an implicit obligation not to refole victims and potential victims of war. This is the bold contention developed by Ruvi Ziegler. His contribution considers the non-refoulement obligations of nonbelligerent states in on-going armed conflicts. The main claim of this chapter is that, in an armed conflict, where it is determined that violations of Common Article 3 are occurring, there ought to be a (rebuttable) presumption that all parties to the 1949 Geneva Conventions, whether engaged in that armed conflict or not, undertake not to return persons 'taking no active part in hostilities' fleeing such violations even if they fail to meet the 'refugee' definition in Article 1A(2) of the Refugee Convention. Non-refoulement may thus be utilised to invoke the responsibility of parties to the 1949 Geneva Conventions to protect civilians (of other states) from the harms of armed conflicts, thus making IHL, international criminal law and IRL mutually reinforcing.

Non-refoulement, temporary refuge, and the "new" asylum seekers

Guy S. Goodwin-Gill. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 433-459. - Cote 325.3/495

Guy Goodwin-Gill revisits the notion of 'temporary refuge' for those in flight from conflict as it emerged in the 1980s, and considers to what extent it can be regarded as a norm of customary international law, in the light of State and UN practice, theoretical approaches to custom as a source of international obligations, and related developments over the past thirty years. The principle of temporary refuge, he argues, comprises more than its core obligations of admission and non-return to situations of danger; and he makes the case for de-linking the concept of refuge from the principle of non-refoulement and developing refuge itself as the overarching principle of protection.

The notions of the responsibility to protect and the protection of civilians in armed conflict : detecting their association and its impact upon international law

Raphaël van Steenberghe. In: *Goettingen journal of international law* Vol. 6, no. 1, 2014, p. 81-114. - Cote 361/616 (Br.)

The article focuses on the recent trend evidenced in United Nations and State practice towards associating the responsibility to protect with the protection of civilians in armed conflict. It analyzes whether such a trend is well-founded by shedding light on the common and distinct features of the two notions. In addition, it examines the normative impacts of such association on international law, mainly on international humanitarian law since the protection of civilians in armed conflict is founded upon this law. The article concludes that, although the responsibility to protect and the protection of civilians in armed conflict share similar features, such as the ultimate objective that they pursue and the general content of their protection, a closer look reveals significant differences between the two notions, mainly due to their specific underlying logic. It observes that their association has precisely led to export the reaction aspects peculiar to the responsibility to protect into the field of the protection of civilians in armed conflict. Such association may have the potential not only to influence the nature of the responsibility to protect by enabling it to evolve from a political to a legal concept, but also and more probably to have an impact on international humanitarian law. This could have the advantage of both clarifying and putting the accent on the possibility and necessity of coercive intervention of the international community in case of violations of the international humanitarian law rules related to the protection of civilians. However, such evolution is not without risk for this law. In particular, it may affect its neutral nature or lead to conflate the primary and collective responsibility that it provides with the ones under the responsibility to protect.

Observance of international humanitarian law by forces under the command of the European Union

Frederik Naert. In: *International review of the Red Cross* Vol. 95, no. 891/892, Autumn/Winter 2013, p. 637-643

This contribution identifies the main issues relevant for the applicability and application of international humanitarian law (IHL) in military operations under the command of the European Union (EU) and briefly describes the EU's practice and policy in this respect.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-naert.pdf>

Obstacles au droit international humanitaire : la politique israélienne d'occupation

Peter Maurer. In: Revue internationale de la Croix-Rouge : sélection française Vol. 94, 2012/4, p. 323-331

Dans cet article, le Président du CICR Peter Maurer décrit le regard porté par le CICR sur certaines politiques israéliennes qui sont devenues des caractéristiques essentielles de l'occupation telles que l'annexion de Jérusalem-Est par Israël, le tracé de la barrière en Cisjordanie et la présence et de l'expansion future des colonies israéliennes.

<http://www.cid.icrc.org/library/docs/DOC/irrc-888-maurer-fre.pdf>

The Occupied Palestinian Territory and international humanitarian law : a response to Peter Maurer

Shawan Jabarin. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 415-428

This opinion note presents a Palestinian perspective on the relevance and effectiveness of international humanitarian law to Israel and the Occupied Palestinian Territory. It continues the discussion initiated by ICRC's president Peter Maurer, in the previous issue of the Review, on the legality and humanitarian consequences of Israeli policies and practices regarding certain key issues related to the occupation, namely the routing of the West Bank Barrier, the building of Israeli settlements in the Occupied Palestinian Territory and the annexation of East Jerusalem. A response piece by Alan Baker, former legal adviser of Israel's Ministry of Foreign Affairs, to Peter Maurer's article was published in the same issue.

