

BIBLIOGRAPHY

1st issue 2025

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 (<https://library.icrc.org>) one of the most exhaustive resources for IHL research.

The Library is open to the public from Monday to Friday (9 am to 1 pm).

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.

Access to document

Whenever an article is electronically available in full text, a link allows you to access the document directly. Links followed by a * are restricted to subscribers or otherwise limited to ICRC staff. All documents are available for loan at the ICRC Library. 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 four months. The Library strives to acquire relevant articles and books as soon as they become available.

Contents

The bibliography lists writings on IHL subjects (e.g. articles, monographs, chapters, reports and working papers) in English and French, with the addition of writings in German and Spanish since 2022.

Sources

The ICRC Library monitors a wide range of sources, including all 80 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)

African customs and traditions and the indigenization of international humanitarian law in armed conflict

Darlington Tschuma. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 639-658

<https://library.icrc.org/library/docs/DOC/irrc-926-tshuma.pdf>

The Canadian handbook on international humanitarian law

Steve Tiwa Fomekong, Catherine Gribbin, Andrew Thomson, Christopher Waters. - Toronto : LexisNexis, 2024. - XVIII, 417 p.

Customary international law : a transformative force in the landscape of IHL

Katharine Fortin. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 37-62

<https://doi.org/10.1093/oso/9780197775134.003.0003> *

Decolonising the civilian in Third World national liberation wars

Nicola Perugini. In: Millenium : journal of international studies, vol. 52, issue 2, 2024, p. 252-278

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60555.pdf> *

La délimitation du temps du conflit armé

Julia Grignon. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 23-31

Desafíos del derecho internacional humanitario en Colombia : aspectos filosóficos, hermenéuticos, constitucionales y ambientales

Édgar Solano González, Manuela Losada Chavarro, María Alejandra Osorio Alvis (eds.). - Bogotá : Universidad Externado de Colombia, 2022. - 695 p.

The development of international humanitarian law by the International Committee of the Red Cross

Sandesh Sivakumaran. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 125-148

<https://doi.org/10.1093/oso/9780197775134.003.0007> *

Expert manuals : an insider's account

Michael N. Schmitt. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 105-124

<https://doi.org/10.1093/oso/9780197775134.003.0006> *

Exploring Hindu ethics of warfare : the Purāṇas

Raj Balkaran and A. Walter Dorn. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 542-564

<https://library.icrc.org/library/docs/DOC/irrc-926-balkaran.pdf>

From treaty to custom : shifting paths in the recent development of international humanitarian law

Giovanni Mantilla. In: Leiden journal of international law, vol. 37, no. 2, June 2024, p. 359-378

<https://doi.org/10.1017/S0922156523000705>

Gemeinwesen zwischen tradition und weltoffenheit : ausgewählte schriften von Dietrich Schindler (1924-2018)

Hrsg. Benjamin Schindler and Daniel Thürer. - Genf [etc.] : Schulthess, 2024. - VIII, 541 p.

The “great powers” and the formation of international law

Kevin Jon Heller. In: Chinese journal of international law, vol. 23, issue 4, December 2024, p. 637-687

<https://doi.org/10.1093/chinesejil/jmae038> *

Jus ad bellum et jus in bello

Julien Cazala. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 149-160

Law, language, and warfare

edited by Russell Buchan, Emily Crawford and Rain Liivoja. - Boston : Brill Nijhoff, 2025. - 193 p.

Law wars : academia and the manufacture of international humanitarian law

Page Wilson. In: Journal of the history of international law = revue d'histoire du droit international, vol. 26, issue 4, 2024, p. 383-422

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60516.pdf> *

Methodological issues in the study on customary international humanitarian law conducted by the International Committee of the Red Cross : an analysis in light of the conclusions on identification of customary international law reached by the International Law Commission of the United Nations

Yoshiaki Kitano. In: Journal of international relations and comparative culture, Vol. 23, no. 1, September 2024, p. 95-108

<https://doi.org/10.31219/osf.io/es25p>

Of war and international investment law

Kathryn Greenman. In: International and comparative law quarterly, vol. 73, part 3, July 2024, p. 579-607

<https://doi.org/10.1017/S0020589324000174>

The only true fragmentation in international law : jus ad bellum and jus in bello

Ilias Bantekas. In: African yearbook on international humanitarian law, 2022, p. 54-66

Pax Britannica : a case study of pre-Hague imperial laws of war

Samuel White and Ikhwan Fazli. In: The military law and the law of war review, vol. 62, issue 2, December 2024

<https://doi.org/10.4337/mlwr.2024.02.01> *

Principles of international humanitarian law : a new framework

Jeroen van den Boogard. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 63-74

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Sean Watts. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 327-360

<https://doi.org/10.1093/oso/9780197775134.003.0015> *

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Abdulhamid Abdulghani. - Geneva : ICRC, February 2025. - 53 p.

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Quel(s) droit(s) après l'occupation ? : retour au Haut-Karabagh

Thibaut Fleury Graff. In: Annuaire français de droit international, 69, 2023, p. 181-199

<https://hal.science/hal-04925854v1>

The role of regionalism in the making and shaping of the law of armed conflict

Gus Waschefort. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 271-298

<https://doi.org/10.1093/oso/9780197775134.003.0013> *

Soft law : what is it good for ?

Michael W. Meier. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 75-102

<https://doi.org/10.1093/oso/9780197775134.003.0005> *

“The Spanish Henri Dunant” of the Institut de droit international, Nicasio Landa (1830-1891)

Ignacio de la Rasilla. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 659-678

<https://library.icrc.org/library/docs/DOC/irrc-926-rasilla.pdf>

Les traités en temps de guerre

Romain Le Bœuf. In: Annuaire français de droit international, 69, 2023, p. 155-180

When humanitarians go to war : a European road to ‘civilized’ warfare?

Anne Dienelt. - In: The Oxford handbook of international law in Europe. - Oxford : Oxford University Press, 2024. - p. 331-350

Where Vienna and Geneva meet : treaty interpretation and the Geneva Conventions

Jean-Marie Henckaerts. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 13-36

<https://doi.org/10.1093/oso/9780197775134.003.0002> *

II. Types of conflicts

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

L'application du principe de distinction des biens de caractère civil face aux cyberattaques en contexte de conflit armé international

Honoré Kanu Tshibuyi. In: L'observateur des Nations Unies, vol. 56, 2024-1, p. 59-79

Belligerent reprisals from enforcement to reciprocity : a new theory of retaliation in conflict

Francesco Romani. - Cambridge : Cambridge University Press, 2025. - XXXVII, 330 p.

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Cyprus 1958-1968 : an interdisciplinary assessment of inter-communal violence, with a particular emphasis on Common Article 3 of the 1949 Geneva Conventions I-IV

by Nadia Kornioti. - [S.l.] : [s.n.], March 2022. - 365 p.

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Decentralized armed groups : can they be classified as parties to non-international armed conflicts ?

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<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60555.pdf> *

La detención o retención en los conflictos armados no internacionales : reflexiones sobre el caso colombiano

Juan Pablo Acosta Peñaloza. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 267-327

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Martha M. Bradley. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 173-196

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Le droit international face à la destruction ou la perturbation des infrastructures essentielles des Etats

Karine Bannelier. In: Annuaire français de droit international, 69, 2023, p. 225-243

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Joanne Kirkham. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 171-182

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Is Ecuador facing a non-international armed conflict against organized crime groups ? : reality, inconsistencies and jurisprudential developments

Hugo Cahueñas Muñoz and Juan Felipe Idrovo Romo. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 610-638

<https://library.icrc.org/library/docs/DOC/irrc-926-munoz.pdf>

Non-State armed groups, law-making, and the shaping of international law in armed conflict

Ezequiel Heffes. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 247-268

<https://doi.org/10.1093/oso/9780197775134.003.0012> *

One click from conflict : some legal considerations related to technology companies providing digital services in situations of armed conflict

Jonathan Horowitz. In: Chicago journal of international law, vol. 24, no. 2, Winter 2024, p. 305-337

<https://chicagounbound.uchicago.edu/cjil/vol24/iss2/2/>

Safeguarding the vulnerable : a comprehensive approach to protecting detainees in contemporary non-international armed conflicts and counterterrorism operations

Kasim Balarabe. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 418-451

<https://doi.org/10.1163/18781527-bja10098> *

Soft law : what is it good for ?

Michael W. Meier. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 75-102

<https://doi.org/10.1093/oso/9780197775134.003.0005> *

Unconventional warfare under Additional Protocol I

Jim Slesman and Emma Kingdon. In: Boston University international law journal, Vol. 42, issue 1, Spring 2024, p. 59-118

https://www.bu.edu/ilj/files/2024/08/42.1.3-Slesman_Unconventional-Warfare-Under-API.pdf

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Decentralized armed groups : can they be classified as parties to non-international armed conflicts ?

Sylvain Vité and Isabelle Gallino. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 931-942

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¿Es el arreglo institucional actual del sector defensa adecuado para la aplicación del derecho internacional humanitario?

Jaime Polanco. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 239-263

Le Groupe Wagner et le droit international

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Is Ecuador facing a non-international armed conflict against organized crime groups ? : reality, inconsistencies and jurisprudential developments

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Lessons from the Russian invasion of Ukraine : the plight of diaspora fighters in levées en masse

Elliot Winter. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 347-382

<https://doi.org/10.1163/18781527-bja10103> *

Loyauté et droit international humanitaire

Véronique Harouel-Bureloup. - In: Penser la loyauté en droit : mélanges en l'honneur de Christine Youego. - Paris : Mare & Martin. - p. 113-133

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Non-State armed groups, law-making, and the shaping of international law in armed conflict

Ezequiel Heffes. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 247-268

<https://doi.org/10.1093/oso/9780197775134.003.0012> *

The role of human rights mechanisms in shaping international humanitarian law

Alessandra Spadaro. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 197-220

<https://doi.org/10.1093/oso/9780197775134.003.0010> *

Targeting in international law : counterinsurgency and the legal materiality of the principle of distinction

Amin Parsa. - Abingdon : Routledge, 2024. - XII, 171 p.

<https://doi.org/10.4324/9781003121947>

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https://www.bu.edu/ilj/files/2024/08/42.1.3-Slesman_Unconventional-Warfare-Under-API.pdf

“When you have to shoot, shoot !” : rethinking the right to life of combatants during armed conflicts

Ido Rosenzweig. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 863-896

<https://library.icrc.org/library/docs/DOC/irrc-926-rosenzweig.pdf>

IV. Multinational forces

Protection of civilians in UN peacekeeping operations : legal responsibility and accountability

Aminul Islam. - London [etc.] : Routledge, 2025. - XXI, 302 p.

V. Private actors

The arms trade and international criminal law : reframing accountability for complicit weapon suppliers

Tomas Hamilton. - Oxford : Oxford University Press, 2025. - XXVIII, 228 p.

<https://doi.org/10.1093/oso/9780192868671.001.0001> *

Corporate data enablers : a missing piece in the regulatory response to the military use of artificial intelligence

Helen Stamp. In: The military law and the law of war review, vol. 62, no. 2., 2024, p. 259-293

<https://doi.org/10.4337/mlwr.2024.02.03> *

Derecho internacional humanitario y empresas : papeles que desempeñan y responsabilidad empresarial en conflictos armados no internacionales

Javier Tous. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 435-476

<https://doi.org/10.57998/bdigital/handle.001.960>

ESG, geopolitics, and human rights in disputed territories

Galia Rivlin. In: Northwestern journal of international law and business, vol. 44, issue 1, Winter 2024, p. 69-127

<https://scholarlycommons.law.northwestern.edu/njilb/vol44/iss1/2/>

Le Groupe Wagner et le droit international

Thibault Moulin. In: Annuaire français de droit international, 69, 2023, p. 181-199

One click from conflict : some legal considerations related to technology companies providing digital services in situations of armed conflict

Jonathan Horowitz. In: Chicago journal of international law, vol. 24, no. 2, Winter 2024, p. 305-337

<https://chicagounbound.uchicago.edu/cjil/vol24/iss2/2/>

Der privatisierte Krieg : private militärdienstleister zwischen staatlichen aufgaben und staatlichem aufgeben

Sarah Katharina Stein. - Tübingen : Mohr Siebeck, 2024. - XIX, 524 p.

Les sociétés militaires privées en droit international humanitaire

Sandrine De Sena. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 93-104

Soft law : what is it good for ?

Michael W. Meier. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 75-102

<https://doi.org/10.1093/oso/9780197775134.003.0005> *

Storm in an ice cream cone : was Ben and Jerry's decision to end ice cream sales in Israeli settlements a responsible corporate exit from Occupied Territories ?

Jonathan Kolieb. In: Israel law review : a journal of human rights, public and international law, vol. 57, no. 2, November 2024, p. 377-422

<https://doi.org/10.1017/S0021223724000116>

VI. Protection of persons

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

Access to abortion for rape victims in armed conflicts : a feminist perspective

Francesca Cerulli. In: Israel law review : a journal of human rights, public and international law, vol. 57, no. 3, November 2024, p. 449-479

<https://doi.org/10.1017/S0021223724000013>

Advancing honour and dignity in death for victims of armed conflict : exploring the challenges and opportunities of AI and machine learning in humanitarian forensic action under IHL

Edward Madziwa. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 760-794

<https://library.icrc.org/library/docs/DOC/irrc-926-madziwa.pdf>

Allegiance in international humanitarian law : the duty of fidelity and the laws of armed conflict

Manuel Galvis Martínez. In: Journal of conflict and security law, vol. 29, no. 2, Summer 2024, p. 213-230

<https://doi.org/10.1093/jcsl/krae006>

Applying and interpreting the law of armed conflict : contributions by the UN Commissions on the Syrian Arab Republic and the Republic of South Sudan

Yousuf Syed Khan. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 221-246

<https://doi.org/10.1093/oso/9780197775134.003.0011> *

L'assistance humanitaire

Julien Brunel. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 105-118

Between war and the text : the pedagogical life of international humanitarian law

Rebecca Sutton. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 299-324

<https://doi.org/10.1093/oso/9780197775134.003.0014> *

Collateral kids : weighing the lives of children in targeting

Vishakha Wijenyake and René Provost. In: Leiden journal of international law, vol. 37, no. 4, December 2024, p. 1018-1038

<https://doi.org/10.1017/S0922156524000219>

Derecho internacional humanitario y justicia transicional en Colombia

Édgar Solano González, Manuela Losada Chavarro, María Alejandra Osorio Alvis (eds.). - Bogotá : Universidad Externado de Colombia, 2022. - 828 p.

The development of the law of armed conflict by international criminal tribunals

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Droit international et violences sexuelles dans les conflits armés : contributions de la Chaire Mukwege (2019-2023)

sous la direction scientifique de Bérangère Taxil, Isabelle Fouchard et Coralie Klipfel. - [Bayonne] : Institut Francophone pour la Justice et la Démocratie - Louis Joinet, 2024. - 447 p.

<https://institut.ifjd.org/droit-international-et-violences-sexuelles/>

Droit international humanitaire et droit des réfugiés

Christophe Richer. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 183-196

Gaza and the rise of the “Humanitarian Council”

Richard Gowan. In: Journal of international peacekeeping, vol. 27, issue 3, 2024, p. 264-273

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60512.pdf> *

La guerre entre le Hamas et Israël ou la recherche désespérée de l'effectivité du droit international

Jean-Marc Sorel. In: Annuaire français de droit international, 69, 2023, p. 1-45

Humanitarian exemptions : illusive progress in safeguarding humanitarian assistance in the international counterterrorism architecture

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XII. Implementation

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<https://doi.org/10.1093/oso/9780197775134.003.0002> *

XIII. International human rights law

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

Applying and interpreting the law of armed conflict : contributions by the UN Commissions on the Syrian Arab Republic and the Republic of South Sudan

Yousuf Syed Khan. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 221-246

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Derecho internacional humanitario y empresas : papeles que desempeñan y responsabilidad empresarial en conflictos armados no internacionales

Javier Tous. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 435-476

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Réparation au profit des victimes de violences sexuelles liées aux conflits armés : cadre général en droit international et cas particulier des poursuites en RDC

Raphaël Van Steenberghe. - In: Droit international et violences sexuelles dans les conflits armés : contributions de la Chaire Mukwege (2019-2023). - Bayonne : Institut Francophone pour la justice et la démocratie - Louis Joinet, 2024. - p. 271-299

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Réparation au profit des victimes de violences sexuelles liées aux conflits armés : cadre général en droit international et cas particulier des poursuites en RDC

Raphaël Van Steenberghe. - In: Droit international et violences sexuelles dans les conflits armés : contributions de la Chaire Mukwege (2019-2023). - Bayonne : Institut Francophone pour la justice et la démocratie - Louis Joinet, 2024. - p. 271-299

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Los retos de la noción de “persona protegida” para la persecución penal de la violencia sexual en el marco del conflicto armado colombiano

Juan Pablo Acosta Peñaloza. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 329-376

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XV. Contemporary challenges

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

Advancing honour and dignity in death for victims of armed conflict : exploring the challenges and opportunities of AI and machine learning in humanitarian forensic action under IHL

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A next-generation protective emblem : cross-frequency protective options for non-combatants in the context of (fully) autonomous warfare

by Daniel C. Hinck, Jonas J. Schöttler, Maria Krantz, Niklas Widulle, Katharina-Sophie Isleif and Oliver Niggemann. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 703-731

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Les sociétés militaires privées en droit international humanitaire

Sandrine De Sena. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 93-104

Unconventional warfare under Additional Protocol I

Jim Slesman and Emma Kingdon. In: Boston University international law journal, Vol. 42, issue 1, Spring 2024, p. 59-118

https://www.bu.edu/ilj/files/2024/08/42.1.3-Slesman_Unconventional-Warfare-Under-API.pdf

UNITED KINGDOM**Applying the law of armed conflict in domestic courts : the fusion of domestic and international law and the question of IHL expertise**

Yahli Shereshevsky. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 149-172

<https://doi.org/10.1093/oso/9780197775134.003.0008> *

Pax Britannica : a case study of pre-Hague imperial laws of war

Samuel White and Ikhwan Fazli. In: The military law and the law of war review, vol. 62, issue 2, December 2024

<https://doi.org/10.4337/mlwr.2024.02.01> *

Reappraising reprisals against enemy civilians in customary international humanitarian law

Lindsay Moir. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 383-417

<https://doi.org/10.1163/18781527-bja10095> *

UNITED STATES**Applying the law of armed conflict in domestic courts : the fusion of domestic and international law and the question of IHL expertise**

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<https://doi.org/10.1093/oso/9780197775134.003.0008> *

The “great powers” and the formation of international law

Kevin Jon Heller. In: Chinese journal of international law, vol. 23, issue 4, December 2024, p. 637-687

<https://doi.org/10.1093/chinesejil/jmae038> *

“Mistakes” in war

Oona A. Hathaway and Azmat Khan. In: University of Pennsylvania law review, vol. 173, no. 1, November 2024, p. 1-88

https://scholarship.law.upenn.edu/penn_law_review/vol173/iss1/1/

Reappraising reprisals against enemy civilians in customary international humanitarian law

Lindsay Moir. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 383-417

<https://doi.org/10.1163/18781527-bja10095> *

Tort liability in warfare : states’ wrongs and civilians’ rights

Haim Abraham. - Oxford : Oxford University Press, 2024. - X, 186 p.

