'Chinkin and Kaldor understand deeply and explain clearly the legal issues and distortions involved in justifications for international interventions into “new wars” and their aftermath. Their human security lens provides new creative focus to a burgeoning literature.'

Antonia Chayes,
*Tufts University, USA*

'An inspired collaboration between two leading world experts on the linkages between international law and war. *International Law and New Wars* is an outstanding contribution to scholarship, being the most comprehensive and authoritative treatment of this most important of all current global challenges. It seems to be the most significant book on international law published in the last decade.'

Richard Falk,
*University of California, Santa Barbara, USA*

'*International Law and New Wars* is a magisterial achievement of breathtaking power and originality. Chinkin and Kaldor lay out a realistic and achievable blueprint for peace and security in the twenty-first century.'

Anne-Marie Slaughter,
*President and CEO, New America*
INTERNATIONAL LAW AND NEW WARS

*International Law and New Wars* examines how international law fails to address the actual experience of what are known as ‘new wars’ - instances of armed conflict and violence in places such as Syria, Ukraine, Libya, Mali, the Democratic Republic of Congo and South Sudan. International law rests to a great extent on an outmoded concept of war drawn from the experiences of previous centuries. The book identifies different models for addressing contemporary forms of violence and shows how they are associated with different interpretations of international law. In some cases, this has dangerously weakened the legal restraints on war established after 1945. It emphasises the role of gender in understanding and responding to ‘new wars’, and puts forward a practical case for a ‘second generation human security’ and the implications this carries for international law.

**Christine Chinkin** is Emerita Professor of International Law, Director of the Centre for Women, Peace and Security at the London School of Economics and William Cook overseas faculty member of the University of Michigan Law School. She is a leading expert on international law and human rights law, especially the international human rights of women.

**Mary Kaldor** is Professor of Global Governance and Director of the Civil Society and Human Security Research Unit at the London School of Economics. She has pioneered the concepts of new wars and global civil society. Her elaboration of the real-world implementation of human security has directly influenced European and national policies.
INTERNATIONAL LAW AND
NEW WARS

CHRISTINE CHINKIN
MARY KALDOR
To Our Grandchildren
CONTENTS

Foreword by Javier Solana xii
Acknowledgements xiv
List of Abbreviations xv

PART I Conceptual Framework 1

1 Introduction 3
  1.1 Introduction 3
  1.2 New Wars 5
  1.3 Legality and Legitimacy 19
  1.4 Models of Security 25
  1.5 Plan of the Book 34

2 Sovereignty and the Authority to Use Force 37
  2.1 Introduction 37
  2.2 The Changing Nature of Sovereignty 39
  2.3 Right Authority and the Legitimate Use of Force 64
  2.4 Alternative Conceptions of World Order and the Transformation of Sovereignty 78
  2.5 Conclusion 85

3 The Relevance of International Law 87
  3.1 Introduction 87
  3.2 Theories of Compliance 93
  3.3 Institutions and Networks 104
  3.4 Processes for Implementation and Enforcement 110
  3.5 Conclusion: Continuing Questions 124

PART II Jus ad Bellum 127

4 Self-Defence as a Justification for War: The Geo-Political and War on Terror Models 129
  4.1 Introduction 129
  4.2 Background: From Just War to the UN Charter 131
# CONTENTS

4.3 Conditions for Self-Defence 135

4.4 Armed Attack by or against Whom? 155

4.5 Reinterpreting the Right to Self-Defence 167

4.6 Conclusion 173

5 The Humanitarian Model for Recourse to Force 175

5.1 Introduction 175

5.2 Humanitarian Intervention 176

5.3 The Responsibility to Protect 195

5.4 The Responsibility to Protect/Humanitarian Intervention: Does It Uphold Humanitarian Norms? 211

5.5 Conclusion 224

PART III Jus in Bello 227

6 How Force Is Used 229

6.1 Introduction 229

6.2 The Jus in Bello Tradition 231

6.3 Codification of International Humanitarian Law: Geneva and Hague Law 233

6.4 The Basic Principles of IHL 237

6.5 The Challenges of IHL 242

6.6 Human Rights Law and IHL as Complementary Regimes 265

6.7 Conclusion 282

7 Weapons 285

7.1 Introduction 285

7.2 The International Legal Regulation of Weapons 287

7.3 Arms Control 290

7.4 Humanitarian Regulation of Weapons 299

7.5 Disarmament 323

7.6 Conclusion 333

PART IV Jus Post Bellum 337

8 ‘Post-Conflict’ and Governance 339

8.1 Introduction 339

8.2 Jus Post Bellum: What Constitutes Post-Conflict? 343

8.3 Military Occupation 349

8.4 International Territorial Administration 361

8.5 Local Rule with International Presence 365

8.6 Gender Relations and Post-Conflict Governance 369

8.7 Conclusion 372
CONTENTS

9  The Liberal Peace: Peacemaking, Peacekeeping and Peacebuilding 374
  9.1 Introduction 374
  9.2 Peacemaking 378
  9.3 Peacekeeping 394
  9.4 Peacebuilding 414
  9.5 Conclusion 428

