

International Humanitarian Law for Public Policy Students 2018-19 Fall

General

Course Description

International Humanitarian Law (IHL), sometimes referred to as the law of armed conflict, was formulated after World War II to regulate the conduct of hostilities and protect civilians and persons *hors de combat*, and it is now applicable to a large number of conflict situations around the world. Through this course, specifically designed for non-law students, students will learn how armed conflicts are regulated, civilians protected, and violations punished. Students will examine the principles of IHL, and their application in practice. They will learn about the core principles of distinction, proportionality and military necessity in the conduct of armed conflict, the protection of civilians and prisoners of war, war crimes, crimes against humanity and genocide, enforcement through international courts and tribunals, and the development of IHL rules to apply to modern forms of 'warfare' such as the use of 'drones' and cyber warfare.

The course encourages a practical approach by considering the principles of IHL against recent real-life events. It will teach not only the principles and legal provisions, but when and how they are applied in practice, through in-class team exercises, discussions and a 2-class practical exercise at the end of the course.

Session 1 attendance: For any student considering taking this course, attendance at class 1 is required so that you can understand the format of the course, how the classes will be run, and the basic principles of international humanitarian law that will be referred back to throughout the course.

Learning Outcomes

By the end of this course, students will be able to:

1. Identify the basic principles of international humanitarian law, and their sources, and understand how they are monitored and enforced.
2. Analyse and critically discuss the application of the core principles of IHL in practice.
3. Work in teams to evaluate a real life situation and apply the basic principles of IHL
4. Relate the core IHL principles to their application in practice.
5. Identify important sources of IHL information and understand how IHL principles could be relevant to their future career.

Approach

This course emphasises developing the skills needed to assess real-life situations against international humanitarian law standards. It will be participatory and all students are invited to actively engage in each class. The course encourages critical thinking and problem solving through active class discussions and in-class team exercises on real-life situations. The final two classes will involve a two-class team exercise, where students will work together to propose a solution for an IHL 'crisis', applying the principles learned from the course to a mock scenario. In the first of these classes, students will be presented with the 'crisis' and they will work in teams to propose how it could be approached and present this in the next class, applying what they have learned.

Course Requirements and Grading

Students are required to do the readings for every class. This is an essential requirement for the course and it is expected that all the readings will be done. Students are also expected to be present and actively participate in each class. Please also see the policy on lateness and absences below.

The course will be graded as follows:

1. **Active participation & quizzes** will account for 50% of the grade: This comprises
 - attendance of all classes (except for medical reasons) and active participation in class throughout the course (15% of the overall grade)
 - evidence of having done the readings, including through 2 short graded quizzes worth 10% of the overall grade each (20% total), and
 - active participation in the final practical team exercise (held during the last two classes) (15% of the overall grade).
2. **A written exam** will account for 50% of the grade. Information on the date of the exam will be posted early in the term.

Please see **grading** below for more detail on the grading of the quizzes and exams.

Plagiarism and Academic Honesty

Plagiarism is extremely serious academic misconduct. Please make sure you have read and understand the 'Academic Dishonesty' part of the Student Handbook, the CEU Policy on Plagiarism and accompanying guidelines [LINK](#) and the CEU Code of Ethics [LINK](#).

Policy on attendance and lateness:

It is important that you attend all classes and come on time.

Missing 3 or more classes (other than for medical reasons or with prior approval) will result in failing the course.

Students who miss a class (apart from for medical reasons) will be asked to do a

Students who miss a class (apart from for medical reasons) will be asked to do a make-up assignment of 500 words based on the work done in that class. Please read the section of the Student Handbook on attendance so that you are aware of the School's policy.

It is particularly important that students attend the final two practical-exercise classes as these form part of the grade for the course and missing one will result in a 50% reduction in your grade for this element.

All classes will start on time and, out of respect for fellow students, anyone arriving more than 15 minutes late will be asked not to join the class, and to do a make-up assignment afterwards. Two late arrivals will be treated as an unexcused absence.

Office hours

****Office hours will be posted at the start of term****

Students are encouraged to contact me at any point in the term to discuss any issues they are having regarding the course.

Recording of lectures: Please be aware that recording of all or part of any class is not permitted without express agreement from all present. This includes taking phone or tablet photos in class. Please refer to the Student Handbook for the SPP policy on recording of lectures.

READING LIST

It is very important that you do the required reading before each class, as these form the basis for the work and discussions in class. The readings are also an essential part of the learning in the course. It is suggested that you do the required readings in the order they are listed. The number of pages in each reading is listed in bold and brackets as a guide to assist you in planning your reading. Additional reading and/or resources are suggested each class, which can enhance your knowledge of the topic and/or provide another perspective.