<http://www.cid.icrc.org/library/docs/DOC/irrc-890-jabarin.pdf>

Of autonomy, autarky, purposiveness and fragmentation : the relationship between EU asylum law and international humanitarian law

Violeta Moreno-Lax. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 295-341. - Cote 325.3/495

The undisputed human rights roots of subsidiary protection notwithstanding, Violeta Moreno-Lax reminds us that EU asylum law has developed as an autonomous system of international protection. This is particularly evident from the CJEU case law on subsidiary protection and the way in which Article 15(c) of the EU Qualification Directive has been construed. Taking account of the specificities of the EU legal order and drawing on the jurisprudence of the relevant courts and treaty bodies, Moreno Lax advocates for a return to the basics of treaty interpretation as a way to solving the interpretative impasse. Through the prism of Article 31 of the Vienna Convention on the Law of Treaties, it becomes apparent why systems of international law develop some sort of isolationism (or autonomy) and why recourse to extrinsic sources of interpretation should remain secondary.

Order within anarchy : the laws of war as an international institution

James D. Morrow. - New York : Cambridge University Press, 2014. - XIV, 354 p. - Cote 345.22/250

Order Within Anarchy focuses on how the laws of war create strategic expectations about how states and their soldiers will act during war, which can help produce restraint. International law as a political institution helps to create such expectations by specifying how violence should be limited and clarifying which actors should comply with those limits. The success of the laws of war depends on three related factors : compliance between warring states and between soldiers on the battlefield, and control of soldiers by their militaries. A statistical study of compliance of the laws of war during the twentieth century shows that joint ratification strengthens both compliance and reciprocity, compliance varies across issues with the scope for individual violations, and violations occur early in war. Close study of the treatment of prisoners of war during World Wars I and II demonstrates the difficulties posed by states' varied willingness to limit violence, a lack of clarity about what restraint means, and the practical problems of restraint on the battlefield.

Persecution and the nexus to a refugee convention ground in non-international armed conflict : insights from customary international humanitarian law

Vanessa Holzer. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 101-127. - Cote 325.3/495

This chapter analyses the central international refugee law (IRL) concept of ‘persecution’ and the nexus between the well-founded fear of persecution and a Refugee Convention ground. Holzer’s contribution usefully examines in which situations the Refugee Convention refugee definition should be interpreted in the light of international humanitarian law (IHL). Her argument is that IHL provides instructive but limited guidance on the interpretation of these aspects of the refugee definition where protection claims relate to situations of non-international armed conflict, by identifying unlawful ways of conducting hostilities and by indicating the presence of causes unrelated to military necessity. Her central argument, however, is that the overall guiding principle for interpreting treaty provisions resides in their humanitarian object and purpose, which serves to ensure that recourse to IHL enhances, rather than restricts, refugee protection.

Perspective on the applicability and application of international humanitarian law : the UN context

Katarina Grenfell. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 645-652

The applicability of international humanitarian law (IHL) to United Nations (UN) forces has long generated discussion. When peacekeepers have become engaged in hostilities of such a nature as to trigger the application of IHL, questions have arisen as to whether they should be equally subject to the rules of IHL.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-grenfell.pdf>

Promoting military operational practice that ensures safe access to and delivery of health care

ICRC. - Geneva : ICRC, August 2014. - 48 p. - Cote 356/267

This Health Care in Danger report compiles a complete set of practical measures to be adopted when planning and conducting military operations with a view to avoiding the negative impact of such operations on the delivery of health care in armed conflict. The report is the result of a broad consultation process with military personnel around the world. Many of the practical measures identified can be incorporated into military orders, rules of engagement, standard operating procedures, and other relevant documents and training.

