

# CUSTOMARY INTERNATIONAL HUMANITARIAN LAW :

CHALLENGES, PRACTICES AND DEBATES

International Conference

September 29,30 and October 1, 2005

Mc Gill University, Montreal Canada



1 800 363-7305

[www.redcross.ca/customarylaws](http://www.redcross.ca/customarylaws)



Croix-Rouge  
canadienne

Canadian  
Red Cross



McGill



# Conference Agenda

**Customary International Humanitarian Law: Challenges, Practices and Debates**

**September 29, 30 and October 1, 2005**

**McGill University, Montreal (Quebec) CANADA  
(Moot Court, 3660 Peel)**

McGill University and the Canadian Red Cross will host an international conference in Montreal to discuss the conclusions of the recent International Committee of the Red Cross (ICRC) study on customary international humanitarian law. This unique study conducted by the ICRC in cooperation with hundreds of researchers, lawyers and experts worldwide was launched in the spring of 2005. The objective of this study is to promote compliance with international humanitarian law and, as a result, to offer better protection to victims of war. The study will offer the world a common code of rules applicable to armed conflict that all parties to the conflict are obliged to follow. The conference will bring together prominent professors from Canadian, American and European academic spheres, criminal law experts, representatives from the Canadian government, including the Department of National Defence, as well as representatives from non-governmental organisations (NGOs) and lawyers with experience in international tribunals.

## **Day 1 - Thursday, September 29**

**7:00 p.m. Meet and greet (Faculty Club, 3450 Mc Tavish)**

—

**9:00 p.m.** *Welcome address : Dr. Pierre Duplessis, Secretary General, Canadian Red Cross and Mr. Dean Nicholas Kasirer, Law Faculty, McGill University*

**Keynote speaker : Michael Ignatieff,**  
*Professor of Human Rights,  
Director of the Carr Center for Human Rights Policy,  
Kennedy School of Government, Harvard University*

## **Day 2 - Friday, September 30**

**9 a.m. Origin and conclusions of the ICRC study  
on customary international humanitarian law**

*This opening panel will paint a broad picture of the definition of customary law in international law, will present a vision of customary international law and describe the approach used in developing the ICRC study on customary international humanitarian law. The panellists will explain to the audience the origin, consultative process, object and goal of the study. They will also present the main conclusions of the study.*

*Moderator : MGen Jerry S.T. Pitzul, QC, Department of National Defence,  
office of the Judge Advocate General (JAG)*

*Lecturers : Mr. Jean-Marie Henckaerts, Legal Advisor, ICRC, and co-director of the  
ICRC study on customary international humanitarian law;  
Professor Michael Bothe, Law Faculty, Frankfurt University;  
Professor Claude Emanuelli, Law Faculty, University of Ottawa*

**10:30 a.m. Break**

**11:00 a.m. Application of customary law in international humanitarian law**

*This panel will endeavour to explain customary law in the application of international humanitarian law (IHL). Using examples from practice with armed groups involved in international and non-international armed conflicts, the lecturers will discuss the strengths and weaknesses of the application of customary law in IHL.*

*Moderator :* Professor Armand de Mestral, Law Faculty, McGill University  
*Lecturers :* Professor Marco Sassòli, Law Faculty, University of Geneva; Professor Georges Abi-Saab, Graduate Institute of International Studies (Geneva), member of the Appellate Body of the World Trade Organization (WTO) and former judge on the International Tribunal for the former Yugoslavia (ICTY); Professor Frédéric Mégret, Law Faculty, University of Toronto

**12:30 p.m. Lunch**

**1:30 p.m. Customary law and criminal prosecution**

*This panel will consider the role of international customary law in the pursuit of accountability for international criminal acts. The panellists are experts in international criminal law, and will draw on their own experiences to examine the interaction between customary law and international criminal tribunals.*

*Moderator :* Ms. Oonagh Fitzgerald, Chief Legal Counsel & Special Advisor for International Law, Public Law Group, Justice Canada  
*Lecturers :* Mr. Chile Eboe-Osuji, lawyer, Borden Ladner Gervais and Former Senior Legal Officer, Chambers, International Criminal Tribunal for Rwanda (ICTR); Ms. Elise Groulx, Co-President, International Criminal Bar (ICB) and President, ICDA; Professor Louise Doswald-Beck, Graduate Institute of International Studies (Geneva), Director, University Centre for International Humanitarian Law (UCIHL) and co-director of the ICRC study on customary international humanitarian law