Please note: specific pages that should be read are noted with an asterisk (*), if there are no pages or section specified, students should read the whole piece.

Please ensure that you check for any revisions to the syllabus before the class begins, in particular for any updates to the reading list (which will be highlighted as ****new****).

Basic Reference Texts:

There is no single textbook for this course. The website of the International Committee of the Red Cross (ICRC) is a key location for IHL resources:

ICRC, 'War and International Humanitarian Law' webpage: <https://www.icrc.org/en/war-and-law>

In particular, this ICRC 'Q&A' is a very useful resource for basic IHL information:

International Committee of the Red Cross, 'International Humanitarian Law: answers to your questions' (2015). <https://www.icrc.org/en/publication/0703-international-humanitarian-law-answers-your-questions>

Students should also refer to the following reference texts:

J.-M. Henckaerts and L. Doswald-Beck, Customary International Humanitarian Law (2005) (available online at <http://www.icrc.org/customary-ihl/eng/docs/home>)

ICRC, 'How does law protect in war' (cases and materials) [LINK](#)

Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, (Cambridge University Press, 2016).

Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War* (2nd Edition, Cambridge University Press, 2016).

Dieter Fleck and M Bothe (eds), *The Handbook of International Humanitarian Law* (3rd edition, Oxford University Press 2013).

Antonio Cassese, Guido Aquaviva, Mary Fan and Alex Whiting, *International Criminal Law Cases and Commentary*, (Oxford University Press, 2011).

Useful sites for additional research:

Joan Policastrì and Sergio D. Stone, 'Electronic Resource Guide: International Humanitarian Law', American Society of International Law [LINK](#)

Yale Law School, The Avalon Project: Documents in Law, History and Diplomacy -The Laws of War [LINK](#)

Geneva Call (NGO) Resources on IHL [LINK](#)



[Grading Criteria](#)



[Main Course Forum](#)

[Add a new topic to this forum](#)

1. Basic Principles of International Humanitarian Law

Session 1 attendance: For any student considering taking this course, attendance in class 1 is required so that you can understand the format of the course, how the classes will be run, the assignments, and the basic principles of international humanitarian law that will be referred back to throughout the course.

The purpose of this class is to introduce the origins of IHL, its sources and some of the basic principles that will

The purpose of this class is to introduce the origins of IHL, its sources and some of the basic principles that will be discussed in more depth in subsequent classes. In particular, the class will look at:

The definition and basic principles of IHL.

The history and origins of IHL.

Sources of IHL including the 1949 Geneva Conventions and the 1977 Optional Protocols.

The concepts of *jus in bello* and *jus ad bellum*.

The relationship between IHL and Human Rights Law, Refugee Law, and International Criminal Law.

Required Reading

When doing the ICRC readings, please particularly focus on the 5 areas listed above.

ICRC, The Rules of War in a Nutshell (video: 5 minutes) [LINK](#)

ICRC, 'The Geneva Conventions of 1949 and their Additional Protocols: (2014) [LINK \(1 page\)](#)

ICRC, 'International Humanitarian Law: answers to your questions' (2015), *pp. 4-25 [LINK \(19 pages\)](#)

Jean-Marie Henckaerts, 'Study on customary international humanitarian law: a contribution to the understanding and respect for the rule of law in armed conflict', 857 International Review of the Red Cross 175 (2005). ***p. 187 'summary of findings' to p. 197**. Please also look through the **Annex** (List of Customary Rules of IHL). [LINK \(10+14 pages\)](#)

Anne-Marie Slaughter, On Thinking like a Lawyer [LINK \(1.5 pages\)](#)

Additional Reading/Resources

International Committee of the Red Cross Advisory Service, 'What is International Humanitarian Law' webpage: [LINK](#)

UN Office of the High Commissioner for Human Rights (OHCHR), 'Fact Sheet No. 13, International Humanitarian Law and Human Rights' [LINK](#)

International Criminal Tribunal for the former Yugoslavia (ICTY), *The Prosecutor v. Dusko Tadic*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 2 October 1995. *Paragraphs 65- 145 ('lack of subject-matter jurisdiction') [LINK](#)

Kenneth Watkin, 'Controlling the Use of Force: A Role of Human Rights Norms in Contemporary Armed Conflict', 98 American Journal of International Law 1, 2004. [LINK](#)

