BIBLIOGRAPHY
3rd Issue 2020

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. As a result of a fruitful partnership with the University of Toronto, a number of abstracts are now also produced by students involved in the International Human Rights Program (IHRP).

Access to document

Whenever an article is electronically available in full text, a link allows you to access the document directly. 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 acquires relevant articles and books as soon as they become available. However, the publication date may not coincide with the period supposedly covered by the bibliography due to publishing delays.

Contents

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

Sources

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

Disclaimer

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

Subscription and feedback

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

I. General issues

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

Beyond the 'sham' critique and the narrative of humanitarianism : a rejoinder to Jochen von Bernstorff

Eyal Benvenisti and Doreen Lustig. In: European journal of international law, Vol. 31, no. 2, September 2020, p. 721-726
https://doi.org/10.1093/ejil/chaa062 *

The ethics of war and the force of law : a modern just war theory

Uwe Steinhoff. - Abingdon : Routledge, 2021. - XIV, 321 p.

Is IHL a sham ? : a reply to Eyal Benvenisti and Doreen Lustig

Jochen von Bernstorff. In: European journal of international law, Vol. 31, no. 2, September 2020, p. 709-719
https://doi.org/10.1093/ejil/chaa050 *

Islamic jurisprudence on the regulation of armed conflict : text and context

Nesrine Badawi. - Leiden ; Boston : Brill, 2019. - VI, 273 p.

The law of armed conflict : an operational approach

Geoffrey S. Corn... [et al.]. - New York : Wolters Kluwer Law & Business, 2019. - XLIX, 674 p.
http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=2647477 *

The laws of war in international thought

Pablo Kalmanovitz. - Oxford : Oxford University Press, 2020. - XIII, 185 p.
https://doi.org/10.1093/oso/9780198790259.001.0001 *

Manuel de droit de la guerre

David Cumin. - Bruxelles : Bruylant, 2020. - 549 p.

Monopolizing war : codifying the laws of war to reassert governmental authority, 1856-1874

Eyal Benvenisti and Doreen Lustig. In: European journal of international lawl, Vol. 31, no. 1, February 2020, p. 127-169
https://doi.org/10.1093/ejil/chaa013 *

'Not dead but sleeping' : expanding international law to better regulate the diverse effects of ceasefire agreements

Marika Sosnowski. In: Leiden journal of international law, Vol. 33, no. 3, 2020, p. 731-743
https://doi.org/10.1017/S0922156520000308 *

The notion of 'protracted armed conflicts' in the Rome Statute and the termination of armed conflicts under international law : an analysis of select issues

Dustin A. Lewis. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1091-1115
https://library.icrc.org/library/docs/DOC/irrc-912-lewis.pdf

Participation of non-state armed groups in the formation of customary international humanitarian law : arising challenges and possible solutions

Lizaveta Tarasevich. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 3, H. 1-2, p. 105-121, 2020
https://doi.org/10.35998/huv-2020-0007 *

II. Types of conflicts

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

Applying core principles of international humanitarian law to military operations in space

Jack Mawdsley. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 263-290
https://doi.org/10.1093/jcsl/kraa005 *

Bridging the accountability gap : armed non-state actors and the investigation and prosecution of war crimes

Hannes Jöbstl. In: Journal of international criminal justice, Vol. 18, no. 3, July 2020, p. 567-597
https://doi.org/10.1093/jicj/mqaa026 *

By all means necessary : a look at the reliance on United Nations Security Council resolutions as a basis for internment in non-international armed conflicts

Hillary Muchiri Kiboro. In: African yearbook on international humanitarian law, 2019, p. 25-48

The classification of armed conflicts by international criminal courts and tribunals

Rogier Bartels. In: International criminal law review, Vol. 20, no. 4, 2020, p. 595-668
https://doi.org/10.1163/15718123-02004006 *

The crisis in Yemen : armed conflict and international law

Waseem Ahmad Qureshi. In: North Carolina journal of international law, vol. 45, no. 1, 2020, p. 227-268
https://scholarship.law.unc.edu/ncilj/vol45/iss1/5

Divisions over distinctions in wartime international law

Ziv Bohrer. - In: Law applicable to armed conflict. - Cambridge : Cambridge University Press, 2020. - p. 106-196
https://doi.org/10.1017/9781108674416.003 *

Double trouble : the 'cumulative approach' and the 'support-based approach' in the relationship between non-state armed groups

Marten Zwanenburg. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 43-61
https://doi.org/10.1007/978-94-6265-399-3_3 *

L'exécution de Qassem Soleimani et ses suites : aspects de jus contra bellum et de jus in bello

Olivier Corten, François Dubuisson, Vaios Koutroulis et Anne Lagerwall. In: Revue générale de droit international public, tome 124, no 1, 2020, p. 39-72
http://pedone.info/site/wp-content/uploads/2020/04/0373-6156-RGDIP-2020-1_internet.pdf

From peacekeepers to parties to the conflict: an IHL's appraisal of the role of UN peace operations in NIACs

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https://doi.org/10.1093/jcsl/krz032 *

Hacking and international humanitarian law : the anonymous group and the Syrian electronic army

Angelo Stirone. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 3, H. 1-2, 2020, p. 123-140
https://doi.org/10.35998/huv-2020-0008 *

Humanitarian ceasefire agreements and the law of armed conflict

by Pnina Sharvit Baruch, Corinna Dau, and Shavit Rissin. In: Israel yearbook on human rights, Vol. 50, 2020, p. 19-62
https://doi.org/10.1163/9789004440555_003 *

The nature of international humanitarian law : a permissive or restrictive regime?

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http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=2632404 *

Negotiating civil war : the politics of international regime design

Henry Lovat. - Cambridge : Cambridge University Press, 2020. - XV, 368 p.
https://doi.org/10.1017/9781108667302 *

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https://doi.org/10.35998/huv-2020-0007 *

Proportionality and its applicability in the realm of cyber-attacks

Hensey A. Fenton III. In: Duke journal of comparative and international law, vol. 29, no. 2, Spring 2019, p. 335-359
https://scholarship.law.duke.edu/djcil/vol29/iss2/6/

The rebel with the magnifying glass : armed non-state actors, the right to life and the requirement to investigate in armed conflict

Joshua Joseph Niyo. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 63-106
https://doi.org/10.1007/978-94-6265-399-3_4 *

Revisiting the scope of application of Additional Protocol II : exploring the inherent minimum threshold requirements

Miriam M. Bradley. In: African yearbook on international humanitarian law, 2019, p. 81-120

Revisiting the Vietnam War and international law : views and interpretations of Richard Falk

ed. by Stefan Andersson. - Cambridge : Cambridge University Press, 2018. - XXXI, 409 p.

Towards a moral division of labour between IHL and IHRL during the conduct of hostilities

Janina Dill. - In: Law applicable to armed conflict. - Cambridge : Cambridge University Press, 2020. - p. 197-265
https://doi.org/10.1017/9781108674416.004 *

Transforming a prima facie NIAC into an IAC : finding the answer in IHL

Natia Kalandarishvili-Mueller. In: Israel law review : a journal of human rights, public and international law , Vol. 53, no. 3, November 2020, p. 334-354
https://doi.org/10.1017/S0021223720000175 *

III. Armed forces / Non-state armed groups

(Combatant status, compliance with IHL, etc.)

Bridging the accountability gap : armed non-state actors and the investigation and prosecution of war crimes

Hannes Jöbstl. In: Journal of international criminal justice, Vol. 18, no. 3, July 2020, p. 567-597
https://doi.org/10.1093/jicj/mqaa026 *

The British army's training in international humanitarian law

Elizabeth Stubbins Bates. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 291-315
https://doi.org/10.1093/jcsl/kraa006 *

Do non-state armed groups have a legal right to consent to offers of international humanitarian relief ?

Matthias Vanhullebusch. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 317-341
https://doi.org/10.1093/jcsl/kraa007 *

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Young terrorists or child soldiers ? : ISIS children, international law and victimhood

Conrad Nyamutata. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 237-261
https://doi.org/10.1093/jcsl/krz034 3

IV. Multinational forces

By all means necessary : a look at the reliance on United Nations Security Council resolutions as a basis for internment in non-international armed conflicts

Hillary Muchiri Kiboro. In: African yearbook on international humanitarian law, 2019, p. 25-48

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Liability in joint military operations : the Green Desert case

Peter Vedel Kessing. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 343-366
https://doi.org/10.1093/jcsl/kraa008 *

Peacekeepers and sexual violence : the disjuncture between domestication and implementation

Ntemesha Maseka, David Abrahams. In: African yearbook on international humanitarian law, 2019, p. 1-24

V. Private actors

Doing responsible business in armed conflict : risks, rights and responsibilities

Fauve Kurnadi, Jonathan Kolieb (eds.). - [Canberra] : Australian Red Cross, [July 2020][Melbourne] : RMIT University. - 31 p.
https://www.redcross.org.au/getmedia/7ef922ac-7360-4bd9-97f9-fb9517547eba/Doing-Responsible-Business-in-Armed-Conflict-final-publication-WEB.pdf.aspx

International law and corporate participation in times of armed conflict

Kevin Crow. In: Berkeley journal of international law, vol. 37, issue 1, 2019, p. 64-92
http://dx.doi.org/10.15779/Z3809W480

VI. Protection of persons

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

An analysis of the adequacy of protection afforded by the Convention on the Rights of Persons with Disabilities (CRPD) in situations of armed conflict

Ivan K. Mugabi. In: Societies, vol. 8, issue 2, 2018, 43 p.
https://doi.org/10.3390/soc8020028

The crisis in Yemen : armed conflict and international law

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https://doi.org/10.1007/978-94-6265-399-3_1 *

From operation Iraqi freedom to the battle of Mosul : fifteen years of displacement in Iraq

Cédric Cotter. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1031-1050
https://library.icrc.org/library/docs/DOC/irrc-912-cotter.pdf

How to protect aid workers in conflict situations : a critical analysis of international humanitarian law

Reinhold Erdt. - Erlangen : FAU University Press, 2019. - VI, 141 p.
https://opus4.kobv.de/opus4-fau/frontdoor/index/index/docId/10759%20title=

Human shields : a history of people in the line of fire

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https://doi.org/10.1163/9789004440555_003 *

International humanitarian law in Colombia : going a step beyond

Marcela Giraldo Muñoz and Jose Serralvo. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1117-1147
https://library.icrc.org/library/docs/DOC/irrc-912-munoz.pdf

Justice and accountability for sexual violence in conflict : progress and challenges in national efforts to address impunity

Kim Thuy Seelinger... [et al.]. In: Journal of international criminal justice, Vol. 18, no. 2, May 2020, p. 213-542
https://academic.oup.com/jicj/issue/18/2 *

Myron Taylor and the bombing of Rome : the limits of law and diplomacy

Matthew Anthony Evangelista. In: Diplomacy & Statecraft, Vol. 31, no 2, 2020, p. 278-305
https://library.ext.icrc.org/library/docs/ArticlesPDF/50775.pdf *

The notion of 'acts harmful to the enemy' under international humanitarian law

Robert Kolb and Fumiko Nakashima. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1171-1199
https://library.icrc.org/library/docs/DOC/irrc-912-kolb.pdf

Protecting health care : guidance for the armed forces

ICRC. - Geneva : ICRC, November 2020. - 84 p.
https://library.icrc.org/library/docs/DOC/icrc-4504-002.pdf

Sieges, the law and protecting civilians

Emanuela-Chiara Gillard. - London : Chatham House, June 2019. - 15 p.
https://www.chathamhouse.org/2019/06/sieges-law-and-protecting-civilians

The special dimensions of urban warfare

by Yoram Dinstein. In: Israel yearbook on human rights, Vol. 50, 2020, p. 1-17
https://doi.org/10.1163/9789004440555_002 *

Women's rights in armed conflict under international law

Catherine O'Rourke. - Cambridge : Cambridge University Press, 2020. - XXXVI, 391 p.
https://doi.org/10.1017/9781108667715 *

Young terrorists or child soldiers ? : ISIS children, international law and victimhood

Conrad Nyamutata. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 237-261
https://doi.org/10.1093/jcsl/krz034 *

VII. Protection of objects

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

Guidelines on the protection of the natural environment in armed conflict : rules and recommendations relating to the protection of the natural environment under international humanitarian law, with commentary

ICRC. - Geneva : ICRC, December 2020. - 131 p.
https://library.icrc.org/library/docs/DOC/icrc-4382-002.pdf

Intersections in international cultural heritage law

ed. by Anne-Marie Carstens and Elizabeth Varner. - Oxford : Oxford University Press, 2020. - XIII, 400 p.

The notion of 'acts harmful to the enemy' under international humanitarian law

Robert Kolb and Fumiko Nakashima. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1171-1199
https://library.icrc.org/library/docs/DOC/irrc-912-kolb.pdf

Oslo manual on select topics of the law of armed conflict : rules and commentary

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https://link.springer.com/book/10.1007%2F978-3-030-39169-0

Overcoming the "logic of exception" : a critique of the UN Security Council's response to environmental damage from the 1990–91 Gulf War

Eliana Cusato. In: Asian journal of international law, vol. 9, issue 1, January 2019, p. 75-97
https://doi.org/10.1017/S2044251318000061

Protecting health care : guidance for the armed forces

ICRC. - Geneva : ICRC, November 2020. - 84 p.
https://library.icrc.org/library/docs/DOC/icrc-4504-002.pdf

La protection de l'environnement en période de conflit armé

Cyprien Dagnicourt ; préf. de Guillaume Le Floch. - Paris : L'Harmattan, 2020. - 241 p.

VIII. Detention, internment, treatment and judicial guarantees

The British army's training in international humanitarian law

Elizabeth Stubbins Bates. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 291-315
https://doi.org/10.1093/jcsl/kraa006 *

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http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=2632404 *

Prisoners of the Empire : inside Japanese POW camps

Sarah Kovner. - Cambridge ; London : Harvard University Press, 2020. - 328 p.

