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# International Humanitarian Law of Armed Conflict: A Critical Annotated Bibliography for Collection Development

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## **International Humanitarian Law of Armed Conflict: A Critical Annotated Bibliography for Collection Development**

**Madeline E. Cohen\***

This annotated bibliography is compiled as a collection development guide for academic librarians and specialists in international law. The topic of International Humanitarian Law of Armed Conflict concerns the treatment of combatants and noncombatants in wartime, while the topic of International Human Rights Law has traditionally been concerned with the treatment of individuals by states in peacetime. During the period from the end of the twentieth century to the present, the boundaries between international humanitarian law and human rights law have become increasingly blurred. Therefore, this article concentrates on core sources in *both* branches of international law in these key areas of overlap: conflicts between states; internal conflicts; insurgencies.

The nature and complexity of armed conflicts have changed rapidly in the decade after September 11, 2001. Global proliferation of terrorism and the resulting “war on terror” against non-state groups have caused an expansion of the definition and ramifications of armed conflict. Further, internal conflicts within countries have led to armed interventions such as the wars in Iraq and Afghanistan which involve nation states and groups within states.

While international humanitarian law has governed armed conflict through the twentieth century, new spheres and means of warfare in the 21<sup>st</sup> century have required scholars to initiate its reinterpretation. Topics such as non-international armed conflict, targeting, occupation, cyber warfare, privatization of war, and humanitarian intervention are among the most pressing issues facing countries today.

During the past decade, the literature on the subject of the international humanitarian law of armed conflict has proliferated with books on new developments in the nature of armed conflict and questions related to the adequacy of existing international law. The purpose of this annotated bibliography is to present some of the most important monographs on these subjects for use by academic librarians, university course instructors, legal and military scholars and practitioners, political scientists and anyone interested in delving into this area of study.

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## Background and Definitions

The rules that govern how soldiers behave once armed conflict has begun are known by the terms *jus in bello*, *laws of war*, *law of armed conflict* or *international humanitarian law*... These terms are used in the annotations in this paper as the terms are used in the books under consideration. Therefore, all of the above terms are used to discuss the subject of this bibliography, the *international humanitarian law of armed conflict*.

The International Committee of the Red Cross defines *international humanitarian law* as follows:

“War is governed by a set of international rules established by treaty or custom to ensure that the humanitarian problems that arise as a result of armed conflict are either prevented from occurring or responded to. These rules are collectively known as the ‘law of armed conflict’ or ‘international humanitarian law’ (IHL). The purpose of IHL is to limit the suffering caused by war. It does so by restricting the methods and means of warfare employed and by protecting persons who are not, or who are no longer, taking part in fighting...”

IHL does not decide whether a war is legal or just; that is governed by a different set of rules, referred to as *jus ad bellum*, which is regulated by the UN Charter. IHL was developed to deal with situations of armed conflict. It seeks, for humanitarian reasons, to limit the effects of armed conflict by setting out rules on the ways in which war may be waged, and is known also as *jus in bello*. IHL deals with the fact of war without concerning itself with the reasons for a particular conflict or its legality. Its provisions apply to all victims of war, regardless of which side they are on, the reasons for the conflict or its legality, or the justness of their cause.”<sup>1</sup>

The codification of modern international humanitarian law began at the end of the nineteenth century. A peace conference was held at The Hague, Netherlands, in 1899, followed by a second conference, which met in the same city in 1907. The latter adopted a series of international conventions related to the laws of war, which are known collectively as the Hague Conventions. Convention IV enunciated the *Laws and Customs of War on Land*. Still in force, this Convention imposes upon the parties the obligation to issue instructions to their armed land forces in conformity with the Regulations annexed to the Convention. The main principle of Hague Convention IV forms the basis of all international humanitarian law of armed conflict: the

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<sup>1</sup> International Committee of the Red Cross (2009). *Exploring Humanitarian Law: IHL Guide; A legal manual for EHL teachers*. Geneva: International Committee of the Red Cross. <http://ehl.redcross.org/resources/downloads/ihlguide.pdf>

right to take action to injure an enemy in war is not unlimited. From this follows all rules of conduct in international conflict.

In 1949, the *Laws and Customs of War on Land* of the Hague Conventions were further developed by the four Geneva Conventions on humanitarian law, themselves completed later by Protocols I and II adopted in Geneva in 1977. All of these rules are still in effect today, and national and international courts may designate sanctions in response to breaches. It is important to note that the four Geneva Conventions replaced the word “war” with “armed conflict” in order to widen humanitarian protections to state actions that might not be technically defined as acts of war.

In addition to treaty law, international humanitarian law of armed conflict has been formed by what is known as customary law. Customary international law is not written. It is derived from general practice that is accepted as law. In order for a rule to be considered customary, it must be reflected in state practice and the international community must believe that such practice is required as a matter of law.

Customary international humanitarian law is relevant today for two main reasons. While some States have not ratified important treaty law, they remain bound by rules of customary law. The second reason is the relative weakness of treaty law governing non-international armed conflicts. A study published by the International Committee of the Red Cross in 2005 concluded that the international law governing internal armed conflicts is more detailed under customary international law than under treaty law. This is particularly important given that most armed conflicts today are internal conflicts involving armed groups within state borders.

### **Organization of Bibliography**

The bibliography includes monographs written by noted scholars during the period 2001 through August, 2012. Selections reflect a critical evaluation of sources that would be most important to include in libraries supporting undergraduate and graduate curricula in international law, political science and human rights, and also in specialized law collections.