10 Justice and Accountability 430
  10.1 Introduction 430
  10.2 Transitional Justice 431
  10.3 Immunity of International Personnel 461
  10.4 Conclusion 474

PART V  The Way Forward 477

11 Second-Generation Human Security 479
  11.1 Introduction 479
  11.2 The Evolution of the Concept of Human Security 481
  11.3 The Scope of Human Security 486
  11.4 Human Security and Gender 495
  11.5 Shifting Contexts and Manifestations of Human Security 501
  11.6 The Critiques of Human Security 508
  11.7 Reconstructing Human Security 517
  11.8 Conclusion 526

12 What Does Human Security Require of International Law? 527
  12.1 Introduction: The Aim of the Book 527
  12.2 International Law as a Contested Discipline 528
  12.3 Overview of Conclusions Relevant to Human Security 534
  12.4 Closing the Gap between Legality and Legitimacy? 543
  12.5 Conclusion 564

Index 567
FOREWORD

JAVIER SOLANA

It is a pleasure for me to write the foreword of this much-needed book. It has a special relevance for me since some of its ideas originated from the Human Security Study Group, present during my term as European Union High Representative for Common Foreign and Security Policy. I know very well the authors, Christine Chinkin and Mary Kaldor, who were the convenors of the group, and I witnessed their passion and dedication during those years and at their work at the LSE.

They have dedicated their time and efforts to the very commendable task of designing the best protection for human rights with the intention of applying their thoughtful work to alleviate suffering and help build long-lasting peace, which is, in a few words, the consequence of the application of the human security paradigm.

As a result of my years of experience in foreign policy and international organizations, I have become convinced that a new approach to conflict and post-conflict settings is urgently needed. In a globalized world the idea of human security, as opposed to the national security paradigm, is vital. The nature of conflict has changed fundamentally, and international law and practice have to adapt to it.

In this regard, the European Union has come a long way. Given its nature, the EU is not a state but a model of global governance. Its approach when acting externally has included emphasis on fundamental rights and the rule of law, and its operations have combined both civil and military elements. However, much remains to be done.

This book is unique in presenting the reality of the new warfare and the characteristics of the different security models, their causes and consequences. And it comes as a reminder for the whole international community. It is time to think again about the law of war. We should be honest and acknowledge that current approaches to conflict and post-conflict are not delivering as expected. The five-year war in Syria is one of...
the many examples we are witnessing. Actions based on current security models, although some according to international law, are not bringing stability and long-term peace. There is no doubt that the solution will have to come from the international legal system, but if this is not adapted to the new reality it will surely fail, as we are unfortunately seeing nowadays. Taking into account the logic of what is called 'new wars' – with actors, problems and dynamics different from those of modern wars – international law should give a response. If economic and political purposes are behind the main purpose of war, military action will not suffice to put an end to it or to make peace long-lasting.

Essential for scholars and thought-provoking for practitioners, this book is brilliant in elucidating the dilemmas of international law and how it might be adapted for addressing contemporary crisis. What is even more helpful, it offers a practical solution to security in an era of globalization. Although I was already familiar with the authors’ ideas, reading this book has been an amazing discovery and an impulse to keep thinking about how to put these ideas into action, through concrete policies. I sincerely hope that the ideas put forth here will constitute a fundamental piece of a new international legal system.
ACKNOWLEDGEMENTS

This project has had a long gestation. It began with the work of the Human Security Study Group, which reported from 2003 onwards to Javier Solana, then European Union High Representative for Common Foreign and Security Policy, and continued with our collaboration in teaching and research at the LSE. In the course of writing the book, the world has changed dramatically and is still changing. This is partly why the project has taken us so long, as we have struggled to think through the implications of such changes. As far as possible we have endeavoured to include changes up to the end of 2016.