IX. Law of occupation

The extraterritorial application of international human rights law

Yuval Shany. In: Recueil des cours : Académie de droit international de la Haye = Collected courses of the Hague academy of international law, T. 409, 2020, p. 9-152
https://library.ext.icrc.org/library/docs/ArticlesPDF/52396.pdf

The legality of economic activities in occupied territories : international, EU law and business and human rights perspectives

ed. by Antoine Duval and Eva Kassoti. - Abingdon : Routledge, 2020. - XIV, 256 p.
https://doi.org/10.4324/9780429288081

X. Conduct of hostilities

(Distinction, proportionality, precautions, prohibited methods)

Applying core principles of international humanitarian law to military operations in space

Jack Mawdsley. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 263-290
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Oren Bar-Gill and Gabriella Blum. In: Texas law review, vol. 97, issue 5, 2019, p. 881-934
https://texaslawreview.org/defenses/

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Neve Gordon and Nicola Perugini. - Oakland : University of California Press, 2020. - X, 296 p.

Israeli compliance with legal guidelines for targeted killing

Shahaf Rabi and Avery Plaw. In: Israel law review : a journal of human rights, public and international law, Vol. 53, no. 2, 2020, p. 225-258
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The special dimensions of urban warfare

by Yoram Dinstein. In: Israel yearbook on human rights, Vol. 50, 2020, p. 1-17
https://doi.org/10.1163/9789004440555_002 *

Towards a better understanding of the concept of 'indiscriminate attack' — how international criminal law can be of assistance

Harmen van der Wilt. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 29-42
https://doi.org/10.1007/978-94-6265-399-3_2 *

Uncertainty in the law of targeting : towards a cognitive framework

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Unreliable protection : an experimental study of experts' in bello proportionality decisions

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XI. Weapons

The 1868 St Petersburg Declaration on explosive projectiles : a reappraisal

Robert Kolb, Momchil Milanov. In: Journal of the history of international law, vol. 20, 2018, p. 515-543
https://library.ext.icrc.org/library/docs/ArticlesPDF/52394.pdf *

Autonomous weapon systems and the law of armed conflict : compatibility with international humanitarian law

Tim McFarland. - Cambridge : Cambridge University Press, 2020. - VIII, 186 p.
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Autonomous weapons systems and international law : a study on human-machine interactions in ethically and legally sensitive domains

Daniele Amoroso. - [Baden-Baden : Nomos], 2020. - XIII, 288 p.

Humanitarian disarmament : an historical enquiry

Treasa Dunworth. - Cambridge : Cambridge University Press, 2020. - XVII, 256 p.

La position française face à l'autonomie des moyens de combat : entre détermination et ambiguïté

Julien Ancelin. In: Annuaire français de droit international, T. 65, 2019, p. 764-783

Robotisation des armées : enjeux militaires, éthiques et légaux

Carl Ceulemans, Michael Dewyn, Dominique Lambert, Marie-des-Neiges Ruffo, Pauline Warnotte ; préf. de Benoit Royal. - Paris : Economica, 2020. - VI, 200 p.

XII. Implementation

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

Les accords spéciaux dans les conflits armés en la République Démocratique du Congo : contribution à l'amélioration du droit international humanitaire ?

par Junior Mumbala Abelungu. In: African yearbook on international humanitarian law, 2019, p. 49-79

Australian Red Cross handbook on international humanitarian law mooting

Michael Crowley, Fauve Kurnadi (eds.). - [Canberra] : Australian Red Cross, June 2018. - 103 p.
https://alsa.asn.au/s/IHLHandbook2020

A bird's-eye view on compliance with the law of armed conflict 70 years after the adoption of the Geneva Conventions

Jann K. Kleffner. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 107-124
https://doi.org/10.1007/978-94-6265-399-3_5 *

The British army's training in international humanitarian law

Elizabeth Stubbins Bates. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 291-315
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Fragmentation of armed non-state actors in protracted armed conflicts : some practical experiences on how to ensure compliance with humanitarian norms

Hichem Khadhraoui. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 993-1000
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Reinhold Erdt. - Erlangen : FAU University Press, 2019. - VI, 141 p.
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International humanitarian law in Colombia : going a step beyond

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Israeli compliance with legal guidelines for targeted killing

Shahaf Rabi and Avery Plaw. In: Israel law review : a journal of human rights, public and international law, Vol. 53, no. 2, 2020, p. 225-258
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Just the facts : Reimagining wartime investigations concerning attacks against NGOs

Shiri Krebs. In: Berkeley journal of international law, Vol. 37, issue 3, 2019, p. 405-435
http://dx.doi.org/10.15779/Z380G3GX60

Justice and accountability for sexual violence in conflict : progress and challenges in national efforts to address impunity

Kim Thuy Seelinger... [et al.]. In: Journal of international criminal justice, Vol. 18, no. 2, May 2020, p. 213-542
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The law of armed conflict : an operational approach

Geoffrey S. Corn... [et al.]. - New York : Wolters Kluwer Law & Business, 2019. - XLIX, 674 p.
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Liability in joint military operations : the Green Desert case

Peter Vedel Kessing. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 343-366
https://doi.org/10.1093/jcsl/kraa008 *

Not the usual suspects : religious leaders as influencers of international humanitarian law compliance

Ioana Cismas and Ezequiel Heffes. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 125-150
https://doi.org/10.1007/978-94-6265-399-3_6 *

Overcoming the "logic of exception" : a critique of the UN Security Council's response to environmental damage from the 1990–91 Gulf War

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https://doi.org/10.1017/S2044251318000061

Peacekeepers and sexual violence : the disjuncture between domestication and implementation

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Protecting health care : guidance for the armed forces

ICRC. - Geneva : ICRC, November 2020. - 84 p.
https://library.icrc.org/library/docs/DOC/icrc-4504-002.pdf

La protection de l'environnement en période de conflit armé

Cyprien Dagnicourt ; préf. de Guillaume Le Floch. - Paris : L'Harmattan, 2020. - 241 p.

The rebel with the magnifying glass : armed non-state actors, the right to life and the requirement to investigate in armed conflict

Joshua Joseph Niyo. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 63-106
https://doi.org/10.1007/978-94-6265-399-3_4 *

Le système africain de protection des droits de l'homme et le droit international humanitaire

Junior Mumbala Abelungu et Ezéchiel Amani Cirimwami. In: Annuaire africain des droits de l'homme, vol. 2, 2018, p. 1-23
http://www.ahry.up.ac.za/images/ahry/volume2/Abelungu%202018.pdf

XIII. International human rights law

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

An analysis of the adequacy of protection afforded by the Convention on the Rights of Persons with Disabilities (CRPD) in situations of armed conflict

Ivan K. Mugabi. In: Societies, vol. 8, issue 2, 2018, 43 p.
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Divisions over distinctions in wartime international law

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The extraterritorial application of international human rights law

Yuval Shany. In: Recueil des cours : Académie de droit international de la Haye = Collected courses of the Hague academy of international law, T. 409, 2020, p. 9-152
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Human rights, humanitarian law and state power

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The nature of international humanitarian law : a permissive or restrictive regime?

Anne Quintin. - Cheltenham ; Northampton : Edward Elgar, 2020. - XXII, 360 p.
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The rebel with the magnifying glass : armed non-state actors, the right to life and the requirement to investigate in armed conflict

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Reconciling the irreconcilable? : the extraterritorial application of the ECHR and its interaction with IHL

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Le système africain de protection des droits de l'homme et le droit international humanitaire

Junior Mumbala Abelungu et Ezéchiel Amani Cirimwami. In: Annuaire africain des droits de l'homme, vol. 2, 2018, p. 1-23
http://www.ahry.up.ac.za/images/ahry/volume2/Abelungu%202018.pdf

Towards a moral division of labour between IHL and IHRL during the conduct of hostilities

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Trials and tribulations : co-applicability of IHL and human rights in an age of adjudication

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XIV. International criminal law

Bridging the accountability gap : armed non-state actors and the investigation and prosecution of war crimes

Hannes Jöbstl. In: Journal of international criminal justice, Vol. 18, no. 3, July 2020, p. 567-597
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The classification of armed conflicts by international criminal courts and tribunals

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Crimes against the sovereign order : rethinking international criminal justice

Ryan Liss. In: American journal of international law, vol. 113, issue 4, October 2019, p. 727-771
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Justice and accountability for sexual violence in conflict : progress and challenges in national efforts to address impunity

Kim Thuy Seelinger... [et al.]. In: Journal of international criminal justice, Vol. 18, no. 2, May 2020, p. 213-542
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The notion of 'protracted armed conflicts' in the Rome Statute and the termination of armed conflicts under international law : an analysis of select issues

Dustin A. Lewis. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1091-1115
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Revisiting the Vietnam War and international law : views and interpretations of Richard Falk

ed. by Stefan Andersson. - Cambridge : Cambridge University Press, 2018. - XXXI, 409 p.

Shocking the conscience of humanity : gravity and the legitimacy of international criminal law

Margaret M. deGuzman. - Oxford : Oxford University Press, 2020. - XIX, 217 p.

Towards a better understanding of the concept of 'indiscriminate attack' — how international criminal law can be of assistance

Harmen van der Wilt. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 29-42
https://doi.org/10.1007/978-94-6265-399-3_2 *

Young terrorists or child soldiers ? : ISIS children, international law and victimhood

Conrad Nyamutata. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 237-261
https://doi.org/10.1093/jcsl/krz034 *

XV. Contemporary challenges

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

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Double trouble : the 'cumulative approach' and the 'support-based approach' in the relationship between non-state armed groups

Marten Zwanenburg. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 43-61
https://doi.org/10.1007/978-94-6265-399-3_3 *

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XVI. Countries/Regions

AFGHANISTAN

Just the facts : Reimagining wartime investigations concerning attacks against NGOs

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CAMBODIA

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COLOMBIA

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Women's rights in armed conflict under international law

Catherine O'Rourke. - Cambridge : Cambridge University Press, 2020. - XXXVI, 391 p.
https://doi.org/10.1017/9781108667715 *

CYPRUS

The legality of economic activities in occupied territories : international, EU law and business and human rights perspectives

ed. by Antoine Duval and Eva Kassoti. - Abingdon : Routledge, 2020. - XIV, 256 p.
https://doi.org/10.4324/9780429288081 *

DEMOCRATIC REPUBLIC OF THE CONGO

Les accords spéciaux dans les conflits armés en la République Démocratique du Congo : contribution à l'amélioration du droit international humanitaire ?

par Junior Mumbala Abelungu. In: African yearbook on international humanitarian law, 2019, p. 49-79

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DENMARK

Liability in joint military operations : the Green Desert case

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https://doi.org/10.1093/jcsl/kraa008 *

EUROPEAN UNION

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FRANCE

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GAZA

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https://doi.org/10.1017/S0021223720000059 *

IRAN

L'exécution de Qassem Soleimani et ses suites : aspects de jus contra bellum et de jus in bello

Olivier Corten, François Dubuisson, Vaios Koutroulis et Anne Lagerwall. In: Revue générale de droit international public, tome 124, no 1, 2020, p. 39-72
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IRAQ

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From operation Iraqi freedom to the battle of Mosul : fifteen years of displacement in Iraq

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ISRAEL

Defenses

Oren Bar-Gill and Gabriella Blum. In: Texas law review, vol. 97, issue 5, 2019, p. 881-934
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Israeli compliance with legal guidelines for targeted killing

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ITALY

Myron Taylor and the bombing of Rome : the limits of law and diplomacy

Matthew Anthony Evangelista. In: Diplomacy & Statecraft, Vol. 31, no 2, 2020, p. 278-305
https://library.ext.icrc.org/library/docs/ArticlesPDF/50775.pdf *

JAPAN

Prisoners of the Empire : inside Japanese POW camps

Sarah Kovner. - Cambridge ; London : Harvard University Press, 2020. - 328 p.

KUWAIT

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NEPAL

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PALESTINE

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SOUTH AFRICA

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SYRIA

Hacking and international humanitarian law : the anonymous group and the Syrian electronic army

Angelo Stirone. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 3, H. 1-2, 2020, p. 123-140
https://doi.org/10.35998/huv-2020-0008 *

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UNITED KINGDOM

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UNITED STATES

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VATICAN

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VIET NAM

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WESTERN SAHARA

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https://doi.org/10.4324/9780429288081 *

YEMEN

The crisis in Yemen : armed conflict and international law

Waseem Ahmad Qureshi. In: North Carolina journal of international law, vol. 45, no. 1, 2020, p. 227-268
https://scholarship.law.unc.edu/ncilj/vol45/iss1/5

All with Abstracts

The 1868 St Petersburg Declaration on explosive projectiles : a reappraisal

Robert Kolb, Momchil Milanov. In: Journal of the history of international law, vol. 20, 2018, p. 515-543

There is hardly any study on the origins of international humanitarian law (IHL) which does not mention the 1868 St Petersburg Declaration. Yet, apart from a simple reference or a footnote, the actual impact of the Declaration on the formation of the IHL rules remains subject to debate. As fragile and limited as it may seem, the Declaration succeeded in establishing the very basis of IHL: the principle that the means and methods employed in warfare should not be unlimited. The present article is an attempt to see the St. Petersburg Declaration in the context of its time and to summarize the main issues related to its legacy in order to reach an objective conclusion on its influence and importance.

https://library.ext.icrc.org/library/docs/ArticlesPDF/52394.pdf *

Les accords spéciaux dans les conflits armés en la République Démocratique du Congo : contribution à l'amélioration du droit international humanitaire ?

par Junior Mumbala Abelungu. In: African yearbook on international humanitarian law, 2019, p. 49-79

La RDC fait face depuis plus de vingt ans aux conflits armés enchevêtrés et quasi-permanents. Sous les auspices de la Communauté internationale, plusieurs accords spéciaux ont été signés entre les parties - étatiques et non-étatiques - impliquées aux conflits. D'où l'intérêt de s'interroger sur la place qu'ils réservent aux DIH et à son amélioration. Ces accords spéciaux se préoccupent essentiellement de questions politiques et peu s'intéressent à proprement parler au DIH notamment en termes de gestion des hostilités. Ils se soucient donc de mettre définitivement fin aux hostilités tout en réglant le sort des civils et des combattants. Ainsi, ils réaffirment souvent de manière imprécise le respect du DIH et ne mettent pas un terme à ses violations. Cependant, ils ont l'avantage de permettre notamment aux groupes armés de réitérer expressément et sans ambiguïté leur attachement aux règles de DIH. Ceci renforce, tout de même, les instruments de DIH dans les cadres sous-régionaux ou nationaux.