Monographs were chosen based on a broad survey of the journal and monograph literature published during this time period. A review of journal literature culled from social sciences, law and open web databases was conducted to identify the leading scholars writing today about international humanitarian law. Because journal literature on this subject is voluminous and constantly growing, it was decided to limit this bibliography to books. Using the journal literature review as background, books were selected from searches in *WorldCat* and university library catalogs, book reviews retrieved from databases such as *Lexis-Nexis Academic*, *Academic OneFile*, *Academic Search Complete*, *CIAO: Columbia International Affairs Online*,

*Google Scholar, LegalTrac, JSTOR, Social Sciences Full Text, and SSRN: Social Sciences Research Network.*

### **Guides to Research and Treaty Law**

Students and researchers will benefit greatly from the following collections and research guides on the web. These sites have been selected for their comprehensive array of sources including links to treaty and customary law, government and organization reports, databases, and scholarly papers.

International Committee of the Red Cross; Resource Center

<http://www.icrc.org/eng/resources/index.jsp>

International Committee of the Red Cross; International Humanitarian Law; Treaty Databases

<http://www.icrc.org/ihl>

United States Naval War College; International Law Department Research ePortal

<http://usnwc.libguides.com/LOAC-IHL>

Asser Institute; Center for International and European Law

[http://www.asser.nl/default.aspx?site\\_id=9](http://www.asser.nl/default.aspx?site_id=9)

Geneva Academy of International Humanitarian Law and Human Rights;

Rule of Law in Armed Conflicts

<http://www.geneva-academy.ch/RULAC/>

Peace Palace Library; Research Guide

<http://www.peacepalacelibrary.nl/research-guides/war-and-peace/international-humanitarian-law/>

### **Annotated Bibliography**

Alley, Roderic. 2004. *Internal conflict and the international community: Wars without end?* Burlington: Ashgate Publishing.

This book presents an analysis of how wars within states have tested the international community in terms of governance and human rights. The author assesses whether international humanitarian law of armed conflict, human rights law, or theories of international relations, have been able to offer viable approaches to internal conflicts. Using a case study approach, the author documents the weaknesses of the international community in dealing with the following issues: Proliferation of small arms and light weapons; Refugees; Human rights violations in domestic conflicts; Weaknesses of international humanitarian law in domestic conflicts. The past two decades have seen the preponderance of internal conflicts rather than wars between states that have caused concern for the international community. The most wrenching debates have been about whether or not individual states or groups of states should intervene in internal conflicts. In analyzing these arguments, the author contends that the field of international relations does not

offer the tools for dealing effectively with these decisions. Moreover, the author notes that although these conflicts are internal, the international community has to accept some responsibility for the development of these wars, particularly in terms of arms supplies, foreign and economic policies. A very useful chapter is on the successes and failures of international interventions that have taken place since 1990. The author makes a strong case for the need of scholars to draw on the fields of psychology, sociology, economics and international relations in order to grapple with the complexities of internal conflict and international response. This book provides an introduction to the most important issues concerning internal conflicts and international law for both scholars and students.

Arnold, Roberta, and Noelle N. R. Quéniwet, eds. 2008. *International humanitarian law and human rights law: Towards a new merger in international law*. Leiden and Boston: Martinus Nijhoff Publishers.

This book of essays written by prominent scholars addresses the theme of the shifting and overlapping boundaries of international human rights law and international humanitarian law of armed conflict. The book examines general issues as well as provides case studies focusing on specific rights or persons. Essays cover application of both human rights law and international humanitarian law to the protection of women, protection of children, and refugees. Other essays cover terrorism, trials in occupied territories, and targeted killings. One thread weaving through the essays in this book is that there are “grey zones” where there is a legal vacuum between the two categories of international law that is a risk for the protection of civilians and soldiers. These “grey zones” are discussed in essays on “Internal Conflicts or Non-international Conflicts,” “Internal Disturbances,” “Military Occupation,” “Non-state Actors,” and “Enforcement.” While the title of this book proposes a “merger” of human rights law and international humanitarian law, the essays do not support this proposition. Rather, they present examples of the complementary nature of the two areas of law, gaps in the law, and challenges posed to these areas of law by new and unprecedented conflicts. The main contribution of this well organized collection is to effectively delineate the coverage of these two areas of international law in terms of protection of individuals, and to clearly show the gaps in such coverage in certain “grey zones.” As such, it is a very useful collection for students and scholars.

Banks, William C., ed. 2011. *New battlefields, old laws: Critical debates on asymmetric warfare*. New York: Columbia University Press.

This book contains essays by eminent scholars on the gaps in international humanitarian law because of the nature of modern asymmetric conflicts. This type of conflict involves non-state groups that engage in prolonged wars of terrorism. These asymmetric wars are often fought by insurgent groups, paramilitaries, child soldiers, civilians and private military firms. International humanitarian law of armed conflict as specified in customary law, treaties and codes of conduct prohibits the actions and tactics that are often used by weaker parties in these asymmetric

conflicts to overcome their military disadvantages. The essays in this volume challenge whether and how current international law is sufficient to govern the actions of non-state groups in these conflicts. The introduction to this volume, written by the editor, William C. Banks, provides an introduction to international humanitarian law framework and the problems involved in applying it to asymmetric conflict. The book is divided into "Critical Debates" which give cogent analysis and variant points of view on the most important contemporary problems in applying international law to asymmetric conflicts. The different voices in this book demonstrate the complexities of redefining the parameters of the battlefield and regulating armed conflict given the reality of asymmetric military forces confronting one another.

Best, Geoffrey. 1994. *War and law since 1945*. New York: Oxford University Press.