Christopher Greenwood, 'The relationship between *ius ad bellum* and *ius in bello*', 9(4) Review of International Studies 221 (1983). [LINK](#)

ICRC, Refugees and displaced persons protected under international humanitarian law, Webpage: October 2010 [LINK](#)

Susan Harris Rimmer, 'Refugees, internally displaced persons and the 'responsibility to protect'', UNHCR New Issues in Refugee Research, Research Paper No. 185 (March 2010) <http://www.unhcr.org/4b97b0909.pdf>

2. International or Non-International Armed Conflict?

The purpose of this class is to consider the issue of classification of conflicts as either international or non-international. International armed conflict is between two or more states, while non-international armed conflict is between government forces and non-governmental armed groups, or between non-governmental armed groups only. Different legal rules apply depending on the classification of the conflict. This class will examine;

- 1) Classification of conflicts and why it matters.
- 2) Common Article 3 to the Geneva Conventions.
- 3) Modern challenges to conflict classification.

Required Reading

Start by doing this basic module from the ICRC: 'When does IHL apply?' (module 4 on the page) [LINK](#) (15-20 minutes)

Common Article 3 to the Geneva Conventions [LINK](#)

Article 1 of protocol II to the Geneva Conventions [LINK](#)

'How is the term "armed conflict" defined in international humanitarian law?', International Committee of the Red Cross Opinion Paper, March 2008 [LINK](#) (5 pages)

Sylvain Vit , 'Typology of armed conflicts in international humanitarian law: legal concepts and actual situations', 91 International Review of the Red Cross 873, March 2009. [LINK](#) (25 pages)

ICRC, 31st International Conference of the Red Cross and Red Crescent, 'International Humanitarian Law and the challenges of contemporary armed conflicts' (2011). *pp. 7-13. [LINK](#) (6 pages)

Additional Reading/Resources

Jann K. Klefner, 'Scope of Application of International Humanitarian Law', in D. Fleck and M. Bothe (eds) *The Handbook of International Humanitarian Law* (Oxford University Press, 2013). *pp. 12 to 60.

(eds) *The Handbook of International Humanitarian Law* (Oxford University Press, 2013), pp. 45 to 60.

Jelena Pejic, 'The Protective Scope of Common Article 3: more than meets the eye' 93(881) *International Review of the Red Cross* 189 (2011). [LINK](#)

ICRC, 'International Humanitarian Law and The Challenges of Contemporary Armed Conflicts', 28th International Conference of the Red Cross and Red Crescent, 2-6 December 2003 *pp. 3-27. [LINK](#)

M. Cherif Bassiouni, 'The New Wars and the Crisis of Compliance with the Law of Armed Conflict by Non-State Actors', 98(3) *The Journal of Criminal Law and Criminology* 711 (2008). [LINK](#)

Annyssa Bellal, Gilles Giacca, and Stuart Casey-Maslen, 'International law and armed non-state actors in Afghanistan', 93(881) *International Review of the Red Cross* 47 (March 2011).

Guillermo Otálora Lozano and Sebastián Machado, 'The Objective Qualification of Non-international Armed Conflicts: a Colombian Case Study', 4(1) *Amsterdam Law Forum* 58 (2012). [LINK](#)

Class 3 - Principles for the Conduct of Hostilities I: Distinction

The purpose of this class is to examine one of the fundamental principles of IHL: the principle of distinction. Distinction imposes limitations for the conduct of hostilities. In particular, it imposes;

- 1) Limitations on who can be attacked (no attacks on civilians).
- 2) Limitations on what can be attacked (no attacks on cultural objects, civilian objects, neutral zones), and
- 3) Limitations on how attacks can be carried out (prohibited weapons).

This class will consider the basic requirements of the principle of distinction, and examine them against its application and some of the issues of modern warfare.

Required Reading

Articles 48 - 56, Additional Protocol I to the Geneva Conventions (1977) [LINK](#) (3 pages)

ICRC, Rule 71 – Weapons that are by nature indiscriminate, [LINK](#) (2 pages)

ICRC, Rule 12 – Definition of Indiscriminate Attacks, [LINK](#) (2 pages)

Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War* (Cambridge University Press, 2nd Edition 2016). *pp. 268-276 ('distinction') and pp. 751 - 755 (A legal review of weapons to end of chapter), and pp. 775 - 778 (Ch. 20 cases and materials) (17 pages)

John J. Merriam, 'Affirmative Target Identification: Operationalizing the Principle of Distinction for U.S. Warfighters', 56 *Virginia Journal of International Law* 81 (2016) [LINK](#) *pp. 121-131 (Section C 'Synthesis of