An analysis of the adequacy of protection afforded by the Convention on the Rights of Persons with Disabilities (CRPD) in situations of armed conflict

Ivan K. Mugabi. In: Societies, vol. 8, issue 2, 2018, 43 p.

This essay aims to describe the contrasting approaches to disability described by international humanitarian law (IHL) and international human rights law (IHRL) with the aim of pointing out the approaches/models of disability underpinning two legal regimes. The limits of those approaches/models in the treatment and protection of persons with disabilities shall be investigated and established. Ultimately, the paper considers the possibility of recommending a unified approach/model that should underpin both IHL and IHRL in addressing aspects of disability.

https://doi.org/10.3390/soc8020028

Applying core principles of international humanitarian law to military operations in space

Jack Mawdsley. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 263-290

This article looks at how international humanitarian law may apply to military operations in space. Though the laws of war are well established on earth, space poses new challenges to the

principles of distinction, proportionality and precaution in attack. Future scenarios whereby operations might be directed against moon-based objects, or where military astronauts might be deployed into space raise further questions as to how these principles should apply. By considering the laws of war as they are enforced on earth, and through engagement with academic opinion, this article seeks to understand the level of protection provided by the law when applied to this new domain. In anticipation of official clarification, this approach leads to reasoned arguments for reform in key areas. The challenges posed are addressed through both a contemporary and a future lens. Broad conclusions that the law of armed conflict does not shift seamlessly into space are strengthened by the numerous anomalies that ensue.

https://doi.org/10.1093/jcsl/kraa005 *

Australian Red Cross handbook on international humanitarian law mooting

Michael Crowley, Fauve Kurnadi (eds.). - [Canberra] : Australian Red Cross, June 2018. - 103 p.

The Handbook provides a compendium of introductory readings on IHL. It includes chapters from some of Australia's foremost IHL experts discussing the sources and principles of IHL, an insight into the personal and professional experiences of Australians working in the field, and a glimpse into a range of contemporary IHL issues. Finally, the Handbook includes tips, tricks and advice for students looking to compete in an IHL moot competition.

https://alsa.asn.au/s/IHLHandbook2020

Autonomous weapon systems and the law of armed conflict : compatibility with international humanitarian law

Tim McFarland. - Cambridge : Cambridge University Press, 2020. - VIII, 186 p.

For policymakers, this book explains the ramifications under international humanitarian law of a major new field of weapon development with a focus on questions currently being debated by governments, the United Nations and other bodies. Based on a clear explanation of the principles of autonomous systems and a survey of technologies under active development as well as some that are in use today, it provides a thorough legal analysis grounded on a clear understanding of the technological realities of autonomous weapon systems. For legal practitioners and scholars, it describes the legal constraints that will apply to use of autonomous systems in armed conflict and the measures that will be needed to ensure that the efficacy of the law is maintained. More generally, it serves as a case study in identifying the legal consequences of use of autonomous systems in partnership with, or in place of, human beings.

https://doi.org/10.1017/9781108584654 *

Autonomous weapons systems and international law : a study on human-machine interactions in ethically and legally sensitive domains

Daniele Amoroso. - [Baden-Baden : Nomos], 2020. - XIII, 288 p.

Recent advances in robotics and AI have paved the way to robots autonomously performing a wide variety of tasks in ethically and legally sensitive domains. Among them, a prominent place is occupied by robots endowed with the ability to deliver destructive force without human intervention, a.k.a autonomous weapons systems (or AWS), whose legality under international law is currently at the center of a heated academic and diplomatic debate. The AWS debate provides a uniquely representative sample of the (potentially) disruptive impact of new technologies on norms and principles of international law, in that it touches on key questions of international humanitarian law, international human rights law, international criminal law, and State responsibility. Against this backdrop, this book's primary aim is to explore the international legal implications of autonomy in weapons systems, by inquiring what existing international law has to say in this respect, to what extent the persisting validity of its principles and categories is challenged, and what could be a way forward for future international regulation on the matter. From a broader perspective, the research carried out on the issue of the legality of AWS under

international law aspires to offer some more general insights on the normative aspects of the shared control relationship between human decision-makers and artificial agents.

Beyond the 'sham' critique and the narrative of humanitarianism : a rejoinder to Jochen von Bernstorff

Eyal Benvenisti and Doreen Lustig. In: European journal of international law, Vol. 31, no. 2, September 2020, p. 721-726

The authors are very grateful to Professor von Bernstorff for taking the trouble to read and comment on our article, which is a segment of a larger research project. His feedback will be invaluable in taking this project successfully to its next stage. While they could not address each and every aspect of his critique, the following response addresses four elements: the assertion that we argued that international humanitarian law (IHL) is merely a sham; his description of our historical approach as focused on the domestic; the ramifications of our historical analysis for future interpretation of IHL; and the challenge of one's Vorverständnis to historical research.

https://doi.org/10.1093/ejil/chaa062 *

A bird's-eye view on compliance with the law of armed conflict 70 years after the adoption of the Geneva Conventions

Jann K. Kleffner. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 107-124

Against the background of a significant number of compliance mechanisms that the law of armed conflict (LoAC) provides for, on the one hand, and the fact that violations remain a pervasive feature of contemporary armed conflict, on the other, the present chapter examines five distinct compliance-related clusters. It begins by a reminder of the various existent compliance mechanisms and a plea for an honest, inter-disciplinary stocktaking of their efficacy. This is followed by another plea, namely for contextualizing compliance and compliance mechanisms and for moderating the expectations as to what they can achieve as counterweights to the myriad of factors that are prevalent in armed conflicts and that cause violations of the LoAC. The chapter then proceeds with addressing three particular trends that pose particular challenges in relation to compliance: the prevalence of non-international armed conflicts; that the current discourse about compliance is dominated by a culture of repression rather than prevention; and that compliance is increasingly individualized at the expense of addressing the collective nature of the violence inherent in armed conflict as the context in which violations occur.

https://doi.org/10.1007/978-94-6265-399-3_5 *

Bridging the accountability gap : armed non-state actors and the investigation and prosecution of war crimes

Hannes Jöbstl. In: Journal of international criminal justice, Vol. 18, no. 3, July 2020, p. 567-597

During non-international armed conflict, war crimes often go unpunished in areas where state authorities are unable to enforce the law. While states are under a customary law obligation to investigate and prosecute war crimes committed on their territory or by their nationals, the Customary International Humanitarian Law Study of the International Committee of the Red Cross has not found that this obligation extends to armed non-state actors (ANSAs). Nevertheless, command responsibility requires the individual commander to punish their forces in case war crimes have been committed and a growing amount of state practice demanding similar commitments — both legally and politically — from these actors as such can be observed over the past two decades. Indeed, ANSAs routinely impose penal sanctions onto their subordinates and often establish judicial structures in order to do so. This article argues that whereas ANSAs should be under some form of obligation to ensure accountability, alternative solutions to makeshift courts and penal proceedings might be better suited to prevent impunity and maintain fair trial guarantees.

https://doi.org/10.1093/jicj/mqaa026 *

The British army's training in international humanitarian law

Elizabeth Stubbins Bates. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 291-315

States must disseminate international humanitarian law (IHL) and integrate it into military instruction. Implementation of the IHL training obligation was delayed in the UK; when the government asserted that IHL was inapplicable to colonial warfare, resisted the development of the IHL of non-international armed conflict, and was keen to maintain the nuclear deterrent. Absent or perfunctory IHL training correlated with recurrent violations of the prohibitions of torture and inhuman treatment, from the 1950s to the 2000s. Despite official assertions that the British Army's training in IHL was being reformed following the death of Baha Mousa in British military custody in 2003, there were gradual changes from 2004 to 2011, and more thorough improvements from 2012 to 2017. Training materials for soldiers and officers now offer breadth and detail on IHL, with elements of international human rights law. They implement the 71 recommendations in the Baha Mousa Public Inquiry Report which the Ministry of Defence accepted, and are supplemented by practical training. Yet these are reactive reforms, which still lack norm-by-norm evaluation of soldiers' understanding. Prohibitions on humiliating or degrading treatment of a sexual nature, and on the intentional infliction of severe mental pain and suffering are (respectively) under-emphasised and absent. References to the necessity of restraint positions (as opposed to the prohibited stress positions) may cause confusion. There is a simplistic suggestion that reprisals are lawful if they are politically authorised. Training reforms have been cited as one reason to close criminal investigations into alleged war crimes: a response which neglects coexistent investigatory obligations.

https://doi.org/10.1093/jcsl/kraa006 *

By all means necessary : a look at the reliance on United Nations Security Council resolutions as a basis for internment in non-international armed conflicts

Hillary Muchiri Kiboro. In: African yearbook on international humanitarian law, 2019, p. 25-48

This article analyses the practice of using United Nations Security Council resolutions as the legal basis of internment in non-international armed conflicts (NIACs). The article commences with a brief definition of NIACs juxtaposed with international armed conflicts (IACs) and demonstrates the better-developed internment regime in IACs. The article further explores whether customary IHL provides the requisite legal basis for interning individuals in connection with NIACs. In the absence of international consensus on this issue, the author notes that practice to find a legal basis for internment in other legal regimes such as domestic law and UNSC resolutions has emerged - a practice that has found judicial affirmation in a number of decisions from domestic courts and regional human rights courts.

The classification of armed conflicts by international criminal courts and tribunals

Rogier Bartels. In: International criminal law review, Vol. 20, no. 4, 2020, p. 595-668

This article analyses how international criminal courts and tribunals have pronounced on the contextual elements of their respective war crimes provisions. A comprehensive overview of the way these institutions treated the material scope of application of IHL shows that the ad hoc tribunals tended to avoid classification as either international or non-international armed conflict, and merely found that a generic 'armed conflict' existed at the relevant time. The ICC shows a tendency to classify situations as non-international armed conflicts without considering whether the situation concerned may instead (or at the same time) qualify as an international armed conflict. Non-international armed conflict is often, mistakenly, treated as a residual regime. Incorrect conflict classification may affect IHL's scope of application, and negatively impact on an accused's fair trial rights under international criminal law. The author proposes a fresh look at the ICC's legal framework to solve conflict classification problems.

https://doi.org/10.1163/15718123-02004006 *

Crimes against the sovereign order : rethinking international criminal justice

Ryan Liss. In: American journal of international law, vol. 113, issue 4, October 2019, p. 727-771

The scope of international criminal jurisdiction poses a fundamental challenge for criminal law theory. Prevailing justifications for the state's authority to punish crime assume the existence of connections between the state and either the criminal or the crime that are not always present in the international criminal context. Recognizing this gap, this Article introduces a new theory of what distinguishes international crimes from domestic crimes and justifies the unusual scope of international criminal jurisdiction. As this Article explains, international crimes are unique in the way they undermine international society's structure as a system of sovereign states.

https://doi.org/10.1017/ajil.2019.52 *

The crisis in Yemen : armed conflict and international law

Waseem Ahmad Qureshi. In: North Carolina journal of international law, vol. 45, no. 1, 2020, p. 227-268

This article explores the key players in the war and the events in the fight in Yemen that shaped this crisis, while discussing the humanitarian situation. Parties are divided into two groups: one is the state-centric group acting on behalf of the Yemeni government, and the other is the anti-state group acting against the Yemeni government's interest. Moreover, this article also attempts to investigate the legality of the use of force by all parties to this conflict, to be able to conclude who is using legitimate force and who is using illegitimate force in Yemen, in accordance with international law. Then, this article analyzes the conduct of both parties using force to comprehend the violations of international humanitarian and human rights laws in the Yemeni conflict.

https://scholarship.law.unc.edu/ncilj/vol45/iss1/5

Defenses

Oren Bar-Gill and Gabriella Blum. In: Texas law review, vol. 97, issue 5, 2019, p. 881-934

Effective defenses that are designed to protect civilians in war have significant implications for policy planning, military strategy, international relations, domestic politics, and economics. Defenses can increase or decrease overall humanitarian welfare. Surprisingly, existing legal scholarship has focused almost exclusively on offensive action, failing to consider the effects of defenses on the strategic interactions between armed rivals or the humanitarian consequences of defenses. The implications of defenses for the interpretation and application of the international legal rules on the use of force have also gone largely unexplored. We set out to fill this significant gap. We study the operation of defensive systems in both asymmetric rivalries and symmetric rivalries, and consider the interplay between defenses and offensive measures. We analyze how defensive systems are likely to affect parties' wartime conduct and the potential consequences for the welfare of civilians on both sides of the conflict. A central motivating observation is that defenses have the potential of safeguarding not only the lives of the defending party's civilians but also those on the opposing side. Our analysis further considers how international law, and especially the principle of proportionality, might affect parties' choices with regard to investments in defenses. Counterintuitively, we caution that under some circumstances an overly restrictive application of the principle of proportionality might deter investment in defenses, thereby decreasing overall humanitarian welfare.

https://texaslawreview.org/defenses/

Divisions over distinctions in wartime international law

Ziv Bohrer. - In: Law applicable to armed conflict. - Cambridge : Cambridge University Press, 2020. - p. 106-196

Civil disturbances are peacetime violence; inter-State wars are international armed conflicts (IAC); civil wars are non-international armed conflicts (NIAC). What, then, are transnational

conflicts? Unlike inter-State wars, but similar to civil wars and disturbances, organised non-State actors participate in them. Unlike civil wars and disturbances, but similar to inter-State wars, violence typically crosses borders. Unlike civil disturbances, but similar to inter-State and civil wars, violence is extensive, leading most to consider them 'armed conflicts'. What international law corpus, then, applies to transnational conflicts: peacetime general international law, IAC law, NIAC law or a new IHL altogether? This classification dispute is not alone. Since the early 2000s, classification disagreements have intensified, notably with regard to: when and where does IHL apply (what constitutes 'war' and what constitutes 'peace')? When and where each of IHL's two sub-corpora apply and does IHL have a new (third) sub-corpus (what constitutes an IAC, what constitutes a NIAC and what legal corpus applies to transnational conflicts)? To whom do each of the two status-based sets of IHL rules apply (which individuals are 'combatants' and which are 'non-combatants')? Under what conditions, if any, does international human rights law (IHRL) apply alongside IHL? Such classification disputes are, presently, so strong that the legal materials that 'used to distinguish war and peace ... have become surprisingly fluid'. This chapter addresses that classification crisis.

https://doi.org/10.1017/9781108674416.003 *

Do non-state armed groups have a legal right to consent to offers of international humanitarian relief ?

