



Hors De Combat

Jens David Ohlin, Larry May



Hors De Combat:

The Legitimate Use of Military Force Howard M. Hensel, 2016-03-03 Throughout human history scholars, statesmen and military leaders have attempted to define what constitutes the legitimate use of armed force by one community against another. Moreover, if force is to be used, what normative guidelines should govern the conduct of warfare? Based upon the assumption that armed conflict is a human enterprise and therefore subject to human limitations, the Western just war tradition represents an attempt to provide these guidelines. Following on from the success of Hensel's earlier publication *The Law of Armed Conflict*, this volume brings together an internationally recognized team of scholars to explore the philosophical and societal foundations of just war tradition. It relates the principles of *jus ad bellum* to contemporary issues confronting the global community and explores the relationship between the principles of *jus in bello* and the various principles embodied in the customary law of armed conflict. Applying an interdisciplinary approach to analyzing and assessing the links between just war and the norms of behaviour, the book provides a valuable contribution to international law, international relations and national security studies.

The Law of Armed Conflict and the Use of Force Frauke Lachenmann, Rüdiger Wolfrum, 2017 This volume collects articles on the law of armed conflict and the use of force from the Max Planck Encyclopedia of Public International Law to facilitate easy access to content from the leading reference work in international law.

Killing in a Gray Area between Humanitarian Law and Human Rights Jan Römer, 2010-01-12 Armed forces can be confronted with the problem of correctly classifying a targeted group as one that is or is not party to an armed conflict. In particular, this happens in a context of a high level of violence where a non-international armed conflict is likely occurring at the same time, such as in Iraq, Afghanistan, Brazil or Mexico. The difficulty of qualifying the targeted group leads to a legal uncertainty in which it is unclear whether an operation is governed by international humanitarian law or the international law of human rights. The problem is of particular interest when lethal force is resorted to, as killing might be illegal under one of the two branches. The book attempts to provide guidance on how this uncertainty can be overcome. In order to do so, the requirements to kill under IHL and human rights law are analyzed and compared as well as assessed in concrete operations of the National Police of Colombia who face this problem on a regular basis.

The 1949 Geneva Conventions Andrew Clapham, Paola Gaeta, Marco Sassòli, 2015-10-15 The four Geneva Conventions adopted in 1949 remain the fundamental basis of contemporary international humanitarian law. They protect the wounded and sick on the battlefield, those wounded, sick or shipwrecked at sea, prisoners of war and civilians in time of war. However, since they were adopted, warfare has changed considerably. In this groundbreaking commentary, over sixty international law experts investigate the application of the Geneva Conventions and explain how they should be interpreted today. It places the Conventions in the light of the developing obligations imposed by international law on states, armed groups and individuals, most notably through international human rights law and international criminal law. The context in which the Conventions are to be applied and

interpreted has changed considerably since they were first written The borderline between international and non international armed conflicts is not as clear cut as was once thought and is complicated further by the use of armed force mandated by the United Nations and the complex mixed and transnational nature of certain non international armed conflicts The influence of other developing branches of international law such as human rights law and refugee law has been considerable The development of international criminal law has breathed new life into multiple provisions of the Geneva Conventions This commentary adopts a thematic approach to provide detailed analysis of each key issue dealt with by the Conventions taking into account both judicial decisions and state practice Cross cutting chapters on issues such as transnational conflicts and the geographical scope of the Conventions also give readers a full understanding of the meaning of the Geneva Conventions in their contemporary context Prepared under the auspices of the Geneva Academy of International Humanitarian Law and Human Rights this commentary on four of the most important treaties in international law is unmissable for anyone working in or studying situations of armed conflicts

The Oxford Guide to International Humanitarian Law Ben Saul, Dapo Akande, 2020-05-07 International humanitarian law is the law that governs the conduct of participants during armed conflict This branch of law aims to regulate the means and methods of warfare as well as to provide protections to those who do not or who no longer take part in the hostilities It is one of the oldest branches of international law and one of enduring relevance today The Oxford Guide to International Humanitarian Law provides a practical yet sophisticated overview of this important area of law Written by a stellar line up of contributors drawn from those who not only have extensive practical experience but who are also regarded as leading scholars of the subject the text offers a comprehensive and authoritative exposition of the field The Guide provides professionals and advanced students with information and analysis of sufficient depth to enable them to perform their tasks with understanding and confidence Each chapter illuminates how the law applies in practice but does not shy away from the important conceptual issues that underpin how the law has developed It will serve as a first port of call and a regular reference work for those interested in international humanitarian law