Warfighters, 30 Virginia Journal of International Law 84 (2016) [LINK](#) pp. 121-131 (Section C: Synthesis of Criminal Law and State Practice') (10 pages)

Nils Melzer, 'Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law', International Committee of the Red Cross, June 2009. *Part 1: Recommendations of the ICRC pp.15-19 (4 pages) [LINK](#)

United Nations, "Staggering" civilian death toll in Iraq- UN report' [LINK](#) (1 page)

Additional Reading/Resources

Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Law . Vol. 1, The Rules*, (Cambridge University Press, 2005). *Chapters 1 & 2 [LINK](#)

Marco Sassoli, 'Legitimate targets of attacks under international humanitarian law', Background paper prepared for the Informal High-Level Experts Meeting on the Reaffirmation and Development of International Humanitarian Law, Cambridge, 27-29 January 2003 [LINK](#)

'The Principle of Distinction Under International Humanitarian Law' in Nils Melzer, *Targeted Killing in International Law* (Oxford University Press 2008) *pp. 300-328.

International Committee of the Red Cross, 'The Principle of Distinction' in *How does Law Protect in War?* (2014). [LINK](#)

"The use of barrel bombs and indiscriminate bombardment in Syria: the need to strengthen compliance with international humanitarian law", Statement by Mr. Paulo Sérgio Pinheiro, Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic, Presented at a side event hosted by the Permanent Mission of Austria and Article 36 Geneva, 12 March 2015 [LINK](#)

Michael N. Schmitt, 'The Principle of Discrimination in 21st Century Warfare', 2(1) Yale Human Rights and Development Journal, Article 3 [LINK](#)

Class 4 - Principles for the Conduct of Hostilities II: Necessity and Proportionality

The purpose of this class is to examine the core IHL principles of necessity and proportionality. Combined with the principle of distinction discussed in the previous class, necessity and proportionality make up the three fundamental principles for the conduct of hostilities. These principles are aimed at protecting civilians and civilian objects from unlawful attacks and ensuring that attacks are focussed on legitimate military targets.

Required Reading

Articles 51, 57 & 58, Additional Protocol I to the Geneva Conventions (1977) [LINK](#) (3 pages)

Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War* (Cambridge University Press, 2nd Edition 2016). *‘Military Necessity’ & ‘Proportionality’ pp. 276-305 (29 pages)

Samuel Estreicher, ‘Privileging Asymmetric Warfare (Part II)?: The “Proportionality” Principle under International Humanitarian Law’, 12(1) *Chicago Journal of International Law*, Article 7. [LINK](#) (13 pages)

Additional Reading/Resources:

Jean-Marie Henckaerts and Louise Doswald-Beck (eds), *Customary International Law . Vol. 1, The Rules*, (Cambridge University Press, 2005). *Chapter 4 (see in Particular, Rule 14) [LINK](#)

Enzo Cannizzaro, ‘Proportionality in the Law of Armed Conflict’ in A. Clapham and P. Gaeta (eds) *The Oxford Handbook of International Law in Armed Conflict* (Oxford University Press, 2014). [LINK](#)

Janina Dill, ‘Applying the Principle of Proportionality in Combat Operations’, Policy Briefing, Oxford Institute for Ethics, Law, and Armed Conflict, December 2010. [LINK](#)

Michael Bothe, ‘The Protection of the civilian population and NATO bombing on Yugoslavia: Comments on a Report of the Prosecutor of the ICTY’, (2001) 12(3) *European Journal of International Law* 531. [LINK](#)

Jason D. Wright, ““Excessive” ambiguity: analysing and refining the proportionality standard, 94 *International Review of the Red Cross* 886. [LINK](#)

Rogier Bartels, ‘Dealing with the Principle of Proportionality in Armed Conflict in Retrospect: The Application of the Principle in International Criminal Trials’, 46(2) *Israel Law Review* 271 (2013).

W. Michael Reisman, ‘Compensating Collateral Damage in Elective International Conflict’ (2013) Faculty Scholarship Series, Paper 4931. [LINK](#)

Class 5 - Protected Persons & Prisoners of War

The purpose of this class is to examine in more detail the specific protections afforded to ‘protected persons’ in armed conflict. This builds on the discussion in previous classes regarding the principles of distinction, proportionality and necessity. In addition to these principles, there are specific rules regarding the protection of civilians and civilian populations, and for prisoners of war. This class will consider:

1. Protected populations and protected persons, such as women and children and other protected persons (medical and humanitarian personnel, journalists).
2. Requirements for the proper treatment of prisoners of war, including the prohibition of torture and the issue of ‘enhanced interrogation’, and the classification of ‘Prisoners of War’.