This book is a further exploration of the history and development of the laws of war beyond the author's seminal work, *Humanity In Warfare*<sup>1</sup>. Part One of the book, "The Background to the Laws of War," provides a history of the laws of war through World War II. Major treaties are discussed such as the first, second and third Geneva Conventions, and the Hague Conventions of 1899 and 1907. Part Two, "Reconstruction of the Laws of War 1945-50," covers the expansion of the Geneva Conventions of 1949 and the Nuremberg and Tokyo Tribunals. Part Three, "Law and Armed Conflict Since 1950," covers the practice of international humanitarian law post-1945, and particularly the development of the 1977 Additional Protocols to the Geneva Conventions. An underlying theme of this book is the lack of observance and ineffectiveness of international humanitarian law in the twentieth century. The author stresses the need to strengthen institutions designed to prevent war rather than rely on international humanitarian law to soften the effects of war once it is underway. A significant part of the analysis is devoted to the relationship of international humanitarian law and human rights law. The final chapter of this book, "Application, Implementation and Enforcement," provides examples of the application of customary and treaty law in regulating the conduct of war post-1945. The difficulties in enforcement are made starkly evident. This book, along with *Humanity in Warfare*, would be essential to library collections on the law of war. Students of history, political science and international law will benefit from these books as starting points for understanding the subject of the international humanitarian law.

Chesterman, Simon. 2001. *Just war or just peace?: Humanitarian intervention and international law*. Oxford and New York: Oxford University Press.

This book is concerned with the question of whether humanitarian intervention is permitted under international law. In the initial chapters, the author presents historical antecedents to a right to humanitarian intervention, and arguments for and against such intervention. His

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<sup>1</sup> Best, Geoffrey. *Humanity in Warfare*. New York: Columbia University Press, 1983.

conclusion is that unilateral humanitarian intervention is not permitted under the Charter of the United Nations or under customary international law. He further argues that a right to intervene in defense of democracy is not legally accurate or politically desirable because it is prone to abuse. Examples of United States intervention in Grenada and Panama are discussed in this context. This book presents a thorough historical analysis of cases in the 1990s that do not lend themselves to simple answers: Iraq, Yugoslavia, Somalia, Rwanda, Haiti, and Kosovo, among others. The last section of the book explores whether unilateral humanitarian intervention is illegal under international law, on the one hand, and the necessity to do something in the face of genocide and large scale human rights violations on the other. The author argues that humanitarian interventions are likely to continue because the penalty for taking such military action is minor or non-existent. However, according to this author, the proliferation of unilateral intervention as a solution to moral problems is counterproductive and would lead to more interventions being undertaken for reasons of national self-interest. The author argues for the development of international law on intervention that would emerge from multilateral policy decisions that seek to stop gross violations of human rights.

Crawford, Emily. 2010. *The treatment of combatants and insurgents under the law of armed conflict*. Oxford: Oxford University Press.

This important book, based on the author's doctoral thesis, provides a detailed and cogent analysis of a subject of increasing relevance to current and future armed conflicts. This subject is the treatment of combatants and insurgents in international humanitarian law. The author concludes by recommending a unified body of international law on the treatment of combatants and insurgents that would be applicable in all armed conflicts. The first chapter of this book reviews the distinction between international and non-international armed conflict as it relates to combatant status, particularly after World War II in the Geneva Conventions of 1949 and upheld in the 1977 Additional Protocols. This chapter demonstrates that there is a substantial body of law that applies equally to international and non-international armed conflicts. However, there is much law that remains unique to international armed conflict and that does not apply to non-international conflicts. The remainder of the book is an explication of how this gap might be bridged by having a body of international law covering all participants in armed conflict regardless of the classification of the conflict. The gap might be filled by looking at international human rights law which provides further rules on the treatment of prisoners in non-international armed conflict. The author examines the benefits of a unified regulatory approach to armed conflict that would cover all participants in armed conflicts, and theorizes a possible model for harmonization of the law based on both international humanitarian law and human rights law.

Cullen, Anthony. 2010. *The concept of non-international armed conflict in international humanitarian law*. Cambridge and New York: Cambridge University Press.

This book is a study of non-international armed conflict in international humanitarian law. One aim of this book is to clarify misconceptions about non-international conflict in international humanitarian law. Late twentieth century and early twenty-first century conflicts have been mostly non-international involving non-state actors. Therefore, this book is a significant contribution to the study of the distinctions between international and non-international conflicts, and the distinctions between non-international armed conflicts and other violent conflicts that do not meet this threshold. The first part of the book treats the development of the concept of non-international armed conflict from the Hague Conventions of 1899 to its establishment as a separate category of conflict in the Common Article 3 of the Geneva Conventions of 1949, and the changes brought about by the adoption of Additional Protocols I and II in 1977. The second part of the book analyzes the definition of non-international armed conflict put forth by the International Criminal Court for the former Yugoslavia. The author contends that the definition of non-international armed conflict provided by the case law of the International Criminal Tribunals for the former Yugoslavia are the most authoritative definition of the lower threshold for the application of international humanitarian law to non-international conflicts. The author further argues for a uniform concept of non-international conflict that can be found in the Rome Statute of the International Criminal Court. This book contains references to case law and an extensive bibliography, making it a valuable reference for students and scholars on this important and evolving area of international law.

Dinstein, Yoram. 2004. *The conduct of hostilities under the law of international armed conflict*. Cambridge and New York: Cambridge University Press.

This is the second edition of Professor Yoram Dinstein's seminal work that outlines the law of international armed conflict using sources of statutory and case law, as well as offering interpretation and commentary. The book is aimed at students of international law and military practitioners. It focuses exclusively on the law of international armed conflict between states, leaving the conflicts that occur within states outside the perimeter of subjects treated. Chapters treat topics related to the conduct of hostilities and the law governing such conduct: "Lawful Use of Force," "Prohibited Weapons," "Legitimate Military Objectives," "Protection of Civilians and Civilian Objects from Attack," "Measures of Special Protection," "Protection of the Environment," "War Crimes" and "Other Methods and Means of Warfare." Specific topics such as targeting of enemy commanders are analyzed in relation to existing customary international law and treaties in force. In the "General Framework," the author makes clear that the law of international armed conflict applies to both aggressors and those who are under attack. The author presents an objective and comprehensive overview of laws that affect all states that are parties to treaties covering the law of armed conflict, and the principles of customary law governing the conduct of such hostilities.

Dinstein, Yoram. 2009. *The international law of belligerent occupation*. Cambridge and New York: Cambridge University Press.

