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### The International Court of Justice and the law of armed conflicts / Claus Kress

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Abstract:	<p>This chapter shows in what way the International Court of Justice has contributed to the development of the law of armed conflict by reviewing its case law. It shows that the court strongly emphasized that the substitution of the concept "international humanitarian law" for that of "laws and customs of war" was not only a terminological matter, but also signified the liberation of the law of armed conflicts from the normative limitations flowing from the traditional idea of inter-state reciprocity as expressed by traditional concepts such as the si omnes clause and belligerent reprisals. The Court reconceptualized the traditional "laws and customs of war", the codification of which was driven to a significant extent by a utilitarian calculation of state interest, as an integral humanitarian legal regime designed, above all, to ensure respect for the human person. At the same time and despite its clearly articulated humanitarian impetus, the Court, all in all, has been significantly less adventurous than the ICTY when it comes to the progressive development of the law of armed conflicts. This is primarily due to the fact that the occasions on which the Court has had the opportunity to pronounce on questions of the law of armed conflicts have been fairly limited in number, but also because the Court has not fully seized its relatively few opportunities.</p>
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