Required Reading

International Committee of the Red Cross, ‘Prisoners of War and detainees protected under international humanitarian law, [LINK](#) (2 pages)

Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, (Cambridge University Press, 2016). *‘Persons entitled to special protection’, *pp. 187-203 and ‘lawful and unlawful combatants’ pp. 41-45 (20 pages)

Médecins Sans Frontières, ‘Kunduz: Initial reaction to public release of U.S. military investigative report on the attack on MSF trauma hospital’, 29 April 2016 [LINK](#) (see also, ICRC, Customary IHL, ‘Hospital and Safety Zones and Neutralized Zones’, Rule 35 [LINK](#)) (2 pages)

Thomas Gibbons-Neff, ‘From “collateral damage” to “deeply regrets”: How the Pentagon has shifted on the Afghan hospital attack, *The Washington Post* October 6 2015. [LINK](#) (1 page)

ACLU Video: General Counsel Alberto Mora Said No To Torture (3 mins) [LINK](#)

Trevor Timm, ‘Torture is a War Crime that the Government Treats like a Policy Debate’ *The Guardian* 17 June 2015 [LINK](#)

Recommended Additional Reading

Report of the Secretary-General on the protection of civilians in armed conflict, UN Doc. S/2016/447 13 May 2016 [LINK](#) (19 pages)

Additional Reading/Resources

ICRC, ‘Combatants and POWs’ in *How does Law Protect in War* [LINK](#)

Marco Sassòli, ‘The Status of Persons Held in Guantanamo under International Humanitarian Law’ (2004) 2(1) *Journal of International Criminal Justice* 96.

Ray Murphy, ‘Prisoner of War Status and the Question of the Guantanamo Bay Detainees’, 3(2) *Human Rights Law Review* 257 (2003).

UK Ministry of Defence, ‘The Joint Service Manual of the Law of Armed Conflict,’ (2004) Chapter 8 ‘Prisoners of War’. [LINK](#)

Ryan Goodman, ‘The Detention of Civilians in Armed Conflict’, 103 *American Journal of International Law* 48 (2009). [LINK](#)

Jamal Barnes, ‘The ‘war on terror’ and the battle for the definition of torture’ 30(1) *International Relations* 102.

Report of the International Committee of the Red Cross (ICRC) on the treatment by the coalition forces of prisoners of war and other protected persons by the Geneva Conventions in Iraq during arrest, internment and interrogation, February 2004.

Afghanistan Independent Human Rights Commission and Open Society Foundation, ‘Torture, Transfers, and Denial of Due Process: The Treatment of Conflict-Related Detainees in Afghanistan’ (17 March 2012/ 27 Hoot 1390).

Rosa Brooks, ‘Civilians and Armed Conflict’ in Jared Genser and Bruno Stagno Ugarte (eds), *The United Nations Security Council in the Age of Human Rights* (Cambridge University Press, 2014)

ICRC, 'Addressing the Needs of Women Affected by Armed Conflict: An ICRC Guidance Document' (2004) [LINK](#) *(NB Annex: General and Specific Protection of Women under IHL, setting out the provisions relevant to the protection of women in conflict situations).

Class 6 - Violations I: War Crimes and Crimes Against Humanity

This class will start consideration of breaches of IHL, looking at what constitutes a crime under this body of law. In particular, this class will consider the two main categories of crimes: crimes against humanity and war crimes, their definitions and applications in practice.

Required Reading

Articles 5(1), 7 & 8 of the Statute of the International Criminal Court [LINK](#) (4 pages)

Antonio Cassese, Guido Aquaviva, Mary Fan and Alex Whiting, *International Criminal Law Cases and Commentary*, (Oxford University Press, 2011). *Pp. 117-122 (War Crimes) and pp. 154-168 (Crimes Against Humanity) (17 pages)

Report of the independent international commission of inquiry on the Syrian Arab Republic, UN Doc. A/HRC/23/58 (18 July 2013). [Please paste the title of the report into your search engine – it will appear for downloading from the UN Office of the High Commissioner for Human Rights' website] (20 pages) (Please be aware that there are some graphic descriptions in this report)

Yassin Al-Haj Saleh Opinion Pages - 'A Syrian's Cry for Help', The New York Times, Sept. 9, 2013 [LINK](#) (1 page)

'The International Criminal Court recognises rape as a war crime: The court's guilty verdict against a former Congolese commander marks a milestone', *The Economist* 22 March 2016 [LINK](#) (1 page)

Additional Reading/Resources

ICRC, 'crimes against humanity' in *How Does Law Protect In War?* [LINK](#)

M. Cherif Bassiouni, *Crimes against Humanity: Historical Evolution and Contemporary Application* (Cambridge University Press, 2011).