This book covers the law of belligerent occupation from the vantage points of the occupying power and the occupied territory. The first section provides a general framework of belligerent occupation in customary international law, the Hague Conventions, Geneva Convention IV and Additional Protocol I. The second section covers the conditions for establishment of a belligerent occupation regime, sovereignty and belligerent occupation, the military nature of the government in an occupied territory, protected persons in occupied territories, and the theory and practice of protecting powers. Following chapters concern the interplay between human rights and international humanitarian law, the maintenance of law and order, legislation by the occupying power, the judicial system in occupied territories, the protection of the civilian population, and the destruction and use of property. The book draws upon Professor Dinstein's extensive knowledge of Israel's occupation of the West Bank and Gaza, and Israeli court decisions related to the occupation of these territories. However, as Professor Dinstein states in the book's preface, this discussion is relevant to every occupied territory. Belligerent occupation has been a prominent feature of armed conflicts in the former Yugoslavia, Iraq, the Congo, Eritrea and Ethiopia. Given the current and future possibility of military officers serving in belligerent occupations, Professor Dinstein set out to write this book as a training manual as well as a reference work on this important subject. This book is an excellent primer on this developing area of international law.

Dinstein, Yoram. 2011. *War, aggression and self defense*. 5th ed. Cambridge and New York: Cambridge University Press.

This highly regarded book on the nature of war, and the legal instruments and principles governing it, has been updated in its fifth edition to include new case law from the International Court of Justice and other tribunals. The book also presents discussion of debates on such topics as the adequacy of legal actions specified by the United Nations Charter to counter aggression; pre-emptive strikes against terrorist groups; attacks by non-state actors; and extra-territorial law enforcement. This new edition contains less material on international humanitarian law and the law of belligerent occupation as these two subjects are covered in the author's recent books on these subjects. Rather, this book is a comprehensive historical and legal reference work on the nature of war and the justifications for going to war. Part One is titled "The Legal Nature of War" and contains chapters on the "Definition of War" and "The Course of War." Part Two is titled "The Illegality of War" and contains chapters on "Historical Perspective on the Legal Status of War" (Hague Conventions; League of Nations); "Contemporary Prohibition on the Use of Interstate Force" (United Nations Charter; Customary Law; Nuremberg and Post-Nuremberg Judgments). Part three is titled "Exceptions to the Prohibitions on the Use of Inter-State Force" (Concept of Self-Defense; Collective Security). There are tables of cases, treaties, Security

Council Resolutions and General Assembly Resolutions, making this an excellent reference for legal and military scholars, students and those involved in international relations.

Finkelstein, Claire, Jens David Ohlin, and Andrew Altman, eds. 2012. *Targeted killings: Law and morality in an asymmetrical world*. Oxford: Oxford University Press.

Post-9/11, the war on terror has redefined the nature of warfare, according to the eminent scholars writing in this volume. Conflicts now involve non-state actors, non-identifiable battlefields, civilian combatants and new military technologies that enable more precise attacks. This book of essays by legal, military and philosophy scholars addresses all of these issues. Within the context of moral and legal principles, and military strategy, the subject of targeted killings is analyzed in great detail. These essays are interdisciplinary in their approach, and give various sides of arguments on this rich subject. Sections of the book cover broad topics such as: Targeting non-combatants; Targeting killings and self-defense; Exercising judgment in targeted killing decisions. For example, essays focus on such questions as: “Targeted Killing: Murder, Combat or Law Enforcement?” (Jeff McMahan); “Targeted Killing as Preemptive Action” (Claire Finkelstein); “Targeting Co-Belligerents” (Jens David Ohlin); “Targeted Killing and the Morality of Hard Choices” (Michael Moore). An excellent introduction by Andrew Altman provides an overview of “Our Asymmetric World” and models used to combat terrorism. References, tables of cases and legal instruments are included making this an excellent reference for further research.

Fletcher, George P., and Jens David Ohlin. 2008. *Defending humanity: When force is justified and why*. Oxford and New York: Oxford University Press.

This book was written by international legal scholar Professor George P. Fletcher, and Jens David Ohlin, an expert in international criminal law. In presenting an analysis of self-defense as a reason for the use of force by states that is legal, the authors draw upon the principles of self-defense found in domestic criminal systems. One of the most important concepts presented in the book is that of “Legitimate Defense” which the authors base on the French language version of Article 51 of the U.N. Charter which refers to “*droit naturel de legitime defense*” – the natural right of legitimate self-defense. A major point of this book is that the rule of legitimate self-defense should be applied to determine whether the use of force by a state is justified. The authors present the six elements of legitimate defense, which are all subject to intense debate among legal scholars and in international diplomatic spheres. The arguments presented in this book, along with substantial references to international law, are an important contribution to understanding the justifications put forward for recent wars, such as the United States invasion of Iraq in 2003. This book is aimed at the general public, students and legal scholars.

Ford, Christopher A., and Amichai Cohen, eds. 2012. *Rethinking the law of armed conflict in an age of terrorism*. Lanham: Lexington Books.

This book contains essays by interdisciplinary experts which examine the challenges to international law presented by conflicts between states and non-state actors, such as international terrorist groups. The legal rules governing asymmetric warfare have been the subject of much debate and controversy. After 9/11, the debate has centered on the merits of military versus law enforcement legal frameworks to fight terrorism. This book puts this debate in historical context, and offers analysis of the development of international law since 2001. Essays based on the Israeli experience concern targeted killing, and the concepts of necessity, proportionality and distinction in nontraditional conflicts. Other essays concern human rights law, surveillance techniques, and other counterterrorism methods. In the final essay, Amichai Cohen presents the view that despite the controversial issues in post-9/11 counterterrorism, the rule of law has not become irrelevant or obsolete. Rather, according to this author, policymakers have made strong attempts to design counterterrorism strategies that stay within the boundaries of international law.

