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## Jonathan Crowe & Kylie Weston-Scheuber: Principles of International Humanitarian Law (Edward Elgar 2013)

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## BOOK REVIEW

## JONATHAN CROWE &amp; KYLIE WESTON-SCHEUBER: PRINCIPLES OF INTERNATIONAL HUMANITARIAN LAW (EDWARD ELGAR 2013)

Jonathan Crowe, an associate professor at the T.C. Beirne School of Law at the University of Queensland, collaborated over a ten-year period with barrister Kylie Weston-Scheuber to develop a brief yet versatile resource on international humanitarian law. The resulting text, *Principles of International Humanitarian Law*, provides an overview of the law that governs conflicts, including permissible methods of warfare and protected persons, while identifying motivating factors underlying the development and adherence to international humanitarian law.

Serving more as a primer than an analytical text on international humanitarian law, the authors explore the law of armed conflict through its history and philosophical foundations. Starting with “the basic values that unite human societies,” the authors identify the momentum behind creating a global legal regime to govern warfare — to solidify customary law principles that seek to mitigate the effects of warfare long after the conflict has ended. This common foundation for international humanitarian law resurfaces when considering multilateral treaty formation, weapons prohibitions, and state liability. Throughout the text, Crowe and Weston-Scheuber reaffirm the humanitarian basis for the development of laws governing conduct in warfare.

While focusing on international humanitarian law, the authors place the fundamental legal principles involved in armed conflict into context with auxiliary international legal doctrines, such as human rights law and international criminal law. The final chapter, Chapter 8, is devoted to individual liability, addressing how violations of international humanitarian law operate under international criminal law. In Chapter 6, the authors emphasize the broad scope of human rights law within the narrow scope of international humanitarian law — how human rights law contributes, but is subordinate, to international humanitarian law in armed conflicts. By addressing additional legal principles, the authors present the realistic development and application of international humanitarian law — it does not exist in a vacuum but consistently requires consideration of legal doctrines found outside of the principles of international humanitarian law. The authors dedicate an entire chapter to the parallels and tension between international humanitarian law and human rights law, posing thoughtful questions in response to the challenges in reconciling these two legal fields in armed conflict situations. For instance, while international humanitarian law applies in an armed conflict, the authors identify friction with the underlying application of human rights law, particularly where “international humanitarian law *requires* an action that international human rights law *prohibits*.”

In subsequent chapters, the authors avoided substantial commentary on current issues in international humanitarian law, but rather focused on the fundamental principles that guide international humanitarian law. While grappling with these fundamental principles, Crowe and Weston-Scheuber also discussed

challenges developing within conflict classification and the law of armed conflict — such as the 2006 conflict in Lebanon. This conflict raises concerns over the “delineation of the boundaries between types of conflict” since conflicts between a state (Israel) and non-state entity (Hezbollah) in the territory of another state (Lebanon) fall outside the typical classification of international armed conflict or non-international armed conflict. In re-emphasizing the common human values in international humanitarian law, the authors recognize, however, the variable respect for international humanitarian norms in conflict situations. Throughout the text, the authors encourage the reader to explore the real-life application of these rules and principles, such as ambiguities in the use of the term “right” and why conflict definitions are important in actual conflicts. The authors pose questions to readers on whether an organized criminal organization may be considered an organized armed group. Although the authors do not provide an answer, they instead demonstrate the complexity involved in classifying conflicts, combatants, and permissible means and methods of warfare.

While generally providing a broad perspective on the development and application of international humanitarian law, the authors overlooked a few opportunities to emphasize the full extent of the global support for these principles. Integrated throughout the book is a focus on the ethical and philosophical basis behind the codification of international humanitarian law principles within customary international law and the Geneva Conventions. As a result, the book primarily provides a western-centric discussion of the Greek and Roman contributions to the laws of armed conflict, while avoiding discussion of other cultural underpinnings that supported the global adoption of the fundamental principles that govern conduct in war. Despite these minor critiques, the book provides a clear and concise explanation of fundamental principles of international humanitarian law. The authors successfully incorporate the philosophical, ethical, and legal context and demonstrate that the “continued effectiveness” of international humanitarian law “depends not so much on the formal status of the applicable legal documents, as on the continuation of the international spirit of cooperation that those documents reflect.”

