INTRODUCTION

The continued application of international human rights law in situations of armed conflict is the "new orthodoxy"[1] of our times. It is widely (although not universally) accepted that, as a matter of principle, international human rights law has a role to play in situations of armed conflict, particularly in internal armed conflicts and situations of occupation, as well as in peace support operations. Beyond the general proposition that human rights law remains applicable in armed conflicts there is, however, limited understanding of the legal, practical and political consequences of applying human rights. The crucial problem is no longer if human rights apply in armed conflicts but how they apply.[2] This is the question upon which this book is built; a question which has been lingering in the corridors of the United Nations, in courtrooms, military command centres and university lecture halls since the emergence of the international human rights regime after 1945, and is now very much present in legal writing and state practice. But notwithstanding rhetorical claims of the importance of human rights, the idea of resorting to human rights in situations of armed conflict still has the potential to divide scholars, governmental representatives, the military, judges, civil society organizations and the public.

Some may perceive the very topic of human rights in armed conflict as cynical, given that war is the antithesis and negation of everything for which human rights stand: human dignity and physical integrity, prosperity, justice, equality, peace and security – all gone when war is waged. In their view, the Universal Declaration of Human Rights of 1948 (UDHR) was meant to secure peace and prevent the recurrence of the kind of atrocities which had inspired its adoption, but should not be abused to regulate matters of warfare. Human rights, they may argue, should keep well away from this area, given that a highly specialized legal regime – the law of armed conflict or international humanitarian law – already regulates matters of armed conflict. Given that war has been assigned its own law with a formidable history of codification, there is no place for human rights on the battlefield, and there should not be, such critics may claim.

Others might wish to argue to the contrary and maintain that it is precisely in times of war when human rights are needed most, so as to protect those affected by the use of force or the abuse of power. In their opinion, human rights and humanitarian law share the common purpose of protecting individuals from threats to life, security and livelihood in

[1] Orna Ben-Naftali, "Introduction: International Humanitarian and International Human Rights Law – *Pas de Deux*" in Orna Ben-Naftali (ed.), *International Humanitarian and International Human Rights Law* (Oxford: Oxford University Press, 2011), p. 5.

[2] See Noam Lubell, "Challenges in Applying Human Rights Law to Armed Conflict" (2005) 87(860) *International Review of the Red Cross* 738.

all times of crisis, violence and abuse. When, if not in times of war, they might say, should human rights really mean something? And why should human rights with all their unlimited universal appeal not also apply on the battlefield, as they do in all other spheres of human activity?

This book sets out to explore the legal challenges, practical consequences and policy implications of resorting to international human rights law in situations of armed conflict. It is, first and foremost, a study in international law. But it is not merely meant to be an analysis of the interplay of the two legal regimes of human rights and humanitarian law as a matter of legal theory; such a task has been performed elsewhere.[3] Of course, any discussion on human rights in armed conflict is necessarily (and perhaps predominantly) about this intricate and still unresolved relationship, and sufficient space will consequently be given to explore the interface of human rights and humanitarian law. However, such legal questions need to acknowledge historical developments, connect with policy considerations and ultimately lead to operational consequences.

The study is thus based on the view that the topic of "human rights in armed conflict" is not only about the legal intricacies of reconciling human rights and humanitarian law, but comprises profound questions about the purpose, nature and scope of the whole *jus in bello* as a legal framework which governs the use of armed force in conflict scenarios of various types between, within and across states, as well as in situations of occupation (and spills over into post-conflict situations). Important as the legal questions are (in this study and beyond), the debate on human rights in armed conflict is not only about rummaging around in the legal toolbox in search for ever more sophisticated devices to fix legal loopholes.

Even though this inquiry is primarily interested in matters of international law, it asks if and how the *idea* of human rights presently informs the legal regulation of warfare and challenges the traditions, customs and perceptions of the law of war, and if the *language* of human rights can and should be used to express matters hitherto articulated in military codes and humanitarian pathos. It is an inquiry into how the *law* of human rights impacts upon, contradicts, changes or complements international humanitarian law, and it is also interested in understanding if the *policy* of human rights (understood in its broadest sense as a set of conceptions and rationale for action which guide actors and institutions towards achieving a desired result) is compatible with or opposed to the aims, purposes and objectives of regulating warfare under the law of armed conflict as it stands. And finally, this study examines if the *practice* of human rights and their international institutions, procedures and mechanisms have a role to play in matters of armed conflict.