<http://www.cid.icrc.org/library/docs/DOC/icrc-002-4208.pdf>

Protection against the forced return of war refugees : an interdisciplinary consensus on humanitarian non-refoulement

Jennifer Moore. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 411-432. - Cote 325.3/495

In this chapter, Jennifer Moore argues for scholarly and practitioner consensus around the norm of protection against forced return for ‘war refugees’ — a humanitarian form of non-refoulement extending to all individuals displaced by armed conflict, regardless of whether they meet the persecution-based definition of a refugee set forth in the Refugee Convention. Moore shows how both IRL and IHL are essential in defining the scope and application of the norm. She argues that, in addition to its importance in the context of IRL and IHL, humanitarian non-refoulement has broader relevance to the promotion of international peace and security, implementation of the Responsibility to Protect, and progress towards the Millennium Development Goals.

The protection of civilians and civilian objects from the effects of air and missile warfare : are there any differences between the immediate battlefield and the extended battlefield ?

by **Charles H.B. Garraway.** In: Israel yearbook on human rights Vol. 44, 2014, p. 125-144

The Harvard Manual on International Law Applicable to Air and Missile Warfare’ (HPCR Manual) was published in 2009 as the result of a five year process involving experts from all parts of the world. At the start of the process, a number of questions were posed which individual members were tasked to examine and on which to prepare papers. These papers were then discussed amongst the group and used in the production of the final product. One of the questions related to the changing nature of the battlespace, partly caused by the advent of air power. When weapons were limited in range, the effects of warfare could be contained. However, air power brought in a new capability, to reach far beyond the front line and extend the effect of hostilities to areas previously outside the reach of even long-range artillery. Civilians, once comparatively immune from combat, now found themselves in danger. No longer were rear areas, away from the combat zone itself, safe. Hostilities could now reach to all parts and affect the whole population.

But did the law adequately reflect this change in the character of conflict? Were there differences between the law that applied to protect civilians in close proximity to the battlefield itself and those now affected well away from the traditional frontline? This paper looks at the position and reaches the conclusion that the law does not so distinguish in terms of substance though how the law is applied may differ depending upon the specific circumstances.

The protection of civilians mandate in UN peacekeeping operations : reconciling protection concepts and practices

Haidi Willmot and Scott Sheeran. In: International review of the Red Cross Vol. 95, no. 891/892, Autumn/Winter 2013, p. 517-538

The 'protection of civilians' mandate in United Nations (UN) peacekeeping operations fulfils a critical role in realising broader protection objectives, which have in recent years become an important focus of international relations and international law. The concepts of the 'protection of civilians' constructed by the humanitarian, human rights and peacekeeping communities have evolved somewhat separately, resulting in disparate understandings of the associated normative bases, substance and responsibilities. If UN peacekeepers are to effectively provide physical protection to civilians under threat of violence, it is necessary to untangle this conceptual and normative confusion. The practical expectations of the use of force to protect civilians must be clear, and an overarching framework is needed to facilitate the spectrum of actors working in a complementary way towards the common objectives of the broader protection agenda.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-willmot-sheeran.pdf>

Recruitment and other association of children with armed forces or armed groups

Matthew Happold, Tomaso Falchetta. In: Collegium No 44, Automne 2014, p. 99-119. - Cote 345.2/965

Contient : The protection of children against recruitment and participation in hostilities : international humanitarian law and human rights law as complementary legal frameworks / M. Happold. - The Lubanga case : a critical analysis / T. Falchetta.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

Reflections on the Colombian case law on the protection of medical personnel against punishment

Ekaterina Ortiz Linares and Marisela Silva Chau. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 251-265

One of the fundamental rules for the protection of health-care personnel in any circumstance, including contexts of armed conflicts, provides for a prohibition on punishing medical professionals who merely act in accordance with medical ethics. However, although the reasons for this prohibition may seem obvious, in contexts of non-international armed conflicts the provision of medical care to wounded and sick members of non-state armed groups can expose medical personnel to accusations of participation in criminal activities. Based on the Colombian domestic legislation and jurisprudence on the matter, this article aims to propose elements of analysis on the apparent contradiction that exists between, on the one hand, the prohibition against punishing medical personnel for merely providing health care to the wounded and sick who need it, and on the other, the prerogative of the state authorities to restore order and security within their territory through the imposition of criminal sanctions on members of non-state armed groups or their aiders and abettors.