Gardam, Judith. 2004. *Necessity, proportionality and the use of force by states*. New York: Cambridge University Press.

This book addresses the important topics of necessity and proportionality in the decision by states to resort to force, and the principle of proportionality in the protection of civilians in international armed conflict. Further, these principles are discussed in relation to the conduct of non-international conflicts, conflicts involving United Nations forces, and the protection of combatants. After outlining the place of necessity and proportionality in restraining acts of force taken by states, chapter two provides historical background on the period prior to the adoption of the United Nations Charter in 1945. Each subsequent chapter begins with history of these principles in international law from the United Nations Charter through the first Gulf War 1990-91, and the Kosovo conflict. Chapters five and six of the book are devoted to the question of proportionality in unilateral and collective use of force. According to international humanitarian law, every use of force must take these principles into account, even decisions to use force as preemptive self-defense or to provide humanitarian aid. The cases of Kosovo, Serbia, Haiti, and East Timor highlight difficult questions on using force as an effective means of handling human rights abuses. This book provides well-researched and cogent background to current discussions of the law of the Right to Protect and humanitarian intervention, as well as pre-emptive self-defense. An extensive bibliography adds to the value of this book as an introductory text on this subject.

Gill, Terry D., and Dieter Fleck, eds. 2010. *The handbook of the international law of military operations*. Oxford and New York: Oxford University Press.

This handbook is a comprehensive guide to the many areas of international law that are relevant to the planning and conduct of military operations. The International Law of Military Operations is a new and developing area of international law that is based on three major areas of international law: *Jus ad bellum*, the law governing the use of force; *Jus in bello*, international humanitarian law or the law of armed conflict; *Jus post bellum*, law applicable to the transition from armed conflict to peace. The editors have compiled a guide to all of these areas of international law with the goal of showing how these areas interrelate in setting policy and in conducting military operations. The handbook is comprised of chapters written by distinguished scholars and military practitioners representing a wide spectrum of international viewpoints. Current topics are analyzed such as “Self-Defense Operations,” “Humanitarian Intervention,” “Targeted Killings,” “Private Contractors and Security Operations,” “Detention and the Treatment of Detainees,” “Prosecution of International Crimes,” and “Peacekeepers.” The handbook contains references throughout to pertinent international law and commentaries. A glossary and detailed index enhance the value of the handbook as a reference work for students, practitioners and scholars.

Hensel, Howard M., ed. 2005. *The law of armed conflict: Constraints on the contemporary use of military force*. Burlington: Ashgate Publishing.

This collection of well-researched and highly readable essays offers an excellent overview of issues related to the international law of armed conflict as of 2005. After an introduction written by the editor which previews all of the essays in the book, chapters treat the following topics: “Military Necessity and the War on Terrorism,” “Targeting Regime Leaders,” “Protection of Cultural Objects,” “Civilian Protection,” “Detention,” “War on Terrorism and Accountability of Armed Groups.” The chapter on targeting by Catherine Lotrionte provides policy makers with specific criteria for making these decisions as well as a framework for the debate on this subject. Howard Hensel, editor of this volume, in the chapter on “Protection of Cultural Property,” discusses the effectiveness of international treaty law and customary law. Regarding “Prisoners of War,” Françoise J. Hampson discusses the applicability of international humanitarian law to human rights law. George J. Andreopoulos provides an analysis of the war on terror and the accountability of armed groups by outlining the relevant international humanitarian law and human rights law. This scholar suggests that both areas of international law be recognized and enforced, rather than developing new standards to deal with the challenges of the war on terror. Each chapter contains notes and references, making this an ideal textbook for academic study and research.

Holzgrefe, J. L., and Robert O. Keohane, eds. 2003. *Humanitarian intervention; ethical, legal, and political dilemmas*. Cambridge: Cambridge University Press.

This series of essays, compiled after the genocide in Rwanda and the NATO intervention in Kosovo, addresses the conditions under which unauthorized humanitarian intervention is ethically, legally, or politically authorized. This book does not focus on specific situations such as Rwanda and Kosovo but discusses humanitarian intervention to ameliorate the conditions caused by state failure in many parts of the world. The scholars who contributed to this volume are from a variety of backgrounds including law, philosophy and political science. The book is divided into parts covering “The Context for Humanitarian Intervention,” “The Ethics of Humanitarian Intervention,” “Law and Humanitarian Intervention,” and “The Politics of Humanitarian Intervention.” Throughout, the tensions between the moral and ethical necessity of illegal intervention and the violation of state sovereignty are presented by different points of view. In the section on international law, the question is addressed of whether principles governing humanitarian intervention should be codified. The chapter on humanitarian intervention before and after 9/11 ties together many themes of the essays in this book by putting the debate on intervention in the context of the fight against terrorism. Post-9/11, justifications for intervention on the basis of necessity are more pervasive, as are the arguments for intervention to improve quality of life by removing repressive regimes. Whether these justifications are sufficient or valid, and whether interventions may bring about unintended harmful consequences, are the subjects of this important group of essays. The fundamental issues in this fine book continue to be relevant to students, scholars and those involved in foreign policy.

Kalshoven, Frits, and Liesbeth Zegveld. 2011. *Constraints on the waging of war: An introduction to international humanitarian law*. Cambridge and New York: Cambridge University Press.

The fourth edition of this introductory textbook published by the International Committee of the Red Cross, traces the development of international humanitarian law from its origins to the present. As such, it is an excellent introduction for students as well as a key reference work for international lawyers and scholars. The historical treatment begins by describing the developments during three periods: Hague Peace Conferences, League of Nations and post-World War II. The balance of the book is organized chronologically within two main parts covering pre-1977 Geneva Protocols and post-1977 developments. Sections are devoted to post-1977 rules governing the use of weapons and enforcement of international humanitarian law through the International Court of Justice, the International Criminal Court, and Yugoslavia, Rwanda and mixed Tribunals. Current developments such as the Third Additional Protocol of the Geneva Conventions, the Convention on Cluster Munitions and the International Committee on the Red Cross study on Direct Participation in Hostilities resulting in an Interpretive Guidance published in 2009, are discussed. Throughout this text, the problem of balancing humanity and military necessity is ever present. The authors contend that war is a reality that must be tempered by

adherence to and enforcement of international humanitarian law. The amelioration of the horrors of war is a pursuit that is essential, even if partially successful, given that the goal of outlawing war appears beyond the reach of nations.