**3:00 p.m. Break**

**3:30 p.m. Choice of workshops :**

**1) The importance of customary international law for international organisations and NGOs**

*Mr. Gionata Buzzini, Associate Legal Officer, Codification Division, Office of Legal Affairs, United Nations*

*As actors in the field of international and non-international armed conflicts around the world, NGOs and international organisations like the United Nations are directly affected by the ongoing development of customary international humanitarian law. This workshop will consider the impact of customary law on their mandates, advocacy efforts, and operations in the field as well as their role in the formation and in the ascertainment of customary international law.*

**2) The impact of the ICRC study on military training**

*LCol Kirby Abbott, Legal Director of Training, Canadian Forces' Office of the JAG and Mr. Geoffrey Corn, Assistant Professor of law, South Texas College of Law*

*Military manuals should mirror current standards of customary international law. This workshop will focus on the ways that the content of the ICRC study can be integrated into military training programs.*

**6:30 p.m. Conference dinner at the Faculty Club**

*Speech given by Professor Philip Allott, Law Faculty, Cambridge University, and Fellow of Trinity College*

**Day 3 – Saturday, October 1**

**9:00 a.m. Customary law with regards to conduct of hostilities in non-international armed conflicts**

*This panel will consider the role of customary law in enhancing the application of humanitarian law to non-international armed conflicts. The panellists are specialists in international humanitarian law, with*

*expertise in non-international armed conflicts.*

*Moderator :* Professor Bernard Duhaime, Department of Legal Sciences, Université du Québec à Montréal (UQAM)

*Lecturers :* Col Ken Watkin , Department of National Defence, JAG; Mr. William Fenrick, Former Senior Legal Advisor, Office of the Prosecutor, ICTY; Mr. Michel Veuthey, Vice-President, International Institute of Humanitarian law

**10:30 a.m. Break**

**11:00 a.m. The legal guarantees for people detained under security reasons**

*This panel will examine the applicability of international customary law to legal guarantees and the impact of such customs on the detention of individuals for security reasons.*

*Moderator :* Ms. Sabine Nölke, Deputy Director, United Nations, Human Rights and Humanitarian Law Section, Foreign Affairs Canada

*Lecturers :* Ms. Jelena Pejic, Legal Advisor, ICRC; Mr. Stéphane Bourgon, Defence Counsel, ICTY; Mr. Geoffrey Corn, Assistant Professor of law, South Texas College of Law

**12:30 p.m. Lunch**

**1:30 p.m. Cultural diversity in customary norms**

*This panel will consider the place of cultural diversity in international humanitarian law, as well as issues related to the application of international humanitarian norms in diverse social contexts. The panellists share an active research interest in this area of international law.*

*Moderator :* Mr. Yves Le Bouthillier, President, Law Commission of Canada

*Lecturers :* Professor René Provost, Law Faculty, McGill University; Professor Judith Gardam, Law Faculty, University of Adelaide; Mr. Ted Itani, Advisor, Humanitarian issues program, Canadian Red Cross

**3:00 p.m. Break**

**3:30 p.m. Choice of workshops :**

**1) Human rights practice as a source of international humanitarian law**

*Professor François Crépeau, Law Faculty, Université de Montréal, Holder of the Canada Research Chair in International Migration and Scientific Director of the Centre d'études et de recherches internationales de l'Université de Montréal (CÉRIUM)*

*This workshop will consider the strengths and limitations of human rights practice as a source of international humanitarian law.*

**2) Customary law before national tribunals**

*Professor Bruce Broomhall, Department of Legal Sciences, UQAM, and Director of the Centre d'études sur le droit international et la mondialisation (CÉDIM)*

*The enforcement of humanitarian law cannot depend on international tribunals alone. This workshop will consider the role of customary humanitarian law before national tribunals, and the record of national tribunals in prosecuting violations of international norms.*

**5:30 p.m. Closing address**



Défense  
nationale

National  
Defence