<http://www.cid.icrc.org/library/docs/DOC/irrc-890-ortiz-linares-chau.pdf>

Reflections on the law of neutrality in current air and missile warfare

by Peter Hostettler. In: Israel yearbook on human rights Vol. 44, 2014, p. 145-166

The article intends to explore the actual content and relevance of the law of neutrality from a perspective of contemporary armed conflict, focusing on the particularities of air and missile operations. Although most of the neutrality rules were in use or were drafted when no aircraft or missile existed, it explores which rules are of importance for situations where neutral States interact with belligerents in a context of air and missile operations during an international armed conflict. There are three particularities when comparing the law of neutrality with the rest of international humanitarian law: First, the law of neutrality accommodates under its roof rules of *jus ad/contra bellum* with rules pertaining to the *jus in bello*. A second particularity may be seen in the scope of applicability which is limited to international armed

conflicts. And a third particularity, especially in view of the rules belonging to the *jus ad bellum*, must be seen in the subordination of the law of neutrality to the 1945 Charter of the United Nations regulating the present system of collective security. Some scholars have therefore spread doubt on the continuous relevance of the law of neutrality. The fact that neutrality has played a role in recent situations is sufficient to prove its continuous relevance. In fact, during these international armed conflict occurring without a UN Security Council mandate certain nations would have preferred to be seen as not participating in the conflict for internal political reasons, but they were unwilling or even unable to face all of the consequences, while other applied the rules strictly e.g. by prohibiting overflights except for medical transports.

Refuge from inhumanity ? : canvassing the issues

Jean-François Durieux and David James Cantor. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 3-35. - Cote 325.3/495

This short opening chapter seeks to provide an introduction to some of the main issues canvassed by the volume. Towards this end, it begins by setting out the factual and legal context within which the contemporary appeal of exploring and charting the interaction between IRL and IHL has emerged. It then turns to consider why the issue of interaction between these two legal regimes is important and how the relationship might be configured; various important points of interaction cross-cutting the chapters contribute to the volume are highlighted for the benefit of the reader.

Refuge from inhumanity ? : war refugees and international humanitarian law

ed. by David James Cantor and Jean-François Durieux. - Leiden ; Boston : Brill Nijhoff, 2014. - XVII, 494 p. - Cote 325.3/495

This book contributes to a long-standing but ever topical debate about whether persons fleeing war to seek asylum in another country – ‘war refugees’ – are protected by international law. It seeks to add to this debate by bringing together a detailed set of analyses examining the extent to which the application of international humanitarian law (IHL) may usefully advance the legal protection of such persons. This generates a range of questions about the respective protection frameworks established under international refugee law and IHL and, specifically, the potential for interaction between them. As the first collection to deal with the subject, the eighteen chapters that make up this unique volume supply a range of perspectives on how the relationship between these two separate fields of law may be articulated and whether IHL may contribute to providing refuge from the inhumanity of war.

Revisiting the civilian and humanitarian character of refugee camps

Maja Janmyr. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 225-246. - Cote 325.3/495

This chapter describes the curious ‘amalgamation of international law’ evidenced in the rule relating to the ‘civilian and humanitarian character’ of refugee camps. This norm has in recent decades emerged as an important principle of international law, drawing on IRL, IHL, the laws of neutrality and the UN Charter. Tracing the origins of the principle as well as its developments in UN documents, the author seeks to clarify the respective influences of IHL and IRL in defining what is (or should be) ‘civilian’ and ‘humanitarian’ in the settlement of refugees. She asks whether, in the application of this asylum-related principle, ‘civilian’ and ‘humanitarian’ are direct imports, perversions, or vague imitations of the same concepts in IHL. She concludes that the IRL terms do not – and are not intended to – correspond with their IHL meaning; they serve an operational and functional, rather than strictly legal, purpose.

The role of international criminal prosecutions in increasing compliance with international humanitarian law

by Robert Cryer. In: *Israel yearbook on human rights* Vol. 44, 2014, p. 247-272

In the past two decades, there has been a huge swing towards the use of international criminal law to deal with violations of international humanitarian law. Although it is a bad idea to treat it as a panacea for all ills, especially when there are other mechanisms that can be very effective, the article looks at the two most relevant justifications given for international criminal processes to the question at hand, the role of prosecutions in increasing compliance with international humanitarian law: deterrence, and denunciation/education.