The book takes it for granted that the debate on human rights in armed conflict is neither a fleeting trend nor a rhetorical revamp of established humanitarian discourses but poses a considerable challenge for the law as well, in practice and policy. It is interested in the conditions, consequences and implications of resorting to international human rights law in situations of armed conflict and asks which space can and should be assigned to human rights in armed conflicts – legally, politically and operationally. In particular, it examines the claim that international human rights law can support international humanitarian law in its task to humanize war; a project which enjoys widespread rhetorical support but is plagued by legal uncertainties and remains controversial in legal doctrine and state practice.

[3] See René Provost, *International Human Rights and Humanitarian Law* (Cambridge: Cambridge University Press, 2002).

For (too) long the topic of human rights in armed conflict was confined to the theorists' study rooms and was dealt with in academic discussions with little impact on policy choices in matters of warfare or on the reality of the battlefield. This has changed over the past years, and human rights in armed conflicts are now very much also a question of (national and global) politics, military practice and international jurisprudence. This trend needs to be connected with legal theory and, more importantly, embedded in broader considerations of the laws which govern the conflict and violence of various forms. And it needs to be analysed as a transformative process in which the idea of human rights exercises an impact on the way we think about war today and are likely to think about it tomorrow.

Such an analysis of the idea, law, practice and policy of human rights in armed conflicts is meant to serve various purposes: first, this study is an attempt to take stock of where we stand in explaining the role of human rights in armed conflict, and to organize, contextualize and revisit, from a contemporary perspective, the debate on human rights in armed conflict, to which a great range of scholars and practitioners have contributed over time. Secondly, the book aims at determining the prospect and limitations – in law, practice and policy – of increasingly invoking international human rights law in armed conflicts. Thirdly, it seeks to explore the potential and benefits as well as the dangers and drawbacks of increasingly referring to human rights in armed conflicts, as well as the repercussions this has on human rights and humanitarian law and on the future of warfare. And finally, the debate on human rights in armed conflict needs to be contextualized with regard to broader developments and transformation processes in international law and international relations, such as the increasing acknowledgment of the individual as a subject of international law and agent of international relations, the shifting perception of security from national to human security, and trends of a "humanization" and "constitutionalization" of international law.

It is obvious that all contributions to the debate on human rights in armed conflict reflect the (self-)perception, traditions and background of the respective communities which participate in making, shaping and applying the law applicable in armed conflicts, whether they are humanitarian professionals, governmental representatives, human rights activists, military professionals or other stakeholders. This book is no exception and approaches its topic clearly from the perspective of human rights. It is an attempt to revisit the law of armed conflict from a human rights angle and suggests a human rights-oriented reading of the law(s) which govern armed conflicts. Like every other perspective of the law of armed conflict, this is not a neutral approach. Diverging viewpoints and critique on the feasibility, practicability and possibility of resorting to human rights in armed conflicts will be considered very seriously throughout this inquiry, but its main goal is to understand and evaluate the contribution which international human rights law can make to the further humanization of war.

The study is thus critical in its methodology but open about its overall humanitarian objective, based on the guiding view that the whole law of armed conflict is, from its very origins, largely a humanitarian project which is not indifferent to human suffering: it is created to make wars less brutal, cruel and painful. This book, too, is part of century-old endeavours to "humanize" war; an antinomy in its plain meaning but a realistic reflection of the continued existence of armed conflicts and the efforts to mitigate their effects through law. While it is rooted in existing law and established legal doctrine, it is thus transformative where it argues that increased reliance on and use of international human rights law is a positive trend, notwithstanding the legal, political and practical obstacles on the way. The

book's main hypothesis is that human rights impact upon and gradually change the *jus in bello* as we know it.