The Army Lawyer, 2007 *The Last Century of Sea Power, Volume 2* H. P. Willmott, 2010-03-22 An important contribution a thoughtful account of the years preceding the Second World War and at much greater length of the war itself History In this second volume of his history of naval power in the 20th century H P Willmott follows the fortunes of the established seafaring nations of Europe along with two upstarts the United States and Japan Emerging from World War I in command of the seas Great Britain saw its supremacy weakened through neglect and in the face of more committed rivals Britain's grand Coronation Review of 1937 marked the apotheosis of a sea power slipping into decline Meanwhile Britain's rivals and soon to be enemies were embarking on significant naval building programs that would soon change the nature of war at sea in ways that neither they nor their rivals anticipated By the end of a new world war the United States had taken command of two oceans having placed its industrial might behind technologies that further

defined the arena of naval power above and below the waves where stealth and the ability to strike at great distance would soon rewrite the rules of war and of peace This splendid volume further enhances Willmott's stature as the dean of naval historians Praise for The Last Century of Sea Power series The author dean of naval historians provides a sweeping look at and analysis of the transformation of naval power Willmott is fearless in his judgments Seapower H P Willmott is the finest naval historian and among the finest historians of any discipline writing today Bernard D Cole author of The Great Wall at Sea

Necessity in International Law Jens David Ohlin, Larry May, 2016-09-08 Necessity is a notoriously dangerous and slippery concept dangerous because it contemplates virtually unrestrained killing in warfare and slippery when used in conflicting ways in different areas of international law Jens David Ohlin and Larry May untangle these confusing strands and perform a descriptive mapping of the ways that necessity operates in legal and philosophical arguments in jus ad bellum jus in bello human rights and criminal law Although the term necessity is ever present in discussions regarding the law and ethics of killing its meaning changes subtly depending on the context

The Conduct of Hostilities under the Law of International Armed Conflict Yoram Dinstein, 2022-11-17 The only book addressed to both law students and military officers undergoing training in the law of armed conflict

Oslo Manual on Select Topics of the Law of Armed Conflict Yoram Dinstein, Arne Willy Dahl, 2020-05-14 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

Fighting and Victimhood in International Criminal Law Joanna Nicholson, 2017-10-12 The act of fighting or being a fighter has certain consequences in international law The most obvious example can be found in international humanitarian law where a distinction is drawn between fighters and civilians with fighters being military objectives and civilians being protected from attack Another example is from international human rights law where it has been held that the particular characteristics of military life have to be taken into account when interpreting the human rights of members of state armed forces This volume focuses on the field of international criminal law and asks the question what relevance does fighting have to victimhood in international criminal law Among the topics which are explored are how have international criminal courts and tribunals untangled lawful casualties of war from victims of war crimes How have they determined who is a member of an organised armed group and who is not What crimes can those who fight be victims of during hostilities When does it become relevant in international criminal law that an alleged victim of a crime was a person hors de combat rather than a civilian Can war crimes be

committed against members of non opposing forces Can persons hors de combat be victims of crimes against humanity and genocide What special considerations surround peacekeepers and child soldiers as victims of international crimes The author carries out an in depth exploration of case law from international criminal courts and tribunals to assess how they have dealt with these questions She concludes that the import of fighting upon victimhood in the context of international criminal law has not always been appreciated to the extent it should have been Commentary on the Second Geneva Convention

,2017-12-21 The application and interpretation of the four Geneva Conventions of 1949 have developed significantly in the sixty years since the International Committee of the Red Cross ICRC first published its Commentaries on these important humanitarian treaties To promote a better understanding of and respect for this body of law the ICRC commissioned a comprehensive update of its original Commentaries of which this is the second volume Its preparation was coordinated by Jean Marie Henckaerts ICRC legal adviser and head of the project to update the Commentaries The Second Convention is a key text of international humanitarian law It contains the essential rules on the protection of the wounded sick and shipwrecked at sea those assigned to their care and the vessels used for their treatment and evacuation This article by article Commentary takes into account developments in the law and practice to provide up to date interpretations of the Convention The new Commentary has been reviewed by humanitarian law practitioners and academics from around the world including naval experts It is an essential tool for anyone working or studying within this field **Colburn's United Service**

Magazine and Naval and Military Journal ,1870 *Colburn's United Service Magazine and Naval Military Journal* ,1870