<https://doi.org/10.1093/9780191997051.001.0001>

Unconventional warfare under Additional Protocol I

Jim Slesman and Emma Kingdon. In: Boston University international law journal, Vol. 42, issue 1, Spring 2024, p. 59-118

https://www.bu.edu/ilj/files/2024/08/42.1.3-Slesman_Unconventional-Warfare-Under-API.pdf

WEST AFRICA

Implementation of IHL in West Africa : participation of West African countries in international humanitarian law (IHL) treaties and their implementation at the national level

[ICRC and ECOWAS Commission]. - Abuja : ECOWAS : ICRC, June 2023. - 22 p.

https://library.icrc.org/library/docs/DOC/TER_027_002.pdf

Implementation of IHL in West Africa : participation of West African countries in international humanitarian law (IHL) treaties and their implementation at the national level

[ICRC and ECOWAS Commission]. - Abuja : ICRC : ECOWAS, 2023. - 64 p.

https://library.icrc.org/library/docs/DOC/TER_026_002.pdf

Implementing IHL in West Africa : participation of West African countries in international humanitarian law (IHL) treaties and their implementation at the national level

[ICRC and ECOWAS Commission]. - Abuja, June 2023 : ECOWAS : ICRC. - 25 p.

<https://library.icrc.org/library/docs/DOC/icrc-2041-002-2023.pdf>

WESTERN SAHARA

ESG, geopolitics, and human rights in disputed territories

Galia Rivlin. In: Northwestern journal of international law and business, vol. 44, issue 1, Winter 2024, p. 69-127

<https://scholarlycommons.law.northwestern.edu/njilb/vol44/iss1/2/>

YEMEN

Belligerent reprisals from enforcement to reciprocity : a new theory of retaliation in conflict

Francesco Romani. - Cambridge : Cambridge University Press, 2025. - XXXVII, 330 p.

<https://doi.org/10.1017/9781108912327> *

All with Abstracts

Access to abortion for rape victims in armed conflicts : a feminist perspective

Francesca Cerulli. In: Israel law review : a journal of human rights, public and international law, vol. 57, no. 3, November 2024, p. 449-479

Adopting a feminist perspective, this article focuses on the protection of women's right to reproductive health during armed conflicts and, in particular, on access to safe abortion services for rape victims. Indeed, although women are disproportionately affected by conflicts, and their sexual and reproductive needs are exacerbated by the spread of sexual and gender-based violence, there is a lack of specific attention on this topic in the literature. The article therefore aims to investigate whether an obligation to provide access to safe abortion services for rape victims can be interpretatively derived from the set of international rules governing armed conflict. To this end, it will start by focusing on abortion as part of the non-discriminatory medical treatment that states must provide to the wounded and sick. It will then address the interpretation of the absolute obligation to treat humanely persons who are taking no active part in the hostilities, and investigate what such treatment entails when it comes to pregnant women who are victims of rape in armed conflicts. Finally, state practice and the practice of the UN Security Council in the framework of the Women, Peace and Security Agenda will be investigated.

<https://doi.org/10.1017/S0021223724000013>

Advancing honour and dignity in death for victims of armed conflict : exploring the challenges and opportunities of AI and machine learning in humanitarian forensic action under IHL

Edward Madziwa. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 760-794

With technological developments presenting tremendous opportunities, rapid developments in data-driven artificial intelligence (AI) and machine learning (ML) have the potential to significantly transform humanitarian forensic action. Yet, their role in the forensic identification of dead bodies remains unexamined. The correct and early identification of dead bodies is not only important to afford the deceased their honour and dignity and to ensure that their families know the fate of their loved ones, but also has broader implications for human rights and international humanitarian law (IHL). This article examines the opportunities and challenges of AI and ML in advancing honour and dignity in death for armed conflict victims in humanitarian forensic action under IHL. It argues that the application of AI and ML in humanitarian forensic action has the potential to revolutionize and support forensic practitioners in the identification of human remains. This will consequently guarantee that families know the fate of their loved ones and that the deceased are afforded dignified burials according to their religious and cultural rites. The article proposes recommendations for the future use of AI and ML in humanitarian forensic action, including the adoption of a legally binding international instrument governing their use, the development of guidelines for their use, the training of forensic actors in IHL and human rights law, and the use of new technologies in humanitarian action.

<https://library.icrc.org/library/docs/DOC/irrc-926-madziwa.pdf>

Advancing protection of health care

Expert meeting on the regulation and perception of distinctive emblems and other signs and symbols used to identify health-care facilities, vehicles and personnel. - Geneva : ICRC, March 2025. - 16 p.

This report summarizes the expert meeting on the regulation and perception of distinctive emblems and identification symbols for health-care facilities, vehicles, and personnel, held on 17–18 June 2024 at the Norwegian Red Cross headquarters in Oslo. Hosted by the Norwegian Red Cross, it brought together participants from 18 countries, including legal experts, academics, and representatives from the International Red Cross and Red Crescent Movement and health organizations. Discussions focused on the role of domestic legislation in safeguarding health care and the challenges surrounding the regulation and perception of protective emblems in armed

conflict. The report outlines policy recommendations to strengthen legislative frameworks, monitoring mechanisms, and authorization policies for emblem use, fostering further exchanges and advancing protection measures for health-care facilities, vehicles, and personnel.

<https://library.icrc.org/library/docs/DOC/icrc-4854-002.pdf>

African customs and traditions and the indigenization of international humanitarian law in armed conflict

Darlington Tschuma. In: *International review of the Red Cross*, Vol. 106, no. 926, 2024, p. 639-658

Many ancient African societies had advanced and sophisticated humanitarian protection mechanisms and war codes to regulate the conduct of armed hostilities. A careful examination of both historical and contemporary African customs and traditions provides unique avenues through which to interpret and apply international humanitarian protection in armed conflict. As a sub-branch of international law, international humanitarian law (IHL) seeks to limit the excesses of warfare and regulate the conduct of armed hostilities. However, international conventions such as those of IHL remain severely constrained if they are not framed and reconciled with indigenous understandings and meanings of humanitarian protection. In non-international armed conflicts specifically, this enduring challenge demands that IHL conventions and other international conventions be framed and understood within indigenous frameworks that support local ownership of this internationalized body of law. Encouraging dialogue between international norms and indigenous practices can enhance the relevance, authority and legitimacy of IHL in Africa.

<https://library.icrc.org/library/docs/DOC/irrc-926-tshuma.pdf>

Allegiance in international humanitarian law : the duty of fidelity and the laws of armed conflict

Manuel Galvis Martínez. In: *Journal of conflict and security law*, vol. 29, no. 2, Summer 2024, p. 213-230

Allegiance is a legal concept that seeks to regulate the duty of fidelity of individuals towards states. A particularity of allegiance is the fact that it has been repeatedly used in treaty provisions, as well as interpretation of rules, in the field of international humanitarian law. The fields in which it has been introduced are quite broad, from rules relating to Prisoner of War status, to defining the relationship between occupiers and occupied population, passing through rules on Protected Personal status for civilians, the internment of enemy aliens, rules on the conduct of hostilities, and deserters. The article analyses both the meaning of allegiance and how it has been used in international humanitarian law revealing some useful instances as well as a set of inconsistencies and potential perils for its use.

<https://doi.org/10.1093/jcsl/krae006>

L'application du principe de distinction des biens de caractère civil face aux cyberattaques en contexte de conflit armé international

Honoré Kanu Tshibuyi. In: *L'observateur des Nations Unies*, vol. 56, 2024-1, p. 59-79

Le droit international humanitaire (DIH) a connu, au fil du temps, l'émergence de nouveaux moyens et méthodes de l'usage de la force, excluant parfois la force physique. Mené dans le cyberspace, le phénomène des cyberattaques est d'autant plus complexe à appréhender dans la mesure où certains Etats attaquent par eux-mêmes ou entretiennent des liens étroits avec des groupes non étatiques et les utilisent comme des intermédiaires ou des « proxies » pour développer des activités malveillantes contre les intérêts d'autres Etats. Partant de ce fait, la doctrine internationale n'a pas tardé d'engager des réflexions sur l'encadrement juridique de ces pratiques étatiques en période de conflits armés afin de ne pas rendre le cyberspace une zone qui échappe au contrôle des règles du DIH. Nonobstant ces efforts considérables, plusieurs objecteurs n'ont cessé de nourrir le débat sur la qualification juridique des cyberopérations en période de conflit armé afin de l'exclure du champ d'application du DIH. Parmi les principes qui gouvernent la conduite des hostilités, le principe de distinction est un des plus importants. Celui-ci subit, dans la pratique internationale, une application variée en raison des spécificités qui caractérisent le cyberspace, mais aussi et surtout, en raison de la définition juridique controversée desdites

opérations. Cet état des choses rend donc difficile la détermination du régime de responsabilité internationale applicable à ces opérations dans le cyberspace, mais aussi leur imputabilité directe ou indirecte à leurs auteurs.

Applying and interpreting the law of armed conflict : contributions by the UN Commissions on the Syrian Arab Republic and the Republic of South Sudan

Yousuf Syed Khan. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 221-246

Over the past twenty-two years, the United Nations has relied on a series of mandated mechanisms to investigate and respond to periods of uprising, conflict, and post-conflict contexts (“atrocity inquiries”). These mechanisms regularly consider questions of law, including by publicly applying and interpreting the law of armed conflict (LOAC). Sometimes they are the first international bodies to consider certain issues. The Syria Commission of Inquiry, for example, was the first UN-mandated mechanism to consider (1) the forced displacement of unsympathetic populations as a warring strategy after prolonged siege warfare; and (2) unlawful internment through battlefield detention perpetrated by a non-State armed group under the guise of camps for internally displaced persons. Similarly, the South Sudan Commission was the first mechanism to dedicate a comprehensive report to starvation as a method of warfare in the context of a non-international armed conflict. Beyond simply applying and interpreting the LOAC publicly, when UN Human Rights Council mechanisms share their underlying information with courts in particular, the information “shows their work” and can serve as a rubric for how the mechanism had viewed the elements of crimes and therefore how it viewed the application of the LOAC. Upon receiving this underlying information and evidence, especially the interviews conducted, judicial verdicts may later be reached relying on them. Through judicial decisions and their status as subsidiary means for the determination of rules of law, it is by sharing their underlying work that atrocity inquiries have the more concrete potential to shape and influence the LOAC.

<https://doi.org/10.1093/oso/9780197775134.003.0011> *

Applying the law of armed conflict in domestic courts : the fusion of domestic and international law and the question of IHL expertise

Yahli Shereshevsky. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 149-172

The chapter addresses two issues that have been largely left outside the conversation about the interaction between domestic courts and international humanitarian law (IHL): the fusion of domestic and international law, and the role of (or lack of) expertise vis-à-vis the application of IHL by domestic courts. It identifies three types of domestic court decisions that fuse international and domestic law. The first is the application of international law as part of domestic law. The second is the direct application of domestic law doctrines to questions of international law. The third is when the legality under international law is dependent on an adequate regulation under domestic law. As to expertise, the chapter provides a thorough examination of domestic courts’ IHL expertise, and examines three techniques that they use to mitigate their insufficient expertise. Finally, it addresses the implications of the discussion on domestic courts role in the development of IHL.

<https://doi.org/10.1093/oso/9780197775134.003.0008> *

Una aproximación a la articulación del derecho internacional humanitario y el juicio de responsabilidad extracontractual del Estado : análisis del principio de distinción por ataque, incursiones o toma guerrillera a una población en la jurisprudencia del Consejo de Estado de Colombia

María Alejandra Osorio Alvis. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 479-521

Este capítulo pretende abordar la inacabada relación entre el orden jurídico interno y el derecho internacional (y constitucional), a partir del estudio de la articulación del juicio de responsabilidad extracontractual estatal y el derecho internacional humanitario (DIH). Para ello se analizará la jurisprudencia del Consejo de Estado (CE) en cuanto a la aplicación del principio

de distinción por ataque o incursión de un grupo armado insurgente a una población. Así, en esta ocasión resulta relevante la forma como el juez contencioso estudia las normas del DIH en cuanto a su naturaleza jurídica, incorporación en el ordenamiento interno y finalmente, la eventual utilización de estas disposiciones internacionales en los títulos de imputación jurídica de la responsabilidad del Estado.

<https://doi.org/10.57998/bdigital/handle.001.1115>

The arms trade and international criminal law : reframing accountability for complicit weapon suppliers

Tomas Hamilton. - Oxford : Oxford University Press, 2025. - XXVIII, 228 p.

The Arms Trade and International Criminal Law offers a rigorous analysis of how the global arms trade intersects with accountability in the era of the International Criminal Court (ICC). The book argues that individuals—including corporate executives, state officials, and arms traffickers—can be held directly accountable under international law for supplying weapons. By examining the complexities of the arms trade and the doctrines of accomplice liability, the book explores how international justice mechanisms have become narrowly focused on the prosecution of military and political leaders, neglecting the more structural causes of atrocity. The book assesses the failings of current ‘Arms Trade Law’—including UN embargoes, the Arms Trade Treaty (ATT), and the EU Common Position—to prevent weapons from reaching perpetrators or to achieve substantive accountability. It argues that International Criminal Law can complement existing export regulation, particularly through prosecutions that express condemnation of the wrongdoing of arms dealers who profit from atrocity. The book advances a specific interpretation of actus reus and mens rea for complicity under Article 25 of the Rome Statute, providing a sound legal basis for the ICC to prosecute an arms trader. It explores the institutional attitudes within the ICC that hinder such prosecutions, drawing on interviews, participant observation, and empirical research to assess the perspectives of judges and lawyers. Case studies from the Second Congo War and the DRC investigations illustrate missed opportunities. The book concludes with a call for broader engagement with the Rome Statute’s mandate, to ensure that accountability reaches all types of actors responsible for international crimes.

<https://doi.org/10.1093/oso/9780192868671.001.0001> *

L’assistance humanitaire

Julien Brunel. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 105-118

Ce chapitre est divisé en deux temps: le cadre juridique de l’assistance humanitaire en période de conflit armé consacre l’existence d’une obligation pour l’État belligérant de porter assistance aux populations civiles en détresse qui se trouvent sous son contrôle (I). Cet impératif constitue, en lui-même, le premier temps de la réponse humanitaire à une situation d’urgence. Dans un second temps, la réponse peut provenir de secours humanitaires extérieurs à l’État, soumis alors au consentement de ce dernier (II).

Les attaques contre les infrastructures électriques

Louis Perez. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 33-47

Ce chapitre cherche à clarifier dans quelles mesures les infrastructures électriques pourraient être qualifiées comme des biens indispensables à la survie de la population civile et, le cas échéant, bénéficier d’une protection, dans le contexte du conflit armé en Ukraine. Il conviendra dès lors d’exposer l’articulation de la qualification des biens indispensables à la survie de la population civile avec le principe général de distinction et les enjeux d’une telle qualification (I), avant d’examiner plus précisément le régime de protection qui pourrait en résulter et ses limites (II).

Belligerent reprisals from enforcement to reciprocity : a new theory of retaliation in conflict

Francesco Romani. - Cambridge : Cambridge University Press, 2025. - XXXVII, 330 p.

This book challenges the traditional understanding of belligerent reprisals as a mechanism aimed at enforcing the laws of armed conflict. By re-instating reciprocity at the core of belligerent

reprisals, it construes them as tools designed to re-calibrate the legal relationship between parties to armed conflict and pursue the belligerents' equality of rights and obligations in both a formal and a substantive sense. It combines an inquiry into the conceptual issues surrounding the notion of belligerent reprisals, with an analysis of State and international practice on their purpose and function. Encompassing international and non-international armed conflicts, it provides a first comprehensive account of the role of reprisals in governing legal interaction during wartime, and offers new grounds to address questions on their applicability, lawfulness, regulation, and desirability.

<https://doi.org/10.1017/9781108912327> *

Between war and the text : the pedagogical life of international humanitarian law

Rebecca Sutton. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 299-324

How do international humanitarian law (IHL) rules circulate “down” from normative sites like courtrooms and “up” from operational conflict settings? Where does IHL pedagogy fit in? To elucidate the everyday life of IHL, this chapter introduces three realms in which IHL’s principle of distinction circulates: the Intellectual, Pedagogical, and Kinetic realms. The discussion centers the Pedagogical realm, a sphere of practice with a strong normative aspect, in which legal rules are taught, learned, and questioned through teaching and trainings. The chapter proposes that many accounts of how IHL works are impoverished by their neglect of this crucial site, which lies between war and the text. Focusing first on civil-military trainings, the chapter pursues distinction “down” to the Central African Republic, and “up” to the Hague. Treating judges, field-based practitioners, and training participants alike as “lawmakers,” the chapter illuminates how differently situated actors forge IHL’s (multiple) meaning(s) in everyday practice.

<https://doi.org/10.1093/oso/9780197775134.003.0014> *

The Canadian handbook on international humanitarian law

Steve Tiwa Fomekong, Catherine Gribbin, Andrew Thomson, Christopher Waters. - Toronto : LexisNexis, 2024. - XVIII, 417 p.

Canada’s approach to war has shaped the way in which it interprets and implements international humanitarian law (IHL), or the law of armed conflict as it is also called. The Canadian Handbook on International Humanitarian Law provides a useful “first stop” for the Canadian legal community on key topics in international humanitarian law, in a way which pays particular attention to Canadian sources, interpretations, applications and practices where they exist and are publicly available. Throughout the Canadian Handbook on International Humanitarian Law, the authors address the relationship between theory and practice, the implications and challenges of operating with partners and allies, and tensions between different state, civil society and critical perspectives. The authors aim to provide useful guidance and indicate Canadian resources for all engaged with international humanitarian law issues, from the field to the courtroom, and to the classroom. The handbook also addresses the interplay between international humanitarian law and other relevant legal regimes, notably international human rights law and international criminal law.

China and international humanitarian law

Binxin Zhang. - In: The Cambridge handbook of China and international law. - Cambridge : Cambridge University Press, 2024. - p. 302-320

This chapter provides a brief overview of China’s engagement with international humanitarian law (IHL) since the late nineteenth century. It first looks back to the late Qing dynasty and follows it through to the early decades of the People’s Republic of China. It then examines China’s contemporary IHL practices, including China’s participation in IHL treaties, its domestic legislations, its approach to IHL training and education, as well as its participation in international rule-making processes. The chapter then focusses on developments of new technologies that have called into question the applicability, relevance and sufficiency of IHL. As IHL is in the process of being adapted, (re)interpreted and expanded, China is seeking to play a more active role in these processes. The chapter concludes with a reflection on China’s changing role and perspectives of its future engagements with IHL.

Collateral kids : weighing the lives of children in targeting

Vishakha Wijenyake and René Provost. In: *Leiden journal of international law*, vol. 37, no. 4, December 2024, p. 1018-1038

The principle of proportionality under international humanitarian law prohibits an attack if the expected harm to civilian persons and objects is excessive in relation to the anticipated concrete and direct military advantage. In this article we argue that, when applying the principle of proportionality, the incidental harm to a child must be given a higher value as compared to incidental harm to an adult. This reflects the broader framework of international humanitarian law, which creates stratifications amongst different groups of civilians and provides special protection for children in times of war. This aligns with the practice of many militaries, which tends to implicitly assign a heightened worth to the lives of children due to moral and political considerations. Such reasons stem from the perceived vulnerability of children as well as their moral innocence reflecting harmlessness and blamelessness. Indeed, harm to children's lives tends to generate a greater backlash among the community to which they belong and, as a result, a military disadvantage. We argue that the greater weight assigned to the lives of children in proportionality assessments is not simply a matter of morality or strategic calculations, but in fact a requirement from a more wholistic interpretation of international humanitarian law.

<https://doi.org/10.1017/S0922156524000219>

La condition et le statut de prisonnier de guerre

Lyna Maaziz. - In: *Leçons contemporaines de droit international humanitaire*. - Paris : A. Pedone, 2024. - p. 73-91

Ce chapitre analyse la condition et le statut de prisonnier de guerre en trois temps, en se concentrant d'abord sur un exercice rénové de qualification (I), puis en ciblant les enjeux d'articulation au sein du régime de protection (II), et enfin en se livrant à l'examen des suivi et contrôle du traitement des prisonniers de guerre dont la difficulté se trouve exacerbée (III), avec des exemples dans des contextes différents.