The role of the U.S. judicial branch during the long war : drone courts, damage suits, and Freedom of Information Act (FOIA) requests

Lesley Wexler. - In: Applying international humanitarian law in judicial and quasi-judicial bodies : international and domestic aspects. - The Hague : Asser Press, 2014. - p. 61-102. - Cote 345.22/249

What role, if any, do courts have to play in regulating the use of drones for targeted killing? This chapter suggests that the judiciary may play an important role in the debate over the executive branch's decisions regarding IHL, even if it declines to speak to the substance of such cases. While this chapter remains skeptical that courts will ever reach the merits on IHL questions, the chapter concludes by suggesting that creative use of the judiciary has helped insert IHL into the public debate over targeted killings to encourage greater accountability. It discusses the executive branch's behavior in the shadow of the judicial and legislative branches. First, even as the Obama administration failed to acknowledge drone strikes explicitly, a number of government officials gave speeches providing some sense of the justifications for and the limitations upon targeted killings. Second, members of the Obama administration began leaking documents providing extensive details on legal questions surrounding targeted killings, including some relating to the application and interpretation of IHL norms. Lastly, the Obama administration efforts to institutionalize its targeted killing practices may enhance compliance with IHL norms and create more significant internal oversight and review. The final part concludes by noting additional reform measures to bolster these protections in the absence of a stronger judicial role.

The scope of the obligation not to return fighters under the law of armed conflict

Françoise J. Hampson. - In: Refuge from inhumanity ? : war refugees and international humanitarian law. - Leiden ; Boston : Brill Nijhoff, 2014. - p. 373-385. - Cote 325.3/495

Françoise Hampson considers a range of situations which may arise in international and non-international armed conflicts, specifically in relation to whether fighters may be able to prevent their transfer to a particular State against their will. In order to avoid distorting IHL, her analysis starts by examining factual situations and considering what view IHL may take of the freedom of movement issue contained in each of these.

<https://ext.icrc.org/library/docs/ArticlesPDF/39233.pdf>

Second annual transatlantic workshop on international law and armed conflict : report : July 17-18, 2014 at Pembroke College, University of Oxford

prepared by Gilles Giacca and Eleanor Mitchell. - [S.l.] : [s.n.], 2014. - 13 p. - Cote 345.21/45 (Br.)

Based on roundtable discussions, the workshop was divided into six sessions focusing on key issues relating to international law and armed conflict. On the first day, participants considered the relationship between IHRL and IHL, beginning with a general exploration of this topic before focusing more specifically on how the relationship between the two bodies of law shapes questions relating to responsibility for compliance and accountability for violations. Discussion on the second day was concerned with the idea of boundaries, both between different types of armed conflict and between armed conflict, other situations of violence, and peace. The aim was not only to identify these boundaries with greater precision but also to examine the extent to which they might be porous in terms of the potential overlap between the legal regimes applicable on each side.

Les services ambulanciers et préhospitaliers dans les situations de risque

CICR. - Genève : CICR, août 2014. - 53 p. - Cote 356/260 (FRE)

Ce rapport propose des moyens de réduire les risques pour la sécurité des services de soins préhospitaliers et services ambulanciers dans les zones de violence armée. Rédigé par la Croix-Rouge de Norvège avec le concours du CICR et le la Croix-Rouge mexicaine, ce rapport résume l'expérience de ces services sur le terrain dans plus d'une vingtaine de pays.

<http://www.cid.icrc.org/library/docs/DOC/icrc-001-4173.pdf>

Sexual violence

Hélène Tigroudja, Theo Rycroft, Gloria Gaggioli. In: Collegium No 44, Automne 2014, p. 63-97. - Cote 345.2/965

Contient : L'interdiction absolue des violences sexuelles en droit international humanitaire et en droit international des droits de l'homme / H. Tigroudja. - Criminalisation and prosecution of sexual violence in armed conflict at the domestic level : grave breaches and universal jurisdiction / T. Rycoft. - Is there a "right to abortion" for women and girls who become pregnant as a result of rape ? : a humanitarian and legal issue / G. Gaggioli.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

A simple solution to war refugees ? : the Latin American expanded definition and its relationship to IHL

David James Cantor and Diana Trimiño Mora. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 204-224. - Cote 325.3/495

This contribution explores how the expanded refugee definition offered by the 1984 Cartagena Declaration on Refugees protects war refugees. Noting that the existing scholarship borrows considerably from IHL in its attempt to interpret the Cartagena definition, their contribution differentiates itself by adopting a more contextual analysis that relates the expanded Cartagena definition to the Declaration's wider approach to the protection of refugees fleeing war in Latin America. As an alternative to what they call a 'conventional' analysis of the Cartagena definition, the authors propose an approach that gives greater emphasis to context and purpose. Through so doing, they illustrate the current role — and future potential — of IHL in determining the scope of the Cartagena definition in Latin America.