Targeted Killing in International Law Nils Melzer,2008-05-29 A comprehensive analysis into the lawfulness of state sponsored targeted killings under international human rights and humanitarian law this book examines treaties custom and general principles of law to determine the normative paradigms which govern the intentional use of lethal force against selected individuals in law enforcement and the conduct of hostilities It also addresses the relevance of the law of interstate force to targeted killings and the interrelation of the various normative frameworks which may simultaneously apply to operations involving the use of lethal force Through a comprehensive analysis of treaties custom and general principles of law in light of jurisprudence doctrine and travaux preparatoires the author demonstrates that contemporary international law provides two distinct normative paradigms which govern targeted killings in situations of law enforcement and the conduct of hostilities Based on the resulting normative paradigms the author shows in what circumstances targeted killings may be considered as internationally lawful The practical relevance of the various conditions and modalities are illustrated by reference to concrete examples of targeted killing from recent state practice The book argues that any targeted killing not directed against a legitimate military target remains subject to the law enforcement paradigm which imposes extensive restraints on the practice Even under the paradigm of hostilities no person can be lawfully liquidated without further considerations As a form of individualized or surgical warfare the method of targeted killing requires a microscopic

interpretation of the law regulating the conduct of hostilities which leads to nuanced results reflecting the fundamental principles underlying international humanitarian law The author concludes by highlighting and comparing the main areas of concern arising with regard to state sponsored targeted killing under each normative paradigm and by placing the results of the analysis in the greater context of the rule of law The author has conceived and written this book in an entirely personal capacity and independently from his function as a Legal Adviser in the Legal Division of the ICRC The opinions expressed therein are his own and do not necessarily correspond to those held by the ICRC or its Legal Division

Targeted Killings and International Law Roland Otto, 2011-12-01 Existing international law is capable to govern the war on terror also in the aftermath of September 11 2001 The standards generally applicable to targeted killings are those of human rights law Force may be used in order to address immediate threats preventive killings are permitted under strict preconditions but targeted killings are prohibited In the context of armed conflicts these standards are complemented by international humanitarian law as *lex specialis* Civilians may only be targeted while directly taking part in hostilities and posing a threat to the adversary Also in Israel and the Occupied Territory these standards apply Contrary to the Israeli Supreme Court's view international humanitarian law is not complemented by human rights law but human rights law is to some degree complemented by international humanitarian law According to these standards many killings which would be legal according to the Israeli Supreme Court violate international law

Non-International Armed Conflicts in International Law Yoram Dinstein, 2014-08-21 This dispassionate analysis of the legal implications of non international armed conflicts explores the rules regulating the conduct of internal hostilities as well as the consequences of intervention by foreign States the role of the Security Council the effects of recognition State responsibility for wrongdoing by both Governments and insurgents the interface with the law of human rights and the notion of war crimes The author addresses both conceptual and specific issues such as the complexities of failing States or the recruitment and use of child soldiers He makes use of the extensive case law of international courts and tribunals in order to identify and set out customary international law Much attention is also given to the contents of available treaty texts primarily the Geneva Conventions Additional Protocol II and the Rome Statute of the International Criminal Court what they contain and what they omit

Customary International Humanitarian Law Jean-Marie Henckaerts, Louise Doswald-Beck, 2005 In 1996 the International Committee of the Red Cross alongside a range of renowned experts embarked upon a major international study into current state practice in international humanitarian law in order to identify customary law in this area This book is the result of that study a comprehensive analysis of the customary rules of international humanitarian law applicable in international and non international armed conflicts Given that important treaties in this area have not yet been universally ratified this is a publication of major importance carried out at the express request of the international community In so doing this study identifies the common core of international humanitarian law binding on all parties to all armed conflicts

The Military Commander's Necessity Sigrid Redse Johansen, 2019-10-03 The

idea of military necessity lies at the centre of the law of armed conflict and yet it is less than fully understood This book analyses which legal limits govern the commander s assessment of military necessity and argues that military necessity itself is not a limitation Military necessity calls for a highly discretionary exercise the assessment Yet there is little guidance as to how this discretionary process should be exercised apart from the notions of a reasonable military commander A reasonable assessment of excessive civilian losses are presumed to be almost intuitive Objective standards for determining excessive civilian losses are difficult to identify particularly when that excessiveness will be understood in relative terms The perpetual question arises are civilian losses acceptable if the war can be won The result is a heavy burden of assessment placed on the shoulders of the military commander

The Legal Regime of the International Criminal Court Jose Doria,Hans-Peter Gasser,M. Cherif Bassiouni,2009-06-24 This impressive and unique collection of essays covers important aspects of the legal regime of the International Criminal Court ICC The volume begins with an analysis of the historical development of the ICC the progressive development of international humanitarian and international criminal law by the ad hoc Tribunals and the work of mixed national international jurisdictions The legal and institutional basis of the ICC is then dealt with in detail including the organs of the ICC war crimes crimes against humanity and crimes of aggression modes of liability before the ICC and defences before the ICC Part III focuses on the court at work including its procedural rules criminal proceedings at the ICC penalties and appeal and revision procedures Part IV deals with the relationship of the ICC with states and international organizations The contributors are established scholars in the field of international criminal and humanitarian law many of whom are practitioners in the various tribunals

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