Many people and institutions have helped us in the long process of working on the book, and we are very grateful to them all. These include especially the European Research Council (ERC) for funding a five-year research programme that gave us the time to write this book. The UK Department for International Development (DFID) and the Open Society Foundation (OSF) also provided additional support. Others are Julian Perry Robinson, Iavor Rangelov, Henry Radice and Sabine Selchow, who read parts of the manuscript and suggested helpful sources and thoughts; Rebecca Sutton, Ruth Fitzharris and Domenika Spyratou, who helped bring the project to fruition; the students in our Human Security seminars at the LSE for their ideas and criticisms; and the anonymous reviewers at Cambridge University Press who provided very useful comments.

We would also like to thank our Departments at the LSE and both the Civil Society and Human Security Research Unit and the Centre for Women, Peace and Security for providing us with a stimulating and conducive environment for developing the ideas and concepts in this book.

Finally we thank each other for all we have learned from each other and for the fun in working together.
# Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABM</td>
<td>Anti-Ballistic Missile Treaty</td>
</tr>
<tr>
<td>AFISMA</td>
<td>African-Led International Support Mission to Mali</td>
</tr>
<tr>
<td>AMISOM</td>
<td>African Union Mission in Somalia</td>
</tr>
<tr>
<td>ANZUS</td>
<td>Australia, New Zealand, United States Security Treaty</td>
</tr>
<tr>
<td>API</td>
<td>Additional Protocol I (to the 1949 Geneva Conventions)</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>CCW</td>
<td>Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Committee for the Elimination of Discrimination against Women</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Committee on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>CIA</td>
<td>Central Intelligence Agency (USA)</td>
</tr>
<tr>
<td>CIS</td>
<td>Commonwealth of Independent States</td>
</tr>
<tr>
<td>CND</td>
<td>Campaign for Nuclear Disarmament</td>
</tr>
<tr>
<td>CPA</td>
<td>Coalition Provisional Authority</td>
</tr>
<tr>
<td>CSDP</td>
<td>Common Security and Defence Policy (EU)</td>
</tr>
<tr>
<td>CSSDCA</td>
<td>Conference on Security, Stability Development and Co-operation in Africa</td>
</tr>
<tr>
<td>DDR</td>
<td>Disarmament, Demobilisation and Reintegration</td>
</tr>
<tr>
<td>DDRR</td>
<td>Disarmament, Demobilisation, Rehabilitation and Reintegration</td>
</tr>
<tr>
<td>DPKO</td>
<td>Department of Peacekeeping Operations (UN)</td>
</tr>
<tr>
<td>DRC</td>
<td>Democratic Republic of the Congo</td>
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<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
</tr>
<tr>
<td>ECOMOG</td>
<td>Economic Community of West African States Monitoring Group</td>
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<tr>
<td>ECOWAS</td>
<td>Economic Community of West African States</td>
</tr>
<tr>
<td>ECCHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>ECCHR GC</td>
<td>European Court of Human Rights Grand Chamber</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EULEX</td>
<td>European Union Rule of Law Mission (Kosovo)</td>
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<tr>
<td>EUPM</td>
<td>European Police Mission (Bosnia)</td>
</tr>
<tr>
<td>FRY</td>
<td>Federal Republic of Yugoslavia</td>
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<tr>
<td>FSA</td>
<td>Free Syrian Army</td>
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<tr>
<td>GCTF</td>
<td>Global Counterterrorism Forum</td>
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# List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
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<tbody>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GEST</td>
<td>Gender Expert Support Team (Darfur)</td>
</tr>
<tr>
<td>IAC</td>
<td>International Armed Conflict</td>
</tr>
<tr>
<td>IACtHR</td>
<td>Inter-American Court of Human Rights</td>
</tr>
<tr>
<td>IAEA</td>
<td>International Atomic Energy Agency</td>
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<tr>
<td>ICAN</td>
<td>International Campaign to Abolish Nuclear Weapons</td>
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<tr>
<td>ICBL</td>
<td>International Campaign to Ban Landmines</td>
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<tr>
<td>ICC</td>
<td>International Criminal Court</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>ICISS</td>
<td>International Commission on Intervention and State Sovereignty</td>
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<td>ICJ</td>
<td>International Court of Justice</td>
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<tr>
<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<tr>
<td>ICTR</td>
<td>International Criminal Tribunal for Rwanda</td>
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<tr>
<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
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<tr>
<td>IDP</td>
<td>Internally Displaced Persons</td>
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<tr>
<td>IGO</td>
<td>Inter-Governmental Organisation</td>
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<tr>
<td>IHL</td>
<td>International Humanitarian Law</td>
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<tr>
<td>ILC</td>
<td>International Law Commission</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<tr>
<td>INF</td>
<td>Intermediate-Range Nuclear Forces Treaty</td>
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<tr>
<td>IPTF</td>
<td>International Police Task Force (Bosnia)</td>
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<tr>
<td>IS</td>
<td>Islamic State</td>
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<tr>
<td>ISAF</td>
<td>International Security Assistance Force (Afghanistan)</td>
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<tr>
<td>JNA</td>
<td>Yugoslav National Army</td>
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<tr>
<td>KFOR</td>
<td>Kosovo Force</td>
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<tr>
<td>KLA</td>
<td>Kosovo Liberation Army</td>
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<tr>
<td>KPS</td>
<td>Kosovo Police Service</td>
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<tr>
<td>LAR</td>
<td>Lethal Autonomous Robotic ('killer robot')</td>
</tr>
<tr>
<td>LGBT</td>
<td>Lesbian, Gay, Bisexual and Transgender</td>
</tr>
<tr>
<td>LRA</td>
<td>Lord's Resistance Army (Uganda)</td>
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<tr>
<td>MAD</td>
<td>Mutual Assured Destruction</td>
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<tr>
<td>MINURSO</td>
<td>United Nations Mission for the Referendum in Western Sahara</td>
</tr>
<tr>
<td>MINUSMA</td>
<td>United Nations Multidimensional Integrated Stabilization Mission in Mali</td>
</tr>
<tr>
<td>MOD</td>
<td>Ministry of Defence (UK)</td>
</tr>
<tr>
<td>MONUSCO</td>
<td>United Nations Organization Stabilization Mission in the Democratic Republic of the Congo</td>
</tr>
<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
</tr>
<tr>
<td>NIAC</td>
<td>Non-International Armed Conflict</td>
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<tr>
<td>NPT</td>
<td>Treaty on the Non-Proliferation of Nuclear Weapons; Non-Proliferation Treaty</td>
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LIST OF ABBREVIATIONS xvii