Kolb, Robert, and Richard Hyde. 2008. *An introduction to the law of armed conflicts*. Oxford: Hart Publishing.

This book began as a training course for the Swiss military written by Robert Kolb. As such, it serves well as an introduction to the subject of the law of armed conflict for students and the general public. The book contains an extensive bibliography for further research. Chapters cover aspects of international humanitarian law, including: "Targeting," "Belligerent Reprisals," "Definition of Combatants," and "Prisoners, Civilians, and Noninternational Armed Conflicts." The book contains detailed references to treaty law and case law. Included are comprehension aids for students to review material in each chapter. The book is an excellent source for undergraduate and graduate courses covering the subject of the law of armed conflict.

Lewis, Michael, Eric Jensen, Geoffrey Corn, Victor Hansen, Richard Jackson, and James Schoettler. 2009. *The war on terror and the laws of war: A military perspective*. New York: Oxford University Press.

The strong contribution of this book to the literature on the laws of war is to provide a thorough analysis of the complexities of applying the laws of war to the war on terror. The seven chapters in this book are written by current scholars who are former military lawyers and judge advocates. Their collective experience provides an understanding of the laws of war that is linked to the actual practice of war. After September 11th, 2001, the United States declared the fight against terrorism to be an armed conflict and invoked the laws of war in this fight. In the first chapter by Professor Geoffrey S. Corn, the theme of the book is stated clearly that the law of armed conflict applies to the war on terror. After analyzing complex legal cases and arguments, Professor Corn suggests that a trigger of transnational armed conflict is needed to invoke the fundamental laws of armed conflict. This trigger will serve the interests of both the victims of war and the soldiers that engage in combat. This book is a concise and insightful treatise on the complexities of applying international humanitarian law to the war on terror.

Moir, Lindsay. 2002. *The law of internal armed conflict*. Cambridge: Cambridge University Press.

When this book was published, it filled a vacuum in the literature of international humanitarian law of non-international armed conflicts, covering both the applicable treaty-based and customary law. Chapters cover in detail Article 2 of the Geneva Conventions of 1949 and Additional Protocols I and II of 1977. Additional chapters provide a detailed analysis of the

*Tadic* decision of the International Criminal Court for the former Yugoslavia. The final two chapters cover the relationship of international humanitarian law and human rights law regarding non-international armed conflicts. The author contends that although international humanitarian law and human rights law both apply to internal armed conflicts, these areas of law are unfortunately not followed by parties involved in such conflicts. Containing references and bibliography, this book is a valuable reference on a subject receiving considerable analysis in current literature.

Neff, Stephen C. 2005. *War and the law of nations: A general history*. Cambridge and New York: Cambridge University Press.

This book is a history of war from antiquity to the twenty first century as seen through the perspective of international law. It is an intellectual history showing how western civilization developed legal frameworks to respond to the challenges of war. The value of this book for use by contemporary students and international lawyers is in cogently presenting the origin and development of concepts of international humanitarian law that are important today. These are: Just War Doctrine developed in the 17<sup>th</sup> century, and out of that the concepts of Necessity, Proportionality, and Rightful Intention; Law of Nations concept in the 18<sup>th</sup> century which established the concept of combatants of nations being moral equivalents who had the legal right to kill their adversaries and destroy enemy property; Legal rules on the conduct of war on the battlefield in the nineteenth century; Codification of the laws of war in the late nineteenth century; Post World War I and World War II developments of the League of Nations and the United Nations Charter; Development of the concept of self-defense as a rationale for the use of force in Article 51 of the United Nations Charter. The final chapter is devoted to the concept of war in response to terrorism, in particular the move from a sovereign rights approach (law enforcement) to a belligerent rights (military) approach.

Osiel, Mark. 2009. *The end of reciprocity: Terror, torture, and the law of war*. New York: Cambridge University Press.

This book is a scholarly analysis of the end of the Principle of Reciprocity by the Director of International and Criminal Law at the T.M.C. Asser Institute at The Hague. The author argues that reciprocity, a fundamental principle of international humanitarian law, may be applied differently to states fighting enemies that do not abide by such reciprocity. Specifically, this book discusses the United States war on terror with Al Qaeda. The first part of the book discusses reciprocity within international humanitarian law and United States law. This discussion illuminates the many legal and ethical ambiguities regarding the effectiveness and morality of the practice of reciprocity in the conduct of the war on terror. In a non-partisan analysis, this section of the book discusses philosophical and moral underpinnings of the debates on justifiable methods of fighting Al Qaeda, and underscores the value of bilateral reciprocity in international law. The second half of the book focuses on the limits of reciprocity in fighting enemies that do

not abide by it. Through a social science analysis of modern conflicts, the author concludes that reciprocity cannot function in conflicts with groups such as Al Qaeda. In its place, the author suggests the adoption of principles that would bring an “end to reciprocity” in the traditional sense of international law. The new principles that are suggested as substitutes for reciprocity revolve around two concepts: (1) Military Honor that would disavow torture and indefinite detention without charges as inconsistent with soldiers’ codes of honor, and (2) strengthening America’s reputation in the world by not engaging in these practices. This book contains over 200 pages of references to treaties and legal cases making it a serious work for scholars and students.

Rodin, David, and Henry Shue, eds. 2008. *Just and unjust warriors: The moral and legal status of warriors*. New York: Oxford University Press.