Matthias Vanhullebusch. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 317-341

During non-international armed conflicts, fighting parties have repeatedly denied international humanitarian relief to the civilian population under their territorial control leaving them at the brink of starvation. Debates on criminal accountability for violating the prohibition of the use of starvation against the civilian population as a method of warfare have yet to address the question of ownership of the right to consent to offers of international humanitarian relief before criminalising their denial. In respect of such right to consent at the strategic level, there are divergent interpretations on the application of the principle of symmetrical rights and obligations of fighting parties in the realm of international humanitarian relief. Humanitarian and state-centric perspectives, respectively, grant or deny non-state armed groups an independent right to consent to offers of international humanitarian relief. The humanitarian perspective argues that the asymmetry of such right in favour of the government party to the conflict and at the expense of the non-state armed groups is no longer justified, especially when the right of control at the operational level (after an offer has been accepted) is equally bestowed upon all parties to the conflict. The state-centric perspective defends the exclusive right of the government party to the conflict and fears that an equal right to strategic consent for non-state armed groups would increase their legitimacy. This study argues that neutrality upheld by international humanitarian relief actors, including impartial humanitarian bodies, such as the ICRC, and the Security Council gives rise to an interdependent exercise of the right to strategic consent by all fighting parties instead.

https://doi.org/10.1093/jcsl/kraa007 *

Doing responsible business in armed conflict : risks, rights and responsibilities

Fauve Kurnadi, Jonathan Kolieb (eds.). - [Canberra] : Australian Red Cross ; [Melbourne] : RMIT University, [July 2020]. - 31 p.

This publication aims to assist Australian businesses in understanding their risks, rights and responsibilities under IHL. It has been specifically designed to provide an overview for managers and executives, and supplements existing human rights-oriented guidance documents.

https://www.redcross.org.au/getmedia/7ef922ac-7360-4bd9-97f9-fb9517547eba/Doing-Responsible-Business-in-Armed-Conflict-final-publication-WEB.pdf.aspx

Double trouble : the 'cumulative approach' and the 'support-based approach' in the relationship between non-state armed groups

Marten Zwanenburg. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 43-61

This chapter analyzes two approaches to determining whether a non-international armed conflict exists and who are the parties to such a conflict. These approaches were put forward by the International Committee of the Red Cross in its 2019 Challenges Report. The first is referred to as the 'cumulative approach'. It consists of aggregating the armed violence in which two or more armed groups that cooperate and coordinate as part of an alliance or coalition are involved for the purpose of assessing the level of intensity of armed violence that is required for the existence of a non-international armed conflict. The chapter submits that this approach deserves broad acceptance. Three adaptations to the approach are however proposed for reasons of logic and to avoid over-application of international humanitarian law. The other approach is referred to as the 'support-based approach'. Under this approach, an armed group that provides certain support to another armed group that is party to a pre-existing non-international armed conflict becomes a party to that conflict as a consequence of that support. This chapter argues that the application of the support-based approach to armed groups inter se is problematic for a number of reasons and should be rejected.

https://doi.org/10.1007/978-94-6265-399-3_3 *

The ECCC's contribution to substantive ICL : the notion of "civilian population" in the context of crimes against humanity

Kai Ambos. In: Journal of international criminal justice, Vol. 18, no. 3, July 2020, p. 689-700

In this short essay, Kai Ambos argues that the 'civilian population' requirement in crimes against humanity (CAH) provisions (e.g. Article 7(1) ICC Statute) must either be radically restricted by way of a teleological (purpose-based) interpretation or — even better — abolished in future CAH provisions. While the traditional International Humanitarian Law approach certainly needs to be adjusted with regard to CAH, such an adjustment does not resolve the considerable limitation of the protective scope of CAH due to the 'civilian population' requirement. The contribution of the Extraordinary Chambers in the Courts of Cambodia to the debate is to be welcomed and serves as a useful starting point for the more radical interpretation and necessary reform of CAH.

https://doi.org/10.1093/jicj/mqaa019 *

Equality before the law ? : some reflections on the defence of obedience to superior orders

by Arne Willy Dahl. In: Israel yearbook on human rights, Vol. 50, 2020, p. 81-96

The defense of obedience to superior orders has been disputed for more than a century. To simplify and compress the history of that debate, it can be said that in international trials for war crimes and related crimes since the Nuremberg tribunal of 1945, the defense of obedience to superior orders has generally not been admitted, but that there has been an opening to consider it in mitigation. However, the 1998 Rome Statute for the International Criminal Court re-introduces in Article 33 the defence of obedience to superior orders. This has been criticized by several eminent academics, who hold that the provision is at odds with customary international law and should be interpreted restrictively. One may wonder why we have got this departure from a principle laid down in the statutes of international courts and tribunals from 1945 onwards, and which is considered to be of a customary nature. It is submitted that the underlying reason is that the question is viewed differently when one's own people are in the dock. This differential treatment can be traced both in national and international legislation, as well as in some case law.

https://doi.org/10.1163/9789004440555_005 *

The ethics of war and the force of law : a modern just war theory

Uwe Steinhoff. - Abingdon : Routledge, 2021. - XIV, 321 p.

This book provides a thorough critical overview of the current debate on the ethics of war, as well as a modern just war theory that can give practical action-guidance by recognizing and explaining the moral force of widely accepted law. Traditionalist, Walzerian, and "revisionist" approaches have dominated contemporary debates about the classical jus ad bellum and jus in bello requirements in just war theory. In this book, Uwe Steinhoff corrects widely spread misinterpretations of these competing views and spells out the implications for the ethics of war. His approach is unique in that it complements the usual analysis in terms of self-defense with an emphasis on the importance of other justifications that are often lumped together under the heading of "lesser evil." It also draws on criminal law and legal scholarship, which has been largely ignored by just war theorists. Ultimately, Steinhoff rejects arguments in favor of "moral fundamentalism"— the view that the laws and customs of war must simply follow an immutable morality. In contrast, he argues that widely accepted laws and conventions of war are partly constitutive of the moral rules that apply in a conflict.

Evolution of the international humanitarian law provisions on sieges

Agnieszka Szpak. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 3-27

The international regulations on siege warfare have evolved from lenient to increasingly restrictive, both with regard to the conduct of hostilities and to humanitarian assistance to victims of war. Siege warfare is not forbidden but heavily restricted, in particular by the prohibition of starvation of the civilian population, the latter commonly considered as customary in character. Together with the evolution of international humanitarian law, the evolution of armed conflicts, once fought on battlefields and now increasingly in urban areas and among the civilians, results in sieges being a lawful method of warfare but only when directed against combatants. This chapter examines the legality of sieges in the light of international humanitarian law. Apart from the analysis of international humanitarian law, a possible impact of the United Nations Security Council Resolutions on the law and practice of siege warfare is signaled. The aim of this chapter is to show historical and current regulations of international humanitarian law on siege warfare and in this way identify the evolution of the law on sieges.

https://doi.org/10.1007/978-94-6265-399-3_1 *

L'exécution de Qassem Soleimani et ses suites : aspects de jus contra bellum et de jus in bello

Olivier Corten, François Dubuisson, Vaios Koutroulis et Anne Lagerwall. In: Revue générale de droit international public, tome 124, no 1, 2020, p. 39-72

Au vu des faits tels qu'ils ont été rapportés dans les médias, les frappes respectives des Etats-Unis et de l'Iran en Irak les 3 et 8 janvier dernier posent de sérieux problèmes au regard du droit international existant. L'exécution de Qassem Souleimani ne semble pas pouvoir être justifiée au nom de la légitime défense, les incidents antérieurs invoqués par les Etats-Unis n'atteignant pas le seuil d'une "agression armée" au sens de l'article 51 de la Charte. La riposte iranienne remplit sans doute les conditions énoncées par ce dernier vis-à-vis des Etats-Unis, mais pas de l'Irak, qui a également été touché par les frappes. Sur le plan du droit international humanitaire et des droits humains, enfin, l'exécution extrajudiciaire de Soleimani paraît à première vue licite, dans la mesure où il s'agit d'un combattant et où la frappe était ciblée. Cependant, on peut se demander si, au vu de son rang élevé dans la hiérarchie iranienne et de la mission diplomatique qu'il aurait pu effectuer au moment de l'attaque, cette exécution ne peut pas être assimilée à un assassinat, proscrit par le droit des conflits armés.

http://pedone.info/site/wp-content/uploads/2020/04/0373-6156-RGDIP-2020-1_internet.pdf

The extraterritorial application of international human rights law

Yuval Shany. In: Recueil des cours : Académie de droit international de la Haye = Collected courses of the Hague academy of international law, T. 409, 2020, p. 9-152

Built around the author's 2019 lectures in the Winter course of The Hague Academy of International Law, this manuscript is dedicated to exploring the law, theory and practice underlying the move by international human rights law (IHRL) monitoring bodies toward extending the extraterritorial application of IHRL. Chapter 1 deals with the theoretical and policy dimensions of the extraterritoriality debate. Chapter 2 addresses the development of legal doctrine on extraterritoriality in the jurisprudence of the ECtHR. Chapter 3 looks at the developing jurisprudence of the HRC on the extraterritorial reach of the ICCPR, and, more briefly, at the practice of other global and regional IHRL monitoring bodies. Chapter 4 explores the application of human rights law to occupied territories. Chapter 5 examines other specific legal contexts in which extraterritorial application is considered, which challenge the state-centric configuration of IHRL. Chapter 6, finally, discusses the implications of changes in the law governing the extraterritorial application of IHRL, and the problems of coordination, effectiveness and legitimacy that might ensue.

https://library.ext.icrc.org/library/docs/ArticlesPDF/52396.pdf *

Fragmentation of armed non-state actors in protracted armed conflicts : some practical experiences on how to ensure compliance with humanitarian norms

Hichem Khadhraoui. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 993-1000

For almost two decades now, Geneva Call has been engaged in developing humanitarian dialogue with some 150 armed non-state actors (ANSAs), with the aim of increasing their knowledge and respect of humanitarian norms. Developing a protection dialogue with ANSAs is not an easy task, and it becomes more complex when groups split, mutate or join larger movements. Humanitarian organizations need to adapt their analysis to a more frequent timescale, keeping in touch constantly with a wide range of key stakeholders in order not to lose track of the current groups' status and structure. In this note, Geneva Call's Director of Operations discusses some of the organization's experiences and lessons learned.

https://library.icrc.org/library/docs/DOC/irrc-912-khadhraoui.pdf

From operation Iraqi freedom to the battle of Mosul : fifteen years of displacement in Iraq

Cédric Cotter. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1031-1050

The displacement of civilians during a protracted war is a difficult issue that deserves our attention, and Iraq is unfortunately an emblematic example of this phenomenon. Based on the literature produced by humanitarian organizations and academia, this article aims at analyzing what triggers displacement in protracted conflict, highlighting the role of international humanitarian law (IHL) violations. It discusses how Iraq has been struggling with acts of violence, hostilities and IHL violations that have generated displacement and human suffering.

https://library.icrc.org/library/docs/DOC/irrc-912-cotter.pdf

From peacekeepers to parties to the conflict: an IHL's appraisal of the role of UN peace operations in NIACs

Bianca Maganza. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 209-236

The article analyses the application of international humanitarian law (IHL) to UN 'peace operations' when, due to their factual involvement in hostilities, they become parties to a non-international armed conflict. It argues that the notion of party to the conflict allows to focus on the collective entity and its obligations, and to infer the status of individual members of the operation from the mission's collective status. In assessing the consequences of that scenario, the

article further discusses the external and internal borders of the scope of the notion of party to the conflict as applied to UN peace operations, and examines the impact of the loss of protection from attack on the principle of distinction. It concludes by suggesting that, in light of the increasing involvement of UN peace operations in situations that factually amount to armed conflict, an evolutionary interpretation of the theory of IHL's application to the situation is needed.

https://doi.org/10.1093/jcsl/krz032 *

Guidelines on the protection of the natural environment in armed conflict : rules and recommendations relating to the protection of the natural environment under international humanitarian law, with commentary

ICRC. - Geneva : ICRC, December 2020. - 131 p.