OAS Organisation of American States
OAU Organisation of African Unity
OCHA Office for the Coordination of Humanitarian Affairs (UN)
OHR Office of the High Representative (Bosnia and Herzegovina)
ONUC United Nations Operation in the Congo (Opération des Nations Unies au Congo)
OPCW Organisation for the Prohibition of Chemical Weapons
OPT Occupied Palestinian Territory
OSCE Organisation for Security and Co-operation in Europe
NGO Nongovernmental Organisation
PBC Peacebuilding Commission (PBC)
PCIJ Permanent Court of International Justice
RS Republika Srpska
SADC Southern African Development Community
SALT Strategic Arms Limitation Talks
SCSL Special Court for Sierra Leone
SEATO Southeast Asia Treaty Organization
SOFA Status of Forces Agreement
SORT Strategic Offensive Reductions Treaty
SRSG Special Representative of the Secretary-General
START Strategic Arms Reduction Talks
UAV Unmanned Aerial Vehicle (drone)
UDHR Universal Declaration of Human Rights
UK United Kingdom
UN United Nations
UNAMI United Nations Assistance Mission for Iraq
UNAMIR United Nations Assistance Mission for Rwanda
UNAMSIL United Nations Mission in Sierra Leone
UNDOF United Nations Disengagement Observer Force
UNDP United Nations Development Programme
UNEF United Nations Emergency Force (Suez)
UN GA United Nations General Assembly
UNIFCYP United Nations Peacekeeping Force in Cyprus
UN HRC United Nations Human Rights Council
UNMIH United Nations Mission in Haiti
UNMIK United Nations Interim Administration Mission in Kosovo
UNMISET United Nations Mission of Support in East Timor
UNMISS United Nations Mission in South Sudan UNOCI United Nations Operation in Côte d’Ivoire
UNOHCCHR United Nations Office of the High Commissioner for Human Rights
UNPREDEP United Nations Preventive Deployment Force (former Yugoslav Republic of Macedonia)
list of abbreviations

UNPROFOR United Nations Protection Force
UN SC United Nations Security Council
UN S-G United Nations Secretary-General
UNTAC United Nations Transitional Authority in Cambodia
UNTAES United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium
UNTAET United Nations Transitional Administration in East Timor
UN Women United Nations Entity for Gender Equality and the Empowerment of Women
USA United States of America
US Africom United States Africa Command
USSR Union of Soviet Socialist Republics
WMD Weapons of Mass Destruction