This book of essays by leading scholars presents new debates on the fundamental question of whether soldiers can be held responsible for fighting in an illegal or unjust war. Proceeding from Michael Walzer’s argument in his book *Just and Unjust Wars*<sup>1</sup> that soldiers on both sides of any war have equal rights and responsibilities, several essays in this book challenge this principle of “symmetry and independence,” and argue for a principle of “asymmetry and dependence” of rights and responsibilities. Essays in this book illuminate a wide range of analysis of the moral and legal status of soldiers in war. A historical treatment of the morality and law of war is provided by Jeff McMahan, Professor of Philosophy at Rutgers University, in the first essay. Sir Adam Roberts, Emeritus Fellow at Oxford University in International Relations, closes the book with an essay defending the principle of moral equality of combatants as a legal doctrine by presenting its historical philosophical development and references to its application. This collection of essays is a valuable contribution to the study of the morality of war and laws governing the conduct of war, and how these two areas impact one another.

Rowe, Peter. 2005. *The impact of human rights law on armed forces*. New York: Cambridge University Press.

This important book is an analysis of three branches of international law that impact armed forces today: military law, international humanitarian law, and human rights law. The book is organized into chapters dealing with the human rights of military personnel, the trial of civilians by military courts, human rights issues that arise during international armed conflict, non-international armed conflict and civil disorder, and multinational operations. Post-9/11 military operations involve an overlap of international human rights law and international humanitarian law. Current conflicts are often hard to define as either international or non-international given the participation of non-state actors crossing borders. Therefore, both human rights and humanitarian law apply to such conflicts. Multinational forces involved in conflicts within an

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<sup>1</sup> Walzer, Michael. 2006. *Just and Unjust Wars*. 4<sup>th</sup> edition. New York: Basic Books.

individual state are subject to laws and practices of their own military, plus human rights law and international humanitarian law. The final chapter of the book discusses the nature of intervention by multinational forces in order to protect civilians, and the legal parameters of actions taken in the arrest and detention of such civilians. This book is aimed at students of human rights law and military law, as well as military and legal professionals. The text is well supported by citations to legal cases, international conventions and treaties.

Schindler, Dietrich, and Jiri Toman, eds. 2004. *Laws of armed conflicts: A collection of conventions, resolutions and other documents*. 4th ed. Leiden and Boston: Martinus Nijhoff Publishers.

This compilation contains reproductions of the texts of conventions, draft conventions and resolutions on the law of armed conflicts which have been adopted since the codification movement started in the nineteenth century. In its fourth edition, this volume presents a comprehensive historical view of the laws of armed conflict. The introduction provides a clear and concise history of the laws of war starting in the late nineteenth century and continuing into the twenty-first century. Texts are organized into the following subject categories: "Methods and Means of Warfare," "Air Warfare," "Protection of Populations Against Effects of Hostilities," "Protection of Cultural Property," "Civil War," "Hostilities in Which United Nations Forces are Engaged," and "War Crimes." A very useful chronological list of texts is included. This historical overview will be a very useful outline of the law for those beginning to study the laws of war. Scholars and international lawyers also will find this volume an indispensable reference.

Schmitt, Michael N. 2011. *Essays on law and war at the fault lines*. The Hague: TMC Asser Press.

This collection of essays by Professor Michael N. Schmitt, Chairman of the International Law Department, United States Naval War College, draws together those of his articles published over the past two decades that have explored fault lines in the law of armed conflict. Each essay examines a particular issue in either the *jus ad bellum* (the law governing resort to force) or *jus in bello* (international humanitarian law) that has proven subject to current debate. Essays cover topics such as counterterrorism, cyber operations, asymmetrical warfare, assassination, environmental warfare and the participation of civilians in hostilities. This collection is very valuable for both students and scholars to become acquainted with Professor Schmitt's important scholarship in this area. This volume contains prodigious footnotes to treaty and case law, scholarly articles, books, and government publications, making it a valuable reference for further research.

Scott, Shirley V., Anthony John Billingsley, and Christopher Michaelson. 2010. *International law and the use of force: A documentary and reference guide*. Santa Barbara: ABC Clio.

The main subject of this book is *jus ad bellum*, the law on the use of force and the prevention of war. The book is aimed at the general public, students as well as practitioners in diplomacy and related fields, who want to gain an understanding of this complex subject in an accessible yet nuanced manner. The first three chapters are organized chronologically, giving a history of the development of international law on the use of force from the Hague Conventions of 1899 and 1907 through the United Nations Charter of 1945. Subsequent chapters concern topics such as: “Challenges to United Nations Charter Article 2(4),” “Right of Self-Defense,” “Crime of Aggression,” “Collective Security,” “Terrorism and the Use of Force,” “Invasion of Iraq.” An extensive bibliography is provided at the end of the volume, including books, journal articles and websites. This book provides excellent examples of primary source documents.

Singer, P. W. 2009. *Wired for war: The robotics revolution and conflict in the twenty first century*. New York: Penguin Press.

This timely book, written by Brookings Institution scholar on military affairs P.W. Singer, is a comprehensive treatment of how military robotics and unmanned systems technology are changing the modern battlefield. The first part of the book is a review of the unmanned systems currently in use, namely ground-based robots in Iraq and Afghanistan, and air drones frequently controlled remotely by pilots in the United States. The author then analyzes the strategic, social, and political implications that come with the development and use of these systems. In the chapter, “Digitizing the Laws of War and Other Issues of (Un) Human Rights,” the author examines the legal implications raised by unmanned systems. His contention is that current international laws, particularly the Geneva Conventions, are inadequate in dealing with the issues raised by these new technologies. Singer’s book provides a comprehensive introduction to the myriad legal and military issues that are evident as more unmanned systems are deployed. The book will serve as a primer for students as well as the general public on issues raised by technology on the battlefield, and contains extensive references making it very useful for further research.