Human Rights Watch, *Genocide, War Crimes and Crimes Against Humanity: A Digest of the Case Law of the International Criminal Tribunal for Rwanda* (2010) [LINK](#)

Human Rights Watch, *Genocide, War Crimes and Crimes Against Humanity: A Topical Digest of the Case Law of the International Criminal Tribunal for the Former Yugoslavia* (2006) [LINK](#)

Antonio Cassese, *The Oxford Companion to International Criminal Justice* (Oxford University Press, 2009).

Jose E. Alvarez, 'Crimes of States/Crimes of Hate: Lessons from Rwanda', 24 *Yale Journal of International Law*

365 (1999).

Payam Akhavan, 'Beyond Impunity: Can International Criminal Justice Prevent Future Atrocities?', 95 *American Journal of International Law* 7 (2001).

UN, Background Information on Sexual Violence used as a Tool of War, [LINK](#)

ICTY, 'Landmark Cases', Sexual Violence [LINK](#)

Todd Salzman, 'Rape Camps as a means of Ethnic Cleansing: Religious, Cultural and Ethical Responses to Rape Victims in the Former Yugoslavia', 20(2) *Human Rights Quarterly* 348 (1998) [LINK](#)

Class 7 - Violations II: Genocide

The purpose of this class is to examine the international law prohibiting genocide, looking at the definition, state obligations, and the identification of risk in real-life situations. It will also consider some of the political decisions that are connected to the prohibition of genocide, and the criticism that accompanies a decision to label (or not label) events as 'genocide'.

Required Reading

Article 6 of the Statute of the International Criminal Court [LINK](#) (1 page)

Office of the UN Special Adviser on the Prevention of Genocide, 'Analysis Framework'. [LINK](#) (4 pages)

Alison Des Forges/Human Rights Watch, 'Leave None to Tell the Story: Genocide in Rwanda' [LINK](#) *pp. 1-8 ('introduction' to 'the structure'), pp. 16-27 ('international responsibility'), section: "Butare: this is an extermination", **and** section: 'Ignoring Genocide'. Please note this report contains graphic descriptions that may be distressing. (42 pages) Additional note: the pagination of this report is problematic, please follow the headings indicated.

Samantha Power, 'Bystanders to Genocide: Why the United States Let the Rwandan Tragedy Happen' *The Atlantic Monthly*, September 2001. *I ('People Sitting in Offices') and XII ('The Stories We Tell') [LINK](#)

Additional Reading/Resources

Madeleine K. Albright & William S. Cohen (Chairs), 'Preventing Genocide: A Blueprint for U.S. Policymakers', Genocide Prevention Task Force (United States Holocaust Memorial Museum, The American Academy of Diplomacy, and the Endowment of the United States Institute of Peace, 2008) [LINK](#)

Romeo Dallaire and Krystel Carrier, 'Rwanda' in Jared Genser and Bruno Stagno Ugarte (eds), *The United Nations Security Council in the Age of Human Rights* (Cambridge University Press, 2014).

Samantha Power, 'A Problem from Hell: America in the Age of Genocide' (2013).

Philip Gourevitch, *We Wish To Inform You That Tomorrow We Will Be Killed With Our Families: Stories from Rwanda*, (Picador, 1998).

Martha Minow, 'Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence' (Beacon Press: 1999).

Sarah Sewell, Dwight Raymond, and Sally Chin, *Mass Atrocity Response Operations: A Military Planning Handbook*, Carr Center for Human Rights Policy, Harvard Kennedy School of Government, 2010. [LINK](#)

Chaim Kaufmann, See No Evil: Why America Doesn't Stop Genocide, *Foreign Affairs* July/August 2002 [LINK](#)

Edward Herman and David Peterson, *The Politics of Genocide* (NYU Press, 2010) *Reflections (viii-xviii) and Foreword (pp. 7-12).

George Monbiot, 'Left and libertarian right cohabit in the weird world of the genocide belittlers', *The Guardian*, 13 June 2011 [LINK](#)

Emma Gilligan, 'Redefining Humanitarian Intervention: The Historical Challenge of R2P', 12(1) *Journal of Human Rights* 21 (2013).