Some controversies of detention in multinational operations and the contributions of the Copenhagen Principles

Bruce 'Ossie' Oswald. In: *International review of the Red Cross* Vol. 95, no. 891/892, Autumn/Winter 2013, p. 707-726

This paper discusses three main areas of controversy relating to detention in the context of multinational operations: the relationship between international humanitarian law and human rights law; the principle of legality in the context of relying on United Nations Security Council resolutions as a justification for taking detainees; and the transfer of detainees where there is, for example, a substantial risk of torture or cruel, inhuman or degrading treatment or punishment. The paper then considers how the Copenhagen Principles address these issues.

<http://www.cid.icrc.org/library/docs/DOC/irrc-891-892-oswald.pdf>

States' obligations to mitigate the direct and indirect health consequences of non-international armed conflicts : complementarity of IHL and the right to health

Amrei Müller. In: *International review of the Red Cross* Vol. 95, no. 889, spring 2013, p. 129-165

Armed conflicts have numerous adverse health consequences for the affected populations, many of which occur in the long-term. This article analyses in detail how international humanitarian law (IHL) and the right to health complement each other in obliging states to mitigate the direct and indirect health consequences of non-international armed conflicts. With its historical origin and purpose of protecting the wounded and sick combatants of standing governmental armies, IHL focuses on the protection of the wounded and sick suffering from the direct health consequences of armed conflicts, such as injuries resulting from ongoing hostilities. The right to health is more expansive: it obliges states to prioritise the provision of primary health care through creating and maintaining an accessible basic health system. This focus enables it to highlight and address the indirect health consequences of armed conflicts, such as the spreading of epidemic and endemic diseases and rising child and maternal mortality and morbidity.

<http://www.cid.icrc.org/library/docs/DOC/irrc-889-muller.pdf>

Status of NGOs in international humanitarian law

by Claudie Barrat ; foreword by Georges Abi-Saab. - Leiden ; Boston : Brill Nijhoff, 2014. - XIII, 384 p. - Cote 341.215/254

In *Status of NGOs in International Humanitarian Law*, Claudie Barrat examines the legal framework applicable to NGOs in situations of armed conflict. The author convincingly demonstrates, contrary to convention, that in addition to the ICRC, the National Societies and the IFRC, numerous other NGOs referenced in humanitarian law treaties have a legal status in IHL and therefore legitimate claim to employ

IHL provisions to respond to current challenges. On the basis of clear and thorough definitions of these entities, Barrat argues that existing NGOs meeting stringent definition can benefit from customary rights and obligations in both international and non-international armed conflict.

A steady race towards better compliance with international humanitarian law ? : the ICTR 1995-2012

Dominik Steiger. In: *International criminal law review* Vol. 14, issue 6, 2014, p. 969-1027

This article reviews the legacy of the International Criminal Tribunal for Rwanda (ICTR) under a specific compliance perspective and asks whether the Tribunal's jurisprudence furthered the adherence to norms of international criminal and humanitarian law. The Tribunal's impact on the circulation, emergence and enforcement, of the prohibitions of genocide and other serious violations of international humanitarian law will thus be scrutinised. Furthermore, the legitimacy of the ICTR's jurisprudence plays a major role as human beings not only follow a logic of consequence but also a logic of appropriateness. This combined approach will show that the ICTR – despite its shortcomings – has furthered compliance by diffusing the norms of international criminal and humanitarian law not only to Rwanda and the Great Lakes Region, but also to the international community.