The conduct of hostilities, attack effects, and criminal accountability

Geoffrey Corn. In: *Israel law review : a journal of human rights, public and international law*, vol. 57, no. 3, November 224, p. 354-376

War crimes related to the decision to carry out attacks during the conduct of hostilities are almost always defined in terms of conduct and not result (Article 8(2)(b) of the Rome Statute of the International Criminal Court). Yet it is common for critiques of such decisions to focus on attack results as proof of their alleged illegality. While such results are probative of compliance or non-compliance with international humanitarian law rules regulating the conduct of hostilities, they should rarely be indisputable. This article addresses the challenge of attaching probative value to attack results when assessing responsibility for alleged war crimes based on allegedly illicit attack decisions.

<https://doi.org/10.1017/S0021223724000050>

Corporate data enablers : a missing piece in the regulatory response to the military use of artificial intelligence

Helen Stamp. In: *The military law and the law of war review*, vol. 62, no. 2., 2024, p. 259-293

The military use of artificial intelligence is increasing in area of strategic decision making and targeting systems. These systems require large amounts of data to operate, including population surveillance and profiling information, social medial inferences, and drone footage. Private technology companies – ‘data enablers’ – are now offering militaries the opportunity to supplement their data bases. These companies offer their clients access to a range of services and products including aggregated data sets, data analytics and related software systems. This powerful combination provides militaries with datasets they would not ordinarily have access to and the ability to build on these datasets using software systems which collate and analyse data in situations of armed conflict. The quality of these datasets and software systems can have profound effects on how military AI functions yet there is minimal accountability for technology companies under international law frameworks when these AI systems cause harm. This paper

argues that a starting point for addressing this accountability deficit could take the form of proactive regulation by states of data enablers including incorporating data governance processes in national weapon reviews together with sui generis agreements between states and technology companies to ensure data quality and accuracy.

<https://doi.org/10.4337/mlwr.2024.02.03> *

Customary international law : a transformative force in the landscape of IHL

Katharine Fortin. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 37-62

This chapter demonstrates that custom has played a fundamental role in the making and shaping of international humanitarian law ever since the branch of law came into existence. It focuses on the relationship between treaty norms and customary norms today, in terms of the norms themselves and the methodology used to ascertain or interpret them. It reviews customary international humanitarian law's influence on the manner in which customary international law is understood and ends by reflecting on the way in which customary international humanitarian law in this area might develop, considering some of the methodological challenges, puzzles, and dilemmas that it has faced over recent years.

<https://doi.org/10.1093/oso/978019775134.003.0003> *

Cyprus 1958-1968 : an interdisciplinary assessment of inter-communal violence, with a particular emphasis on Common Article 3 of the 1949 Geneva Conventions I-IV

by **Nadia Kornioti.** - [S.l.] : [s.n.], March 2022. - 365 p.

The present thesis examines whether armed violence in Cyprus from 1958 to 1968, between its ethnic 'Greek' and 'Turkish' communities, reached the legal threshold that would constitute a non-international armed conflict under International Humanitarian Law. These events are the prologue to the Island's division since 1974. Thus, despite the extensive literature on the Cyprus Question, the chosen chronology has attracted less attention in academic and public discourse, and legal literature in particular is overall scarcer. In that regard, the thesis seeks to address gaps both in the historical narrative and in the legal literature. For this reason, the thesis has assumed an interdisciplinary approach, combining legal and historical approaches, with previous research in the social sciences. From an international legal perspective, the inquiry is underpinned by critical international legal scholarship and the 'Third World Approaches to International Law' (TWAIL) movement. The thesis illustrates how the lack of clarity surrounding the events from 1958 to 1968 derived from the diplomatic and political discourse at the time. From today's perspective, it problematises the interplay between law and politics in protracted unresolved disputes, and the socio-legal complexities that perpetuate them.

<http://doi.org/10.17030/uclan.thesis.00047454>

Decentralized armed groups : can they be classified as parties to non-international armed conflicts ?

Sylvain Vité and Isabelle Gallino. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 931-942

This article explores the potential classification of decentralized armed groups in non-international armed conflicts (NIACs). Unlike centralized armed groups, decentralized groups consist of fluid alliances of small subunits or cells with loose coordination between them. The central question explored by the authors is whether such groups meet the minimum organizational criterion to be considered parties to an armed conflict under international humanitarian law (IHL). The authors argue that, while not possessing the same chain of command as centralized armed groups, decentralized armed groups can, under certain conditions, nevertheless fulfil the criteria for conflict classification. Judicial precedents and IHL interpretation point to this conclusion where the absence of a centralized command structure within the group can be compensated by the existence of other factors attesting to the group's organization, such as the exercise of operational command over armed subunits, with the intensity of violence being an additional element suggesting the overall organization of the group. Ultimately, this interpretation would ensure the applicability of a legal framework that would

better reflect the intensity of armed confrontations on the ground, and bind both States and non-State parties to a NIAC alike.

<https://library.icrc.org/library/docs/DOC/irrc-926-vite.pdf>

Decolonising the civilian in Third World national liberation wars

Nicola Perugini. In: *Millennium : journal of international studies*, vol. 52, issue 2, 2024, p. 252-278

Within international humanitarian law (IHL) the legal figure of the civilian is conceived as a passive victim of war in need of protection, while civilians who become actively involved in hostilities lose their protections. The distinction between civilians and combatants is accordingly a fundamental principle informing IHL and is considered a standard of civilisation and humane warfare. This paper interrogates what happens when this standard is applied to anticolonial wars, where entire civilian populations participated in self-emancipatory violence and actively blurred this distinction in order to advance their own liberation. Advancing a theory aimed at decolonising the legal figure of the civilian, I analyse the specific nature of anticolonial violence and the call of anticolonial thinkers to deliberately undermine the distinction between civilians and combatants. Building on the ethos of civilian participation articulated by different anticolonial thinkers and adopting a 'revisionist' approach, I argue that the passive conception of the civilian at the heart of the Geneva Conventions and the Additional Protocols faces the risk of outlawing anticolonial violence and its political ethos of liberation.

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60555.pdf> *

La délimitation du temps du conflit armé

Julia Grignon. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 23-31

La délimitation du temps du conflit armé mobilise les concepts du droit préalables à toute application concrète des protections offertes aux personnes affectées par les conflits armés contenues dans le droit international humanitaire (DIH). Il n'y a pas une concomitance exacte entre le temps du conflit armé et le temps de l'application du DIH. C'est ce que s'attache à mettre en lumière ce chapitre, appliqué au conflit armé qui se déroule sur le territoire de l'Ukraine. Ce dernier donne à voir toute la palette des spécificités du DIH en la matière.

Depictions of war crimes and international humanitarian law in video games

Mateusz Piątkowski. In: *The military law and the law of war review*. vol. 62, issue 2, December 2024, p. 189-258

In many video games, armed conflicts are presented as an exclusive or crucial part of the plot. In the real world, hostilities are triggering the applicability of international humanitarian law. Does the content of games "follows" the laws of war? The aim of the study is to analyze how the community of players perceive the rules of war and how the *ius in bello* and its violations are presented in video games. The paper involves an observation part of 50 video games which gameplay relates to armed conflicts. A substantial part of the submission seeks to understand how the developers approach legal constraints of hostilities and whether this is somehow reflected in game mechanics.

<https://doi.org/10.4337/mlwr.2024.02.02>

Derecho internacional humanitario y empresas : papeles que desempeñan y responsabilidad empresarial en conflictos armados no internacionales

Javier Tous. - In: *Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal.* - Bogotá : Universidad Externado de Colombia, 2022. - p. 435-476

Analizando las limitaciones del derecho internacional humanitario desde el punto de vista de imponer obligaciones a sujetos diferentes de Estados y grupos armados organizados, este capítulo busca, tomando como referencia el contexto de conflicto armado no internacional colombiano, analizar en una primera parte cuáles son los papeles y las dinámicas que las empresas pueden

desempeñar en un conflicto armado. En una segunda parte, partiendo de las falencias del derecho internacional humanitario (DIH) para responsabilizar a las empresas, pretende mostrar cómo el derecho internacional de los derechos humanos, el derecho penal internacional y el derecho nacional, se relacionan con el DIH, asignando, desde sus respectivas jurisdicciones y competencias, responsabilidades a los actores privados por irrespetar derechos humanos y vulnerar principios humanitarios en el marco de un conflicto armado no internacional.

<https://doi.org/10.57998/bdigital/handle.001.960>

Derecho internacional humanitario y justicia transicional en Colombia

Édgar Solano González, Manuela Losada Chavarro, María Alejandra Osorio Alvis (eds.).
- Bogotá : Universidad Externado de Colombia, 2022. - 828 p.

Quien emprenda la lectura de esta obra encontrará quince contribuciones sobre las diversas relaciones entre el DIH y la justicia transicional en Colombia, a partir de los siguientes ejes temáticos: el derecho internacional humanitario y los acuerdos de paz; los estudios filosóficos y jurídicos de las justicias transicionales en Colombia; y el análisis de las competencias, sanciones y medidas de reparación de la justicia de transición.

Desafíos del derecho internacional humanitario en Colombia : aspectos filosóficos, hermenéuticos, constitucionales y ambientales

Édgar Solano González, Manuela Losada Chavarro, María Alejandra Osorio Alvis (eds.).
- Bogotá : Universidad Externado de Colombia, 2022. - 695 p.

Quien emprenda la lectura de esta obra encontrará doce contribuciones sobre los principales desafíos en la implementación y ejercicio del DIH en Colombia, a partir de los siguientes ejes temáticos: el derecho internacional humanitario y las justificaciones filosóficas y constitucionales del conflicto armado y la transición a la paz; el Comité Internacional de la Cruz Roja, el desplazamiento forzado y el desminado humanitario; la protección internacional de niños, niñas y adolescentes; el abordaje del reclutamiento en el conflicto colombiano; y la guerra contra la naturaleza: el reconocimiento del medio ambiente como víctima del conflicto armado en Colombia.

Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal

Édgar Solano González, Manuela Losada Chavarro, María Alejandra Osorio Alvis, María Camila Medina García (eds.). - Bogotá : Universidad Externado de Colombia, 2022. - 564 p.

Quien emprenda la lectura de esta obra encontrará once contribuciones sobre los principales desafíos sobre la implementación del derecho internacional humanitario en Colombia, a partir de los siguientes ejes temáticos: el fenómeno de la desaparición forzada, los desafíos sobre seguridad y defensa internacional desde las perspectivas dogmática y orgánica, las discusiones sobre los sujetos pasivos y activos de la obligación humanitaria, y las cuestiones relacionadas con la responsabilidad estatal y civil como consecuencia de las infracciones graves al derecho internacional humanitario.

La detención o retención en los conflictos armados no internacionales : reflexiones sobre el caso colombiano

Juan Pablo Acosta Peñaloza. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 267-327

La detención o retención en los conflictos armados no internacionales es un tema controversial. Algunos académicos sostienen que mientras los Estados tienen el derecho de internar o detener en razón del conflicto a los miembros de los grupos armados no estatales, la contraparte no. Ante la ausencia de disposiciones convencionales, la anterior interpretación estaría basada en la costumbre internacional. En este capítulo, a la luz del conflicto armado no internacional entre el Estado colombiano y las Fuerzas Armadas Revolucionarias de Colombia (FARC-EP), se estudiará el problema respecto a si las partes de un conflicto no internacional están autorizadas —o tienen el derecho— para privar de la libertad a los combatientes de la contraparte en virtud del derecho internacional humanitario, con lo cual se pretende reflexionar desde la perspectiva del derecho

internacional humanitario sobre las implicaciones jurídicas para la Jurisdicción Especial para la Paz (JEP).

<https://bdigital.uexternado.edu.co/handle/001/13644>

The development of international humanitarian law by the International Committee of the Red Cross

Sandesh Sivakumaran. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 125-148

This chapter considers the role of the International Committee of the Red Cross (ICRC) in the development of international humanitarian law. It explores the ICRC's role in the creation and interpretation of conventional international humanitarian law, the identification of customary international humanitarian law, and the clarification of the law through publication of guidance and other documents. Running through the ICRC's efforts in each of these areas is how it works alongside other actors, such as States, national Red Cross and Red Crescent societies, and experts; the importance of reactions to the ICRC's work by these actors; and how the ICRC's work not infrequently serves as a catalyst for States to develop and publish their own views on various questions of IHL.

<https://doi.org/10.1093/oso/9780197775134.003.0007> *

The development of the law of armed conflict by international criminal tribunals

Martha M. Bradley. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 173-196

This chapter demonstrates how judicial decisions of international courts and tribunals have shaped international humanitarian law. Judicial decisions, specifically those of the ICTY and ICTR, have facilitated clearer comprehension of the law of non-international armed conflict. The discussion celebrates positive developments such as Tadić (ICTY), which defined “non-international armed conflict,” and Akayesu (ICTR), where “rape” is defined. However, this contribution cautions against judicial activism when interpreting war crimes because the resultant confusion frustrates those who deploy international humanitarian law during armed conflict. The International Criminal Court's Ntaganda decision illustrates the delicate balance sustaining the relationship between international humanitarian law and international criminal law and is a reminder of the importance of the principle that war crimes vest in prohibitive rules under international humanitarian law. International humanitarian law is the starting point in interpretation, and a reversal of the correct order results in a dilution of international humanitarian law rules.

<https://doi.org/10.1093/oso/9780197775134.003.0009> *

Droit international et violences sexuelles dans les conflits armés : contributions de la Chaire Mukwege (2019-2023)

sous la direction scientifique de Bérangère Taxil, Isabelle Fouchard et Coralie Klipfel. - [Bayonne] : Institut Francophone pour la Justice et la Démocratie - Louis Joinet, 2024. - 447 p.

Si les violences sexuelles dans le cadre des conflits armés existent depuis des siècles, leur dénonciation est relativement récente. Depuis 2019, la Chaire Mukwege rassemble autour de son dédicataire des universitaires d'Europe, d'Afrique et d'Amérique, qui œuvrent au développement d'une recherche interdisciplinaire sur ce dramatique phénomène, selon une méthode holistique développée sur le terrain, à l'hôpital de Panzi à Bukavu. Au sein des piliers scientifiques qui la composent, le volet juridique est souvent considéré comme le maillon faible, source de défis qui lui sont propres. Parce que l'effectivité du droit dépend bien souvent d'une volonté politique, la mise en œuvre d'une protection judiciaire des victimes fait cruellement défaut. Si les plaidoyers des ONG de lutte contre l'impunité sont essentiels, c'est aussi par la systématisation des recherches en droit (international, régional, national, comparé) que pourront être diffusées les évolutions permettant d'œuvrer à une meilleure prise en charge des victimes. Convaincus de la nécessité des réparations pour les victimes et des poursuites contre les responsables, pour lutter contre l'impunité et ainsi briser le cycle itératif de la violence, les membres de la Chaire ont tenu à rassembler au sein d'un même ouvrage une sélection des contributions juridiques des Congrès

internationaux organisés par la Chaire à Liège (en 2019) et Bukavu (en 2022), ainsi que des tables rondes d'Angers en amont et en aval des Congrès. Cet ouvrage s'adresse non seulement aux juristes, mais également à toute personne qui s'intéresse à la protection des victimes de violences sexuelles liées aux conflits ainsi qu'à la promotion, à tous les niveaux, des droits fondamentaux des personnes. À travers cette expertise juridique, les contributeurs et les membres de la Chaire réunis autour du prix Nobel de la Paix Denis Mukwege nous guident sur la voie de la recherche d'une justice et d'une dignité pour toutes les victimes de violences sexuelles dans les conflits armés.

<https://institut.ifjd.org/droit-international-et-violences-sexuelles/>

Le droit international face à la destruction ou la perturbation des infrastructures essentielles des Etats

Karine Bannelier. In: *Annuaire français de droit international*, 69, 2023, p. 225-243

Le 5 mars 2024, le Procureur et la Chambre préliminaire II de la Cour pénale internationale annonçaient la délivrance de deux mandats d'arrêts pour crimes de guerre et crime contre l'humanité contre deux officiers de haut rang des forces armées russes accusés « d'attaques perpétrées contre des infrastructures essentielles en Ukraine ». Cette décision était particulièrement attendue tant le conflit en Ukraine est marqué par des attaques massives contre l'ensemble de l'infrastructure de ce pays. Les deux mandats d'arrêts délivrés par la CPI constituent ainsi une réponse importante du droit international face à la destruction massive des infrastructures essentielles d'un Etat dans le cadre d'un conflit armé. Néanmoins, cette décision ne peut pas masquer la difficulté du droit international à appréhender de manière holistique et dans toute sa complexité un phénomène qui se développe certes en temps de conflit armé mais aussi, de manière massive, en temps de paix à travers d'innombrables attaques dites hybrides. La notion d'infrastructure essentielle est en effet une notion relativement récente et certaines incertitudes demeurent quant à leur définition et leur identification. Ces incertitudes ne signifient pourtant pas que le droit international soit silencieux à l'égard de leur destruction. Comme l'illustrent les mandats d'arrêts de la CPI, la destruction des infrastructures essentielles d'un Etat peut constituer une violation du droit international. Néanmoins, au-delà de leur destruction, le droit international est confronté à un problème juridique majeur qui concerne la qualification des atteintes non physiques à des infrastructures essentielles d'un Etat aboutissant non à leur destruction mais à leur perte de fonctionnalité.

Droit international humanitaire et droit de l'environnement

Marina Eudes. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 161-170

Ce chapitre analyse comment le droit international humanitaire peut utilement compléter le droit international de l'environnement en faveur de l'environnement de l'Ukraine, dans le contexte du conflit armé international avec la Fédération de Russie, et dans quelles circonstances il devrait prévaloir.

Droit international humanitaire et droit de l'espace

Joanne Kirkham. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 171-182

Au même titre que pour le cyberspace, le développement d'une forme de conflictualité dans le domaine spatial a suscité de nombreux travaux universitaires se focalisant sur la déclinaison du droit international aux opérations spatiales militaires, que ce soit en temps de paix ou de conflits armés. Malgré une interaction d'apparence aisée entre le droit international humanitaire, ou droit des conflits armés (DCA), avec le droit international relatif aux opérations spatiales, l'application de certaines règles du DCA à ce nouveau milieu, telles que la règle de la distinction, mérite d'être étudiée plus en détail. Ce chapitre en propose un aperçu.

Droit international humanitaire et droit des réfugiés

Christophe Richer. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 183-196

Il apparaît nécessaire, face au caractère tragique des situations dans la bande de Gaza et en Ukraine, d'envisager les rapports entre le droit international humanitaire et le droit des réfugiés et de voir dans quelle mesure ces deux branches de droit permettent de répondre adéquatement aux défis que les conflits modernes font peser sur les civils. Si le fonctionnement en silo du DIH et du droit des réfugiés permet a priori une meilleure protection des civils, il est essentiel de limiter les dynamiques d'atomisation qui tiraillent ces branches de droit.

Droit international humanitaire et droit international des droits de l'homme

Emre Öktem. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 133-148

En vue de s'interroger sur la mise en œuvre du droit international humanitaire (DIH) et du droit international des droits de l'homme dans le contexte de la guerre en Ukraine, ce chapitre propose, dans un premier temps, d'étudier la corrélation théorique et jurisprudentielle entre ces deux branches du droit avant de se concentrer sur l'événement crucial qui marqua les aspects juridiques des hostilités en cours, à savoir l'exclusion de la Fédération de Russie du Conseil de l'Europe et, partant, du système de la protection de la Convention européenne des droits de l'Homme (CEDH). La dernière partie est consacrée aux affaires pendantes devant la Cour européenne des droits de l'Homme relatives à la guerre en Ukraine, car la Cour reste compétente pour examiner les allégations de violations qui auraient été commises avant l'exclusion de la Russie.