The book seeks to capture crucial developments, trends, experiences and expectations in the law, practice and policy of human rights in armed conflict, but it is not meant to trace the application of *all* international human rights law in *all* types of armed conflicts in detail.[4] Such a large-scale analysis is beyond its remit; indeed, it seems reminiscent of the amount of work that has gone into the study of the International Committee of the Red Cross (ICRC) on customary international humanitarian law, published in 2005, and perhaps ought to be conducted in a similar fashion.[5] Another question is also beyond the scope of this book: the human rights of members of armed forces towards their own government. The term "human rights in armed conflict" can be understood in many different ways, including as the human rights of soldiers as they carry out their duties; a field in need of further study.[6] The focus here is, however, on the way in which international human rights law protects, together with international humanitarian law, those affected by armed conflicts, first and foremost civilians.

Methodologically, the book covers the scholarly, jurisprudential and operational dimensions of the debate on human rights in armed conflicts. It builds on international legal scholarship, acknowledges the practice of states, non-state actors, international institutions and courts and international legal theory with due regard to the historic dimension of the topic. It takes into account relevant academic literature in the fields of international law, international relations and security studies, as well as military handbooks and manuals, evidence of state practice, opinions of legal advisers and international and national jurisprudence, the views and practice of international organizations as well as those of the ICRC.

Where the book traces the history of human rights in armed conflicts it is descriptive in a functional sense, as it asks why and how human rights have played a role in regulating armed conflict. Where it analyzes the law it is, necessarily, positivist in the sense of relying on established international legal doctrines of law-making and law enforcement by states as the primary actors in international law and politics. This book is, however, not only interested in *what* currently constitutes the law of armed conflict but also *why* we have the kind of law we have, and how the law might change if viewed from a human rights perspective. Given that the book is interested in exploring the historically, socially and politically contingent creation of the law of armed conflict, it ultimately builds on a constructivist view of international law and international relations and perceives and analyses the law applicable in armed conflict as a set of socially constructed agreements, influenced by an expanding range of stakeholders and shaped in processes not always under the full control of nation states.

A book which deals with international humanitarian law and armed conflicts needs a few words on terminology by way of introduction, particularly when the very notion of

[4] For a more exhaustive analysis of specific human rights norms in armed conflicts see Louise Doswald-Beck, *Human Rights in Times of Conflict and Terrorism* (Oxford: Oxford University Press, 2011).

[5] See Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law,* vol. I, *Rules* and vol. II, *Practice* (Cambridge: Cambridge University Press, 2005).

[6] See Peter Rowe, *The Impact of Human Rights Law on Armed Forces* (Cambridge: Cambridge University Press, 2006), pp. 1–162, and Gabriella Blum, "The Dispensable Lives of Soldiers" (2012) 2(1) *Journal of Legal Analysis* 70.

"humanitarianism" is part of its inquiry. The terms "international humanitarian law" and "law of armed conflict" are mostly used synonymously in textbooks and treatises. At times, the former indicates more of a "humanitarian" approach or an affiliation with the humanitarian community, while the latter sometimes suggests more of a military perspective.[7] In substance, however, both terms equally refer to the contemporary legal regime, at the core of which are the four Geneva Conventions of 1949[8] and the two Additional Protocols of 1977,[9] accompanied by over 100 treaties and other legal texts as compiled, for example, in the treaty database of the ICRC.[10] This book, too, will often use the two terms synonymously and, like many other textbooks, set them apart from the "law of war" (or the "law(s) and customs of war") which describe the law as it stood prior to 1949 before the term "humanitarian law" was coined and the notion of "war" gradually gave way to "armed conflict" in the wake of the prohibition of war under the UN Charter.[11] But given that the very term "humanitarian" will be analysed and deconstructed at various occasions in this book, greater care for terminology seems necessary.

As mentioned, it is certainly true that today all of the law of armed conflict is humanitarian in nature, and the dichotomy between "The Hague law" (with its main interest in regulating conduct on the battlefield) and "Geneva law" (with its emphasis on humanitarian protection of those *hors de combat* and civilians) is overcome, as noted by the International Court of Justice (ICJ) in its Advisory Opinion in the *Nuclear Weapons* case of 1996: "they are considered to have gradually formed one single complex system, known today as international humanitarian law."[12] Yet, not all provisions of the law are, strictly speaking, "humanitarian" by nature, as some regulate other matters of importance for the parties at war.[13] And, more importantly, the notions of "humanity" and "humanitarianism" are neither static nor are they self-evident. They have evolved dynamically and need to be read in conjunction with their counterpart, military necessity.