<http://dx.doi.org/10.1163/15718123-01406001>

The strategic robot problem : lethal autonomous weapons in war

Heather M. Roff. In: *Journal of military ethics* Vol. 13, issue 3, October 2014, p. 211-227

The present debate over the creation and potential deployment of lethal autonomous weapons, or 'killer robots', is garnering more and more attention. Much of the argument revolves around whether such machines would be able to uphold the principle of noncombatant immunity. However, much of the present debate fails to take into consideration the practical realities of contemporary armed conflict, particularly generating military objectives and the adherence to a targeting process. This paper argues that we must look to the targeting process if we are to gain a fuller picture of the consequences of creating or fielding lethal autonomous robots. This paper argues that once we look to how militaries actually create military objectives, and thus identify potential targets, we face an additional problem: the Strategic Robot Problem. The ability to create targeting lists using military doctrine and targeting processes is inherently strategic, and handing this capability over to a machine undermines existing command and control structures and renders the use for humans redundant. The Strategic Robot Problem provides prudential and moral reasons for caution in the race for increased autonomy in war.

<http://dx.doi.org/10.1080/15027570.2014.975010>

Targeting in air warfare

by Kenneth Watkin. In: *Israel yearbook on human rights* Vol. 44, 2014, p. 1-67

The analysis of targeting in this article is divided into three parts. First, the nature of warfare as a State based activity and with it the impact the levels of war (e.g. strategic, operational and tactical) have on the application of air warfare is explored. Particular attention is paid to the development of airpower theory and challenges that arise in the use of airpower as a strategic "weapon". As demonstrated, it is the application of airpower to meet strategic goals that has impacted on the legal definition of "military objectives" and with it the effort to limit collateral civilian casualties and damage. Secondly, the military doctrine governing the application of airpower is reviewed. The framework developed by State military forces to conduct air warfare not only demonstrates how airpower theory is put into practice it highlights a number of the challenges facing military forces seeking to apply targeting 'principles'. This part discusses the operational planning process; and highlights targeting doctrine such as effects based targeting, the phases of the targeting cycle, and time sensitive targeting. Thirdly, building on the preceding contextual development, the late 20th Century attempt to regulate targeting is discussed. Particular attention is paid to the two main trends applied in interpreting the legal definition of military objectives. One approach seeks to restrictively apply the wording of Additional Protocol I with a bias towards narrowly viewing lawful targets as being more directly associated with the tactical level of war fighting. The second broader method applies a more traditional strategic approach seeing warfare as a State based activity resulting in a broader set of targets that may be attacked. Ultimately, it is suggested the second method of interpreting the law governing what objects may be attacked more accurately reflects how air warfare is conducted and wars are fought. The analysis then turns to the requirements of the principle of distinction; the identification of people and objects as targets; the resolution of doubt; and application of targeting precautions, both in the offence and defence. The goal of this assessment is to outline the challenges associated with applying international humanitarian law provisions to the targeting decision-making process.

The Vukovar hospital case from the perspective of a national investigative judge

Miroslav Alimpic. In: International review of the Red Cross Vol. 95, no. 890, Summer 2013, p. 267-286

Among the increasingly frequent acts of non-compliance with, and grievous violations of, international humanitarian law around the world, especially in non-international armed conflicts, attacks on objects and persons enjoying special protection, and their abuse, as well as the misuse of the distinctive emblems of the Red Cross and Red Crescent, come as no surprise. Although a repressive approach to the problem – through the prosecution and punishment of perpetrators – cannot completely prevent such occurrences, an effective and appropriate judicial stigmatisation can significantly contribute to making them as rare as possible. In this regard, the court proceedings held before the War Crimes Chamber in Belgrade and the International Criminal Tribunal for the former Yugoslavia in The Hague in connection with the events in and around the Vukovar Hospital and Ovc̃ara farm have provided an appropriate judicial response. This is notwithstanding the fact that, at least for now, not all perpetrators have been prosecuted for their acts (or failure to act) at the time of the commission of these grave crimes.

<http://www.cid.icrc.org/library/docs/DOC/irrc-890-alimpic.pdf>

Vulnerabilities in armed conflicts : selected issues : proceedings of the 14th Bruges Colloquium, 17-18 October 2013 = Vulnérabilités en temps de conflits armés : quelques enjeux : actes du 14ème colloques de Bruges, 17-18 octobre 2013

CICR, Collège d'Europe. In: Collegium No 44, Automne 2014, 147 p. - Cote 345.2/965

Contient : Vulnerabilities in armed conflict : selected issues / E. Mikos-Skuza... [et al.]. - Vulnerabilities in hostilities : the example of health care / F. Harhoff... [et al.]. - Sexual violence / M. Gnatovsky... [et al.]. - Recruitment and other association of children with armed forces or armed groups / P. Berman... [et al.].