Droit international humanitaire, responsabilité pénale internationale et immunités des chefs d'états en exercice

Ceren Zeynep Pirim. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 197-218

Ce chapitre se concentre sur le mandat d'arrêt délivré contre Vladimir Poutine. Il analyse si la Cour Pénale Internationale a compétence à l'égard du chef d'État de la Fédération de Russie qui n'est pas partie au statut de Rome, si les immunités dont bénéficie le chef d'État russe en vertu du droit international coutumier peuvent être invoquées devant la Cour, et si les États ont le droit et/ou l'obligation d'exécuter le mandat d'arrêt délivré à l'encontre de Vladimir Poutine.

Enhancing labour protection for prisoners of war

Christian Via Balole and Raphaël Van Steenberghe. In: *International review of the Red Cross*, Vol. 106, no. 926, 2024, p. 565-584

The principle of prohibiting forced labour exists in both treaty and customary international law. However, there are limits to this prohibition, in that certain types of forced labour are actually permitted; this is the case for forced labour performed by prisoners of war (PoWs). This paper examines the legal regime applicable to such labour. It starts by setting out the current rules, following a brief historical review. It then explains the shortcomings of those rules, which are open to abuse and are not focused exclusively on the rights and interests of the PoWs, before proposing two possible ways of improving the situation by means of a systemic approach. The first is based on international humanitarian law itself, while the second is based on the complementary relationship between that body of law and international human rights law. Such improvements would give PoWs the right to perform any available work while continuing to require them to carry out work exclusively dedicated to running the PoW camp.

<https://library.icrc.org/library/docs/DOC/irrc-926-balole.pdf>

Ensuring lawful use of autonomous weapons : an operational perspective

Camilla G. Cooper. In: *Journal of international humanitarian legal studies*, vol. 15, issue 2, November 2024, p. 317-346

The use of autonomous weapons systems ('AWS') is the source of extensive discussions within the international legal community and beyond. After years of discussing definitions, the discourse is

slowly moving on to discuss AWS in light of existing law of armed conflict ('LOAC') rules. This article aims to support these discussions by providing a military legal perspective. AWS offers great potential benefits to both soldiers and civilians, and control mechanisms already in place for military operations may be employed to define when and how AWS can lawfully be used. AWS can reduce the exposure of soldiers to dull, dirty and dangerous environments and the risk of incidental civilian harm. To exploit these potentials and ensure legality, regulators need to understand how military forces employ and control the use of force to support their operations, and military planners and decision-makers need to understand the limits of and possibilities within LOAC.

<https://doi.org/10.1163/18781527-bja10091>

Environmental protections during armed conflict as supportive mechanisms for the prevention of atrocity crimes

Yvonne Breitwieser-Faria. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 267-296

The potential exacerbating impact of environmental damage incurred during armed conflict has gained increasing attention in regional and international fora. The links between conflict and the environment are indirect, but irrefutable. Environmental damage further has the potential to adversely affect risk factors associated with atrocity crimes. It is necessary to consider adequate environmental protections to avoid serious and negative long-lasting effects, and to prevent the exacerbation of conflicts into atrocity crimes. The vulnerability of the population generally and the environment is evident in armed conflict. This article explores the nexus between environmental damage and atrocity crimes generally before considering existing environmental protections during armed conflict and opportunities for progressive development. It argues that the enhancement of existing international legal obligations either through additional protections or improved implementation measures is necessary to protect the environment and contribute to the reduction of the risk of atrocity crimes.

<https://doi.org/10.1163/18781527-bja10096>

¿Es el arreglo institucional actual del sector defensa adecuado para la aplicación del derecho internacional humanitario?

Jaime Polanco. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 239-263

El origen de las fuerzas militares y las turbulentas oleadas producidas por ámbitos ideológicos en Colombia han tenido una connotada repercusión en la conformación de la doctrina que marcaría el andar de la política de defensa nacional. Este contexto ha dado forma a un entramado institucional que refleja a historia y la cultura colombiana pero que además ha incluido y adaptado las diferentes corrientes de pensamiento organizativo, criterios de eficiencia operacional y de estándares jurídicos internacionales que se han desarrollado a lo largo de la historia. Sin embargo, este ejercicio de asimilación y de interiorización se ha dado en medio de un conflicto que necesitó casi la totalidad de las capacidades que el sector defensa tenía y dio poco espacio para la reflexión y el planeamiento que permitiera dibujar un momento estratégico para definir la institucionalidad requerida para una democracia como la nuestra y para adaptar las nuevas disposiciones legales que la comunidad internacional exigía. Vale la pena dedicar ahora el tiempo, en época de posconflicto, y generar las situaciones de discusión para definir los elementos fundamentales que delinearán el sector defensa colombiano, que exige disposiciones legales y operacionales de cara al futuro del país. Conviene preguntarse si la organización actual del sector permite integrar e implementar de forma cabal los principios del derecho internacional humanitario (DIH) o si, por el contrario, existe una redundancia de tareas y misiones que generan riesgos a sus efectivos en el ejercicio de sus funciones. Este capítulo busca analizar la conformación y organización de las fuerzas militares y de policía a la luz de los requerimientos y estándares del DIH para reflexionar sobre los ajustes necesarios para su aplicación.

ESG, geopolitics, and human rights in disputed territories

Galia Rivlin. In: *Northwestern journal of international law and business*, vol. 44, issue 1, Winter 2024, p. 69-127

Business enterprises operating in the international sphere face pressing and persistent questions concerning their environmental, social, and governance responsibilities. As the number of disputes escalates worldwide, such questions become more acute. In addition to any voluntary social responsibilities business enterprises may have, a complex legal framework governs business activity in the context of human rights. This framework was designed to address governance shortfalls pertaining to transnational corporations. Business enterprises thus operate nowadays in a web of social standards and legal human rights responsibilities. The human rights responsibilities of business enterprises may be initially associated with forced labor or child labor cases; however, when it comes to disputed territories, other types of rights and considerations come into play that are closely connected to the dispute itself. In the context of disputed territories, especially occupied territories, two distinct questions arise: (1) whether the very presence of business enterprises in such territories is problematic in and of itself; and (2) whether business enterprises operating in disputed territories should be subject to the same human rights framework that applies to businesses operating elsewhere. This article unfolds a comprehensive analysis of these fundamental questions and the complexities they present. It thereby uncovers a number of novel yet pragmatic insights that pave the way toward alleviating the tension among geopolitics, corporate social responsibility, corporate governance, and international law.

<https://scholarlycommons.law.northwestern.edu/njilb/vol44/iss1/2/>

Expert manuals : an insider's account

Michael N. Schmitt. - In: *Making and shaping the law of armed conflict.* - New York : Oxford University Press, 2024. - p. 105-124

This chapter examines the place of expert manuals in the making and shaping of international law, with particular emphasis on international humanitarian law. It draws on the author's experience as a participant in four manual projects—the Non-International Armed Conflict Manual, the Air and Missile Warfare Manual, and both Tallinn Manuals. The chapter begins with a discussion of the *de jure* status of expert manuals under international law. As will be explained, the work of scholars and other international law experts exerts particular influence on the interpretation of international law rules. It then examines how manuals can influence international law in practice, drawing in particular on how the Tallinn Manuals (especially 2.0) have affected discourse among States regarding the application of international law to cyber operations. The chapter concludes with reflections on why Tallinn Manual 2.0 has proven more influential than other manuals.

<https://doi.org/10.1093/oso/9780197775134.003.0006> *

Exploring Hindu ethics of warfare : the Purāṇas

Raj Balkaran and A. Walter Dorn. In: *International review of the Red Cross*, Vol. 106, no. 926, 2024, p. 542-564

What rules of fighting (armed combat) does Hinduism espouse? The sacred texts are the pre-eminent sources, so these need to be summarized and compared to each other. Teaching mostly through stories, the texts describe deeds of people (especially warriors), gods and demons to show how to behave and not to behave in war. While the injunctions in the Mahābhārata and Arthaśāstra are already covered in the literature, including in this journal, this present work examines the Purāṇas in depth. After a thorough search of all relevant passages, we find the Purāṇas to be very similar to the epics in terms of the list of prescribed and proscribed actions in war that they provide. We also make comparisons to international humanitarian law (IHL); as in the epics, we find that the Purāṇas contain many similar provisions to those found in IHL but that they go above and beyond what is required by IHL in urging that fighting be fair at the tactical level (i.e., between individual fighters). Being religious texts, the Purāṇas also deal with the afterlife consequences of both righteous and unrighteous combat.

<https://library.icrc.org/library/docs/DOC/irrc-926-balkaran.pdf>

Des flèches empoisonnées aux armes NRBC : retour sur l’encadrement par le droit international humanitaire d’un très ancien moyen de guerre

Philippe Lagrange. - In: *Le poison.* - Poitiers : Presses universitaires juridiques de Poitiers, 2023. - p. 105-115

Si l’utilisation du poison comme moyen ou méthode de guerre heurte l’ensemble des grands principes du droit international humanitaire, humanité, distinction et proportionnalité, sans que la nécessité militaire puisse être utilement opposée (I), c’est bien l’évolution technologique vers les armes de destruction massive qui a conduit à la réglementation la plus développée, à défaut d’être la plus systématiquement respectée (II).

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60982.pdf> *

From treaty to custom : shifting paths in the recent development of international humanitarian law

Giovanni Mantilla. In: *Leiden journal of international law*, vol. 37, no. 2, June 2024, p. 359-378

From 1864 to the 1970s, international humanitarian law (IHL) changed through the path of formal treaty revision. Since 1977, however, purported changes to IHL have come not from treaty making but from interpretation, particularly through claims about the attainment of customary status by existing treaty rules. This article explains this shift as the result of the attitudes and choices of key IHL stakeholders under the changed conditions of post-Second World War multilateralism. It argues that the turn toward customary law claims-making was a reaction to the negotiation politics and contested outcomes of the 1977 Additional Protocols (APs) to the Geneva Conventions. After 1977, leading actors looked to custom as a means of arresting or encouraging legal change. The resulting, much-expanded IHL has proved influential and authoritative, even if its precise degree of acceptance by states remains unclear.

<https://doi.org/10.1017/S0922156523000705>

Gaza and the rise of the “Humanitarian Council”

Richard Gowan. In: *Journal of international peacekeeping*, vol. 27, issue 3, 2024, p. 264-273

The United Nations Security Council often compensates for failing to agree on political solutions to conflicts by engaging on their humanitarian consequences, as this essay shows with reference to Gaza, Syria, Myanmar and Ethiopia. The elected members of the Council in particular frequently focus on humanitarian topics in attempts to forge compromises with and among the permanent members. This humanitarian turn in Council diplomacy allows diplomats to paper over their differences, and insist the institution is still relevant but involves moral hazards. The Council risks becoming overly involved in the technicalities of aid operations, and members can use thematic and country-specific debates to relitigate aspects of International Humanitarian Law (IHL). The short-term benefits of agreement on humanitarian resolutions and Council statements must be weighed against these long-term risks, and Council members should pursue a policy of “do no harm” in their humanitarian diplomacy.

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60512.pdf> *

Gemeinwesen zwischen tradition und weltoffenheit : ausgewählte schriften von Dietrich Schindler (1924-2018)

Hrsg. Benjamin Schindler and Daniel Thürer. - Genf [etc.] : Schulthess, 2024. - VIII, 541 p.

Dietrich Schindler (1924-2018) wirkte in der 2. Hälfte des 20. Jahrhunderts als Staats- und Völkerrechtler in zahlreichen Funktionen. Er hat eine grosse Zahl bedeutender wissenschaftlicher Arbeiten hinterlassen, die gekennzeichnet sind durch eine besondere Nähe zu den politisch-kulturellen Realitäten, durch Sachlichkeit und nüchterne Vorurteilslosigkeit sowie durch die ständige Suche nach einer ausgewogenen Synthese. Manche Analysen sind heute noch von grosser Aktualität - etwa seine Schriften zum Neutralitätsrecht oder zum Verhältnis zwischen der Schweiz und Europa. Der Band wird ergänzt durch einen Lebenslauf und ein nach Kategorien gegliedertes Schriftenverzeichnis von Dietrich Schindler.

Genocide and armed conflict before the International Court of Justice

Helen Duffy and Giulia Pinzauti. In: Questions of international law, zoom-in 108, 2024, p. 77-100

Four cases have been brought before the International Court of Justice (ICJ or the Court) within as many years, all concerning alleged violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide in the context of armed conflicts or occupation. The cases, concerning Myanmar, Ukraine, and Gaza, have all garnered significant scholarly and media attention. However, the Court's provisional measures orders in *South Africa v Israel* (alongside other Palestine-related contentious and advisory proceedings) has brought the sharpest controversy, inside and outside the Court, raising questions as to the proper judicial role of the Court. These concern the role of the ICJ's dispute settlement function in adjudicating claims arising from ongoing armed conflicts and complex political situations, and the role of the Genocide Convention as a basis for such claims. This contribution responds to several questions arising from this flurry of claims and controversies.

https://www.qil-qdi.org/wp-content/uploads/2025/03/05_Genocide-cases-before-the-ICJ_PINZAUTI-DUFFY_FIN.pdf

The “great powers” and the formation of international law

Kevin Jon Heller. In: Chinese journal of international law, vol. 23, issue 4, December 2024, p. 637-687

The US, Russia, and China – the current “Great Powers” – often disagree over primary rules of international law, such as the scope of self-defence in response to an armed attack. Such disagreements over primary rules can often be explained in traditional realist fashion, because powerful States generally interpret international law in a manner that reflects and advances their interests. But that is not always the case. In some situations, Great Power disagreements over primary rules are driven less by realpolitik than by very different understandings of the formal sources of international law – the sources that determine what qualifies as a primary rule. Most comparative international law scholarship has focused on how the Great Powers view primary rules, ignoring how the US, Russia, and China disagree over the formal sources of international law. This article focuses on disagreements in the latter category. After a brief introduction in Part I, Part II explains how the US, Russia, and China perceive the formal sources of international law in abstracto – which they privilege and why, methodological inconsistencies in how they understand and apply a particular source, and so on. Part III then examines four areas of international law in which different perceptions of the formal sources have a significant effect on how the US, Russia, and China perceive the primary rules: the *jus ad bellum*, the *jus in bello*, arms control, and cyberspace. Some concluding remarks follows in Part IV.

<https://doi.org/10.1093/chinesejil/jmae038> *

Le Groupe Wagner et le droit international

Thibault Moulin. In: Annuaire français de droit international, 69, 2023, p. 181-199

Les violations des droits humains commises par Wagner sont nombreuses, et ont été commises durant les phases de recrutement et de déploiement de ses membres. Or, tant la nature du « Groupe » Wagner que l'identité de ceux devant répondre de ses actes sont obscures, et le présent article se penche sur ces questions. Il explique que, du fait de son manque de statut juridique clair et des activités de combat qui lui ont été confiées, il est compliqué de désigner Wagner comme une entreprise militaire et de sécurité privée. Toutefois, il apparaît que Wagner peut tout à fait être désigné comme une organisation terroriste ou une organisation criminelle transnationale. Ensuite, et du fait de l'absence de commandement responsable et de la méconnaissance systématique des règles de DIH, ses membres ne semblent pas éligibles au statut de combattant ou de prisonnier de guerre. La qualité de mercenaire est variable, car le ressortissant d'une Partie au conflit ne saurait être considéré comme tel. En matière de droit de la responsabilité, Wagner n'apparaît ni comme un organe de jure, ni comme un organe de facto de la Russie. Si un simple contrat permet de transférer des prérogatives de puissance publique, un État comme la Syrie pourrait néanmoins être responsable de certains actes. Quant au fait des personnes privées, des situations relèvent bien des instructions, de la direction et du contrôle, et sont donc attribuables à la Russie, au Mali ou à la RCA. En revanche, ces États ont bien méconnu leurs obligations de due diligence.

La guerre entre le Hamas et Israël ou la recherche désespérée de l'effectivité du droit international

Jean-Marc Sorel. In: *Annuaire français de droit international*, 69, 2023, p. 1-45

L'article examine dans un premier temps la situation du conflit sur le terrain et les conséquences au regard du respect du droit humanitaire, alors que les réactions onusiennes restent faibles (I), et que les Etats utilisent abondamment les juridictions internationales face à ces blocages. En effet, depuis les événements du 7 octobre 2023, les réactions juridictionnelles constituent un socle solide dans un océan d'incertitudes en matière de droit international (II). Au-delà se trouvent posées d'inextricables questions juridiques sur fond de droit des peuples à disposer d'eux-mêmes et le statut des territoires concernés. Nous entrons alors dans ce qui peut être qualifié de contextualisation, dimension trop souvent oubliée dans la cacophonie du débat actuel. Sans la résolution de ces questions, l'histoire risque de se répéter (III). Ces analyses démontrent également la difficulté d'établir une vision si ce n'est raisonnable, du moins raisonnée, dans un contexte où le débat devient complexe par les signifiants qu'il mobilise (IV).

Humanitarian exemptions : illusive progress in safeguarding humanitarian assistance in the international counterterrorism architecture

Sofie-Marie Terrey, Ansgar Münichsdorfer. In: *Journal of conflict and security law*, vol. 29, no. 2, Summer 2024, p. 249-272

Global counterterrorism efforts have had a number of detrimental effects on the work of humanitarian actors in conflict zones. To mitigate these adverse effects and the underlying normative conflict between counterterrorism frameworks and international humanitarian law (IHL), scholars and humanitarian practitioners have been advocating for the introduction of humanitarian exemptions. These are clauses that exempt humanitarian assistance and related conduct from counterterrorism frameworks in order to ensure an unimpeded provision of humanitarian assistance in areas in which entities designated as 'terrorists' are active. This article argues that the progress promised by the emergence of these exemptions remains at least partially illusive. The exemptions remain shaped by a security-oriented perspective on humanitarian assistance and are preoccupied with actors. As a result, they are beneficial primarily to the largest and most prominent humanitarian actors established in the Global North while neglecting small and local humanitarian actors in conflict areas. As such, they defy IHL's deliberate openness regarding the actors providing humanitarian assistance. Moreover, they violate the obligations of non-belligerent states under IHL to allow and facilitate the free passage of relief consignments which equally protects transnational financial support to local humanitarian actors and applies irrespective of the source of that support. We conclude that humanitarian exemptions are detrimental to efforts to 'localize' and decolonize the humanitarian sector. Therefore, instead of focusing on humanitarian exemptions as a 'micro-solution', advocacy should pursue a more comprehensive critical approach towards the global counterterrorism architecture.

<https://doi.org/10.1093/jcsl/krae009> *

Implementation of IHL in West Africa : participation of West African countries in international humanitarian law (IHL) treaties and their implementation at the national level

[ICRC and ECOWAS Commission]. - Abuja : ICRC : ECOWAS, 2023. - 64 p.

The 16th Annual ECOWAS-ICRC Review Meeting on the Implementation of IHL in West Africa was held from 24 to 26 September 2019 at the ECOWAS Commission. It was attended by representatives from 12 of the 15 ECOWAS Member States, the ICRC and the ECOWAS Commission. The meeting allowed participants to report on the successes and challenges in achieving their IHL implementation priorities for 2019 and to define IHL priorities for 2020. Unlike the previous meeting which was mainly focused on the review and adoption of the five-year action plan (2019-2023) for the implementation of IHL in the ECOWAS space, this 16th edition focused on sharing experiences and good practices around the issues of detention and sexual violence, as well as on the upcoming 33rd International Conference of the Red Cross and Red Crescent, from 9 to 12 December 2019. The meeting allowed the validation of a commitment by ECOWAS Member States on "Implementation, Domestication and Dissemination of IHL in West Africa." It concluded with the reading and adoption of the meeting report.

https://library.icrc.org/library/docs/DOC/TER_027_002.pdf

Implementation of IHL in West Africa : participation of West African countries in international humanitarian law (IHL) treaties and their implementation at the national level

[ICRC and ECOWAS Commission]. - Abuja : ECOWAS : ICRC, June 2023. - 22 p.