The Guidelines on the Protection of the Natural Environment in Armed Conflict set out rules and recommendations relating to the protection of the natural environment under international humanitarian law (IHL). A concise commentary accompanies each rule or recommendation to aid understanding and to clarify its source and applicability. The Guidelines are a reference tool for States, parties to armed conflicts and other actors who may be called upon to interpret and apply IHL. They are intended to facilitate the adoption of concrete measures to reduce the environmental impact of armed conflict, and can be incorporated into military manuals and national policy and legal frameworks. Ultimately, better respect for IHL can limit the impact of armed conflict on the natural environment and the deeply interlinked consequences for conflict-affected populations who depend on it.

https://library.icrc.org/library/docs/DOC/icrc-4382-002.pdf

Hacking and international humanitarian law : the anonymous group and the Syrian electronic army

Angelo Stirone. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 3, H. 1-2, 2020, p. 123-140

This article discusses the cyberattacks, the status and legal obligations of the Anonymous Group and the Syrian Electronic Army under international humanitarian law (IHL). These hacker collectives have demonstrated a tremendous capacity to become involved in cyber operations, even in armed conflict situations. This article, using some of the most prominent attacks as the lens to read this phenomenon, analyses their role under the provisions of the law of war, examining which is the applicable legal framework (if any). It considers the treaty rules governing IHL but pays also attention to customary IHL and the Tallinn Manual 2.0 on the International Law Applicable to Cyber Operations. It concludes by assessing the applicable legal framework, including whether these collectives can be regarded as organised armed groups belonging to a part of the conflict or considered otherwise, operating outside the framework of the law of war.

https://doi.org/10.35998/huv-2020-0008 *

How to protect aid workers in conflict situations : a critical analysis of international humanitarian law

Reinhold Erdt. - Erlangen : FAU University Press, 2019. - VI, 141 p.

The deteriorating security situation for aid workers remains one of the vital but overlooked issues in humanitarian aid. Despite advancements in ensuring respect for International Humanitarian Law, violations of its rules remain a widespread problem. The increase in attacks against aid workers in recent years once again raises questions concerning the scope of their protection and ways to improve it. With non-State armed groups at the center of contemporary conflicts, engaging them is not longer only an option, but becomes a necessity. Traditionally, studies have focused on why actors violate International Humanitarian Law rather than on what encourages them to respect it. Relying only on sanctions has proven to be rather ineffective. This thesis demonstrates that incentives are central in understanding and influencing behavior of non-State armed groups and proposes the application of international humanitarian law without making a

distinction as to the source of obligation to all parties involved in a conflict, as a promising way to achieve greater adherence to international humanitarian law and thus a tangible solution to keep aid workers safe.

https://opus4.kobv.de/opus4-fau/frontdoor/index/index/docId/10759%20title=

Human rights, humanitarian law and state power

Renata Nagamine, João Roriz. In: Revista de direito internacional = Brazilian journal of international law, Vol. 17, n. 1, 2020, p. 418-431

This article deals with the relationship between humanitarian law and human rights. Our argument is that the emergence of human rights as a particular language of political transformation in the 1970s had a crucial impact on traditional readings of international humanitarian law. On one hand, the breakthrough of rights language created favorable conditions for humanitarian norms to reclaim its relevance in law and politics nowadays. On the other, it obliged humanitarian norms to share space in the legal imaginary with the novel language of social emancipation of rights. We examine how the construction of legal arguments within a rights vocabulary may blur legal definitions and create space for abuses. Finally, we analyse specific situations where human rights law facilitates the state to use its powers in spite of humanitarian norms.

https://www.publicacoesacademicas.uniceub.br/rdi/article/view/6505

Human shields : a history of people in the line of fire

Neve Gordon and Nicola Perugini. - Oakland : University of California Press, 2020. - X, 296 p.

From Syrian civilians locked in iron cages to veterans joining peaceful indigenous water protectors at the Standing Rock Sioux Reservation, from Sri Lanka to Iraq and from Yemen to the United States, human beings have been used as shields for protection, coercion, or deterrence. Over the past decade, human shields have also appeared with increasing frequency in antinuclear struggles, civil and environmental protests, and even computer games. The phenomenon, however, is by no means a new one. Describing the use of human shields in key historical and contemporary moments across the globe, Neve Gordon and Nicola Perugini demonstrate how the increasing weaponization of human beings has made the position of civilians trapped in theaters of violence more precarious and their lives more expendable. They show how the law facilitates the use of lethal violence against vulnerable people while portraying it as humane, but they also reveal how people can and do use their own vulnerability to resist violence and denounce forms of dehumanization. Ultimately, Human Shields unsettles our common ethical assumptions about violence and the law and urges us to imagine entirely new forms of humane politics.

Humanitarian ceasefire agreements and the law of armed conflict

by Pnina Sharvit Baruch, Corinna Dau, and Shavit Rissin. In: Israel yearbook on human rights, Vol. 50, 2020, p. 19-62

This article explores the legal framework that applies to agreements concluded between parties to a conflict on suspending hostilities for humanitarian purposes, including the provision of food, medicine, and other indispensable supplies, as well as evacuating the sick and wounded and burying the dead. It addresses two main aspects. The first is the connection between the substantial obligations to supply humanitarian needs and the obligations regarding ceasefires concluded in order to fulfill these needs. The second refers to the rules that apply to humanitarian ceasefire agreements based on the legal framework that regulates ceasefire agreements more generally, including the scope of the obligation to adhere to such agreements and the consequences of a breach.

https://doi.org/10.1163/9789004440555_003 *

Humanitarian disarmament : an historical enquiry

Treasa Dunworth. - Cambridge : Cambridge University Press, 2020. - XVII, 256 p.

The humanitarian framing of disarmament is not a novel development, but rather represents a re-emergence of a much older and long-standing sensibility of humanitarianism in disarmament. The Book rejects the 'big bang' theory that presents the Anti-Personnel Landmines Convention 1997, and its successors – the Convention on Cluster Munitions 2008, and the Treaty on the Prohibition of Nuclear Weapons 2017 – as a paradigm shift from an older traditional state-centric approach towards a more progressive humanitarian approach. It shows how humanitarian disarmament has a long and complex history, which includes these treaties.This book argues that the attempt to locate the birth of humanitarian disarmament in these treaties is part of the attempt to cleanse humanitarian disarmament of politics, presenting humanitarianism as a morally superior discourse in disarmament. However, humanitarianism carries its own blind spots and has its own hegemonic leanings. It may be silencing other potentially more transformative discourses.

International humanitarian law in Colombia : going a step beyond

Marcela Giraldo Muñoz and Jose Serralvo. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1117-1147

Ever since the first quarter of the nineteenth century, Colombia has shifted from one war to the next, be it the War of Independence, the fierce confrontations between liberal and conservative parties or the countless conflicts among guerrillas, paramilitary groups and the State. These wars have brought along a unique contribution to the development of international humanitarian law (IHL). The purpose of this article is to explore the myriad of ways in which Colombia has implemented (and at times made progress on) IHL rules, and to analyze how different conflicts have led the country to explore issues such as the protection of minors, the meaning of the principle of precaution, the compensation of armed conflict victims and the creation of some rather sophisticated transitional justice mechanisms.

https://library.icrc.org/library/docs/DOC/irrc-912-munoz.pdf

International law and corporate participation in times of armed conflict

Kevin Crow. In: Berkeley journal of international law, vol. 37, issue 1, 2019, p. 64-92

This article explores the overlapping conceptions of “international legal personhood” in international criminal law and international investment law in light of the December 2016 International Centre for Settlement of Investment Disputes Award of Urbaser v. Argentina. It is an effort to parse out and test potential standards for investor-to-State liability for corporate participation in mass atrocities and human rights violations, particularly in instances of armed conflict. In exploring the question of when a corporation can be held financially liable for human rights violations under international investment law, this article suggests that, while the legal status of direct corporate subjectivity remains opaque, Urbaser invites application of international criminal law liability doctrines as “boundary crossing” tools that arbitrators can use to further define the contours of corporate subjectivity to international law.

http://dx.doi.org/10.15779/Z3809W480

Intersections in international cultural heritage law

ed. by Anne-Marie Carstens and Elizabeth Varner. - Oxford : Oxford University Press, 2020. - XIII, 400 p.

The recent spate of threats to cultural heritage, including in Iraq, Mali, Nepal, Syria, and Yemen, has led to increased focus on the sources of international cultural heritage law. This edited volume shows that international cultural heritage law is not a discrete and contained body of law, but one whose component parts are drawn from diverse fields of public international law. It shows how cultural heritage law has been shaped by its interaction with other areas of international law, and how it has contributed to international law in turn. In this volume, scholars and practitioners

explore some of the primary points of intersection between international cultural heritage law and public international law. Chapters explore instersections with the law of armed conflict, international and transnational criminal law, international human rights, the international movement, regulation, and restitution of cultural artefacts, and the UN system. The result is a cohesive collection that not only explores many facets of the intersections of cultural heritage law and public international law, but also examines how the regimes operate together and how the relationship between them largely facilitates, but also sometimes hinders, the development of international law governing the protection of cultural heritage.

Is IHL a sham ? : a reply to Eyal Benvenisti and Doreen Lustig

Jochen von Bernstorff. In: European journal of international law, Vol. 31, no. 2, September 2020, p. 709-719

This contribution is inspired by the thought-provoking article 'Monopolizing War' by Eyal Benvenisti and Doreen Lustig. This reply argues that early 19th-century IHL codification projects in the eyes of European governments did not primarily serve domestic anti-revolutionary purposes. It also takes a somewhat sceptical stance as to the recent scholarly trend, which reduces historical explanations for the development of international law to domestic contexts in one or more powerful states involved in the respective law- and policy-making process. Building on the intriguing historical critique of early IHL's 'humanizing substance' developed in 'Monopolizing War' and by referring to more recent IHL codification projects (small arms, nuclear weapons, aerial bombing, autonomous weapons), the second part of the contribution sketches four 'de-humanizing' discursive strategies, which arguably haunt international humanitarian law-making until today: (i) cynical window dressing; (ii) constructing an ontological wall; (iii) utilitarian reasoning; and (iv) excluding the periphery.

https://doi.org/10.1093/ejil/chaa050 *

Islamic jurisprudence on the regulation of armed conflict : text and context

Nesrine Badawi. - Leiden ; Boston : Brill, 2019. - VI, 273 p.

In Islamic Jurisprudence on the Regulation of Armed Conflict: Text and Context, Nesrine Badawi argues against the existence of a "true" interpretation of the rules regulating armed conflict in Islamic law. The book offers a detailed examination of the internal deductive structures of different juristic works on the rules of jihad and elaborates on different methodological inconsistencies in those works to shed light on the role payed by non-textual factors in the development of Islamic jurisprudence and to show that Islamic jurisprudence on armed conflict, like any other legal system, is guided by different sociopolitical considerations. The book deliberately avoids providing a summary of Islamic jurisprudence on the regulation of armed conflict because summaries often conflate contexts; they overwrite a narrative of continuity between jurisprudence and its context and assume connections across different juristic works, thereby creating a more definitive and depoliticized account of the tradition.

Israeli compliance with legal guidelines for targeted killing

Shahaf Rabi and Avery Plaw. In: Israel law review : a journal of human rights, public and international law, Vol. 53, no. 2, 2020, p. 225-258

In December 2006 the Israeli High Court of Justice delivered its ruling in the Targeted Killing case (HCJ 769/02). The Court laid out four criteria that must be met for operations conducted as part of Israel's targeted killing policy to be performed legally, and imposed on the state two safeguards to ensure that each operation complies with these criteria. This research examines whether Israel has complied with the ruling in its post-2006 targeted killing operations. The article presents strong evidence which suggests that Israel complies with the Court's four requirements, although there is insufficient information to render a definitive conclusion regarding requirement 3, the principle of proportionality. However, the evidence also casts doubt on Israel's conformity with the two safeguards. The most significant issues revolve around Israel's implementation of and compliance with safeguard 1, the independent ex post facto investigative committee, which should review operations that cause civilian casualties. These concerns include

the composition of the committee, its objectivity and independence. In addition, Israel's evolving understanding of the legal status of terrorists has significantly narrowed the jurisdiction of the committee and the HCJ's ruling more generally. These issues are exacerbated by the absence of evidence that safeguard 2, judicial oversight, has occurred.

https://doi.org/10.1017/S0021223720000059 *

Judges and the making of international criminal law

Joseph Powderly. - Leiden ; Boston : Brill Nijhoff, 2020. - LXI, 618 p.

In Judges and the Making of International Criminal Law Joseph Powderly explores the role of judicial creativity in the progressive development of international criminal law. This wide-ranging work unpacks the nature and contours of the international criminal judicial function. Employing empirical, theoretical, and doctrinal methodologies, it interrogates the profile of the international criminal bench, judicial ethics, and the interpretative techniques that judges have utilized in their efforts to progressively develop international criminal law. Drawing on the work of Hersch Lauterpacht, it proposes a conception of the international criminal judicial function that places judicial creativity at its very heart. In doing so it argues that international criminal judges have a central role to play in ensuring that modern international criminal law continues to adapt to a volatile global environment, where accountability for crimes that shock the conscience of humanity is as much needed as at any moment in recent history.

