

# The Conduct of Hostilities under the Law of International Armed Conflict

YORAM DINSTEIN



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## The Conduct of Hostilities under the Law of International Armed Conflict

A companion volume to the author's seminal textbook *War, Aggression and Self-Defence*, Third Edition, Cambridge (2001), this book focuses on issues arising in the course of hostilities between States, with an emphasis on the most recent conflicts in Iraq and Afghanistan. The main themes considered by Yoram Dinstein are lawful and unlawful combatants, war crimes, including command responsibility and defences, prohibited weapons, the distinction between combatants and civilians, legitimate military objectives, and the protection of the environment and cultural property. Numerous specific topics that have attracted much interest in recent hostilities are addressed, such as human shields, feigned surrenders, collateral damage and proportionality, belligerent reprisals and weapons of mass destruction.

YORAM DINSTEIN is Professor of International Law at Tel Aviv University. He is a Member of the Institute of International Law, a former Stockton Professor of International Law at the US Naval War College and a former Humboldt Fellow at the Max Planck Institute for International Law. Professor Dinstein is editor of the *Israel Yearbook on Human Rights* and has published extensively in the field of international law.

## Acknowledgements

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The concept and scheme of this book have emerged from constant encounters – in and out of the classroom – with officer-students in the US Naval War College (in Newport, R.I.) during my two terms there (in 1999/2000 and 2002/3) as Stockton Professor of International Law. I also had the benefit of intellectually enriching dialogues with the members of the faculty of what is now called the International Law Department (headed by Professor Dennis Mandsager). The problems addressed in class and in extracurricular discussions, the theoretical issues that were debated, and the practical challenges that surfaced in the actual experience of aviators, sailors, marines and army commanders, have all forced me to see the law relating to the conduct of hostilities in a new (much more realistic) light.

I was fortunate to have the opportunity of spending more than a year (2000/1) as a Humboldt Fellow at the Max Planck Institute of International Law at Heidelberg (Germany). In that pleasant and research-oriented ambiance, I could converse, compare notes and occasionally argue with a fairly large number of scholars, headed by the Institute's Director, Professor Rüdiger Wolfrum. Moreover, I had free access to the vast collections of the peerless library of international law which is the bedrock of the Institute. Most of the book was researched and written in Heidelberg.

Since then, I have put the final touches to the manuscript, and have constantly updated the text as well as the footnotes against the background of events in progress and the spate of recent relevant publications. Additionally, I have addressed some new questions that have come up, especially since the horrendous events of 11 September 2001.

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## Abbreviations

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<i>AASL</i>	Annals of Air and Space Law
<i>AC</i>	Appeal Cases [United Kingdom]
<i>AD</i>	Annual Digest and Reports of Public International Law Cases
<i>AFDI</i>	Annuaire Français de Droit International
<i>AFLR</i>	Air Force Law Review
<i>AIDI</i>	Annuaire de l'Institut de Droit International
<i>AJIL</i>	American Journal of International Law
<i>ALJ</i>	Australian Law Journal
<i>ALR</i>	Alberta Law Review
<i>ASILSILJ</i>	ASILS International Law Journal
<i>AUILR</i>	American University International Law Review
<i>AUJILP</i>	American University Journal of International Law and Policy
<i>AULR</i>	American University Law Review
<i>Annotated Supplement</i>	<i>Annotated Supplement to the Commander's Handbook on the Law of Naval Operations</i> , 73 ILS (US Naval War College, A. R. Thomas and J. C. Duncan eds., 1999)
<i>Ar.V</i>	Archiv des Völkerrechts
<i>BCEALR</i>	Boston College Environmental Affairs Law Review
<i>BJIL</i>	Buffalo Journal of International Law
<i>BPP</i>	Bulletin of Peace Proposals
<i>BUILJ</i>	Boston University International Law Journal
<i>BYBIL</i>	British Year Book of International Law
<i>CILJ</i>	Cornell International Law Journal
<i>CJTL</i>	Columbia Journal of Transnational Law
<i>CLR</i>	California Law Review
<i>CWILJ</i>	California Western International Law Journal
<i>CWRJIL</i>	Case Western Reserve Journal of International Law
<i>CYIL</i>	Canadian Yearbook of International Law