[7] See, for example, the textbooks by Daniel Thürer, *International Humanitarian Law: Theory, Practice, Context* (The Hague: Hague Academy of International Law, 2011) and Hans-Peter Gasser, *Humanitäres Völkerrecht: eine Einführung* (Baden-Baden: Nomos, 2007) – both authors are affiliated with the ICRC – and Gary D. Solis, *The Law of Armed Conflict* (Cambridge: Cambridge University Press, 2010), who is a (retired) member of the armed forces. Note, however, that Solis' book has the subtitle *International Humanitarian Law in Armed Conflict*. The author also refers to international humanitarian law and the law of armed conflicts as "fraternal twin[s]", p. 23.

[8] Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949, 75 UNTS 31; Geneva Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, 12 August 1949, 75 UNTS 85; Geneva Convention (III) Relative to the Treatment of Prisoners of War, 12 August 1949, 75 UNTS 135, Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 UNTS 287.

[9] Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977, 1125 UNTS 3, and Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-international Armed Conflicts, 8 June 1977, 1125 UNTS 609.

[10] See www.icrc.org/ihl (last accessed 15 April 2014).

[11] International humanitarian law is, however, inconsistent in its reference to "war" and continues using the term, e.g., in the rules on "prisoners of war." This book, too, will occasionally refer to "war" as a generic term.

[12] *Legality of the Threat or Use of Nuclear Weapons*, International Court of Justice, Advisory Opinion of 8 July 1996 [1996] ICJ Reports 226 ("*Nuclear Weapons* case"), para. 75.

[13] Examples are norms on neutrality or on the settlement of disputes in naval warfare.

Furthermore, the notion of "humanitarian" in humanitarian law remains misleading (particularly for those not aware of its genesis and current use) for the way it seems to put humanitarian considerations above all else. Even though such considerations are ever more dominant in the law and express a certain prioritization or direction of what the law ought to be and where it ought to move, it glosses too easily over the ever-present delicate balance between military necessity and humanitarianism which allows the "collateral" killing of civilians under the rule of proportionality.[14] Strictly speaking, "humanitarian law" is thus not merely a neutral descriptor of a legal regime. Where appropriate, the present study will consequently use the term "humanitarian law" to highlight the humanitarian (i.e., "Geneva") tradition and set it apart from the "law of armed conflict." At the same time, it seems unwieldy to scrutinize every single use of the terms "law of armed conflict" and "international humanitarian law," so that the larger part of the book follows the pattern of many textbooks to use them interchangeably.

In contrast, the term *jus in bello* ("the law in/of war") is used less frequently in the literature. Where this is done it usually serves to set apart the legal rules applicable *in* wars as opposed to the norms which govern the lawfulness of going *to* war (*jus ad bellum*). The term *jus in bello* is, however, of some importance in the context of this study which argues that there is more than one legal regime (i.e., international humanitarian law / the law of armed conflict) which can govern armed conflicts. Given that the present inquiry is interested in the way human rights and humanitarian law interact to form a law *for* armed conflicts (present and future), the term *jus in bello* is perhaps closest in describing such a broader and openly structured legal frame. When the term is used in this book it thus suggests that in armed conflicts norms are at work which may come from various fields of international law, predominantly international humanitarian law but also international human rights law, refugee law, international criminal law, international environmental law, etc. For the purpose of this book the term thus covers, in a descriptive sense, norms which are (potentially) applicable regardless of their provenance or specification under a particular field of international law. Analytically, the term is meant to allow for considerations whether the law applicable in armed conflict can, might and should be more comprehensive than we imagine it today.

The book is organized in five parts. Part I considers the topic and idea of human rights in armed conflict as a matter of (political and legal) thought. This part is interested in the ideas, trends and events which have shaped the law of war throughout history and in exploring how the law connected with the emerging idea of human rights, up to and including their contemporary convergence. It accompanies the law of war as it transcends its medieval foundations rooted in faith and chivalry and leaves behind the dominant intellectual discourse of the time, the just war theory, to settle in the rational humanity of the Age of Enlightenment. It considers the codification of the law of war in the positivist and technocratic spirit of the nineteenth century as a European *mission civilicatrice*; a self-sufficient Eurocentric project of law-making which understood humanity essentially as a grace requested by humanitarian activists and extended by noble officers. It analyzes the impact of the emergence of international human rights law in 1945 on the law of armed conflict (or humanitarian law, as it was renamed with the four Geneva Conventions of 1949), and discusses how the convergence of human rights and humanitarian law turned

[14] See Adam Roberts and Richard Guelff, *Documents on the Law of War* (3rd edn., Oxford: Oxford University Press, 2000), p. 31, and Solis, *The Law of Armed Conflict* (n. 7) pp. 22–24.

from a theoretical question to a practical problem since the World Conference on Tehran of 1968.