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Vulnerabilities in detention : selected issues

Ramin Mahnad, Françoise Hampson. In: Collegium No 44, Automne 2014, p. 17-35. - Cote 345.2/965

Contient : Protection under international humanitarian law : the need to strengthen the law applicable in non-international armed conflicts / R. Mahnad. - Protection under human rights law : a useful complement ? : opportunities and limits / F. Hampson. - Can non-state armed forces ensure adequate protection to vulnerable groups in detention ? / R. Mahnad and F. Hampson.

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Vulnerabilities in hostilities : the example of health care

Julia Grignon, Raymond Ouigou Savadogo, Marco Sassòli. In: Collegium No 44, Automne 2014, p. 37-61. - Cote 345.2/965

Contient : Les attaques contre les blessés, les malades, les naufragés, le personnel médical et les défis posés par les attaques subséquentes / J. Grignon et R. Ouigou Savadogo. - When do medical and religious personnel lose protection ? / M. Sassòli.

https://www.coleurope.eu/sites/default/files/uploads/page/collegium_44.pdf

War and the environment : new approaches to protecting the environment in relation to armed conflict

ed. by Rosemary Rayfuse. - Leiden ; Boston : Brill Nijhoff, 2014. - X, 234 p. - Cote 363.7/156

The chapters in this volume have their origins in papers presented at a Workshop held at Lund University in Sweden. The Workshop gathered together experts from Europe, the United States and Australia, including leading academics as well as representatives from the ICRC, the Swedish, Norwegian and Danish Red Cross Societies and the Swedish and Norwegian governments, to examine the relevance and adequacy of the existing regime for environmental protection during armed conflict as well as the ability of other international legal mechanisms to contribute to the amelioration of damage to the environment arising as a result of or in relation to armed conflict. The book, like the Workshop, takes as its starting point the existing IHL regime for the protection of the environment during armed conflict and goes on to explore the

application of other legal regimes that may be relevant to protection of the environment both during armed conflict and, as in the broader context envisaged by the ILC, in relation to armed conflict. As this thought-provoking volume demonstrates, a vast range of issues, actors and legal regimes must now be considered and some pro-active and imaginative research and thinking brought to bear in any consideration of this ever-important topic. Some papers appeared previously in a special issue of the Nordic Journal of International Law.

The "war flaw" and why it matters

Hugo Storey. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 39-56. - Cote 325.3/495

Hugo Storey returns to the famous 'war-flaw' identified in his earlier writing. This refers to the failure of international protection to analyse claims by persons fleeing armed conflict by reference to the correct international law framework, i.e. IHL. In his view, an interpretative advocacy that affirms the autonomy of IRL is a slippery slope that may lead to the emergence of a distinct and parallel body of jurisprudence on war refugees that is disconnected from the international law devoted to armed conflict: IHL and international criminal law. Aware of the academic commentary which his proposal has attracted, Storey's chapter refines his 'war-flaw' argument and addresses some of these subsequent comments and developments, which he takes under four sub-headings: (i) the international law context of refugee law; (ii) the difficulties that IRL has with armed conflict cases; (iii) attempts to solve these using IRL; and (iv) attempts to solve these using IHL.

What protection for persons fleeing indiscriminate violence ? : the impact of the European courts on the EU subsidiary protection regime

Evangelina (Lilian) Tsourdi. - In: *Refuge from inhumanity ? : war refugees and international humanitarian law.* - Leiden ; Boston : Brill Nijhoff, 2014. - p. 270-294. - Cote 325.3/495

This chapter introduces — alongside IHL — the jurisprudence of the European Court of Human Rights (ECtHR) into an assessment of the 'value-added' of Article 15(c). Tsourdi compares and contrasts decisions of the ECtHR and of the Court of Justice of the EU (CJEU) in cases involving protection-seekers fleeing indiscriminate violence and critically analyses the findings of the CJEU in the *Elgafaji* judgment. She asserts that, based on the latest case law of the ECtHR, protection against refoulement under Article 3 of the ECHR is not substantially different in scope from that available under Article 15(c) of the EU Qualification Directive. For the latter to retain relevance, she suggests, a limited importing of IHL provisions into the interpretative process may prove necessary — and she shows how, in this area too, ECtHR jurisprudence may offer valuable guidance.

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