The 17th Annual Review Meeting on the implementation of International Humanitarian Law in West Africa, organised by the ECOWAS Commission in collaboration with the ICRC, was held on the 1st and 2nd of December 2020. This 17th Meeting, which for the first time was held in a virtual format due to the COVID 19 pandemic, had the following objectives: – Review the progress made by Member States in implementing the ECOWAS IHL Plan of Action and the related ECOWAS commitment at the 33rd International Conference; – Strengthen the technical capacity of Member States (MS), facilitate and support dialogue among MS counterparts on the implementation of IHL in general and select topics relevant to the ECOWAS region; – Facilitate dialogue among Member States on their response to the pandemic in relation to COVID-19, particularly in situations of armed conflict; – Strengthen collaboration between ECOWAS and the ICRC and, consequently, ICRC support to ECOWAS Member States in the implementation of IHL.

https://library.icrc.org/library/docs/DOC/TER_026_002.pdf

Implementation of international humanitarian law (IHL) in India

Sanoj Rajan. - In: Indian practice of international law : global norms and their domestic enforcement. - Abingdon : Routledge, 2024. - 67-81 p.

This chapter discusses the main international instruments on humanitarian law and seeks to analyse the legal standards and obligations they contain and impose on the member states. It assesses the mechanism that the international instruments have established for ensuring national compliance with rules of IHL and national response to it. This chapter, further, inquires the Indian position vis-à-vis IHL and the measures that India has adopted to comply with its obligations. It seeks to discover developments at the level of policy, laws, administrative, and adjudicating institutions in context of IHL, and examines the challenges that India faces on issue of compliance and areas where the gaps exist between its obligations and observance of IHL. The chapter, furthermore, highlights existing shortcomings in implementation of humanitarian law in India and investigates if it requires revision. Finally the chapter explores and examines practices that can propel the rise in standards and effectiveness of international humanitarian law in India.

Implementing IHL in West Africa : participation of West African countries in international humanitarian law (IHL) treaties and their implementation at the national level

[ICRC and ECOWAS Commission]. - Abuja, June 2023 : ECOWAS : ICRC. - 25 p.

The theme of the 18th annual ICRC-ECOWAS meeting on the implementation of international humanitarian law (IHL) was “Enhancing respect for IHL and its integrity”, with a specific focus on the criminal repression of violations of the law in armed conflict. The meeting was attended by experts from Member States - either as members of their State’s national IHL commission or as representatives of the Ministry of Justice or Ministry of Foreign Affairs - as well as thematic experts from ECOWAS, the ICRC, and observer States. Indeed, for the first time, two representatives from Chad and South Africa took part in the meeting as expert observers, in order to broaden the sharing of good practice and to allow for exchanges between regions on a continental scale.

<https://library.icrc.org/library/docs/DOC/icrc-2041-002-2023.pdf>

Investigación y judicialización de violaciones graves al derecho internacional humanitario

Édgar Solano González, Manuela Losada Chavarro, María Alejandra Osorio Alvis (eds.). - Bogotá : Universidad Externado de Colombia, 2022. - 688 p.

Quien emprenda la lectura de esta obra encontrará trece contribuciones sobre la investigación y judicialización de infracciones graves a la normativa humanitaria, a partir de los siguientes ejes temáticos: técnicas y tecnologías de investigación, juzgamiento y sanción; el derecho

internacional humanitario a través de la dogmática penal; medios y métodos prohibidos por el derecho internacional humanitario; y violencias sexuales y reproductivas

Is Ecuador facing a non-international armed conflict against organized crime groups ? : reality, inconsistencies and jurisprudential developments

Hugo Cahueñas Muñoz and Juan Felipe Idrovo Romo. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 610-638

On 9 January 2024, the president of the Republic of Ecuador decreed a state of exception in which he recognized the existence of a non-international armed conflict (NIAC) involving twenty-two criminal groups. By July 2024, the president had declared four additional states of exception. The Constitutional Court examined the decrees and ruled against the existence of a NIAC. In this context, the objective of this article is to present, contrast and analyze the positions of the president and the Constitutional Court and highlight the most notable jurisprudential developments. This case study is relevant to exploring some of the challenges of classifying armed conflicts involving organized crime. In respect of the position of the president, inconsistencies were identified between the recognition of the armed conflict and the actions taken to confront it. As to the Court's jurisprudence, some notable developments identified include the incorporation of international humanitarian law treaties into the block of constitutionality and the ruling on challenges of contemporary armed conflicts such as spillovers, coalition formation and the participation of criminal groups in armed conflicts.

<https://library.icrc.org/library/docs/DOC/irrc-926-munoz.pdf>

Is wearing these sunglasses an attack ? : obligations under IHL related to anti-AI countermeasures

Jonathan Kwik. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 732-759

As usage of military artificial intelligence (AI) expands, so will anti-AI countermeasures, known as adversarials. International humanitarian law offers many protections through its obligations in attack, but the nature of adversarials generates ambiguity regarding which party (system user or opponent) should incur attacker responsibilities. This article offers a cognitive framework for legally analyzing adversarials. It explores the technical, tactical and legal dimensions of adversarials, and proposes a model based on foreseeable harm to determine when legal responsibility should transfer to the countermeasure's author. The article provides illumination to the future combatant who ponders, before putting on their adversarial sunglasses: "Am I conducting an attack?"

<https://library.icrc.org/library/docs/DOC/irrc-926-kwik.pdf>

Jus ad bellum et jus in bello

Julien Cazala. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 149-160

On sait que dans la perception contemporaine, les notions de guerre juste et de guerre défensive peuvent être largement associées'. On comprendra dès lors, que, dans le cadre du conflit né de l'invasion de l'Ukraine par la Russie, puisse se poser de nouveau la question de la distinction entre le jus ad bellum et le jus in bello. Avant d'évoquer les tentatives de sa remise en cause (II), Les conditions d'affirmation de l'indifférence de l'un à l'autre peuvent être rappelées (I). Malgré les tensions autour de la question dans le contexte d'une guerre d'agression, il apparaît que le conflit en Ukraine ne saurait contribuer à une remise en cause de cette indifférence fondamentale (III).

'Killer pays' : state liability for the use of autonomous weapons systems in the battlespace

Diego Mauri. - In: Responsible use of AI in military systems. - Abingdon : CRC Press, 2024. - p. 153-168

The increasing use of artificial intelligence techniques in the military raises multiple questions, related not only to the ability of Autonomous Weapon Systems (AWS) to operate within the rules that international law provides for the use of force, but also to issues of international responsibility. In the event that, on the battlefield, AWS (e.g., a drone equipped with systems to

select and engage targets without the need for human intervention) are directed to employ force, even lethal force, against an impermissible target (e.g., an unarmed civilian), who is to be held responsible? Numerous authors have begun to speak of possible ‘responsibility gaps’. This chapter addresses the issue of the international responsibility of the State and its alleged limitations in regulating AWS.

<https://www.taylorfrancis.com/chapters/oa-edit/10.1201/9781003410379-10/killer-pays-diego-mauri>

Law, language, and warfare

edited by Russell Buchan, Emily Crawford and Rain Liivoja. - Boston : Brill Nijhoff, 2025.
- 193 p.

This volume presents a novel insight into the complex intersections between the law of armed conflict and the language of armed conflict. The work demonstrates the strengths and fissures in the law, showing how the choice to employ certain terms can have lasting ramifications for those most vulnerable to the impacts of warfare – civilians, women, children, and the displaced.

Law wars : academia and the manufacture of international humanitarian law

Page Wilson. In: Journal of the history of international law = revue d'histoire du droit international, vol. 26, issue 4, 2024, p. 383-422

Despite the emergence of much critical discourse on the conventional history of international humanitarian law (IHL) over the last decades, the way in which this conventional history is told and re-told remains virtually unaltered in one key area of dissemination: teaching materials. By conducting an in-depth examination of these materials, this article uncovers the techniques used over time to generate and perpetuate the conventional IHL history. In so doing, it helps to explain how and why the conventional IHL history continues largely unchanged in textbooks to this day.

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60516.pdf> *

Legal boundaries : ensuring protection amidst threats to the Zaporizhzhya nuclear power plant in the Ukraine

Joanna Rezmer, Agnieszka Szpak. In: Energy research and social science, vol. 116, October 2024, 8 p.

This article aims to examine the protection accorded to nuclear power plants in international law, based on the example of the Zaporizhzhya Nuclear Power Plant in the context of the current Russian aggression against Ukraine and the ensuing international armed conflict. The authors attempt to answer the question of the legality of the attacks against the Zaporizhzhya Nuclear Power Plant. The research methods used are institutional-legal analysis and, supplementarily, a critical literature analysis. The institutional-legal analysis focuses on the examination of international treaties like Additional Protocol I to the Geneva Conventions, which constitutes the main legal reference point in this article, as well as on other documents that may not be binding (such as resolutions adopted by the International Atomic Energy Agency's General Conference or the Board of Governors, as well as statements and reports of other International Atomic Energy Agency's and United Nations' bodies). The main conclusion is that Russian attacks against the Zaporizhzhya Nuclear Power Plant were and continue to be illegal on multiple fronts. While the legal regulations appear adequate and capable of meeting the challenge posed by Russian attacks and occupation of the Zaporizhzhya Nuclear Power Plant, the problem lies with the political will of Russia to respect these rules.

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60557.pdf> *

Legality of restrictions on the freedoms of expression, assembly, and association in the Occupied Palestinian Territory

Diakonia International Humanitarian Law Centre. - Jerusalem : Diakonia International Humanitarian Law Centre, 2024

In the wake of the Hamas attacks on 7 October 2023 and the launch of Israel's military campaign in Gaza, Israeli authorities have tightened their grip on the freedoms of expression, association, and peaceful assembly in the West Bank, including East Jerusalem. This latest clampdown on civil and political rights in the occupied Palestinian territory (oPt) occurs in an already constricted

civic space, shaped by more than five decades of military occupation and an accumulation of restrictive measures imposed by consecutive Israeli governments. Excessive restrictions on the freedoms of expression, association, and peaceful assembly constitute a threat not only to the individual and collective pursuit by Palestinians of self-expression and self-determination; these restrictions also undermine efforts to monitor and report on other potential violations of international law being committed in the oPt, including international humanitarian law (IHL). This publication examines the legality of restrictive measures applied by Israel in the West Bank, including East Jerusalem, that limit the exercise of the freedoms of expression, association, and assembly in light of Israel's obligations under the law of occupation and international human rights law (IHRL).

<https://apidiakoniasse.cdn.triggerfish.cloud/uploads/sites/2/2024/06/Legality-of-restrictions-oPt.pdf>

Lessons from the Russian invasion of Ukraine : the plight of diaspora fighters in levées en masse

Elliot Winter. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 347-382

The concept of the levée en masse was designed to legitimise armed civilian opposition to an unfolding invasion by conferring temporary combatant status upon certain civilians. The range of individuals eligible for this status was defined narrowly to include only 'inhabitants' of invaded territories. This approach made sense in the nineteenth and early twentieth centuries when international travel was beyond the reach of all but the elite minority. Today however, mass air transit has expanded horizons and allows people to travel and to emigrate much more readily. Consequently, the global diaspora of emigrants is larger now than ever before. As seen during the Russian invasion of Ukraine beginning in February 2022, many among these diaspora communities wish to return to defend their homelands upon invasion. This is precluded under the orthodox interpretation of international humanitarian law owing to their lack of residency. This is unsatisfactory as it bars individuals with legitimate familial, political, cultural, and historical connections to a State from participating in a levée in its defence. This article sets out the policy and legal arguments in favour of recognising non-resident citizens – or 'diaspora fighters' – as legitimate participants in levées en masse.

<https://doi.org/10.1163/18781527-bja10103> *

Loyauté et droit international humanitaire

Véronique Harouel-Bureloup. - In: Penser la loyauté en droit : mélanges en l'honneur de Christine Youego. - Paris : Mare & Martin. - p. 113-133

Le droit international humanitaire prévoit qu'à la guerre le combattant doit se battre loyalement en respectant les dispositions limitant la violence de la guerre et renvoyant au principe de proportionnalité posé à La Haye (I). S'il doit déposer les armes, il bénéficie des mesures de protection des victimes des combats qui renvoient au principe d'humanité posé à Genève (II). Le chapitre aborde dans cette seconde partie la loyauté du médecin face aux blessés et celle de l'homme de confiance des prisonniers de guerre. Il envisage ensuite la mise à l'épreuve de la loyauté des prisonniers pendant l'interrogatoire de l'Etat détenteur puis par son éventuelle propagande. L'auteur rappelle pour finir la liberté du prisonnier de refuser le rapatriement dans son pays et le rôle du CICR dans ce contexte.

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60554.pdf> *

Methodological issues in the study on customary international humanitarian law conducted by the International Committee of the Red Cross : an analysis in light of the conclusions on identification of customary international law reached by the International Law Commission of the United Nations

Yoshiaki Kitano. In: Journal of international relations and comparative culture, Vol. 23, no. 1, September 2024, p. 95-108

This paper aims to analyse the methodological issues in the Study on Customary International Humanitarian Law, which the International Committee of the Red Cross published in 2005, in light of the (draft) conclusions on identification of customary international law and commentaries

thereupon, which the UN International Law Commission adopted in 2018 and of which the UN General Assembly took note in the same year.

<https://doi.org/10.31219/osf.io/es25p>

Methods to mitigate risks associated with the use of AI in the military domain

Shannon Cooper, Damian Copeland, and Lauren Sanders. - In: Responsible use of AI in military systems. - Abingdon : CRC Press, 2024. - p. 127-152

The use of artificial intelligence ('AI') in the military domain raises complex legal, ethical, human control and operational challenges. While AI promises more rapid decision-making, great efficiencies and enhanced lethality, it also presents a range of risks. States developing new AI capabilities for use in the military domain must establish national processes that allow them to identify and mitigate the risks across the entire life cycle of the AI capability. This chapter canvases existing military regulatory and governance frameworks designed to address these challenges, particularly during the acquisition and use of highly technical, military capabilities. To mitigate such risks, the chapter identifies and explains the national weapon review process and proposes how such a process may be modified to enable a broader risk-based approach to address legal, ethical, human control and operational risks associated with the military use of AI technologies.

<https://www.taylorfrancis.com/chapters/oa-edit/10.1201/9781003410379-9/methods-mitigate-risks-associated-use-ai-military-domain-shannon-cooper-damian-copeland-lauren-sanders>

Military AI and accountability of individuals and states for war crimes in the Ukraine

Dan Saxon. - In: Responsible use of AI in military systems. - Abingdon : CRC Press, 2024. - p. 169-191

This chapter addresses the use of military artificial intelligence (AI) in unlawful attacks in the ongoing armed conflict in Ukraine and challenges to hold individuals and States accountable for those crimes. The analysis focuses on the more limited context of Russia's 2022–2023 aerial campaign to destroy Ukrainian energy infrastructure. First, the chapter reviews the facts known about these attacks and the technology operating one of the primary weapons used by the Russian armed forces to carry them out – the Iranian-made Shahed drone. Next, it explains the basic principles of international humanitarian law (IHL), in particular the rules of targeting, which are particularly relevant to the use of military AI. The remainder of the chapter examines how Russia's operation of the Shahed weapon system in the context of repeated targeting of Ukraine energy installations likely constitutes war crimes and the possibilities of holding persons and States (e.g. Russia and Iran) accountable for these offenses. It concludes that Russia's use of military AI technology that increases the accuracy of its long-running attacks illustrates the greater likelihood that breaches of IHL occurred, as well as Russia's responsibility for those crimes.

<https://www.taylorfrancis.com/chapters/oa-edit/10.1201/9781003410379-11/military-ai-accountability-individuals-states-war-crimes-ukraine-dan-saxon>

“Mistakes” in war

Oona A. Hathaway and Azmat Khan. In: University of Pennsylvania law review, vol. 173, no. 1, November 2024, p. 1-88

In 2015, the United States military struck a hospital in Afghanistan run by Médecins Sans Frontières, killing forty-two staff and patients. Testifying afterwards before a Senate Committee, General John F. Campbell explained that “[t]he hospital was mistakenly struck.” In 2019, while providing air support to partner forces under attack by ISIS, the U.S. military killed dozens of women and children. Central Command concluded that any civilian deaths “were accidental.” In August 2021, during a rushed withdrawal from Afghanistan, the U.S. military executed a drone strike in Kabul that killed ten civilians, including an aid worker for a U.S. charity and seven children in his family. The Pentagon later admitted it was a “tragic mistake.” In these cases and others like them, no one set out to kill the civilians who died. Such events are usually chalked up as sad but inevitable consequences of war— as regrettable “mistakes.” This Article examines the law on “mistakes” in war. It shows that, while those responsible for “mistakes” are often not held accountable, there is significant evidence that certain “mistakes” are criminally culpable. It also

shows that the law holds not just individuals, but also States, responsible for preventing certain “mistakes.” To see how the law works, or fails to work, in practice, the Article examines the U.S. military’s own assessments of civilian casualties. The analysis focuses on the United States, both because of its global military operations and because of the power of its example to shape global practices. It demonstrates that “mistakes” in the U.S. counterterrorism campaign have been far more common than generally acknowledged. Moreover, it argues that the repeated errors that these reports reveal— not just one mistake, but an unmistakable pattern of mistakes—are the predictable result of a system that, during the period examined, did too little to learn from its mistakes. It concludes by advocating reforms to address individual and systemic “mistakes” through changes in U.S. law and targeting practices and in the law of armed conflict.

https://scholarship.law.upenn.edu/penn_law_review/vol173/iss1/1/

A next-generation protective emblem : cross-frequency protective options for non-combatants in the context of (fully) autonomous warfare

by Daniel C. Hinck, Jonas J. Schöttler, Maria Krantz, Niklas Widulle, Katharina-Sophie Isleif and Oliver Niggemann. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 703-731

The protection of non-combatants in times of autonomous warfare raises the question of the timeliness of the international protective emblem. (Fully) autonomous weapon systems are often launched from a great distance, and there may be no possibility for the operators to notice protective emblems at the point of impact; therefore, such weapon systems will need to have a way to detect protective emblems and react accordingly. In this regard, the present contribution suggests a cross-frequency protective emblem. Technical deployment is considered, as well as interpretation by methods of machine learning. Approaches are explored as to how software can recognize protective emblems under the influence of various boundary conditions. Since a new protective emblem could also be misused, methods of distribution are considered, including encryption and authentication of the received signal. Finally, ethical aspects are examined.

<https://library.icrc.org/library/docs/DOC/irrc-926-hinck.pdf>

Non-State armed groups, law-making, and the shaping of international law in armed conflict

Ezequiel Heffes. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 247-268

This chapter examines certain non-State armed groups’ (NSAGs’) law-making activities to understand how these entities are shaping the international law applicable in non-international armed conflict. It explores the various forms these activities can take, proposing a differentiation between “domestic” law-making activities, which include NSAGs’ codes of conduct and laws, and “quasi-international” ones, comprising special agreements under Common Article 3 to the 1949 Geneva Conventions, UN Action Plans, and Geneva Call’s Deeds of Commitment. Based on their, the chapter submits that NSAGs shape the legal landscape in two ways: (1) by agreeing to bring into force international obligations that may not otherwise be applicable, thereby modifying the regulatory framework of specific conflicts; and (2) by influencing the (growing) view that international human rights law is applicable to NSAGs’ actions. This chapter also shows that some international institutions, and even States, have supported the adoption of various documents containing international law provisions.