Just the facts : Reimagining wartime investigations concerning attacks against NGOs

Shiri Krebs. In: Berkeley journal of international law, Vol. 37, issue 3, 2019, p. 405-435

Since October 2015, the United States has been in conflict with an NGO—Doctors Without Borders—over the bombing of the NGO's hospital in Kunduz, Afghanistan, early that month. Various fact-finding efforts by the US Central Command, the UN Mission in Afghanistan, NATO, and Doctors Without Borders focused on one question: whether the bombing conduct constituted a war crime. This focus on issues of law, guilt, and blame diverted attention from the more basic questions of what actually happened, why it happened, and what might be done to prevent similar incidents in the future. Moreover, the fact-finding efforts ended up exacerbating the controversy and exposing the inherent disbelief and mistrust between States, NGOs, and legal institutions. The attack on the Kunduz hospital and the controversy that followed exemplify a broader phenomenon. Legal fact-finding efforts aimed at resolving factual disputes often trigger more controversies, as the aforementioned entities are generally ill-equipped to gather sensitive military information and to facilitate cooperation among interested parties. This is particularly true when the controversy relates to attacks harming non-State actors, such as Doctors Without Borders. Fact-finding efforts surrounding such attacks generally suffer from structural, political, and legal weaknesses, particularly with regard to gathering sensitive military information. By utilizing literature from three disciplines—international law, international relations, and organizational sociology—this article offers an interdisciplinary framework to design fact-finding processes for conflicts between States and non-State actors. In particular, by exploring the complex social environment enabling wartime atrocities, this article suggests moving away from criminalization, legal blame, and individualizing guilt in favor of an organizational "learning from failure" approach focused on future prevention, organizational change, and improving decision-making processes.

http://dx.doi.org/10.15779/Z380G3GX60

Justice and accountability for sexual violence in conflict : progress and challenges in national efforts to address impunity

Kim Thuy Seelinger... [et al.]. In: Journal of international criminal justice, Vol. 18, no. 2, May 2020, p. 213-542

This special issue begins with an article by Kim Thuy Seelinger that looks at the history and the growth of national prosecutions for sexual violence in conflict. It then examines specific case studies from Argentina, Guatemala, South Sudan and the Democratic Republic of the Congo to

look in more detail at jurisprudence arising out of national court systems by Daniela Kravetz, Claudia Martin and Susan SáCouto; Kirsten Lavery; Daniele Perissi and Karen Naimer; and Jasenka Ferizović and Gorana Mlinarević, respectively. An important goal of this special issue was to include multidisciplinary approaches to address sexual violence in conflict in and outside of judicial proceedings and it does so with articles by Myriam Denov and Mark Drumbl; Phuong Pham, Mychelle Balthazard and Patrick Vinck; Stephanie Barbour; and Barbara Bianchini and Sara Rubert. The Special Issue also wanted to move the conversation on sexual violence in conflict forward and consider ways of improving, expanding and assessing the impact of national proceedings by both informing judicial processes underway as well as those in the future. This also includes covering the full scope of victims who face sexual violence in conflict and the various charges that can be used against perpetrators of this crime with articles by Marta Valiñas; Ingrid Elliott, Coleen Kivlahan and Yahya Rahhal; Anne-Marie de Brouwer, Eefje de Volder and Christophe Paulussen; and Patricia Viseur Sellers and Jocelyn Getgen Kestenbaum.

https://academic.oup.com/jicj/issue/18/2 *

The law of armed conflict : an operational approach

Geoffrey S. Corn... [et al.]. - New York : Wolters Kluwer Law & Business, 2019. - XLIX, 674 p.

This book covers all aspects of the law of armed conflict, explaining the difference between law and policy in regulation of military operations. It provides a complete operational scenario and introduction to the operational organization of United States armed forces. The focus remains on United States law perspective, balanced with exposure to areas where the interpretation of its allied forces diverge. Jus ad bellum and jus in bello issues are addressed at length. The text includes excerpts from treaties and treaty commentaries, domestic and international cases, Department of Defense directives, service field manuals, and regulations implementing legal obligations.

http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=2647477 *

The laws of war in international thought

Pablo Kalmanovitz. - Oxford : Oxford University Press, 2020. - XIII, 185 p.

The Law of Armed Conflict is usually understood to be a regime of exception that applies only during armed conflict and regulates hostilities among enemies. It assigns privileges to states far beyond what they are allowed to do in peacetime, and it mandates certain protections for non-combatants, which can often be defeated by appeals to military necessity or advantage. This bookt examines the intellectual history of the laws of war before their codification. It reconstructs the processes by which political and legal theorists built the laws' distinctive vocabularies and legitimized some of their broadest permissions, and it situates these processes within the broader intellectual project that from early modernity spelled out the nature, function, and powers of state sovereignty. The book focuses on four historical moments in the intellectual history of the laws of war: the doctrine of just war in Spanish scholasticism; Hugo Grotius's theory of solemn war; the Enlightenment theory of regular war; and late nineteenth-century humanitarianism. By looking at these moments, Pablo Kalmanovitz shows how challenging and polemical it has been for international theorists to justify the exceptional and permissive character of the laws of war. In this way, he contributes to recover a sense of the historical foundations and many still problematic aspects of the Law of Armed Conflict.

https://doi.org/10.1093/oso/9780198790259.001.0001 *

The legality of economic activities in occupied territories : international, EU law and business and human rights perspectives

ed. by Antoine Duval and Eva Kassoti. - Abingdon : Routledge, 2020. - XIV, 256 p.

This edited volume explores the question of the lawfulness under international law of economic activities in occupied territories from the perspectives of international law, EU law, and business and human rights. Providing a multi-level overview of relevant practices, policies and cases, the

book is divided in three parts, each dealing with how different legal fields have come to grips with the challenges brought about by the question of the lawfulness under international law of economic activities in occupied territories. The first part includes contributions pertaining to the international law dimension of the question.The second part focuses on EU law and contains contributions that assess the EU's approach to occupied territories and the extent to which this approach comports with the EU's obligations under international law. The final part focuses on the business and human rights perspective.

https://doi.org/10.4324/9780429288081 *

Liability in joint military operations : the Green Desert case

Peter Vedel Kessing. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 343-366

Almost all international military operations today are joint military operations where several states collaborate to carry out concrete operations, such as combat or arrest operations. This raises pertinent and difficult questions in relation to state responsibility if international law obligations are breached during the operation, not least: Which state or states are responsible? In June 2018, a Danish High Court found Denmark responsible in its complicity for Iraqi ill-treatment of 18 Iraqis who were detained by the Iraqi military in a joint Danish–Iraqi military operation in Iraq in November 2004. Danish soldiers did not exercise control over the Iraqi troops; the detainees were not captured by Danish soldiers or at any time subject to their control or jurisdiction; and Danish forces did not participate in or witness any ill-treatment during the operation. Nevertheless, the Danish High Court found that the Danish defence forces were liable to pay compensation to the 18 Iraqi detainees because Danish defence forces 'should have known' that there was a real risk of Iraqi ill-treatment of detainees and paid to little attention to the risk when planning and participating in the operation. The article discusses the Danish High Court judgment. Is it a problem that the High Court decided the case on the basis of Danish compensation law and largely ignores international law standards? And would the Danish defence forces have been responsible if assessed on the basis of State responsibility standards in international law?

https://doi.org/10.1093/jcsl/kraa008 *

Manuel de droit de la guerre

David Cumin. - Bruxelles : Bruylant, 2020. - 549 p.

L'originalité de l'ouvrage tient en l'analyse synthétique et pédagogique de l'ensemble du droit de la guerre, étrangère comme civile, dans tous les théâtres (terre, mer, air, cyber), aussi bien les auteurs, causes et buts (jus ad bellum), que les acteurs, instruments et modalités (jus in bello), y compris les sanctions à la violation des règles.

Monopolizing war : codifying the laws of war to reassert governmental authority, 1856-1874

Eyal Benvenisti and Doreen Lustig. In: European journal of international lawl, Vol. 31, no. 1, February 2020, p. 127-169

This article challenges the canonical narrative about civil society's efforts to discipline warfare during the mid-19th century – a narrative of progressive evolution of Enlightenment-inspired laws of war, later to be termed international humanitarian law. Its authors argue that, while the multifaceted influence of civil society was an important catalyst for the inter-governmental codification of the laws of war, the content of that codification did not simply reflect humanitarian sensibilities. Rather, as civil society posed a threat to the governmental monopoly over the regulation of war, the turn to inter-state codification of IHL also assisted governments in securing their authority as the sole regulators in the international terrain. The authors argue that, in codifying the laws of war, the main concern of key European governments was not to protect civilians from combatants' fire, but rather to protect combatants from civilians eager to take up arms to defend their nation – even against their own governments' wishes. These concerns were brought to the fore most forcefully in the Franco-Prussian War of 1870–1871 and the subsequent

short-lived, but violent, rise of the Paris Commune. These events formed the backdrop to the Brussels Declaration of 1874, the first comprehensive text on the laws of war. This Declaration exposed civilians to war's harms and supported the growing capitalist economy by ensuring that market interests would be protected from the scourge of war and the consequences of defeat.

https://doi.org/10.1093/ejil/chaa013 *

Myron Taylor and the bombing of Rome : the limits of law and diplomacy

Matthew Anthony Evangelista. In: Diplomacy & Statecraft, Vol. 31, no 2, 2020, p. 278-305

Myron Taylor, President Franklin Roosevelt's personal representative to Pope Pius XII, carried out a difficult and ultimately futile mission during the Second World War: to persuade the Allies to spare Rome and the Vatican from aerial bombardment. Taylor was a Cornell law graduate and prominent industrial leader, enjoying Roosevelt's confidence and well respected by Vatican officials, including Eugenio Pacelli, whom he had met before the latter assumed his position as pope. Yet Taylor's attempts to prevent the bombing of Rome ran counter to prevailing military strategy and ideas about the legality, morality, and efficacy of targeting civilians. Taylor nevertheless pressed his ideas on American and British leaders, offering alternatives like declaring Rome an 'open city' and targeting hydroelectric plants instead of cities to disrupt the Italian war effort. He conveyed the pope's entreaties, often including thinly veiled threats to rouse worldwide Catholic opinion against the Allies were Rome harmed. This analysis tells the story of a failed but historically important effort to preserve Rome and its citizens from aerial destruction.

https://library.ext.icrc.org/library/docs/ArticlesPDF/50775.pdf *

The nature of international humanitarian law : a permissive or restrictive regime?

Anne Quintin. - Cheltenham ; Northampton : Edward Elgar, 2020. - XXII, 360 p.

This book explores the nature of international humanitarian law (IHL), so doing by asking whether it should be seen as a permissive or a restrictive regime. In the eyes of many, the primary purpose of IHL is to impose restrictions on the actions of parties in armed conflicts, in order to protect victims. But IHL is also increasingly cited as an authority in permitting conduct that would be deemed unlawful in peacetime, for instance some cases of internment or targeting of persons. Considering both international and non-international armed conflicts, the author peels away the layers of this debate, revealing the true nature of IHL and concluding that whilst IHL initially developed as a restrictive regime composed of prohibitions and prescriptions, it nevertheless contains within it rare permissions that allow states to act. Utilising a scientific methodology to offer concrete and realistic outcomes, whilst couching differing interpretations of IHL in wider debates surrounding the nature of international law, this book will be of interest to all academics, practitioners and policy-makers in the field of international humanitarian law. Its analysis of how people are effectively protected during an armed conflict will also be beneficial for the wider humanitarian community.

http://search.ebscohost.com/login.aspx?direct=true&scope=site&db=nlebk&db=nlabk&AN=2632404 *

Negotiating civil war : the politics of international regime design

Henry Lovat. - Cambridge : Cambridge University Press, 2020. - XV, 368 p.

Civil war has been a fact of political life throughout recorded history. However, unlike inter-state wars, international law has not traditionally regulated such conflicts. How then can we explain the post-1945 emergence and evolution of international treaty rules regulating the conduct of internal armed conflict: the 'Civil War Regime'? Negotiating Civil War combines insights derived from realist, rationalist, liberal, and constructivist approaches to international relations to answer this question, revisiting the negotiation of the 1949 Geneva Conventions, the 1977 Additional Protocols, and the 1998 Rome Statute of the International Criminal Court. This study provides a rigorous, critical account of the making of the Civil War Regime. Sophisticated and persuasive, it illustrates the complex interplay of material, ideational, social, and strategic factors in shaping

these rules with important lessons for the making and unmaking of international law in a rapidly shifting international political, economic, and security environment.

https://doi.org/10.1017/9781108667302 *

'Not dead but sleeping' : expanding international law to better regulate the diverse effects of ceasefire agreements

Marika Sosnowski. In: Leiden journal of international law, Vol. 33, no. 3, 2020, p. 731-743

Ceasefire agreements are legally governed by international humanitarian law because they have generally been considered in relation to how they affect levels of violence. However, new research in the fields of anthropology, security, and development studies suggests that ceasefires can have many more ramifications. These range from their ability to influence governance institutions, property and citizenship rights, economic networks, and security mechanisms. Consequently, this article suggests that a broader legal framework is needed through which to consider ceasefires and their consequences. While canvassing the option of ceasefires being types of contractual documents or as special agreements under Common Article 3 of the Geneva Conventions, the article concludes that the best way to regulate ceasefire agreements is through an expanded version of lex pacificatoria. Rather than being governed by hard international law, such a move would allow for the implementation of more flexible programmatic standards to influence the myriad ways ceasefires are negotiated, the conduct of belligerents, and their diverse effects on the ground during wartime.

https://doi.org/10.1017/S0922156520000308 *

Not the usual suspects : religious leaders as influencers of international humanitarian law compliance

Ioana Cismas and Ezequiel Heffes. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 125-150

It is undeniable that the effectiveness of international humanitarian law (IHL) faces challenges from different quarters. To address these, humanitarian organizations have, in the main, pursued a direct engagement strategy with the parties to a conflict. Although this has remained the dominant strategy to date, in the last two decades the humanitarian sector has, on an ad hoc basis and without the benefit of a solid evidence base, engaged other societal actors identified as having the potential to influence parties to armed conflict, and among them religious leaders. This chapter addresses the role of these leaders in influencing compliance (or lack thereof) with IHL by States and non-State armed groups. In particular, two issues are explored: (1) what makes religious leaders influential among their constituencies, and (2) how can they be useful actors to increase respect for IHL in armed conflict?

https://doi.org/10.1007/978-94-6265-399-3_6 *

The notion of 'acts harmful to the enemy' under international humanitarian law

Robert Kolb and Fumiko Nakashima. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1171-1199

This article provides a legal analysis of the largely uncharted notion of “acts harmful to the enemy” under international humanitarian law, which reconciles the humanitarian need to grant special protection to medical services (medical personnel, units and transports) in the interests of the wounded and sick with the military necessity to remove it when acts are committed contrary to good faith and for hostile purposes or with effects which harm the adverse party. The meaning of the notion is clarified by primarily looking into the legality of an attack against land-based medical services by the aggrieved party to the conflict as a consequence of harmful acts. It concludes with specific recommendations on how to interpret the law governing such an attack, considered prima facie lawful, on a hospital.

https://library.icrc.org/library/docs/DOC/irrc-912-kolb.pdf

The notion of 'protracted armed conflicts' in the Rome Statute and the termination of armed conflicts under international law : an analysis of select issues

Dustin A. Lewis. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1091-1115

Legal controversies and disagreements have arisen about the timing and duration of numerous contemporary armed conflicts, not least regarding how to discern precisely when those conflicts began and when they ended (if indeed they have ended). The existence of several long-running conflicts – some stretching across decades – and the corresponding suffering that they entail accentuate the stakes of these debates. To help shed light on some select aspects of the duration of contemporary wars, this article analyzes two sets of legal issues: first, the notion of "protracted armed conflict" as formulated in a war-crimes-related provision of the Rome Statute of the International Criminal Court, and second, the rules, principles and standards laid down in international humanitarian law and international criminal law pertaining to when armed conflicts have come to an end. The upshot of the analysis is that under existing international law, there is no general category of "protracted armed conflict"; that the question of whether to pursue such a category raises numerous challenges; and that several dimensions of the law concerning the end of armed conflict are unsettled.

https://library.icrc.org/library/docs/DOC/irrc-912-lewis.pdf

Oslo manual on select topics of the law of armed conflict : rules and commentary

Yoram Dinstein, Arne Willy Dahl. - Cham : Springer, 2020. - X, 151 p.