II frames the idea of human rights in armed conflict in legal theory and examines the interplay of international human rights law and humanitarian law under the three broad paradigms of exclusivity, complementarity and integration. This is a mapping and re-ordering of the debate on human rights in armed conflict with a particularly critical focus on the doctrine of *lex specialis* as the dominant but ultimately unconvincing descriptor of the relationship between human rights and humanitarian law. This part also discusses – with reference to examples of how human rights and humanitarian law complement each other – the variegated meanings of the favoured theory of complementarity between human rights and humanitarian law and argues that complementarity cannot be understood without acknowledging the transformational pull which human rights exercises, as it becomes integrated into the law of armed conflict.

III leaves theory behind and discusses the specific legal questions, challenges and commonalities which the concurrent application of human rights and humanitarian law brings with it. This part engages with the critique that, as a matter of law and practice, human rights cannot be applied in armed conflicts, given the paradigmatic differences between human rights and humanitarian law, including the contested extra-territorial reach of human rights law and the possibility of derogating human rights in armed conflict. It also considers operational and practical obstacles which the application of human rights in armed conflict may entail.

IV discusses human rights in armed conflict as a matter of policy and as a reflection of the dynamics of war and law. This part also seeks to do justice to the way in which international humanitarian law understands armed conflicts in the different categories of international and non-international and adjusts the debate on human rights in armed conflict accordingly. More importantly, however, it suggests that the changing character of what once was termed "war" is the driving force of the whole debate on human rights in armed conflict. It claims that international human rights law is indispensable in all forms of modern types of armed conflicts between, within and across states, up to and including the use of armed force in situations beyond the clear dichotomy of international and non-international armed conflict which blur the boundaries between law enforcement and war-fighting. This part also contextualizes the dynamics of war and law in larger developments of international law, which move the law from its inter-state character towards encompassing concern for "humanity" – in all the shades which this term displays.

V considers the application and enforcement of norms of human rights and humanitarian law as "humanitarian rights." It recognizes that the application of international human rights law in armed conflicts brings with it the institutional framework of human rights law with its proliferating councils, commissions, missions, procedures, mechanisms, bodies and courts, and examines their practice and potential for ensuring respect for human rights and humanitarian law alike. Based on lessons learned from the practice of the UN Human Rights Council, UN treaty bodies and the UN High Commissioner for Human Rights, as well as the Inter-American Commission and Court of Human Rights, the European Court of Human Rights and the African Commission on Human and Peoples' Rights, this part discusses the prospects of resorting to human rights bodies and asks if they can, and should, stand in for the well-acknowledged lack of enforcement of humanitarian law, and if so, what potential pitfalls this would entail.

The concluding chapter revisits and responds to the book's central hypothesis that human rights are the main driving force and an essential component, interpretative guidance and beacon for the present and future *jus in bello*, and that an approach to international humanitarian law which is based on human rights helps to bring the law in line with the humanitarian demands of today's world.

Part I

Human rights in armed conflict: history of an idea

The law of war has a tradition which stretches back hundreds, if not thousands, of years. Regulating warfare and stipulating rules for the appropriate behaviour of warriors was a matter of concern for philosophers and priests and for politicians and military leaders since antiquity. Their views, orders and customs were refined in the European Middle Ages and codified since the late nineteenth century so as to create the law of armed conflict – or international humanitarian law – of today. The history of this law is usually presented as a linear development from its ancient roots to twenty-first century humanitarian norms which unfolded within a clearly delineated space, i.e., war. Apart from developments of the past decades, human rights have no particular place in this script. International humanitarian law and human rights, it is argued, have historically evolved along entirely different and separated lines and have "totally different origins."[1] If any relation between the two is acknowledged in a historic perspective than it is a sequential one: humanitarian law is often seen as a "precursor"[2] or "trailblazer"[3] of human rights and as one of their most important sources.