<https://doi.org/10.1093/oso/9780197775134.003.0012> *

Of war and international investment law

Kathryn Greenman. In: International and comparative law quarterly, vol. 73, part 3, July 2024, p. 579-607

In the past decade, the practice of investor–State arbitral tribunals addressing investment protection in the context of armed conflict and military occupation has expanded. This has prompted a growing interest in the relationship between international investment law and international humanitarian law (IHL), two regimes with markedly different relationships to war— IHL more pragmatic and international investment law more idealistic. This article argues that, while its lack of pragmatism might render international investment law ineffective in changing

how war is conducted, it is the regime under which States are most likely to be held liable for the conduct of war. This is a result of its more robust primary obligations, more effective enforcement mechanisms and large awards of damages. Nevertheless, comparing international investment law and IHL does also reveal some similarities—the legacy, it is argued, of a time when the laws of war were more about protecting private property and neutral commerce than civilians. Putting these two regimes together in this way exposes international law’s uneven distribution of protection in war.

<https://doi.org/10.1017/S0020589324000174>

One click from conflict : some legal considerations related to technology companies providing digital services in situations of armed conflict

Jonathan Horowitz. In: *Chicago journal of international law*, vol. 24, no. 2, Winter 2024, p. 305-337

Private technology companies (tech companies) are increasingly providing their digital goods and services to clients living and working in situations of armed conflict. Tech companies may own, operate, or maintain significant portions of the digital infrastructure that allow day-to-day essentials—such as water, medical care, and electricity—to reach civilians living in places affected by armed conflict. They may own communications platforms that people use to call emergency services. They may own social media outlets that organizations rely on to inform communities in need about access to humanitarian services or that families use to maintain contact with each other. Those fighting today’s armed conflicts, including well-resourced militaries, and less-developed non-state armed groups, also undoubtedly rely on hardware, software, and networks manufactured, serviced, and secured by tech companies. They use them to coordinate and carry out a wide array of military operations, including the management of troop movements, military fuel and spare parts, and medical supplies. This paper’s premise is that as tech companies increase their involvement in armed conflict, the legal implications they face under international humanitarian law (IHL)—a body of law that regulates who and what is protected from the hostilities of armed conflict—also rise. Recognizing that cyberspace spans the globe with little concern for geography and borders, Section II discusses how this reality effects the applicability of IHL’s principles and rules relating to tech company employees and properties. From there, Section II explains the protections IHL affords the employees and properties of tech companies operating in situations of armed conflict and when, in exceptional circumstance, those protections might be lost. Section III moves on to discuss how IHL addresses situations where civilians and civilian objects get caught in the “digital crossfire” when they are reliant on, or located in proximity to, tech companies involved in armed conflict. Section IV concludes with practical recommendations for companies to take to minimize risks to their employees, property, civilian customers and surrounding civilians and civilian objects, including civilian infrastructure.

<https://chicagounbound.uchicago.edu/cjil/vol24/iss2/2/>

The only true fragmentation in international law : jus ad bellum and jus in bello

Ilias Bantekas. In: *African yearbook on international humanitarian law*, 2022, p. 54-66

This article supports a very simple hypothesis, namely that the international law regulating recourse to armed force (jus ad bellum) is necessarily fragmented from the body of law regulating the conduct of hostilities (laws of war or jus in bello). This hypothesis is tested through a series of steps and deductions, all of which aptly justify the original hypothesis as a matter of reason, fundamental notions of justice and downright practicality. Ultimately, if international humanitarian law (IHL) is not uniformly applied to all sides of the conflict and its enforcement is dependent on which party is considered the aggressor, this body of law is effectively of no use, and we are drawn back to very dark times that this author would like to think have long been overcome. If these two bodies of law were not fragmented by the very conduct of states or by reference to the respective treaties, we would be forced to spell it out loud in order for both fields of regulation to be meaningful and mutually reinforcing.

Par-delà les casernes : sur l'illégitimité des juridictions militaires dans le cadre du droit international contemporain

Francesco Seatzu. In: Revue générale de droit international public, T. 128, no 3, 2024, p. 525-544

Cet article examine de manière critique la légitimité des juridictions militaires dans le cadre contemporain du droit international, mettant en lumière un écart significatif dans le respect des règles du droit international des droits de l'homme et de la politique. Attirant l'attention sur des cas, notamment exemplifiés par les tribunaux militaires au Pakistan, où la juridiction s'étend au-delà du personnel militaire pour inclure des civils faisant face à des accusations graves en matière de droits de l'homme, l'article souligne la nécessité pressante d'une évaluation approfondie des pratiques de juridiction militaire, en particulier celles développées en dehors des situations de conflit armé. L'argument avance un cas persuasif, suggérant que les Etats devraient activement poursuivre l'élimination des juridictions militaires opérant en dehors des situations de conflit armé. Cet appel s'inscrit dans l'objectif d'harmoniser les pratiques juridiques avec les normes internationales des droits de l'homme. Cette transition est considérée non seulement comme un moyen d'améliorer la transparence, la responsabilité et la protection des libertés civiles, mais aussi comme un engagement à défendre les principes de justice et de droits de l'homme à l'échelle mondiale. Mettant l'accent sur les dimensions complexes de la justice militaire, l'article plaide en faveur de l'intégration des infractions militaires dans des tribunaux civils spécialisés pour assurer l'indépendance, l'impartialité et la transparence dans le processus d'adjudication. Un tel changement de paradigme, au milieu des évolutions des paysages juridiques, offre aux Etats l'opportunité de contribuer à un cadre juridique priorisant les droits de l'homme, la justice et la responsabilité, renforçant ainsi les fondements d'une société mondiale juste et équitable.

Pax Britannica : a case study of pre-Hague imperial laws of war

Samuel White and Ikhwan Fazli. In: The military law and the law of war review, vol. 62, issue 2, December 2024

This article addresses the legal frameworks around violence mitigation in international armed conflicts as practiced by the late British Empire through the lens of broader trends across its pre-Hague external conflicts, as opposed to merely specific regions or wars in isolation. It acknowledges the need for a robust methodology to tackle the shifting and ad hoc treatment of non-Western peoples by late Imperial actors and commanders with decision-making capacity, particularly against the backdrop of our increasing public access to their correspondence and ordinances to subordinates. While traditional accounts have rejected the application of international laws of war to external conflicts against non-Western peoples, this paper contends that this preclusive method does not reconcile with the actual conduct of certain colonial commanders 'on the spot' across the British Empire's frontiers. Accordingly, the paper is structured into two parts. The first introduces and explores the concept and development of international laws of war and considers how a practice-oriented approach based on longitudinal British Imperial practices is needed to sufficiently investigate the porous and contested aspects of international legal history. The second, with the methodology that has been outlined, then examines three prospective British Imperial customary laws of war by drawing and comparing secondary commentary and specific examples of wartime conduct: prohibitions on summary executions; sexual violence; and perfidy. By clearing away the 'intellectual rubble' to more holistically assess the legal frameworks at the time, it is hoped that the paper can facilitate an in-depth discussion of possible colonial war crimes including the consideration of further potential customs including prohibitions on brigandry, slavery, and the looting of cultural property.

<https://doi.org/10.4337/mlwr.2024.02.01> *

Las personas desaparecidas a raíz de los conflictos armados : análisis desde la perspectiva de las normas de derecho internacional humanitario y su implementación en Colombia

Mario Alberto Correa González. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 21-99

Este capítulo tiene como objeto analizar la problemática humanitaria de las personas desaparecidas a causa de los conflictos armados a partir de las normas del derecho internacional humanitario. Para ello se presenta un estudio de los instrumentos jurídicos de derecho

internacional humanitario y la incorporación de la desaparición en sus disposiciones desde la comprensión que plantea el Comité Internacional de la Cruz Roja. Esto permitirá analizar los alcances y las limitaciones de la respuesta que brinda el derecho internacional humanitario respecto de las personas desaparecidas y sus familiares para, finalmente, examinar el caso colombiano, en cuanto a la implementación de este marco jurídico con fundamento en lo establecido en el Acuerdo final de Paz, firmado entre el Gobierno nacional y la guerrilla de las FARC-EP, en particular, con respecto a la Unidad de Búsqueda de Personas dadas por Desaparecidas en el contexto y en razón del conflicto armado y algunos de los desafíos para el cumplimiento de su mandato.

<https://bdigital.uexternado.edu.co/handle/001/13278>

Primero Ntaganda, luego Helena : ¿protege (realmente) el derecho internacional humanitario a los combatientes frente a la violencia sexual intrafilas?

Catalina Fernández Carter. - In: Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal. - Bogotá : Universidad Externado de Colombia, 2022. - p. 377-434

Este capítulo tiene como objeto analizar la problemática humanitaria de las personas desaparecidas a causa de los conflictos armados a partir de las normas del derecho internacional humanitario. Para ello se presenta un estudio de los instrumentos jurídicos de derecho internacional humanitario y la incorporación de la desaparición en sus disposiciones desde la comprensión que plantea el Comité Internacional de la Cruz Roja. Esto permitirá analizar los alcances y las limitaciones de la respuesta que brinda el derecho internacional humanitario respecto de las personas desaparecidas y sus familiares para, finalmente, examinar el caso colombiano, en cuanto a la implementación de este marco jurídico con fundamento en lo establecido en el Acuerdo final de Paz, firmado entre el Gobierno nacional y la guerrilla de las FARC-EP, en particular, con respecto a la Unidad de Búsqueda de Personas dadas por Desaparecidas en el contexto y en razón del conflicto armado y algunos de los desafíos para el cumplimiento de su mandato.

<https://doi.org/10.57998/bdigital.handle.001.13218>

Principles of international humanitarian law : a new framework

Jeroen van den Boogard. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 63-74

This chapter critiques the use of traditional principles of international humanitarian law (IHL) that are used in many militaries: humanity, military necessity, distinction, proportionality, and chivalry. After making a distinction between foundations, principles, and rules of IHL, this chapter explores what the legal significance of IHL principles is and how they relate to other types of norms. The chapter then proposes a new framework of principles of IHL using a functional approach. The chapter concludes by suggesting a new set of IHL principles to be used both for IHL education and as guidance for military forces in planning and executing military operations in accordance with their IHL obligations.

<https://doi.org/10.1093/os0/978019775134.003.0004> *

Der privatisierte Krieg : private militärdienstleister zwischen staatlichen aufgaben und staatlichem aufgeben

Sarah Katharina Stein. - Tübingen : Mohr Siebeck, 2024. - XIX, 524 p.

Private Militärdienstleister (PMCs) sind als zugekaufte Verstärkung oder autark agierende Truppen aus bewaffneten Konflikten nicht mehr wegzudenken. Trotz ihres fast universalen Einsatzes fehlt es an einer spezifischen Regulierung oder der konsequenten Einordnung nach den Regeln des humanitären Völkerrechts. Das führt zu einem zu einer rechtlichen Grauzone, in der private Militärdienstleister Gewalt fast gänzlich verantwortungsfrei ausüben können. Zum anderen geraten Staaten, die Private zur Ausübung militärischer Gewalt einsetzen, in Konflikt mit rechtsstaatlichen und demokratischen Prinzipien. Sarah Katharina Stein zeigt durch eine eingehende Analyse der relevanten Rechtsnormen und der ihnen zugrundeliegenden Wertvorstellungen auf, warum mit jedem Einsatz privater Militärdienstleister das eigene staatliche Gewaltmonopol geschwächt wird.

Pro patria mori : when States encourage civilian involvement in armed conflict

Mina Radončić and Ashley Stanley-Ryan. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 897-930

Contemporary armed conflicts have increasingly been accompanied by belligerents' calls for civilians to support their military efforts. This article investigates the legal consequences of civilians taking up arms provided by or with the tacit support of the State. It first looks at the implications of civilian involvement from the perspective of a State's international humanitarian law (IHL) and international human rights law obligations, focusing on removing civilians from the vicinity of hostilities, informing and training civilians on the implications of directly participating in hostilities, and respecting and ensuring respect for the law. It then demonstrates that the broader fabric of public international law is tested when civilians are encouraged to engage in hostilities, through a close analysis of the challenge of attributing civilian acts to the State. The article closes with practical recommendations for States to ensure that they uphold their humanitarian and human rights obligations, and to render the law of international responsibility effective when civilians commit systemic violations of IHL.

<https://library.icrc.org/library/docs/DOC/irrc-926-radoncic.pdf>

Prohibiting the use of biological weapons : diverging national measures, a comparative analysis

Barry de Vries. In: Journal of conflict and security law, vol. 29, no. 2, Summer 2024, p. 195-211

To ensure an effective international prohibition on the use of biological weapons, an international framework of national prohibitions needs to exist. This article looks comparatively at the national prohibitions on the use of biological weapons and considers the effect of common approaches. This research is based on a near-comprehensive collection of national legislation addressing the use of biological weapons. Investigating the common approaches allows for the identification of potential gaps within the international framework of national prohibitions, indicating the potential benefit of developing an international obligation to implement national measures prohibiting the use of biological weapons.

<https://doi.org/10.1093/jcsl/krae008> *

A prologue to law of war unmaking

Sean Watts. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 327-360

This chapter addresses the underexplored subject of how and why States terminate or “unmake” law of war treaties and treaty provisions. It identifies legal mechanisms and practices, both established and emerging, for the repeal, expiration, or abandonment of treaty-based laws of war. After surveying treaty termination procedures, both general and specific to the law of war, the chapter catalogs States' exercises of unmaking through both formal and informal means. It then identifies forces that may explain why States and other actors involved in law of war formation have not seized on unmaking with the regularity and rigor they have with respect to law-making. The chapter is meant to inspire a more refined and regular unmaking practice by States.

<https://doi.org/10.1093/oso/9780197775134.003.0015> *

Propaganda and armed conflict : analysing the legal framework through the ongoing conflict between Ukraine and Russia

Sally Longworth. In: Juridisk Publikation, nr 1/2023, p. 52-74

This article explores the international legal standards applicable to propaganda activities in armed conflict settings, using examples from the Ukrainian and Russian armed conflict. It sets out specific prohibitions on propaganda in armed conflict. The article also demonstrates how propaganda promoting, denying or misrepresenting violations of IHL can lead to further violence in breach of international norms, even amounting to international crimes. The discussion highlights how freedom of expression is an essential tool to address propaganda in armed conflict for all States, whether they are party to an armed conflict or not.

https://juridiskpublikation.se/wp-content/uploads/2023/07/Sally_Longworth_Sa%CC%88rtryck.pdf

Proportionality, double effects, and the innocent bystander problem in war

Charles P. Trumbull IV. In: *Stanford journal of international law*, vol. 59, issue 1, 2023, p. 35-73

This article challenges the conventional moral justification for the international humanitarian law (IHL) principle of proportionality and the collateral damage that this principle permits in war. It argues that the Doctrine of Double Effect—the moral theory on which the principle of proportionality is based—cannot justify attacks that will cause foreseeable harm to “innocent” civilians. A person must do something morally relevant to forfeit his or her right to life. Accordingly, collateral damage to civilians can be morally justified only with respect to civilians who are “non-innocent.” The IHL principle of proportionality is thus morally flawed because it permits, as a legal matter, foreseeable harm to innocent and non-innocent civilians alike in certain circumstances. At the same time, the principle of proportionality should not be entirely discarded. Despite its ethical shortcomings, it serves a broader humanitarian objective by limiting the scope of warfare. In particular, the principle helps to safeguard the expansive but fragile definition of “civilian” under existing IHL, as well as the related principle of distinction, which prohibits attacks directed against civilians. While the principle of proportionality provides only an intermediate degree of protection for civilians in armed conflicts, this protection is still an improvement over the total war paradigm that existed throughout much of the twentieth century. Responsible states, however, should understand that attacks considered lawful under the IHL principle of proportionality are not necessarily morally permissible, and these states should thus take additional measures to avoid causing incidental harm to innocent civilians.

<https://heinonline.org/HOL/P?h=hein.journals/stanit59&i=43> *

Proportionality in bello : a case against indirect military advantage in war

Surbhi Soni. In: *Journal of international humanitarian legal studies*, vol. 15, issue 2, November 2024, p. 297-316

Rule of proportionality strikes a bargain in launching attacks. It demands that military commanders suspend or cancel operations if collateral damage anticipated from an attack exceeds the potential military advantage offered. The definitional phrase military advantage has been the subject of a rich debate, varyingly interpreted to expand or limit the scope of attacks. This paper participates in the debate, advocating that military advantage must be limited to exclude attacks on objects that indirectly contribute to military potential, such as, economic, social, psychological or political advantage, which invariably target civilians or civilian enterprises. It critically engages with the principles and precedents invoked to legitimise a broader understanding of military advantage. It posits that such attacks disregard belligerents’ privileges, and render unbound categories of civilian objects susceptible to destruction. Pursuantly, the rule of proportionality, originally articulated to nuance and improve the rule of distinction, is usurped to violate the latter.

<https://doi.org/10.1163/18781527-bja10100> *

Protection of civilians in UN peacekeeping operations : legal responsibility and accountability

Aminul Islam. - London [etc.] : Routledge, 2025. - XXI, 302 p.

This book discusses the legal responsibility of UN peacekeepers for the protection of civilians under international legal regimes, particularly international human rights law, international humanitarian law, international refugee law, and occupation law. It considers both negative and positive obligations, that is, a duty to respect or not violate a particular right directly and a duty to take positive action to secure or protect a particular right, respectively. In addition, it describes the standards and methods, as well as their strengths and weaknesses, by which actors in UN peacekeeping operations, including the UN, troop contributing countries, and individual peacekeepers, can be held accountable for third-party claims and allegations of criminal misconduct against UN peacekeepers for violations of responsibility in peacekeeping operations.

The protection of housing, land, and property (HLP) in armed conflict

Diakonia International Humanitarian Law Centre. - Beirut : Diakonia International Humanitarian Law Centre Lebanon, May 2024. - 56 p.

The Syria Regional Desk at the Diakonia International Humanitarian Law Centre considers the widespread phenomenon of weaponizing housing, land, and property (HLP) in international and non-international armed conflict (IAC-NIAC) as an urgent priority that requires enhanced enforcement of international humanitarian law (IHL). In the context of the Centre's commitment to improving civilian protection and human rights in armed conflict, this paper was developed to:

- Improve the understanding of the parties to armed conflicts and other stakeholders of the conceptual and legal frameworks governing HLP issues during and after armed conflict.
- Support these actors in improving adherence to IHL and IHRL with a specific focus on respecting HLP rights and avoiding the protracted negative impact of HLP violations.
- Provide stakeholders with legal and operational conclusions to inform their decision-making processes and operations, and to support protection advocacy efforts.

https://apidiakoniase.cdn.triggerfish.cloud/uploads/sites/2/2024/06/240607_HLP_Protection_EN_.pdf

Protection of the environment in relation to armed conflict : 50 years of effort, and no end in sight

Michael Bothe. In: Environment and security, vol. 1. issue 1-2, September 2023, p. 24-35

The debate about environmental protection in relation to armed conflict began around 1970 due to the meeting of two political movements: on the one hand, becoming aware of the environmental problem including concern for future generations and, on the other, a need to develop the law of armed conflict, filling some loopholes left by the Geneva Conventions of 1949 and reflecting experiences of conflicts which had happened since that time. There was (and is) a tension between the military interest of winning a war and the environmental interest of preserving the planet for future generations. Protocol I additional to the Geneva Convention adopted in 1977 constituted a victory for the military interest by defining the threshold of impermissible environmental damage in a way which is a far cry from satisfying the need of environmental preservation. But a lively discourse had started which has brought progress, but is far from yielding satisfactory final results. Major elements are the application of the rules concerning the protection of the civilian population and civilian objects to environmental protection, the principle of due regard for the environment, the recognized need to establish zones protected for the sake of environmental preservation, intensive activities of environmental fact-finding, the challenge of maintaining necessary environmental governance under the condition of armed conflict and environmental restoration as part of peacebuilding after the conflict.

<https://library.ext.icrc.org/library/docs/RESTRICTEDACCESS/60922.pdf> *

Protection of the environment under international law during occupation : international humanitarian, human rights and environmental law

Waad Abualrob. - Abingdon : Routledge, 2025. - X, 223 p.