Class 8 - Violations III: Enforcement through Tribunals

This class will consider the enforcement of IHL against individuals through the use of international tribunals, from Nuremberg and Tokyo, to Rwanda and Yugoslavia, to hybrid tribunals and the International Criminal Court. It will discuss who can be held responsible, for what crimes, and how. It will also give critical consideration of the choice of punishment (the concept of 'victors justice'). This class will examine in particular:

- 1) Individual criminal responsibility.
- 2) Command/Superior responsibility.
- 3) Joint Criminal Enterprise.

Required Reading

Statute of the ICC, Articles (Articles 25, 27 & 28) [LINK](#)

Human Rights Watch, 'Entrenching Impunity Government Responsibility for International Crimes in Darfur' *XI Culpability of Individuals under International Law. [LINK \(7 pages\)](#)

Henry Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals* (3rd Edition, Oxford University Press, 2008). * pp.1298-1309: Ch. 14B – The International Criminal Court (**11 pages**).

Marlise Simons, 'Congolese Politician, Jean-Pierre Bemba, Sentenced to 18 years for War Crimes', *The New York Times* 21 June 2016. [LINK \(2 pages\)](#)

Julian Ku and Jide Nzelibe, 'Do International Criminal Tribunals Deter or Exacerbate Humanitarian Atrocities?' 84(4) *Washington University Law Review* 776 (2006) *pp.816-833. [LINK \(17 pages\)](#)

Additional Reading/Resources

International Criminal Court Elements of Crimes, [LINK](#)

ICRC, Factsheet, International Criminal Justice: the Institutions [LINK](#)

M. Chefi Bassiouni, *Introduction to International Criminal Law*, (2nd Revised Edition, Martinus Nijhoff 2012). *pp. 66-103, pp. 320-336, pp. 551-575.

William Schabas, 'Victor's Justice: Selecting "Situations" at the International Criminal Court', 43 J. Marshall Law Review 535 (2010) [LINK](#)

Gary Jonathan Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton University Press 2002).

Jacqueline R. McAllister, 'Bending the Arc How to Achieve Justice at the International Criminal Court', *Foreign Affairs* 3 August 2015 [LINK](#)

Anthony Lake and Roger Morris, The Human Reality of Realpolitik, *Foreign Policy* No. 4 (Autumn, 1971) [LINK](#)

Cedric Ryngaert and Anneleen Van de Meulebroucke, 'Enhancing and Enforcing Compliance with International Humanitarian Law by Non-State Armed Groups: an Inquiry into some Mechanisms', 16(3) *Journal of Conflict and Security Law* 443.

Steven R. Ratner, 'After Atrocity: Optimizing UN Action Toward Accountability for Human Rights Abuses', *Michigan Journal of International Law* 36(3) *Michigan Journal of International Law* 541 (2015). [LINK](#)

Leigh A. Payne, Francesca Lessa and Gabriel Pereira, 'Overcoming Barriers to Justice in the Age of Human Rights Accountability', 37(3) *Human Rights Quarterly*, 728 (2015). [LINK](#)

Kamari Maxine Clarke, 'The Rule of Law Through Its Economies of Appearances: The Making of the African Warlord', 18(1) *Indiana Journal of Global Legal Studies* 7 (2011). [LINK](#)

Henry Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals* (3rd Edition, Oxford University Press, 2008). *Ch. 14c - Hybrid Tribunals: The Case of Sierra Leone.

Elies van Sliedregt, *Individual Criminal Responsibility in International Law* (Oxford University Press, 2012).

Antonio Cassese, *The Oxford Companion to International Criminal Justice* (Oxford University Press, 2009). *pp. 58-61, pp. 82-91 (requirements for prosecution, modes of liability).

Class 9 - Modern Warfare: The 'War on Terror', The use of Drones, and Cyber Warfare

The purpose of this class is to examine some issues of modern warfare that impact the application of IHL. It will examine:

1) Developments in IHL since the so-called 'war on terror'.

2) The application of IHL to Cyber Warfare and 'Drones' (Unmanned Aerial Vehicles).