This new open access book provides a valuable restatement of the current law of armed conflict regarding hostilities in a diverse range of contexts: outer space, cyber operations, remote and autonomous weapons, undersea systems and devices, submarine cables, civilians participating in unmanned operations, military objectives by nature, civilian airliners, destruction of property, surrender, search and rescue, humanitarian assistance, cultural property, the natural environment, and more. The book was prepared by a group of experts after consultation with a number of key governments. It is intended to offer guidance for practitioners (mainly commanding officers); facilitate training at military colleges; and inform both instructors and graduate students of international law on the current state of the law.

https://link.springer.com/book/10.1007%2F978-3-030-39169-0

Overcoming the "logic of exception" : a critique of the UN Security Council's response to environmental damage from the 1990–91 Gulf War

Eliana Cusato. In: Asian journal of international law, vol. 9, issue 1, January 2019, p. 75-97

This paper examines the UN Security Council's [UNSC] response to the environmental impact of the 1990–91 Gulf War and its relevance to ongoing debates on environmental protection during armed conflict. With Resolution 687/91, the UNSC referred to "environmental damage and depletion of natural resources" in the context of war reparations, and established the UN Compensation Commission [UNCC] to process environmental claims. Whilst this is often hailed as a success story, this paper raises questions about certain dimensions of the UNCC: the choice of the applicable law; the decision-making process, particularly in relation to causation and remedies; and its punitive/biased nature. It argues that the successful outcome of the environmental compensation regime cannot be separated from the UNCC's exceptional application of international legal norms. By drawing attention to this "logic of exception", I suggest that alternative responses, more attentive to the dynamics of contemporary conflicts and their multiple environmental impacts, should be imagined.

https://doi.org/10.1017/S2044251318000061

Participation of non-state armed groups in the formation of customary international humanitarian law : arising challenges and possible solutions

Lizaveta Tarasevich. In: Humanitäres Völkerrecht = Journal of international law of peace and armed conflict, Bd. 3, H. 1-2, p. 105-121, 2020

To identify customary rules of international humanitarian law (IHL), only the practice of states is considered. The rules, however, are considered binding on both states and armed groups. This leads to two major problems. First, the rules are often unrealistic for armed groups as they played no role in their formation. Second, armed group lack a 'sense of ownership' of the rules and thus reject them. These problems could be addressed by considering armed groups' practice, too. Considering armed groups' practice, however, poses numerous challenges. The article considers practical problems that might be armed groups from participating in the customary law-making and suggests potential solutions, with a view to making the inclusion on armed groups' practice into the formation of IHL possible.

https://doi.org/10.35998/huv-2020-0007 *

Peacekeepers and sexual violence : the disjuncture between domestication and implementation

Ntemesha Maseka, David Abrahams. In: African yearbook on international humanitarian law, 2019, p. 1-24

Sexual exploitation and abuse by United Nations peacekeepers are prevalent in contemporary armed conflict. Peacekeepers who commit these crimes against the local population do so with impunity. This article grapples with whether a lacuna in the existing law causes the impunity and thus lack of accountability of peacekeepers who commit such acts. International humanitarian law absolutely prohibits sexual violence at all times and against anyone. Moreover, sexual violence as a violation of international humanitarian law constitutes a war crime. There is a complex relationship between international and national law applicable to peacekeepers when they commit a crime however, the law, at least in the South African case, is not deficient.

La position française face à l'autonomie des moyens de combat : entre détermination et ambiguïté

Julien Ancelin. In: Annuaire français de droit international, T. 65, 2019, p. 764-783

Cet article présente la position défendue par la France au sujet du développement et de l'emploi des armes autonomes dans le cadre des échanges internationaux, et plus particulièrement au sein des groupes d'experts gouvernementaux mis en place dans le cadre du suivi de la Convention sur certaines armes classiques.

Prisoners of the Empire : inside Japanese POW camps

Sarah Kovner. - Cambridge ; London : Harvard University Press, 2020. - 328 p.

In only five months, from the attack on Pearl Harbor in December 1941 to the fall of Corregidor in May 1942, the Japanese Empire took prisoner more than 140,000 Allied servicemen and 130,000 civilians from a dozen different countries. From Manchuria to Java, Burma to New Guinea, the Japanese army hastily set up over seven hundred camps to imprison these unfortunates. In the chaos, 40 percent of American prisoners of war did not survive. More Australians died in captivity than were killed in combat. Sarah Kovner offers the first portrait of detention in the Pacific theater that explains why so many suffered. She follows Allied servicemen in Singapore and the Philippines transported to Japan on “hellships” and singled out for hard labor, but also describes the experience of guards and camp commanders, who were completely unprepared for the task. Much of the worst treatment resulted from a lack of planning, poor training, and bureaucratic incoherence rather than an established policy of debasing and tormenting prisoners. The struggle of POWs tended to be greatest where Tokyo exercised the least control, and many were killed by Allied bombs and torpedoes rather than deliberate mistreatment. By going beyond the horrific accounts of captivity to actually explain why inmates

were neglected and abused, Prisoners of the Empire contributes to ongoing debates over POW treatment across myriad war zones, even to the present day.

Proportionality and its applicability in the realm of cyber-attacks

Hensey A. Fenton III. In: Duke journal of comparative and international law, vol. 29, no. 2, Spring 2019, p. 335-359

With an ever-increasing reliance on State cyber-attacks, the need for an international treaty governing the actions of Nation-States in the realm of cyberwarfare has never been greater. States now have the ability to cause unprecedented civilian loss with their cyber actions. States can destroy financial records, disrupt stock markets, manipulate cryptocurrency, shut off nuclear reactors, turn off power grids, open dams, and even shut down air traffic control systems with the click of a mouse. This article argues that any cyber-attack launched with a reasonable expectation to inflict "incidental loss of civilian life, injury to civilians, or damage to civilian objects," must be subject to the existing laws of proportionality. This article further examines the broader concept of proportionality, and the difficulties associated with applying a proportionality analysis to an offensive cyberstrike. This paper asserts that the ambiguities and complexities associated with applying the law of proportionality—in its current state and within a cyber context—will leave civilian populations vulnerable to the aggressive cyber actions of the world's cyber powers. Consequently, this article stresses the necessity of developing a proportionality standard within a unified international cyberwarfare convention and asserts that such a standard is required in order to prevent the creation of a pathway towards lethal cyber aggressions unrestrained by the laws of war.

https://scholarship.law.duke.edu/djcil/vol29/iss2/6/

Protecting health care : guidance for the armed forces

ICRC. - Geneva : ICRC, November 2020. - 84 p.

Protecting health-care workers, facilities and vehicles lies at the heart of international humanitarian law (IHL) and is central to its origins. Despite sustained collective efforts, medical personnel and assets continue to face violence and attacks. Health Care in Danger (HCiD), an initiative led by the International Committee of the Red Cross, aims to address this very issue by engaging widely with weapon bearers, policymakers, health-care workers and the general public. This guidance document is the result of focused engagement with armed forces and military experts, which was carried out as part of a HCiD study, supported by the Government of Sweden, on the protection of health care by state armed forces. It sets out concrete, practical ways that armed forces can better protect medical workers and equipment, and safeguard access to care, in armed conflict - provided they are willing to carry out the meticulous work of reviewing their doctrine and practice.

https://library.icrc.org/library/docs/DOC/icrc-4504-002.pdf

Protecting the right to life in protracted conflicts : the existence and dignity dimensions of General Comment 36

Mona Rishmawi. In: International review of the Red Cross, Vol. 101, no. 912, 2019, p. 1149-1169

With a focus on situations of protracted conflict, this article explores the new horizons offered by the recent explanation by the United Nations Human Rights Committee on the right to life in its General Comment 36. The freshly formulated contours of this right not only present normative clarity but are also valuable for conflict management and resolution. Considering the articulation by the Human Rights Committee, we can now see two dimensions of this right: existence and dignity. Although the existence dimension is not new, one now finds additional insights concerning the legality, transparency and accountability of the use of lethal force that have particular relevance to armed conflict. The new dignity dimension has practical implications for the conditions of life in protracted conflicts, taking us beyond norms to the policy spheres of humanitarian action and development. Tracing the origins of the term "protracted conflict" to the

late Lebanese scholar Edward Azar, the article also introduces the reader to some of his work and thinking.

https://library.icrc.org/library/docs/DOC/irrc-912-rishmawi.pdf

La protection de l'environnement en période de conflit armé

Cyprien Dagnicourt ; préf. de Guillaume Le Floch. - Paris : L'Harmattan, 2020. - 241 p.

La destruction de l'environnement en période de conflit armé est ancienne, mais elle a pris une ampleur démesurée. C'est avec la guerre du Vietnam que cette destruction est devenue un objet essentiel de la stratégie militaire. L'opération Ranch Hand, par laquelle l'aviation étasunienne déversa de l'herbicide (l'Agent orange) sur les forêts vietnamiennes en est l'illustration. Par la suite, d'autres conflits auront recours à des techniques modifiant les conditions environnementales du champ de bataille. S'il est impossible d'éviter toute dégradation au cours du conflit, la préservation de l'environnement peut-elle être érigée en priorité ? N'est-il pas parfois nécessaire de sacrifier l'écosystème au bénéfice des populations ou de la victoire ? Quel équilibre trouver entre les nécessités militaires, humanitaires et la protection de l'environnement ?

The rebel with the magnifying glass : armed non-state actors, the right to life and the requirement to investigate in armed conflict

Joshua Joseph Niyo. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 63-106

Seventy years on from the promulgation of the 1949 Geneva Conventions, the protection of the right to life remains a central theme in the context of armed conflict. Particularly, Common Article 3 of the Conventions has been a pivotal gateway into the regulation of the conduct of armed non-State actors during military operations. Furthermore, the increasing prosecutions of their members for war crimes has prompted the requirement for them to review their own behaviour, especially with regard to alleged unlawful killings during military operations. This chapter, therefore, analyses the scope of the legal obligations of armed non-State actors with regard to the protection of the right to life in armed conflict, and it explores the existence and application of an obligation for these actors to investigate credible allegations of the unlawful loss of life, arising from their military conduct during non-international armed conflicts. As armed non-State actors can be considered to bear obligations under both international humanitarian law and human rights law, the chapter explores whether there exists an obligation to investigate under the international humanitarian law framework, as well as the impact of the international human rights law framework on the possible investigative obligation of armed non-State actors.

https://doi.org/10.1007/978-94-6265-399-3_4 *

Reconciling the irreconcilable? : the extraterritorial application of the ECHR and its interaction with IHL

Severin Meier. In: Goettingen journal of international law, vol. 9, no. 3, 2019, p. 395-424

This article examines the extraterritorial application of the European Convention on Human Rights (ECHR) during international armed conflict. After a brief discussion of the different historic origins of international human rights law and international humanitarian law (IHL), the article examines the test for establishing jurisdiction under Article 1 of the ECHR. A critical analysis of some contentious legal issues regarding derogations completes the picture of when jurisdiction is established. Subsequently, the article considers the interaction between the ECHR and IHL in international armed conflicts and concludes by arguing that a balance must be found between protecting human rights in international armed conflicts while not interfering unduly with IHL.

https://www.gojil.eu/issues/93/93_article_meier.pdf

Revisiting the scope of application of Additional Protocol II : exploring the inherent minimum threshold requirements

Miriam M. Bradley. In: African yearbook on international humanitarian law, 2019, p. 81-120

Currently, the landscape of armed conflict reflects a complex reality: multiple non-international, as well as international armed conflicts, often co-exist in the same territory during the same time frame. Consequently, not all these conflicts are regulated under the same rules of international humanitarian law. In conflicts presenting a challenge in conflict classification - like in the Central African Republic, Mali, South Sudan and the Democratic Republic of the Congo - some of the armed groups display a degree of territorial control, which may trigger the application of Additional Protocol II. Even though this instrument has celebrated 40 years of survival since its activation in 1978, its scope of application has received scant attention in scholarly work. This contribution sets out to clarify the minimum threshold requirements inherent in the organisation criteria that non-state fighting units have to meet under Article 1(1) of Additional Protocol II.

Revisiting the Vietnam War and international law : views and interpretations of Richard Falk

ed. by Stefan Andersson. - Cambridge : Cambridge University Press, 2018. - XXXI, 409 p.

This collection of scholarly and critical essays about the legal aspects of the Vietnam War explores various crimes committed by the United States against North Vietnam: war of aggression; war crimes in bombing civilian targets such as schools and hospitals, and using napalm, cluster bombs, and Agent Orange; crimes against humanity in moving large parts of the population to so-called strategic hamlets; and alleged genocide and ecocide. International lawyer Richard Falk, who observed these acts personally in North Vietnam in 1968, uses international law to show how they came about. This book brings together essays that he has written on the Vietnam War and on its relationship to international law, American foreign policy, and the global world order. Falk argues that only a stronger adherence to international law can save the world from such future tragedies and create a sustainable world order.