This book examines the relationship between International Environmental Law and Human Rights Law regarding the protection of the environment in times of occupation. Times of occupation create a tangible threat to the environment, alongside human, animal, and plant rights. This book uses international law to grapple with unprecedented environmental challenges, from water, air and soil pollution and severe damage to natural resources to the complexities of regulating emerging environmental challenges during extraordinary situations. Using international case studies alongside the prominent and evolving role of international law agreements, in particular Multilateral Environmental Agreements (MEAs), this book offers a comprehensive analysis of the legal tools available to navigate environmental challenges under occupation. The book also discusses occupying power obligations under public international law and the demands of protecting the environment in occupied territory.

The protection of victims of armed conflict in Islamic law and international humanitarian law

Abdulhamid Abdulghani. - Geneva : ICRC, February 2025. - 53 p.

Islamic law is one of the oldest legal systems in existence, and has developed detailed rules regulating warfare. With armed conflicts taking place in so many parts of the Muslim world, the Islamic law of war is as indispensable as ever for the protection of civilians and other persons hors de combat. Over the centuries, classical Muslim jurists have provided impressive legal literature, which, just as international humanitarian law (IHL), brings humanity in war. This publication offers a comparative analysis of contemporary IHL and the Islamic Law of war, highlighting the complementarities and common values between the two streams of law.

<https://library.icrc.org/library/docs/DOC/icrc-4856-002.pdf>

Quel(s) droit(s) après l'occupation ? : retour au Haut-Karabagh

Thibaut Fleury Graff. In: *Annuaire français de droit international*, 69, 2023, p. 181-199

En septembre 2023, l'Azerbaïdjan a rétabli sur la région du Haut-Karabagh le contrôle qu'il avait perdu au début des années 1990. Le retour de ce contrôle territorial, obtenu notamment grâce au blocage du corridor de Latchine, a entraîné l'autodissolution de la « République de l'Artsakh », soutenue par l'Arménie voisine mais jamais reconnue internationalement. Cet épisode marquant de l'année 2023 invite à se pencher sur une question assez peu traitée en droit international, car finalement assez rare dans le contexte géopolitique contemporain : quelles règles gouvernementelles la fin de l'occupation et du conflit armé ? Comment identifier cette fin et quelles en sont les conséquences juridiques, tant pour les acteurs du conflit que pour celles et ceux qui en sont victimes ? Par une analyse du droit international humanitaire applicable à ces situations, cet article revient sur les règles d'identification de la fin d'une occupation et sur les droits qui perdurent après celle-ci.

<https://hal.science/hal-04925854v1>

Reappraising reprisals against enemy civilians in customary international humanitarian law

Lindsay Moir. In: *Journal of international humanitarian legal studies*, vol. 15, issue 2, November 2024, p. 383-417

Belligerent reprisals are a controversial and largely discredited mechanism for the enforcement of international humanitarian law. Additional Protocol I of 1977 prohibits a range of reprisal activity, including reprisals against enemy civilians. A (relatively small) number of States are not Parties to Additional Protocol I, whilst some States Parties have made declarations and/or reservations to the Protocol which could be seen as attempts to limit the operation of the prohibition. Its status as a rule of customary international law is therefore an important question. This article argues that opposition to the prohibition in customary law is neither as widespread nor consistent as has previously been suggested and that the weight of evidence points towards the existence (or development) of a customary prohibition. Consistent opposition by the UK and the US, however, makes it unlikely that the customary prohibition would be opposable to those particular States.

<https://doi.org/10.1163/18781527-bja10095> *

Le recours aux drones « kamikazes »

Nicolas Cuer. - In: *Leçons contemporaines de droit international humanitaire.* - Paris : A. Pedone, 2024. - p. 49-65

Le droit international se doit de prendre en compte l'évolution des conflits armés, et des technologies militaires qui sont mises en œuvre. L'utilisation croissante des munitions rôdeuses dans les conflits armés du XXI^e siècle amène à se poser la question de la licéité de son emploi au regard du droit international humanitaire. Dès lors, après la définition d'une munition rôdeuse et un aperçu de son emploi dans les conflits armés récents (I), le cœur de la réflexion sur les munitions rôdeuses s'articule autour d'une double analyse, celle de la licéité de l'emploi d'une munition rôdeuse comme arme en droit international humanitaire (I) et celle de la licéité du ciblage d'un objectif militaire ou d'un combattant par une munition rôdeuse (III).

Réparation au profit des victimes de violences sexuelles liées aux conflits armés: cadre général en droit international et cas particulier des poursuites en RDC

Raphaël Van Steenberghe. - In: Droit international et violences sexuelles dans les conflits armés : contributions de la Chaire Mukwege (2019-2023). - Bayonne : Institut Francophone pour la justice et la démocratie - Louis Joinet, 2024. - p. 271-299

La première partie de cette contribution examinera les règles de droit international dont la violation a causé le préjudice, tandis que la seconde partie se penchera sur la réparation de ce préjudice. Enfin, dans la mesure où cette contribution s'inscrit dans le cadre d'un congrès organisé par le Centre d'excellence Denis Mukwege en République démocratique du Congo (RDC), une troisième partie sera spécifiquement consacrée à la réparation au profit des victimes des violences sexuelles commises en RDC et, en particulier, aux poursuites pénales comme composante essentielle de cette réparation.

<https://institut.ifjd.org/droit-international-et-violences-sexuelles/>

La résolution 2664 (2022) : l'exemption humanitaire aux régimes de sanctions, une solution nouvelle à un problème ancien

Manon Bonnet. In: Annuaire français de droit international, 69, 2023, p. 395-409

La résolution 2664 (2022) du Conseil de sécurité des Nations Unies reflète, près de soixante ans après l'adoption du premier régime de sanctions économiques par le Conseil, les difficultés à concilier le recours à cet instrument aux fins du maintien de la paix internationale avec la protection des populations civiles. Adoptée le 9 décembre 2022, elle crée une exemption humanitaire aux régimes de sanctions économiques relatifs aux gels d'avoirs. Saluée notamment par le CICR, cette exemption résulte d'une demande de longue date des organismes humanitaires et constitue une avancée importante en la matière, en ce sens que ses modalités devraient participer à la rendre plus effective que les dérogations humanitaires prévues jusqu'ici.

Responsible use of AI in military systems

edited by Jan Maarten Schraagen. - London [etc.] : CRC Press, 2024. - XII, 374 p.

Artificial Intelligence (AI) is widely used in society today. The (mis)use of biased data sets in machine learning applications is well-known, resulting in discrimination and exclusion of citizens. Another example is the use of non-transparent algorithms that can't explain themselves to users, resulting in the AI not being trusted and therefore not being used when it might be beneficial to use it. "Responsible Use of AI in Military Systems" lays out what is required to develop and use AI in military systems in a responsible manner. Current developments in the emerging field of Responsible AI as applied to military systems in general (not merely weapons systems) are discussed. The book takes a broad and transdisciplinary scope by including contributions from the fields of philosophy, law, human factors, AI, systems engineering, and policy development. Divided into five sections, Section I covers various practical models and approaches to implementing military AI responsibly; Section II focuses on liability and accountability of individuals and states; Section III deals with human control in human-AI military teams; Section IV addresses policy aspects such as multilateral security negotiations; and Section V focuses on 'autonomy' and 'meaningful human control' in weapons systems.

<https://doi.org/10.1201/9781003410379>

Rethinking 'meaningful human control'

Linda Eggert. - In: Responsible use of AI in military systems. - Abingdon : CRC Press, 2024. - p. 213-231

This chapter examines the normative limits of 'meaningful human control' (MHC). That autonomous weapon systems (AWS) must, like other weapons, remain under MHC is a popular demand in response to various worries about AWS. These include (i) that AWS may not be able to comply with the laws of war; (ii) that delegating life-and-death decisions to algorithms presents a grave affront to human dignity; and (iii) that it may become impossible to ascribe responsibility for harms caused by AWS. This chapter probes the relationship between the moral significance of human control on the one hand and autonomy in weapon systems, conceived as a certain degree of independence from human agency, on the other. In challenging the justificatory force of MHC

in mainstream discussions, this chapter offers a starting point for rethinking what role the notion should play in debates about the ethics of AWS.

<https://www.taylorfrancis.com/chapters/oa-edit/10.1201/9781003410379-14/rethinking-meaningful-human-control-linda-eggert>

Los retos de la noción de “persona protegida” para la persecución penal de la violencia sexual en el marco del conflicto armado colombiano

Juan Pablo Acosta Peñaloza. - In: *Desafíos del derecho internacional humanitario en Colombia : desaparición forzada, defensa y seguridad digital, crímenes de guerra y responsabilidad estatal.* - Bogotá : Universidad Externado de Colombia, 2022. - p. 329-376

El artículo busca establecer los retos que representa la noción de persona protegida adoptada por el Código Penal colombiano en su Título II sobre delitos contra personas y bienes protegidos por el DIH, en particular en relación con los delitos cometidos contra la libertad, la integridad y la formación sexual. Lo anterior con el objetivo de analizar los desafíos en relación con la sanción penal de estos delitos, especialmente de aquellos cometidos contra miembros de grupos armados organizados por miembros de su mismo grupo (intrafilas) en el marco del conflicto armado colombiano. Este documento expondrá la normativa del DIH aplicable a la temática para luego adentrarse en el análisis del derecho interno, incluyendo la legislación penal y jurisprudencia relevante. El artículo establece la necesidad de investigar, juzgar y sancionar la violencia sexual cometida contra integrantes de grupos armados organizados y explora las consecuencias de aplicar o inaplicar la categoría de persona protegida a estas personas, concluyendo que los operadores de la justicia, especialmente aquellos pertenecientes a justicia transicional, tiene a su disposición herramientas del derecho internacional para no permitir que las víctimas de crímenes de guerra se vean impedidas de acceder a la justicia independientemente de su calidad.

<https://bdigital.uexternado.edu.co/handle/001/13612>

The right to flee the dangers of war : rethinking Ukraine’s gender-based restriction on civilian men’s freedom of movement

Jenna Norosky and Charli Carpenter. In: *Human rights quarterly : a comparative and international journal of the social sciences, humanities, and law*, vol. 46, no. 3, August 2024, p. 461-491

Amid Russia’s illegal invasion of Ukraine, the human rights community has understandably focused its attention on human rights violations committed by the Russian state, leaving the human rights implications of Ukraine’s martial law on civilians largely unexamined. This article highlights the ways Ukraine’s travel restriction on “battle-aged” civilian men has harmed three overlapping groups: civilian men, families (including women and children), and trans and nonbinary individuals. It then demonstrates that wartime policies such as this one are at odds with several areas of international human rights and humanitarian law: the right to freedom of movement, the right to conscientious objection, and the principle of respect for family life—all of which are meant to be implemented without discrimination on basis of gender. We conclude this type of gender-based law is not justified according to the International Covenant on Civil and Political Rights’ rules on derogation in time of national emergencies and emerging customary law and should receive greater attention by the human rights community.

<https://dx.doi.org/10.1353/hrq.2024.a933873> *

The right to life in armed conflict

William Schabas. In: *Japanese yearbook of international law*, vol. 66 (2023), p. 21-48

In the Nuclear Weapons Advisory Opinion, the International Court of Justice proposed that in the context of armed conflict the human right to life was to be assessed with reference to international humanitarian law (*Lex specialis, lex generalis*). This presumes a coherence or compatibility between international humanitarian law and international human rights law. However, the relationship between the two bodies manifests some tensions, which are addressed in the article. Specifically, the article considers the right to life of the combatant, which is broader under human rights law than under humanitarian law. It also looks at weapons of war. The article examines the view of the Human Rights Committee, set out in General Comment 36, that killing by an aggressor is ipso facto a violation of the right to life.

<https://repository.mdx.ac.uk/item/8v3qxx>

The role of human rights mechanisms in shaping international humanitarian law

Alessandra Spadaro. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 197-220

The influence of international human rights law (IHRL) on the law of armed conflict is well recognized. At the same time, the direct contribution of human rights mechanisms to the development of international humanitarian law (IHL) is less so. This chapter shows that human rights mechanisms have played a role in shaping IHL, most notably as a consequence of the co-application of IHL and IHRL in armed conflict. The chapter goes on to explore new potential avenues for the shaping of IHL by human rights mechanisms, focusing on the role of the mechanisms of the Human Rights Council in shaping the obligations of armed groups parties to non-international armed conflicts.

<https://doi.org/10.1093/oso/9780197775134.003.0010> *

The role of National Societies during international armed conflict under IHL : an operational view : briefing note, executive summary and talking points

prepared by a team of experts from the Belgian Red Cross, British Red Cross, Canadian Red Cross, Danish Red Cross, German Red Cross, Swedish Red Cross, IFRC. - [Geneva] : [ICRC], April 2022. - 18 p.

This note outlines and explains the role of National Red Cross and Red Crescent Societies during international armed conflict under international humanitarian law (IHL). While it primarily focuses on roles under the Geneva Conventions and their Additional Protocols which apply to National Societies of a party to the conflict, it also touches on some roles which apply to other National Societies or to National Societies as “impartial humanitarian organizations” in general. An international armed conflict is defined as a situation where one or more States resort to the use of armed force against another State. It exists regardless of whether the parties acknowledge the existence of a state of armed conflict or war. The law governing international armed conflicts also covers situations of occupation, including those established without meeting armed resistance.

<https://library.icrc.org/library/docs/DOC/icrc-4858-002.pdf>

The role of regionalism in the making and shaping of the law of armed conflict

Gus Waschefort. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 271-298

The dominant narrative casts the law of armed conflict (LOAC) as a legal regime of super universality and homogeneity. Analysis of the development of modern LOAC reveals that this narrative is a more recent account, constructed to subvert the undesirable impact of recently decolonized States in the development of LOAC. The success of developing states in expanding the material scope of international armed conflict during the 1970s was the apex of such impact. This affair was perceived as a significant defeat by Western European States. The super-universality narrative has insulated LOAC from more radical developments but has done so by sacrificing a measure of legitimacy and inhibiting broader buy-in to the regime. Increased accommodation of regional approaches in the development of LOAC can only be achieved by enhancing LOAC expertise globally; mainstreaming LOAC in regions where it is marginalized; ensuring inclusive participation; and being receptive to different approaches and perspectives.

<https://doi.org/10.1093/oso/9780197775134.003.0013> *

Safeguarding the vulnerable : a comprehensive approach to protecting detainees in contemporary non-international armed conflicts and counterterrorism operations

Kasim Balarabe. In: Journal of international humanitarian legal studies, vol. 15, issue 2, November 2024, p. 418-451

This article explores the critical issue of detainee protection in the complex landscape of contemporary non-international armed conflicts and counterterrorism operations. It examines the interplay between international humanitarian law and international human rights law, highlighting the challenges in their application and interpretation. The article delves into the

contemporary challenges faced in protecting detainees, including the involvement of non-state armed groups, extraterritorial detention practices, administrative detention, and the impact of counterterrorism measures. It proposes a multifaceted approach to enhancing detainee protection, encompassing strategies for strengthening compliance with the legal framework, addressing the specific needs of vulnerable groups, and promoting best practices and capacity-building. The article argues that a comprehensive and contextualised approach, grounded in the principles of humanity and human dignity, is essential to effectively safeguard the rights and well-being of detainees in these challenging contexts.

<https://doi.org/10.1163/18781527-bja10098> *

Scapegoats ! : assessing the liability of programmers and designers for autonomous weapons systems

Afonso Seixas Nunes. - In: Responsible use of AI in military systems. - Abingdon : CRC Press, 2024. - p. 192-210

Autonomous Weapon Systems (AWS) have thrown into question the traditional framework for assessing accountability in war. Some scholars 'scapegoat' military commanders while others 'scapegoat' AWS for violations of International Humanitarian Law (IHL) caused by those systems. This chapter will offer a different approach. Specifically, it posits that designers and programmers should be considered as potentially liable for violations of war crimes committed by their systems.

<https://www.taylorfrancis.com/chapters/oa-edit/10.1201/9781003410379-12/scapegoats-sj-afonso-seixas-nunes>

Seeking victim-centred accountability for violence against person with disabilities at the United Nations Independent International Commission of Inquiry for Ukraine

Kate McInnes. In: Leiden journal of international law, vol. 37, no. 3, September 2024, p. 716-736

Persons with disabilities suffer disproportionately in every armed conflict, and Russia's war in Ukraine is no exception. The atrocities committed against persons with disabilities in this conflict, however, are in part a consequence of the state's longstanding policy of institutionalization, which heightens existing vulnerabilities and places persons with disabilities at an unacceptable risk of acute harm. The Independent International Commission of Inquiry for Ukraine must investigate the extensive and varied acts of violence that have been committed against persons with disabilities in Ukraine since the beginning of the Russian invasion, with a focus on persons with disabilities who are institutionalized. In recommending future action, the Commission must be driven by a victim-centred approach to accountability that contributes both to the criminal prosecutions of individual perpetrators, and to systemic reforms that contribute to the project of deinstitutionalization. This article can assist the Commission's analysis by: (i) canvassing the reports of violence against persons with disabilities during the war in Ukraine, particularly those persons in institutions; (ii) reviewing the Commission for Ukraine's mandate and explaining its primary purpose – that is, to ascertain the facts of the conflict, through an intersectional lens, with the aim of promoting accountability – with reference to the work done by United Nations commissions of inquiry in the past; and (iii) providing concrete examples on how the Commission's investigations and report can further both legal accountability and systemic accountability for violence against persons with disabilities in Ukraine.

<https://doi.org/10.1017/S0922156524000086>

Shadows of return : a critical assessment of prosecuting Female IS returnees for war crimes against property under the German Code of crimes against international law

Nella Sayatz. In: Journal of international criminal justice, vol. 22, no. 2, May 2024, p. 445-459

In Germany, the prosecution of female Islamic State (IS) returnees for property offences under international criminal law has become increasingly important in recent years. These prosecutions give reason for critical reflections on the basis and limits of protection of property in international criminal law in general and its application in practice, in particular under the German Code of

Crimes Against International Law (Völkerstrafgesetzbuch). This article argues that despite a well-established normative basis for and legitimacy of protecting property in international criminal law, there are considerable deficiencies in the application of the relevant offence in German jurisprudence. These deficiencies concern, first, the distinction between the different modalities of war crimes against property; secondly, the phenomenon of so-called multiple appropriations; and, thirdly, requirements for determining the gravity of property crimes. The article criticizes the fact that legal practice has so far only insufficiently evaluated the international dimension of property offences, warranting a presumption as an international crime. It argues the need for the criminal justice system to take greater account of the aims and functions of international criminal law in legal practice.

<https://doi.org/10.1093/jicj/mqae019>

A sleeping giant ? : The ENMOD Convention as a limit on intentional environmental harm in armed conflict and beyond

Joanna Jarose. In: American journal of international law, vol. 118, no. 3, July 2024, p. 468-511

This Article reinterprets the 1976 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD) to show how it might rationally strengthen protections for the environment against intentional damage by states, particularly during armed conflict. The Article applies the orthodox rules of treaty interpretation to analyze in depth the Convention text, the travaux préparatoires, and available subsequent state practice, aiming to determine how the somewhat opaque Article II of ENMOD and its definition of “environmental modification technique” is best understood. It concludes that ENMOD has a broader potential application than it has historically been given.

<https://doi.org/10.1017/ajil.2024.15>

La société civile dans le désarmement humanitaire

Marie Wilmet. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 119-130

Ce chapitre met en évidence que les organisations non-gouvernementales et la société civile plus généralement interviennent dans deux temps forts du désarmement. Depuis les années 1990, elles jouent un rôle essentiel dans la création de normes de désarmement internationales (I). Ensuite, la société civile s'assure du respect et de la mise en œuvre des normes ainsi érigées, bien que ses actions restent sujettes à la volonté des États (II).