Required Reading

ICRC, 31st International Conference of the Red Cross and Red Crescent, 'International Humanitarian Law and the challenges of contemporary armed conflicts' (2011). *pp. 36-40 ('1. New Technologies). [LINK \(6 pages\)](#)

ICRC, 'The applicability of IHL to terrorism and counterterrorism' (2015) [LINK \(6 pages\)](#)

ICRC, 'The use of armed drones must comply with laws', [LINK \(3 pages\)](#)

ICRC, 'International humanitarian law and private military/security companies' (2013) [LINK \(3 pages\)](#)

Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, UN Doc. A/HRC/25/59 (2014) *pp.5-20 [LINK \(15 pages\)](#)

Letta Tayler, 'The Truth about the United States Drone Program' *Human Rights Watch* 24 March 2014 [LINK \(1 page\)](#)

Jon Boone, 'US Drone strikes could be classed as war crimes, says Amnesty International' *The Guardian* 22 October 2013 [LINK \(1 page\)](#)

American Civil Liberties Union (ACLU) Video: An American Teenager Killed, A Grandfather Seeks Accountability (3 minutes) [LINK](#)

Additional Reading/Resources

Ben Saul, 'Terrorism and International Humanitarian Law' in Ben Saul (ed), *Research Handbook on International Law and Terrorism* (Edward Elgar, 2014), chapter 13. [Link Here](#)

Jordan J. Paust, 'Self-Defense Targetings Of Non-State Actors And Permissibility Of U.S. Use Of Drones In Pakistan' 19(2) *Journal of Transnational Law and Policy* 237 [LINK](#)

Michael W. Lewis and Emily Crawford, 'Drones and Distinction: how IHL Encouraged the Rise of Drones', 44 *Georgetown Journal of International Law* 1127 (2013) [LINK](#)

Ryan Goodman, 'The Power to Kill or Capture Enemy Combatants', 24(3) *European Journal of International Law* 819 (2013) [LINK](#)

D. Kretzmer, 'Targeted Killings of Suspected Terrorists: Extra-Judicial Execution or Legitimate Means of Defence?' 16(2) *European Journal of International Law* 171 (2005).

Markus Wagner, 'The Dehumanization of International Humanitarian Law: Legal, Ethical, and Political Implications of Autonomous Weapon Systems', 47 *Vanderbilt Journal of Transnational Law* 1 (2014) [LINK](#)

NATO, *Talinn Manual on the International Law Applicable to Cyber Warfare* (2009) [LINK](#)

Cordula Droege, 'Get off my cloud: cyber warfare, international humanitarian law, and the protection of civilians', 94 (886) International Review of the Red Cross 533.

Michael N. Schmitt, 'Precision attack and international humanitarian law', 87(859) International Review of the Red Cross (2005). [LINK](#)

Amnesty International, "'Will I be next?' US Drone Strikes in Pakistan' (2013) [LINK](#)

UN Special Rapporteur on Counter Terrorism, 'Drone Inquiry' Report, 2013 [LINK](#)

ICRC Humanitarian Law and Policy blog, 'Cyberspace operations in armed conflicts and the proportionality rule', 29 June 2016 [LINK](#)

Louise Arbour, 'The Laws of War: Under Siege or Gaining Ground?' Speech by Louise Arbour, President & CEO of the International Crisis Group, on the occasion of the Kirby Lecture at the Australian National University, Canberra, 23 June 2011.

Class 10 - discussion class

This class provides the opportunity to recap the course so far, and discuss any questions that have arisen or aspects that are unclear.

We will also discuss recent events in Myanmar, Syria and other countries where there is a current risk of IHL violations. We will also briefly look at the protection regime relating to refugees under IHL.

****Required reading will be added two weeks before the class****

Additional Reading - Refugees:

ICRC, Refugees and displaced persons protected under international humanitarian law, Webpage: October 2010 [LINK](#)

Chatham House, 'Refuge from Inhumanity? War Refugees at the Intersection of IHL and Refugee Law', International Law Programme Meeting Summary 25 February 2015 https://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/Refuge%20from%20war
paste the above link into your browser]

Susan Harris Rimmer, 'Refugees, internally displaced persons and the 'responsibility to protect'', UNHCR New Issues in Refugee Research, Research Paper No. 185 (March 2010) <http://www.unhcr.org/4b97b0909.pdf>

Class 11 - Practical class exercise I

Not published to students

This class will be a team-based practical exercise. Instructions will be provided during class.

There is no specific reading this class, however, please take the opportunity to go back through the slides for the course so far.

Class 12 - Practical class exercise II - results and discussion

Not published to students

The purpose of this class is for the teams to present the results of the previous class' 'IHL crisis' practical exercise. Each team will give an oral presentation on their work to the class, after which there will be a class discussion on the exercise, focussing on how the crisis could be approached and how IHL principles could be applied.

Please note: There is no required reading for this class so that you have time to prepare for the presentation of the outcome from the practical exercise, and the exam.