In just 191 pages, the authors manage to develop a resource that will be useful to a range of readers. Logically organized to progress through more nuanced principles in international humanitarian law, each chapter begins with a concise overview of the topic to be addressed while referring back to principles and treaties discussed in prior chapters. This structure allows the reader to proceed methodically through the text or to quickly skim the chapter on protection of civilians to understand prohibited attacks. As a student, you would reach for this book to help provide a basic understanding of the Geneva Conventions and the foundations of international humanitarian law as expressed in the *Tadi* opinion by the International Criminal Tribunal for

the former Yugoslavia. As a practitioner, this book provides a useful review of basic concepts as well as extensive references to additional resources meant to expand on these fundamental principles in international humanitarian law. Crowe and Weston-Scheuber have skillfully developed a text that is accessible and

adaptable to a diverse group of readers, unraveling the complexity of international humanitarian law for all.

*Chelsea Zimmerman, a J.D. Candidate at the American University Washington College of Law reviewed Principles of International Humanitarian Law for the Human Rights Brief.*

## SELECTED COVERAGE OF THE 150TH SESSION OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

*Below are three selected summaries of hearings at the 150th Session. For summaries of all hearings in both Spanish and English, please visit [www.hrbrief.org](http://www.hrbrief.org).*

### IMPACT OF “STAND YOUR GROUND” LAWS ON MINORITIES IN THE UNITED STATES

On March 25, 2014, Petitioners from numerous organizations and advocacy groups appeared before the Inter-American Commission on Human Rights (IACHR) to express concerns regarding the use of “Stand Your Ground” (SYG) laws in the criminal justice system in several U.S. states. High-profile cases such as the Trayvon Martin and Jordan Davis have brought the contentious issue of SYG laws to the attention of the American public, sparking serious debate over the constitutionality of SYG laws. At the hearing, Petitioners, including the mother of Trayvon Martin and father of Jordan Davis, detailed the racial bias inherent in the implementation of SYG provisions in self-defense laws and the need to reform these laws.

Petitioners argued that SYG provisions are incompatible with the right to life and the application of these laws have impeded justice for victims by giving individuals license to take the lives of others without reasonable justification. Petitioners further alleged that there is a disparity between the judgments in cases where a minority individual claims a SYG defense versus when a SYG defense is claimed in the shooting of a minority. According to the Petitioners, about forty percent

of cases in which a white individual shoots a minority person are deemed justifiable as opposed to around three percent of cases in which a minority person shoots a white individual.

A representative of the NAACP critiqued the laws for doing away with the requirement to retreat in the case of murder in self-defense, thus expanding the “Castle Doctrine” to include anywhere an individual may go rather than being limited to the home. The representative contends that this means that an individual can treat the entire state as their home and can aggressively defend themselves anywhere if put in reasonable fear for their life without being required to retreat before using deadly force.

Due to the uneven application of these laws within U.S. states, Petitioners are calling for reform at the federal level. Petitioners urge Congress to enact reasonable gun control laws such as background checks and the requirement that federal funding for state law enforcement be conditioned upon dropping SYG provisions from self-defense laws. Petitioners lamented that despite public calls for the repeal of SYG, the Florida legislature has in fact moved closer to passing more SYG-like laws such as the Warning Shot Bill, which protects individuals from liability when firing a warning shot.

The mother of Trayvon Martin and the father of Jordan Davis gave statements regarding their own fears for minority youths in the United States should SYG laws remain in their current iteration. Davis’ father stated that SYG laws give the power of judgment between life and death to the racial biases and suspicions of individuals. He called for SYG provisions to be rewritten in order to avoid more murders of innocent people, stating that under SYG laws, the deaths of his son and many others have simply been classified as collateral damage.

The Free Marissa Now campaign, an alliance of activists and organizations, is working to free Marissa Alexander, an African American woman currently imprisoned for firing a warning shot as her husband attacked her. A representative from the campaign also stressed the existence of racial and gender bias against black women inherent in the SYG laws, highlighting Marissa’s case. Marissa fired a warning shot as her husband assaulted, strangled, and threatened to kill her. The shot did not injure her husband, who fled the home after the shot was fired. The court in her case determined SYG protections did not apply to Marissa, concluding that she was not put in sufficient fear of her life. She was consequently



*Impact of “Stand Your Ground” Laws on Minorities in the United States. Photo courtesy of Inter-American Commission on Human Rights.*