Robotisation des armées : enjeux militaires, éthiques et légaux

Carl Ceulemans, Michael Dewyn, Dominique Lambert, Marie-des-Neiges Ruffo, Pauline Warnotte ; préf. de Benoit Royal. - Paris : Economica, 2020. - VI, 200 p.

Grâce aux innovations technologiques récentes dans le domaine militaire, certaines nations ont acquis la capacité de mener des opérations sans faire courir de risques à leurs troupes. Ces opérations menées à l'aide de drones téléopérés en donnent un exemple particulièrement éclairant. Mais ces innovations annoncent déjà une autre évolution. En effet, l'introduction probable des systèmes d'armes autonomes (SALA) dans un futur (proche) risque de pousser l'agent humain à la périphérie du champ décisionnel de l'activité militaire. Mettre l'humain à distance du champ de bataille était un premier pas, mais on risque à présent de lui ôter également sa capacité de choix. Quelles sont et quelles seront les implications éthiques et légales de toutes ces (r)évolutions ? Dans quelle mesure les paradigmes éthiques et/ou légaux existants – à savoir la théorie de la guerre juste et le droit international humanitaire – devront-ils s'adapter à cette nouvelle réalité technologique, politique et militaire ? Ce livre esquisse des réponses à ces questions à la fois urgentes et pertinentes pour défendre notre humanité et préserver le mieux possible la dignité des personnes aux cœur du champ de bataille.

Shocking the conscience of humanity : gravity and the legitimacy of international criminal law

Margaret M. deGuzman. - Oxford : Oxford University Press, 2020. - XIX, 217 p.

The most commonly cited justification for international criminal law is that it addresses crimes of such gravity that they "shock the conscience of humanity." From decisions about how to define crimes and when to exercise jurisdiction, to limitations on defences and sentencing determinations, gravity rhetoric permeates the discourse of international criminal law. Yet the concept of gravity has thus far remained highly undertheorized. This book uncovers the

consequences for the regime's legitimacy of its heavy reliance on the poorly understood idea of gravity. Margaret M. deGuzman argues that gravity's ambiguity may at times enable a thin consensus to emerge around decisions, such as the creation of an institution or the definition of a crime, but that, increasingly, it undermines efforts to build a strong and resilient global justice community. The book suggests ways to reconceptualize gravity in line with global values and goals to better support the long-term legitimacy of international criminal law.

Sieges, the law and protecting civilians

Emanuela-Chiara Gillard. - London : Chatham House, June 2019. - 15 p.

Although sieges may conjure up images of medieval warfare, they are still used by armed forces today, in international and non-international armed conflicts. International law does not define sieges, but their essence is the isolation of enemy forces from reinforcements and supplies. Sieges typically combine two elements: 'encirclement' of an area for the purpose of isolating it, and bombardment. Questions of the compatibility of sieges with modern rules of international humanitarian law (IHL) arise when besieged areas contain civilians as well as enemy forces. Sieges are not prohibited as such by either IHL or other areas of public international law. Three sets of rules of IHL are relevant to sieges. The first comprises the rules regulating the conduct of hostilities. The second is the prohibition of starvation of civilians as a method of warfare, along with the rules regulating humanitarian relief operations. The third comprises the rules on evacuation of civilians. The application of IHL to sieges is unsettled in some respects. This briefing does not purport to resolve all the difficulties or address all the issues in detail. While it may go too far to say that it is now impossible to conduct a siege that complies with IHL, the significant vulnerability of civilians caught up in sieges puts particular emphasis on the need for both besieging and besieged forces to comply scrupulously with the legal provisions for the protection of civilians and to conclude agreements for their evacuation.

https://www.chathamhouse.org/2019/06/sieges-law-and-protecting-civilians

The special dimensions of urban warfare

by Yoram Dinstein. In: Israel yearbook on human rights, Vol. 50, 2020, p. 1-17

This contribution focuses on a series of issues raised by urban warfare, including the definition of the military objectives, defended and non-defended locations, the application of the principle of proportionality, the status and protection of civilians, and the use of long-range artillery fire. In his conclusion, the author argues that, if they remain in the battle space, civilians may be deemed to be directly participating in hostilities and that the only safe way for them to avoid incalculable risks is to vacate an urban locality in the contact zone, unless it is validly declared or agreed upon to be undefended.

https://doi.org/10.1163/9789004440555_002 *

Le système africain de protection des droits de l'homme et le droit international humanitaire

Junior Mumbala Abelungu et Ezéchiel Amani Cirimwami. In: Annuaire africain des droits de l'homme, vol. 2, 2018, p. 1-23

Cet article examine la manière dont le système africain de protection des droits de l'homme appréhende le droit international humanitaire (DIH) ou résiste à l'aborder. L'analyse se base essentiellement sur la pratique de la Commission et de la Cour africaines des droits de l'homme et des peuples. L'article examine d'abord si la Commission et la Cour africaines des droits de l'homme et des peuples peuvent interpréter et appliquer les instruments de DIH. Il y répond par l'affirmative. Il analyse ensuite la pratique de ces deux institutions et constate que dans les affaires où celles-ci ont eu l'opportunité d'interpréter ou d'appliquer les règles de DIH, elles se sont caractérisées par une réticence. Enfin, en perspective de la nouvelle Cour africaine de justice, des droits de l'homme et des peuples, en sa section de droit international pénal, l'article s'interroge également sur l'avenir de l'interprétation et de l'application du DIH.

http://www.ahry.up.ac.za/images/ahry/volume2/Abelungu%202018.pdf

Towards a better understanding of the concept of 'indiscriminate attack' — how international criminal law can be of assistance

Harmen van der Wilt. In: Yearbook of international humanitarian law, Vol. 22, 2019, p. 29-42

The concept of 'indiscriminate attack' is directly related to the principle of distinction and therefore serves an important function in international humanitarian law. For the purpose of attributing individual criminal responsibility, however, the concept is insufficiently precise, as it covers a wide array of mens reae, ranging from direct (malicious) intent to kill civilians, via callous disregard for civilian lives, to an intent to target military objects, while knowing that they will demand an excessive toll. International criminal law can thus assist in explaining how the rather elusive concept of indiscriminate attack can be understood in terms of human intents and purposes. In its turn, the determination that an attack is indiscriminate can inform the (international) criminal courts why the waste of civilian lives is clearly excessive to the anticipated military advantage, which is classified as a war crime under the Rome Statute. This chapter seeks to demonstrate how international humanitarian law and (international) criminal law can be complementary and mutually beneficial in elucidating this fascinating concept.

https://doi.org/10.1007/978-94-6265-399-3_2 *

Towards a moral division of labour between IHL and IHRL during the conduct of hostilities

Janina Dill. - In: Law applicable to armed conflict. - Cambridge : Cambridge University Press, 2020. - p. 197-265

When should international humanitarian law (IHL) apply? When should it prevail over, and when should it give way to international human rights law (IHRL) in regulating the conduct of hostilities during international and non-international armed conflicts? IHL and IHRL give diverging answers to the crucial question of when it is legally permissible to kill another person. Following the customary IHL principles of distinction, proportionality and necessity systematically leads to breaches of the legal provisions safeguarding the human right to life. Some legal scholars, notably Helen Duffy in this volume, do not acknowledge this norm conflict, but aver that the two bodies of law can be reconciled through interpretation. Those that reject a substantive convergence between IHL and IHRL tend to take one of three broad positions: many argue that the norm conflict can be resolved by reference to lex specialis; others suggest that, in each instance, the rule should prevail that affords greater protection; yet others cast the matter as depending on which rules states intended to apply in a given context.

https://doi.org/10.1017/9781108674416.004 *

Transforming a prima facie NIAC into an IAC : finding the answer in IHL

Natia Kalandarishvili-Mueller. In: Israel law review : a journal of human rights, public and international law , Vol. 53, no. 3, November 2020, p. 334-354

In some non-international armed conflicts (NIACs) a foreign state is involved in favour of an armed group. This poses a challenge to classifying these armed conflicts under IHL. This article argues that evaluating the actions of a foreign state is best carried out by application of the 'overall control' test as developed by the Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia in the Tadić case. The advantages of this approach are twofold. First, it is a more realistic benchmark for generating the required evidence than the complete dependency or effective control tests developed by the International Court of Justice. Second, using this test makes it less likely for a state to escape its responsibilities under IHL when it acts through armed groups in a prima facie NIAC on the territory of another state. To arrive at this conclusion, the article first critically discusses the different control tests. It then advances that Article 4 of Geneva Convention III 1949 and Article 29 of Geneva Convention IV 1949 themselves contain a threshold of control that can be used to identify foreign state participation in a prima facie NIAC.

https://doi.org/10.1017/S0021223720000175 *

Trials and tribulations : co-applicability of IHL and human rights in an age of adjudication

Helen Duffy. - In: Law applicable to armed conflict. - Cambridge : Cambridge University Press, 2020. - p. 15-105

This chapter's primary goal is to explore where law and practice stand on the applicability of IHL, IHRL and their co-applicability, while acknowledging complexities and areas of uncertainty. Although significant doctrinal discussion has been dedicated to the theoretical issues of co-applicability, these are not the object of this chapter. Instead, it seeks to bring a practical perspective to the legal issues - considering how questions of applicability and interplay arise, and are determined, in practice, and exposing some of the array of relevant contextual, legal, political and institutional factors that may have a bearing on co-applicability.

https://doi.org/10.1017/9781108674416.002 *

Uncertainty in the law of targeting : towards a cognitive framework

Michael N. Schmitt and Major Michael Schauss. In: Harvard national security journal, vol. 10, issue 1, 2019, p. 148-194

This article offers a cognitive framework for thinking about the confluence of uncertainty and the IHL rules governing targeting. In abstract discussions, the tendency has been to understand the requisite level of certainty for engaging a target as a particular threshold, that is, as “certain enough” to satisfy the requirement to confirm a target as a military objective, qualify harm as collateral damage or military advantage that must be factored into the proportionality calculation, or require the taking of feasible precautions in attack to minimize harm to civilians and civilian objects. In our view, this approach neither reflects targeting practice, nor adequately operationalizes the balance between humanitarian considerations and military necessity that all “conduct of hostilities” rules must reflect. We suggest that the issue is more nuanced, that dealing with uncertainty involves a multifaceted situational assessment when planning, approving or executing attacks. The article is our attempt to widen the aperture of discussion about battlefield ambiguity and doubt. To do so, we consider target confirmation, proportionality and precautions in attack, offering a way to think about uncertainty with respect to each.

https://harvardnsj.org/wp-content/uploads/sites/13/2019/02/Uncertainty-in-the-Law-of-Targeting.pdf

Unreliable protection : an experimental study of experts' in bello proportionality decisions

Daniel Statman, Raanan Sulitzeanu-Kenan, Micha Mandel, Michael Skerker and Steven De Wijze. In: European journal of international law, Vol. 31, no. 2, September 2020, p. 429-453

The proportionality principle is an international humanitarian law requirement intended to constrain the use of military force in order to protect civilians in armed conflicts. This research experimentally assesses the reliability of its application by legal and moral experts (in 11 countries), by military officers (in two countries) and by laypeople. Reliability was evaluated according to three criteria: inter-expert convergence; sensitivity to relevant factors; and robustness – relative (lack of) susceptibility to biases. Unlike laypeople, experts and military officers performed well on the sensitivity criterion and manifested an appropriate understanding of the principle at the abstract level. However, both groups of experts failed to reach reasonable judgment convergence. These findings cast doubt on the reliability of the protection provided to civilians during warfare, even when warring parties attempt to abide by the proportionality principle.

https://doi.org/10.1093/ejil/chaa039 *

Women's rights in armed conflict under international law

Catherine O'Rourke. - Cambridge : Cambridge University Press, 2020. - XXXVI, 391 p.

Laws and norms that focus on women's lives in conflict have proliferated across the regimes of international humanitarian law, international criminal law, international human rights law and the United Nations Security Council. While separate institutions, with differing powers of monitoring and enforcement, implement these laws and norms, the activities of regimes overlap. Women's Rights in Armed Conflict under International Law is the first book to account for this pluralism and institutional diversity. This book identifies key aspects of how different regimes regulate women's rights in conflict, and how they interact. Using country case studies to reveal the practical implications of the fragmented protection of women's rights in conflict, this book offers a dynamic account of how regimes and institutions interact, the extent to which they reinforce each other, and the tensions and gaps in regulation that emerge.

https://doi.org/10.1017/9781108667715 *

Young terrorists or child soldiers ? : ISIS children, international law and victimhood

Conrad Nyamutata. In: Journal of conflict and security law, Vol. 25, no. 2, Summer 2020, p. 237-261

Since the Syrian conflict broke out, a significant number of Western citizens travelled to the warzone to join the Islamic State of Iraq and Syria (ISIS). By common definitions, some of the persons travelled as 'children'. However, since the defeat of ISIS, Western countries are facing a conundrum on how to treat these young former fighters. The status of these children has been contentious. Among the Western countries, there does not seem to be a clear position or consistent approach on how such children should be treated. It would appear that the approaches towards the dilemma on these young persons have, predominantly, been dictated by the political whims of individual states. Generally, the children have been regarded as young 'terrorists' likely to pose danger to Western societies if repatriated back. However, the perceptions and actions towards these minors seem to depart from the normative approaches to children associated with armed conflict. The widely reported case of British teenager Shamima Begum shone the spotlight on the predicaments of children formerly associated with ISIS. This article makes a case for the treatment of ISIS-associated children to be considered as child soldiers. When analysed closely, these children deserve protections accorded to all children recruited for purposes of warfare. Recent case law seems to imply that such protection does not cease even after the age of 18 years. All considered, the denial of repatriation appears inimical to normative standards on children associated with armed conflict. Furthermore, the approaches of some of the Western countries could be vulnerable to criticism for violation of the rule of law. The arbitrary revocation of citizenship and barring of returns appear starkly in conflict with norms of natural justice. With this in mind, this article asserts that a consistent approach would require the Western approaches to treat ISIS-associated children as victims first and accord them protections recognised in international law.

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