Solis, Gary D. 2010. *The law of armed conflict: International humanitarian law in war*. Cambridge and New York: Cambridge University Press.

Written by a combat veteran and professor at the United States Military Academy at West Point, this is both a comprehensive reference book and a textbook for law students and upper-division undergraduates on the law of armed conflict. The first four chapters provide a history of the laws of war and a review of the sources for this legal material. Chapter four provides definitions and distinctions in language, namely of the law of armed conflict, international humanitarian law and human rights law. References to cases, codes and treaties are interspersed

through this historical section so that one gains a clear view of the development of the law governing conduct of hostilities between states. The remaining chapters treat specific treaties, codes and regulations on “Conflict Status,” “Individual Battlefield Status” (such as prisoners of war), “Military Necessity,” “Proportionality,” “War Crimes,” “Obedience to Orders,” “Torture,” “Targeting,” “Rules of Engagement,” “Attacks on Cultural Property,” “Conventional Weapons,” “Gas, Biological and Chemical Weapons.” An extensive list of references including books, articles, legal documents, and cases, is included at the end of the volume.

Teitel, Ruti G. 2011. *Humanity’s law*. New York: Oxford University Press.

An internationally recognized authority on international law and international human rights, Professor Ruti Teitel of New York Law School has written a book that explores a paradigm shift in international affairs. She states at the beginning of the book that states are no longer the main actors in international affairs. Instead, people and groups are the main actors. The content of international law is increasingly concerned with the interests and protection of individuals and groups. This is what the author calls “humanity’s law.” This developing, interdisciplinary field brings together important shifts in international human rights law, the law of war, and international criminal justice. Professor Teitel discusses new interpretations of the Universal Declaration of Human Rights, Geneva Conventions, and other principles of the law of armed conflict and criminal justice, to protect individual rights over the territorial rights of states. This book is a ground-breaking treatise on international law that will be illuminating for students, policy analysts and legal scholars. References and notes make this book a valuable work for further research.

Van Engeland, Anicee. 2011. *Civilian or combatant?: A challenge for the twenty-first century*. New York: Oxford University Press.

This book is a treatise on the important distinction between civilian and combatant in international humanitarian law. The author states that the purpose of international humanitarian law is to diminish the effects of war on both civilians and combatants. The crucial distinction between civilian and combatant is discussed in the first chapters. This distinction is unpacked and analyzed in the ensuing chapters dealing with the law of Geneva and the law of The Hague. The challenges of asymmetric conflicts, privatization, terrorism and weapons technology are analyzed in light of modern conflicts that blur the distinction between civilian and combatant. The author states that this distinction needs to be upheld by international humanitarian law. This book is a very current and important analysis of the international humanitarian law protecting both civilians and combatants.

Wilmshurst, Elizabeth, ed. 2012. *International law and the classification of conflicts*. Oxford: Oxford University Press.

This book is comprised of contributions by leading experts in the field of international humanitarian law on the distinction between international and non-international armed conflicts, and the distinction between these and other types of violent conflicts. The first section of the book treats the legal questions relevant to the classification of conflicts. The second section of the book includes ten case studies that put into practice the process of classification of conflicts. These case studies are about Northern Ireland, Democratic Republic of Congo, Columbia, Afghanistan, Gaza, South Ossetia, Iraq, Lebanon and the war against Al Qaeda. The legal ramifications of classification with respect to the use of force, detention of prisoners, and the relationship between international humanitarian law and human rights law are explored. The section on “Classification in Future Conflict” by Michael Schmitt contains chapters on “Cyber Warfare” and “Complex Battle Spaces.” This book is an outstanding compilation of papers by leading experts that would be suitable for students as well as scholars in the field.

Wippman, David, and Matthew Evangelista, eds. 2005. *New wars, new laws?: Applying the laws of war in twenty first century conflicts*. Ardsley, N.Y.: Transnational Publishers.

This volume of essays originated in a conference held in June 2003 co-sponsored by the Clarke Center for International and Comparative Legal Studies at Cornell Law School and the Cornell Peace Studies Program. The conference brought together an international group of legal scholars and representatives from academia, non-governmental human rights organizations, and United States and Canadian military establishments. The resulting book is a timely and valuable analysis of important problems on the conflict with Al Qaeda and international humanitarian law. The central question of these essays is: Do the laws of war need revision in the twenty-first century fight against terrorism? The book is divided into three parts. Part One examines conceptual, practical and legal problems arising out of applying international humanitarian law to the war against terrorism. The second part of this book contains two essays on targeting, one dealing with assassination and extra-legal killing (Kenneth Watkin), the other addressing the scope and utility of the concept of military objectives for the protection of civilians (Marco Sassoli). A third chapter discusses collateral damage and the principle of proportionality (Yoram Dinstein). The third and last part of the book offers two essays on law in occupied territory: Israel and the Occupied Territories (Kathleen Cavanaugh); Iraq (Phillip James Walker). This book is an excellent introduction to the study of the development of a revised international law of armed conflict post- 9/11.

## **Conclusions**

The current literature on international humanitarian law mirrors the critical issues in international relations today. The ongoing wars in Iraq and Afghanistan, the war on terror, unrest

in the Middle East, and conflicts in other areas of the world, will continue to provide the impetus for legal scholarship on the evolving and changing framework of international law governing armed conflicts. The principles of international humanitarian law as expressed in the Hague Conventions, United Nations Charter, Geneva Conventions and Additional Protocols, and customary law, are the subject of ongoing scholarly discourse that strives to modify legal frameworks to better address today's conflicts and security challenges. This literature is growing at a rapid rate. It is hoped that academic librarians supporting curriculum and scholarship in international law will find this annotated bibliography a foundational guide for building and expanding collections. This bibliography might be used to start a collection of monographs on international humanitarian law in smaller libraries that have not collected in this area. Moreover, the issues highlighted in these annotations provide an essential vocabulary for searching and monitoring of new literature in this dynamic and vital area of international law.