

## REPORTS AND DOCUMENTS

# What's new on *How Does Law Protect in War? Online*

Annual update on new content and case studies published from January–December 2018\*

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The annual update on *How Does Law Protect in War? Online* presents new international humanitarian law (IHL) content, including case studies and other teaching materials, that have been published on the platform. This issue's update covers the year 2018.<sup>1</sup>

Some forty new case studies and three thematic highlights were published in 2018, bringing the total number of available case studies to 440. These new teaching materials are presented below. Case studies were prepared by students of the University of Geneva's Faculty of Law, and the Geneva Academy of IHL and Human Rights, under the supervision of Professor Marco Sassòli from the University of Geneva and Ms Yvette Issar, former research assistant at the University of Geneva. The International Committee of the Red Cross (ICRC), through its Law and Policy Forum, has provided technical and promotional support for this content and managed the platform.

### Using case studies in IHL teaching

Teaching IHL with case studies offers many benefits. First and foremost, learning is acquired and integrated into long-term memory more easily when the methods used encourage participants to be actively involved. The fact that a case study is drawn from the realities of armed conflicts holds the students' attention because they can link it to daily life. It also allows them to understand the practical

\* This selection of case studies has been prepared by Alexandra Cahen, ICRC Academic Sector Associate.

## How Does Law Protect in War? Online

*How Does Law Protect in War? Online* is a platform adapted from the original reference Casebook published by the ICRC.<sup>2</sup> It was originally intended to support the teaching of IHL in universities in an interactive way, based on contemporary practice. The section on “The Law” features a general outline presenting IHL in fourteen chapters. It contains comprehensive bibliographic resources and links each theme to a range of related case studies and documents. The section on “The Practice” comprises more than 300 case studies and documents grouped either by theme or by region, or by type of document. They allow practice-oriented learning of IHL rules and interactive discussions through a series of questions. The “Pedagogical Resources” section provides useful advice on how to teach IHL, as well as twenty-nine model course outlines and other useful resources. The “A to Z” section presents 422 notions linked to IHL, their legal sources, the case studies in which they are addressed, and bibliographic resources for delving further into them. A [search engine](#) allows users to find rapidly the relevant pedagogical material they need on the platform.

implications of the law. Moreover, discussions in class or group work on case studies develop skills that are in high demand in the labour market and are too rarely taught in universities, such as critical thinking, problem-solving, negotiating and accepting diverse opinions. Finally, this method enriches the teacher–student relationship, which additionally stimulates the learning process.

### **New introductory texts in “The Law” section of *How Does Law Protect in War? Online***

The introductory texts for the chapters on “[Wounded, Sick and Shipwrecked](#)” and “[Criminal Repression](#)” were updated in 2018.

The introductory text on “[Wounded, Sick and Shipwrecked](#)” provides more detail on the role and protection of religious and medical personnel as well as medical transports, units and material.

The introductory text on “[Criminal Repression](#)” now offers more detailed explanations on the defences that are available to a person accused of war crimes. It also provides some additional insights on the international criminal courts.

1 Available at: [casebook.icrc.org/](http://casebook.icrc.org/).

2 Marco Sassòli, Antoine Bouvier and Anne Quintin, *How Does Law Protect in War?*, 3rd ed., ICRC, Geneva, 2011.

## New case studies, January–December 2018 (selection)

### Africa

- *International Criminal Court, The Prosecutor v. Germain Katanga* discusses the classification of the conflict taking place in Ituri between 1999 and 2003 as well as the war crimes perpetrated during that time.
- *Central African Republic/Democratic Republic of the Congo/Uganda, Lord's Resistance Army Attacks* discusses the classification of the situation in the Central African Republic as well as the different violations reported during these attacks.
- *Court of Justice of the European Union, Aboubacar Diakité v. Commissaire général aux réfugiés et aux apatrides* decided on the notion of “internal armed conflict” as understood in the 2004 European Union refugee directive for the purpose of granting refugee status or subsidiary protection.
- *African Commission on Human and People's Rights, Democratic Republic of the Congo v. Burundi, Rwanda and Uganda* examines the violations of international law allegedly perpetrated by Burundi, Rwanda and Uganda on the territory of Congo.
- *Democratic Republic of the Congo, Attacks Against and Military Use of Schools* focuses on the issues regarding education in the eastern Congo, most notably the alleged military use of and attacks against schools as well as reported recruitment of children in these schools.

### Asia and the Pacific

- *Afghanistan, Bombing of a Civilian Truck* examines a claim for compensation made by Afghan victims of an aerial bombardment requested by a German colonel. The case study discusses whether individuals have a right to compensation under IHL.
- *Sri Lanka, Naval War against Tamil Tigers* focuses on the challenges related to asymmetrical warfare as well as the principles governing conduct of hostilities, including in naval warfare, most notably the principle of distinction and the prohibition of perfidy.