This is certainly true: international human rights law in the strict sense of the word exists only since 1945 when the UN Charter acknowledged them as a purpose of the United Nations,[4] or rather since 1948 when they were put on paper in the Universal Declaration of Human Rights.[5] Since this date, the relationship between human rights and the law of war can reasonably be discussed. Given the long history of international humanitarian law and its codification which, after all, represents one of the first efforts to create international law

[1] Louise Doswald-Beck and Sylvain Vité, "International Humanitarian Law and Human Rights Law" (1993) 33(293) *International Review of the Red Cross* 94. The 1995 edition of the *Encyclopaedia of Public International Law*, for example, argued that international humanitarian law and international human rights law developed separately and without any meaningful connection, see Karl-Josef Partsch, "Human Rights and Humanitarian Law" in Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law* (Amsterdam: Elsevier, 1995), p. 911. The same argument is made in, e.g., Dietrich Schindler, "Human Rights and Humanitarian Law: Interrelationship of the Laws" (1982) 31(4) *American University Law Review* 935; and Lindsay Moir, *The Law of Internal Armed Conflict* (Cambridge: Cambridge University Press, 2002), p. 194.

[2] Roger Normand and Sarah Zaidi, *Human Rights at the UN: The Political History of Universal Justice* (Bloomington, IN: Indiana University Press, 2008), p. 30.

[3] Walter Kälin and Jörg Künzli, *The Law of International Human Rights Protection* (Oxford: Oxford University Press, 2009), p. 10.

[4] Charter of the United Nations, 26 June 1945, UNTS XVI, Art. 1(3): "The purpose of the United Nations are … to achieve international cooperation … in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

[5] UN General Assembly Res. 217 A (III), UN Doc. 217/A-(III) (10 December 1948).

concerned with humanitarian matters, humanitarian law seems a natural foundation and inspiration for human rights. Their broadly similar goals – protecting the lives, dignity and livelihood of humans in distress – add to this perception of humanitarian law as a forerunner of human rights.

But humanitarian law was not simply an early version of human rights, just as human rights are not a relabelled humanitarian code. Their relationship is more complex in a contemporary as well as historic perspective. They have developed largely separately, carried forward by different motivations and accelerated by different triggering events in human history.[6] Human rights were born out of struggle between the oppressed and disadvantaged against their rulers and were about justice, rights and entitlements, while humanitarian law reflected the attempt to reconcile charity and mercy with the necessities of warfare. And human rights emerged as internal matters to be translated into international law while international humanitarian law was, from the very beginning, international in the literal sense of the word as being applicable between nation states at war.

The two fields have not emerged in isolation from each other. The ideas and concepts which form the basis of today's human rights regime have influenced, and have been influenced, by the laws and customs of war. The humanitarian strand of the law of war has throughout history helped to inspire the idea of human rights, but the emerging concept of individual human rights has also affected the law of war. It has rightly been argued that:

> [i]t is not only in time of peace that the issue of human rights becomes significant, nor is it only then that it has a respectable history, despite the publicly held view that it is only since 1945 that human rights, or the denial thereof, should be a matter of concern to the law of armed conflict.[7]

The history of the law of war should thus be read in conjunction with the emergence of the idea of human rights. It is a history which reflects an ebbing and flowing of different motivations for regulating warfare which include the idea(s) of human rights as postulated before they were given a legal form in international law in 1945.

[6] See Michael Bothe, "The Historical Evolution of International Humanitarian Law, International Human Rights Law, Refugee Law and International Criminal Law" in Horst Fischer, Ulrike Froissart, Wolff Heinegg von Heintschel and Christian Raap (eds.), *Krisensicherung und Humanitärer Schutz / Crisis Management and Humanitarian Protection. Festschrift für Dieter Fleck* (Berlin: Berliner Wissenschaftsverlag, 2004), p. 37.

[7] Leslie C. Green, "Human Rights in Peace and War: An Historical Overview" in Horst Fischer, Ulrike Froissart, Wolff Heinegg von Heintschel and Christian Raap (eds.), *Krisensicherung und Humanitärer Schutz / Crisis Management and Humanitarian Protection. Festschrift für Dieter Fleck* (Berlin: Berliner Wissenschaftsverlag, 2004), p. 176.