<i>Commentary on the Additional Protocols</i>	<i>Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949</i> (ICRC, Y. Sandoz <i>et al.</i> eds., 1987)
<i>DJCIL</i>	Duke Journal of Comparative & International Law
<i>DJIL</i>	Dickinson Journal of International Law
<i>DJILP</i>	Denver Journal of International Law and Policy
<i>DSB</i>	Department of State Bulletin
<i>EILR</i>	Emory International Law Review
<i>EJCLCJ</i>	European Journal of Crime, Criminal Law and Criminal Justice
<i>EJIL</i>	European Journal of International Law
<i>ENMOD</i>	Environmental Modification
<i>EPIL</i>	<i>Encyclopedia of Public International Law</i> (R. Bernhardt ed., 1992–2000)
<i>EPL</i>	Environmental Policy and Law
<i>EPLJ</i>	Environmental and Planning Law Journal
<i>Env.L</i>	Environmental Law
<i>FILJ</i>	Fordham International Law Journal
<i>GIELR</i>	Georgetown International Environmental Law Review
<i>GJICL</i>	Georgia Journal of International and Comparative Law
<i>GLJ</i>	Georgetown Law Journal
<i>GWJILE</i>	George Washington Journal of International Law and Economics
<i>GYIL</i>	German Yearbook of International Law
<i>HHRJ</i>	Harvard Human Rights Journal
<i>HICLR</i>	Hastings International and Comparative Law Review
<i>HILJ</i>	Harvard International Law Journal
<i>HJLPP</i>	Harvard Journal of Law & Public Policy
<i>HRQ</i>	Human Rights Quarterly
<i>Handbook</i>	<i>The Handbook of Humanitarian Law in Armed Conflicts</i> (D. Fleck ed., 1995)
<i>Hum.V.</i>	Humanitäres Völkerrecht
<i>ICC</i>	International Criminal Court
<i>ICJ Rep.</i>	Reports of the International Court of Justice
<i>ICLQ</i>	International and Comparative Law Quarterly
<i>ICRC</i>	International Committee of the Red Cross
<i>ICTY</i>	International Criminal Tribunal for the Former Yugoslavia

IHL	International Humanitarian Law
IJCP	International Journal of Cultural Property
ILM	International Legal Materials
ILR	International Law Reports
ILS	International Law Studies
IMT	International Military Tribunal
IMTFE	International Military Tribunal for the Far East
IRRC	International Review of the Red Cross
IYHR	Israel Yearbook on Human Rights
<i>Int. Aff.</i>	International Affairs
<i>Int. Law.</i>	International Lawyer
<i>Int. Leg.</i>	<i>International Legislation</i> (M. O. Hudson ed., 1931–50)
<i>Int. Org.</i>	International Organization
<i>Int. Rel.</i>	International Relations
JACL	Journal of Armed Conflict Law
JCSL	Journal of Conflict & Security Law
JPR	Journal of Peace Research
JSS	Journal of Strategic Studies
LJIL	Leiden Journal of International Law
LLAICLJ	Loyola of Los Angeles International & Comparative Law Journal
LOIAC	Law of International Armed Conflict
LRTWC	Law Reports of Trials of War Criminals
<i>Laws of Armed Conflicts</i>	<i>The Laws of Armed Conflicts: A Collection of Conventions, Resolutions and Other Documents</i> (D. Schindler and J. Toman eds., 3rd edn, 1988)
MJIL	Michigan Journal of International Law
MPYUNL	Max Planck Yearbook of United Nations Law
<i>Mer.LR</i>	Mercer Law Review
<i>Mich.LR</i>	Michigan Law Review
<i>Mil.LR</i>	Military Law Review
NATO	North Atlantic Treaty Organization
NCLR	North Carolina Law Review
NILR	Netherlands International Law Review
NJIL	Nordic Journal of International Law
NLR	Naval Law Review
NMT	Trials of War Criminals before the Nuernberg Military Tribunals under Control Council Law No. 10
NTIR	Nordisk Tidsskrift for International Ret

NWCR	Naval War College Review
NYIL	Netherlands Yearbook of International Law
NYUJILP	New York University Journal of International Law and Politics
<i>New Rules</i>	<i>New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949</i> (M. Bothe, K. J. Partsch and W. A. Solf eds., 1982)
PASIL	Proceedings of the American Society of International Law
RCADI	Recueil des Cours de l'Académie de Droit International
RDMDG	Revue de Droit Militaire et de Droit de la Guerre
RDSC	Resolutions and Decisions of the Security Council
RGDIP	Revue Générale de Droit International Public
ROE	Rules of Engagement
SIULJ	Southern Illinois University Law Journal
SJICL	Singapore Journal of International and Comparative Law
SJIL	Stanford Journal of International Law
SJLR	St John's Law Review
SMLJ	St Mary's Law Journal
Ste.LR	Stetson Law Review
Supp.	Supplement
Syd.LR	Sydney Law Review
TJICIL	Tulsa Journal of Comparative and International Law
TJICL	Tulane Journal of International and Comparative Law
UCLAPBLJ	UCLA Pacific Basin Law Journal
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNJY	United Nations Juridical Yearbook
UNTS	United Nations Treaty Series
URLR	University of Richmond Law Review
USAFJLS	United States Air Force Academy Journal of Legal Studies
VJIL	Virginia Journal of International Law
VJTL	Vanderbilt Journal of Transnational Law
VLR	Virginia Law Review
WILJ	Wisconsin International Law Journal

<i>YIEL</i>	Yearbook of International Environmental Law
<i>YIHL</i>	Yearbook of International Humanitarian Law
<i>YJIL</i>	Yale Journal of International Law
<i>YUN</i>	Yearbook of the United Nations
<i>ZaöRV</i>	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht



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