### Europe and Central Asia

- *Spain, Universal Jurisdiction over Grave Breaches of the Geneva Conventions* analyzes the notion of universal jurisdiction with respect to the Geneva Conventions and especially the extent of the obligation on the High Contracting Parties to locate war criminals found on their territory and bring them before their courts.
- *United Kingdom, The Case of Serdar Mohammed (Court of Appeal and Supreme Court Judgments)* examines the legality of the detention of Mr Serdar Mohammed in Afghanistan after his capture by British armed forces, from the point of view of IHL, international human rights law (IHRL) and UN Security Council resolutions. This case study follows from the previous case *United Kingdom, The Case of Serdar Mohammed (High Court Judgment)*.

- *Eastern Ukraine, Attacks Against and Military Use of Schools* discusses the status of schools and their military use as well as children's right to education during armed conflict.
- *Eastern Ukraine, Office of the United Nations High Commissioner for Human Rights Report on the Situation: November 2016–February 2017* outlines some challenges to IHL and IHRL posed by the situation in Ukraine, namely conduct of hostilities, detention and humanitarian access.
- *Eastern Ukraine: Disputed Prisoner of War Status* examines the status of captured fighters and whether they should be awarded prisoner of war status.
- *Eastern Ukraine: Detention and Death Sentences by Armed Groups* discusses detention carried out by non-State armed groups as well as implementation of IHL by such groups in general.
- *Switzerland, Gold Looting Case* discusses the claim that a Swiss refinery company may have laundered gold that had allegedly been pillaged in the Democratic Republic of the Congo. The case study discusses possible IHL violations by a private entity and the protection of public and private property.
- *Switzerland, The End of Private Armies* examines the status of private military companies during armed conflict and the prohibition of private security services from directly participating in hostilities under Swiss law.
- *Italy, Use of Force against Ambulances in Iraq* discusses possible violations of IHL, most notably attacks against medical vehicles and misuse of the red cross emblem.

## Americas

- *USA, Guantanamo, End of "Active Hostilities" in Afghanistan* illustrates the impact that the notion of temporal scope of armed conflict can have on detention of individuals.
- *USA, Al-Shimari v. CACI Premier Technology, Inc.* highlights issues relating to private military companies under IHL as well as alleged abuses suffered by detainees.
- *USA, Jawad v. Gates* explores issues relating to minors in detention.
- *El Salvador, Supreme Court Judgment on the Unconstitutionality of the Amnesty Law* discusses the constitutionality of the Amnesty Law adopted after the non-international armed conflict in El Salvador, as well as its compliance with IHL.
- *Colombia, Peace Agreement* examines the peace agreement concluded as a special agreement under common Article 3 between the government of Colombia and the FARC.

## Middle East

- *Syria, The Battle for Aleppo* analyzes alleged violations of IHL and IHRL committed by the parties to the conflict during the battle for Aleppo between 21 July and 22 November 2016.

- *Israel/Palestine, Accountability for the Use of Lethal Force* discusses the obligation of the armed forces and armed groups to ensure that IHL is respected and to repress violations committed by their members.
- *Syria: Medical Support for ISIS* examines the situation of British medical students offering medical assistance to wounded soldiers belonging to the so-called Islamic State group.
- *Syria, Syrian Rebels Treat Captured Filipino Soldiers As “Guests”* discusses the situation of Filipino UN peacekeepers captured by Syrian rebels and how they were treated while in captivity.

## **New thematic highlights, January–December 2018**

“*War at Sea*” presents seven case studies that illustrate both the past and current challenges of naval warfare and maritime security. These cases allow lecturers, students and professionals to dig into some legal issues arising around the Second World War’s battles on the high seas, as well as various maritime questions related to contemporary conflicts, such as blockades and the distinction between civilian and military ships.

“*Detention in Armed Conflict*” underlines the need to strengthen IHL protection for detainees, specifically with regard to treatment and conditions of detention, protection of vulnerable individuals, grounds and procedures for internment, and transfer of detainees from one authority to another. This highlight presents seven case studies covering recent armed conflicts. They illustrate the treatment of detainees in general, detention of children and women, and the temporal scope of detention in particular.

“*“The Law”: Updated Introductory Texts and Users’ Survey*” gave the opportunity to users of the online casebook to fill out a survey and share their opinion on whether the introductory texts of the platform’s “The Law” section should be revised. The outcome of the survey showed a general demand to update the introductory texts.

“*Rights and Duties of Medical Personnel*” shows that people exclusively assigned to the performance of medical duties enjoy specific protections from attack and harm under IHL. They also have a duty to provide medical care to the sick and wounded without distinction, other than medical emergency grounds, and must treat these individuals humanely in all circumstances.