Les sociétés militaires privées en droit international humanitaire

Sandrine De Sena. - In: Leçons contemporaines de droit international humanitaire. - Paris : A. Pedone, 2024. - p. 93-104

Si, pendant longtemps, les historiens ont jugé que les sociétés militaires privées n'avaient qu'une place secondaire dans les affaires militaires, force est de constater qu'elles occupent désormais une place de choix. La capacité du jus in bello à réguler ces acteurs privés au rôle multidimensionnel interroge. Il n'est pas inutile de revenir sur l'anatomie d'une société militaire privée tant cet acteur est susceptible d'engendrer quelques frictions dans l'application à son égard du droit international humanitaire. Il sera ensuite temps de discuter d'un cas plus particulier mais significatif, celui du groupe Wagner.

Soft law : what is it good for ?

Michael W. Meier. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 75-102

International law is increasingly using quasi-legal documents, such as political declarations, guidelines, manuals, and codes of conduct instead of legally binding instruments. These “soft law” instruments, which possess no legal force and do not contain a coercive mechanism, are nevertheless implemented and gain acceptance by international law actors. This chapter looks at the role of soft law and explains how it has the power to impact international humanitarian law. It addresses how soft law is defined and viewed by those who work in international law. It explores why States and other actors use soft law studying three examples, namely, the Montreux

Document and Code of Conduct to address private military contractors; the Tallinn Manual, which addresses cyber issues; and the Political Declaration on the use of explosive weapons in populated area to address civilian harm. Finally, this chapter discusses a way to measure the effectiveness of soft law instruments.

<https://doi.org/10.1093/oso/9780197775134.003.0005> *

“The Spanish Henri Dunant” of the Institut de droit international, Nicasio Landa (1830-1891)

Ignacio de la Rasilla. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 659-678

This article examines the life and works of Dr Nicasio Landa, the co-founder of the Spanish Red Cross, known as the “Spanish Henri Dunant”. The article begins by discussing his seminal works in the field of international humanitarian law (IHL) and the institutions, notably including the International Committee of the Red Cross, with which he worked until the outbreak of the Franco-Russian War. The article then focuses on Dr Landa’s pioneering contributions to the drawing up and application of international law instruments in the framework of the Institut de Droit International, paying special attention to his contribution to IHL and his pioneering codification efforts at the interface between epidemic diseases and international law. The conclusion highlights the seminal role that Dr Landa played in setting the course of an international humanitarian tradition which has largely outlived the memory we have of this hidden figure in the history of IHL.

<https://library.icrc.org/library/docs/DOC/irrc-926-rasilla.pdf>

Storm in an ice cream cone : was Ben and Jerry’s decision to end ice cream sales in Israeli settlements a responsible corporate exit from Occupied Territories ?

Jonathan Kolieb. In: Israel law review : a journal of human rights, public and international law, vol. 57, no. 2, November 2024, p. 377-422

Ben & Jerry’s – the famous ice cream brand known for its quirky flavours and social justice ethos – announced in 2021 that it would withdraw its products from Israeli settlements in the Occupied Palestinian Territory (OPT). This announcement sparked controversy, with an impact on the company and its parent, Unilever. While the UN Guiding Principles on Business and Human Rights (2011) (UNGP) have established themselves as the leading international governance framework for the social responsibilities of businesses, their application to conflict-affected areas lacks clarity. Questions remain, including when is a company legally complicit in violations of international humanitarian law (IHL), and when is a corporate exit from an area under military occupation the appropriate and responsible thing to do. This article uses Ben & Jerry’s withdrawal from the OPT as the basis for investigating these questions. It finds that while it is unlikely that Ben & Jerry’s would be exposed to any legal liability for violating IHL through its product sales in Israeli settlements in the OPT, its withdrawal aligns with its responsibilities under the UNGP as a reasonable and prudent corporate action in response to its activities being linked to enduring and severe IHL violations.

<https://doi.org/10.1017/S0021223724000116>

Strengthening the medicolegal system : fulfilling international law obligations during conflicts and disasters to prevent and resolve issues of humanitarian concern

Maria Dolores Morcillo Mendez. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 795-822

In times of armed conflict, disasters and violence, people may become separated from their families, go missing or die, or become victims of ill-treatment and sexual violence. Under international humanitarian law, States have obligations to prevent harm and address humanitarian needs. At State level, the medicolegal system is conventionally mandated to address these needs and fulfil related legal obligations. In practice, State responses can sometimes be non-existent, limited by the endemic functionality of existing systems, or degraded by crises of violence, natural disasters and migration. These conditions can, in turn, impede the establishment of peace, reparations, restorative justice efforts and post-conflict reconstruction.

This paper explains what a medicolegal system is and the entities that encompass it. The paper highlights the importance of developing clear policies, regulation and procedures that ensure proper functioning of the system. It reviews common gaps and challenges that limit State prevention and response to issues of humanitarian concern. Finally, recommendations when developing and implementing humanitarian programmes to strengthen medicolegal systems are provided, with a particular focus on the content of protection dialogue in diplomatic fora.

<https://library.icrc.org/library/docs/DOC/irrc-926-morcillo.pdf>

Submission to the United Nations Secretary-General on artificial intelligence in the military domain

ICRC. - [Geneva] : ICRC, 2025. - 11 p.

The International Committee of the Red Cross (ICRC) welcomes the opportunity to submit its views for consideration by the United Nations secretary-general, in accordance with resolution 79/239 on “Artificial intelligence in the military domain and its implications for international peace and security”, adopted by the General Assembly on 24 December 2024, which requested the secretary-general to seek views on “the opportunities and challenges posed to international peace and security by the application of artificial intelligence in the military domain”. The recommendations that the ICRC makes in this submission are in line with its long-standing mandate and practice of promoting respect for and the development of IHL, including its application to new technologies of warfare. This submission is intended to support States in ensuring that military applications of AI comply with existing legal frameworks and, where necessary, in identifying areas where additional legal, policy or operational measures may be required.

https://library.icrc.org/library/docs/DOC/ICRC_RECOMMENDATIONS_2024_03_ENG.pdf

Supporting ethical decision-making for lethal autonomous weapons

Spencer Kohn, Marvin Cohen, Athena Johnson, Mikhail Terman, Gershon Weltman, and Joseph Lyons. In: Journal of military ethics, vol. 23, no. 1, May-June 2024, p. 12-31

This article describes a new and innovative methodology for calibrating trust in ethical actions by Lethal Autonomous Weapon Systems (LAWS). For the foreseeable future, LAWS will require human operators for mission planning, decision-making, and supervisory control; yet humans lack the cognitive bandwidth and processing speed to make prompt, real-time ethical decisions. As a result, trustworthy Artificial Intelligence (AI) will be required to support ethical decision-making. We use a Bayesian ethical decision model for: (1) human setting of ethical preferences and thresholds in accordance with Laws of War and tactical criteria; and (2) highlighting the factors that contribute to strike/no-strike recommendations for human evaluation. The model can perform an ethical analysis, provide a quantitative ethical strike/no-strike score, and recommend actions to reduce decision uncertainty. In this article, we describe successful initial evaluation trials of the Bayesian model and of a human interface for interaction with the model. Our Bayesian ethical decision model has an immediate application in wargames; the model can also be used to train operators in understanding the principles and key factors relevant to ethical decision-making; and it may eventually be used in actual military operations employing LAWS.

<https://doi.org/10.1080/15027570.2024.2366094>

Targeting in international law : counterinsurgency and the legal materiality of the principle of distinction

Amin Parsa. - Abingdon : Routledge, 2024. - XII, 171 p.

This book is about how distinctions are drawn between civilians and combatants in modern warfare and how the legal principle of distinction depends on the technical means through which combatants make themselves visibly distinguishable from civilians. The author demonstrates that technologies of visualisation have always been part of the operation of the principle of distinction, arguing that the military uniform sustained the legal categories of civilian and combatant and actively set the boundaries of permissible and prohibited targeting, and so legal and illegal killing. Drawing upon insights from the theory of legal materiality, visual studies, critical fashion studies, and a dozen of military manuals he shows that far from being passive objects of regulation, these technologies help to draw the boundaries of the legitimate target.

<https://doi.org/10.4324/9781003121947>

Tort liability in warfare : states' wrongs and civilians' rights**Haim Abraham.** - Oxford : Oxford University Press, 2024. - X, 186 p.

Tort Liability in Warfare: States' Wrongs and Civilians' Rights develops a novel account of the tortious liability of states for wrongs they inflict on civilians during combat. Tort Liability in Warfare challenges orthodoxy by illustrating that ordinary domestic tort law doctrines could apply, as private law rights remain relevant during warfare and their wrongful violation triggers ordinary corrective justice duties. The book asserts that barring tort remedies for losses inflicted during warfare is not necessitated by theory or doctrine but is driven by policy considerations. Tort Liability in Warfare demonstrates that these policy considerations fail to provide adequate justifications for states' near blanket immunity from tort liability in warfare, and calls for enabling civilians to turn to tort law as a mechanism for accountability and vindication of their rights.

<https://doi.org/10.1093/9780191997051.001.0001>

Les traités en temps de guerre**Romain Le Bœuf.** In: Annuaire français de droit international, 69, 2023, p. 155-180

Selon une conception ancienne, la guerre est considérée comme contraire à l'existence de relations juridiques entre les belligérants. La période contemporaine a continué de véhiculer l'idée selon laquelle la guerre fait obstacle à l'existence de relations conventionnelles : comment un traité, forme parfaite d'accord, pourrait-il s'acclimater à la guerre, forme ultime de désaccord ? Pourtant, il existe une conventionnalité de guerre et l'existence d'un conflit, loin d'exclure toute possibilité d'accord entre les belligérants, leur permet et leur impose au contraire de s'entendre sur de nombreuses questions. Il s'agit alors de savoir de quelle manière les Etats vont poursuivre leurs relations conventionnelles, à la fois par la conclusion de nouveaux traités et par l'application de ceux déjà conclus. Plus que de déterminer le régime juridique des traités en temps de guerre, la question est de savoir à quel titre et dans quelle mesure l'emploi de la force peut et doit altérer le droit international.

A tug of war : pursuing justice amid armed conflict**Bård Drange.** In: Nordic journal of human rights, vol. 40, issue 2, 2022, p. 346-364

Despite its prevalence in armed conflicts globally, the pursuit of justice and human rights during armed conflict has received relatively little attention compared with efforts taken post-conflict. In this article, I discuss the trajectory of state-led measures to tackle human rights abuses while violence is ongoing, with a focus on the interplay between actors seeking to expose and those seeking to conceal human rights abuses. This expose–conceal framework is used to study the search for justice for abuses committed by paramilitary groups in Colombia in the 2000s. I argue that various domestic and international human rights advocates and civil society organisations clashed with the Colombian Government over questions of accountability. Persistent efforts to expose or conceal abuses produced a tug-of-war dynamic, where the two sides pulled the political debate and judicial frameworks in their preferred direction. This article contributes a conflict studies perspective on the establishment of national-level institutions to advance human rights in a context of high impunity and amid armed conflict. Going forward, I argue that more attention to the during-conflict period can enhance our understanding of how the pursuit of justice plays out after conflict.

<https://doi.org/10.1080/18918131.2022.2097787>

Unconventional warfare under Additional Protocol I**Jim Slesman and Emma Kingdon.** In: Boston University international law journal, Vol. 42, issue 1, Spring 2024, p. 59-118

Recent events have made it much more likely that the United States (U.S.) and its allies could wage an unconventional warfare campaign in a future international armed conflict. Should this occur, the conflict will—between many of the States involved—be governed by the most controversial portions of Additional Protocol I, including Article 44's rules limiting the need for partisans to wear uniforms. While the U.S. is not a Party to Additional Protocol I, U.S. practitioners cannot ignore the Protocol. By understanding how the Protocol applies to Parties, the U.S. will see many benefits, including increased protections for friendly partisans, and incur necessary costs, including limits on its ability to try enemy fighters. Failure to understand the

protocol, however, will undermine the combatant immunity enjoyed by the U.S. Armed Forces and their allies.

https://www.bu.edu/ilj/files/2024/08/42.1.3-Sleesman_Unconventional-Warfare-Under-API.pdf

Unlawful incarceration : an international law based assessment of the legality of the military detention regime that Israel applies to Palestinians

Diakonia International Humanitarian Law Centre. - Jerusalem : Diakonia International Humanitarian Law Centre, August 2024. - 36 p.

Since the outbreak of hostilities on 7 October 2023, Israel has arrested thousands of Palestinians from Gaza and the West Bank, including East Jerusalem. Harrowing accounts of detainees' abuse and ill-treatment, including torture and sexual violence, have since emerged. This publication analyses the regime relied on by Israel to detain Palestinians from Gaza: the Incarceration of Unlawful Combatants Law, 5762-2002; its amendments of 18 December 2023 and 28 July 2024; and official policy vis-à-vis detainees adopted since 7 October 2023. This framework deprives detainees of crucial protections enshrined in international humanitarian law (IHL) and complementary provisions of international human rights law (IHRL), including on the permissible grounds for detention; the review procedure for the legality of detention; and external oversight as well as contact with families and humanitarian organisations such as the International Committee of the Red Cross (ICRC). These provisions aim to prevent unlawful confinement, ill-treatment, inhumane conditions of detention, and enforced disappearances of detainees. With these critical safeguards removed as a matter of law and State policy, Israel has established a detention regime that institutionalises unlawful practices. The publication addresses the responsibility of Israel and third States to bring the detention regime in line with the requirements of international law, to end ongoing violations of IHL and IHRL, and to provide redress for victims. It also examines the potential individual criminal liability of those responsible for creating and maintaining the regime for war crimes and crimes against humanity.

<https://apidiakoniase.cdn.triggerfish.cloud/uploads/sites/2/2024/08/30-August-2024-Unlawful-Incarceration-Legal-Analysis-of-Israel's-Military-Detention-Regime.pdf>

The use of OSINT for military operations abroad under international humanitarian law and international human rights law

Marten Zwanenburg. In: Chinese journal of international law, vol. 23, issue 3, September 2024, p. 403-442

The aim of this article is to shed further light on the legal framework that regulates open source intelligence (OSINT) in the context of military operations abroad. In doing so, the article will focus in particular on the two sub-disciplines which were identified as relevant above, i.e. IHL and IHRL. Following this introduction, the article starts by setting out what is OSINT, and how it is used in support of military operations (Section II). It then turns to the application of IHL to OSINT in the context of military operations (Section III). The next section (Section IV) addresses the application of IHRL, specifically the right to privacy. Section V looks at the situation in which both IHL and IHRL apply, and how these two regimes interact in such a situation in the context of OSINT. The article concludes with a number of final observations (Section VI).

<https://doi.org/10.1093/chinesejil/jmae027>

Violences sexuelles dans le conflits armés : quelles réponses du droit international et de la justice transitionnelle ?

Bérangère Taxil et Jean-Pierre Massias. - In: Droit international et violences sexuelles dans les conflits armés : contributions de la Chaire Mukwege (2019-2023). - Bayonne : Institut Francophone pour la justice et la démocratie - Louis Joinet, 2024. - p. 45-73

Ce chapitre explique la notion de « viol de guerre », une forme de crime de masse, spécifique et complexe qui allie les dimensions individuelles et pénales aux considérations sociales, culturelles et politiques de ce crime. Le défi du juriste s'inscrit dans la nécessité de répondre aux premières sans pour autant ignorer les secondes. Il doit écouter, juger, réparer, prévenir. Pour le juriste international, la question qui se pose alors est celle de la capacité du droit et de la justice à fournir des réponses adéquates au crime du viol de guerre. Le droit international et la justice

transitionnelle comportent indéniablement des avancées, qui restent limitées et doivent encore relever de multiples défis.

<https://institut.ifjd.org/droit-international-et-violences-sexuelles/>

War and data on armed conflicts : global networks examining casualties

Motomichi Igarashi. - Singapore : Springer, 2023. - XIV, 142 p.

This book is the first to provide a comprehensive examination of the entities responsible for the production of data on armed conflicts (DAC), the processes by which it is generated, and the international norms that govern it. While numerous studies have focused on the statistical aspects of armed conflicts, this book distinguishes itself through its historical analysis of the relationship between actors, data generation methods, and international norms. The book begins with an examination of the nature of data in international politics. The vast scale of the subjects being analyzed presents significant challenges to accurately measuring international political data, with war being particularly difficult to assess. This raises the question of how DAC has been structured and generated. The book highlights the existence of specific international norms as a basis for DAC. It explores the history of international norms for the protection of war dead in collecting casualty information, as well as norms for civilian protection. The book posits that DAC has been generated not only by sovereign states but also by global networks comprising international organizations and NGOs. It thus analyzes the historical development of such global networks. In the latter part of the book, the methods by which global networks generate DAC are analyzed. First, it clarifies when and how statistical analysis has been used in generating DAC. Second, it elucidates when and how forensic analysis, primarily of corpses, has been employed. Thirdly, the book reveals when and how chemical weapons analysis has been utilized.

When humanitarian go to war : a European road to ‘civilized’ warfare?

Anne Dienelt. - In: The Oxford handbook of international law in Europe. - Oxford : Oxford University Press, 2024. - p. 331-350

International humanitarian law (IHL) regulates the conduct of hostilities. The oxymoron of describing warfare regulation as humanitarian has been criticized in the past. However, the label refers to the original motives when creating the laws of war in the 19th century. It also accounts for today's purpose and objective of the four Geneva Conventions and the two Additional Protocols. This chapter delves into the history of IHL, and its European influences and origins. At the same time, it contextualizes today's challenges in armed conflicts as well as IHL's claim for universality despite initially being an exclusive European project for 'civilized nations'. The pacifist and humanitarian motives of a range of actors in the creation process of the laws of war are considered, and specific documents drafted by Europeans are analysed in terms of their contribution to a more humanitarian warfare. Are they still impacting today's conduct of hostilities?

“When you have to shoot, shoot !” : rethinking the right to life of combatants during armed conflicts

Ido Rosenzweig. In: International review of the Red Cross, Vol. 106, no. 926, 2024, p. 863-896

Does targeting combatants really provide a military advantage during an armed conflict? The limitations on the use of force against civilians and means and methods of warfare are well developed under contemporary international humanitarian law (IHL), but the issue of targetability of adversary combatants remains underdeveloped. This paper builds on contemporary developments in international human rights law and moral just war theory to offer a revised *lex ferenda* look at the basic principles of IHL through the internalization of the value of the lives of combatants. It is argued that such a reading of IHL would allow for a rejection of the automatic necessity of targeting combatants, and hence give due consideration to the value of life of combatants (both adversary combatants and own combatants) in the evaluation of the use of force during armed conflicts, including through reduced military advantage, force protection, and adjusted proportionality analysis.

<https://library.icrc.org/library/docs/DOC/irrc-926-rosenzweig.pdf>

Where Vienna and Geneva meet : treaty interpretation and the Geneva Conventions

Jean-Marie Henckaerts. - In: Making and shaping the law of armed conflict. - New York : Oxford University Press, 2024. - p. 13-36

This chapter discusses the application of the 1969 Vienna Convention on the Law of Treaties to the interpretation of the 1949 Geneva Conventions. The Vienna Convention offers a coherent legal framework for treaty interpretation, including international humanitarian law treaties. Because the adoption of new Geneva Conventions does not seem to be realistic in the near future, the interpretation of the existing Conventions remains of crucial importance. The chapter sets out the Vienna Convention's framework for treaty interpretation and examines it from the perspective of the Geneva Conventions. It looks in more detail at the requirements of good faith and reliance on the ordinary meaning of the text, in light of the treaty's object and purpose. It further examines the requirement that subsequent developments in law and practice be taken into account, particularly relevant for older treaties such as the Geneva Conventions. The chapter then looks at supplementary means of interpretation.

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