

**ISIL YEARBOOK
OF
INTERNATIONAL
HUMANITARIAN
AND
REFUGEE LAW**

EDITOR-IN-CHIEF
RAHMATULLAH KHAN

CHIEF EDITOR
V. S. MANI



VOL. VII 2007

**The Indian Society of International Law
New Delhi**

© Indian Society of International Law

Mode of Citation: Vol. VII. ISIL YBIHRL (2007)

India :	Rs. 400
Developing Countries :	US \$50
US and Other Countries :	US \$ 80

The ISIL Yearbook of International Humanitarian & Refugee Law (ISSN 0974-9500) is published annually by the Indian Society of International Law.

All the materials of ISIL Yearbook, (in duplicate), and all correspondence regarding the ISIL Yearbook should be addressed to the Chief Editor, ISIL Yearbook, V. K. Krishna Menon Bhawan, 9, Bhagwan Dass Road, New Delhi-110001. Manuscripts will not be returned under any circumstances.

Views expressed in the articles, book reviews, editorial comments, notes and in all other contributions to this ISIL Yearbook are those of respective authors and are not necessarily the views of the Board of Editors or of the ISIL, ICRC, UNHCR.

Edited, printed and published by Prof. V.S. Mani for the Indian Society of International Law, 9, Bhagwan Dass Road, New Delhi and printed at Shivam Offset Press, A-12/1, Naraina Industrial Area Phase-I, New Delhi-110028
Ph.: 2579 9019, 2579 3991

CONTENTS

ARTICLES

Customary International Humanitarian Law <i>François Bugnion</i>	1
Contemporary Challenges to the Law of Non- International Armed Conflict – Lessons from Sri Lanka <i>Dinesha Samararatne</i>	50
International Humanitarian Law and the Doctrine of Command Responsibility <i>U. C. Jha</i>	75
Child Soldiers Phenomenon and the Response of International Law <i>Joel Olasunkanmi Anwo and Olugbemi Fatula</i>	88
International Criminal Court, the United States and the Fight against Impunity <i>L. O. Taiwo</i>	107
Eschewing Impunity: Should India Become A Party to the Rome Statute of the International Criminal Court? <i>Sushila Rao</i>	133
Taking Shots at Mercenarism: International Law Misses Its Mark (Again) <i>Kevin H. Govern and Eric C. Bales</i>	155
Regional Approaches to Refugees - The European Context <i>Manoj Kumar Sinha</i>	188
International Refugee Law in Mexico <i>Axel García</i>	203
Some Aspects of the Right to Leave, the Right to Return and the Question of the Right to Remain with Special Reference to Indian Law and Practice <i>B.C. Nirmal</i>	229

Internal Displacement : The Guiding Principles on Internal Displacement – Normative Status, and the Need for Effective Domestic Implementation <i>Robert Kogod Goldman</i>	265
---	-----

SHORTER ARTICLES

Responsibility of India toward the Indian Origin Stateless Persons (IOSP) Residing in Madagascar <i>Joulekhan Pirbay</i>	279
Giving the War against Terrorism a Human Face: Spotlight on the United States and the Guantanamo Bay Prisoners <i>Yusuff A.O. and Oyelade O.S.</i>	285

OFFICIAL DOCUMENTS

Security Council Report: Cross -Cutting Report, 2008 No.1, 4 February 2008	297
RESOLUTION 1261 (1999) Adopted by the Security Council at its 4037th meeting, on 25 August 1999	327
Resolution 1314 (2000) Adopted by the Security Council at its 4185th meeting, on 11 August 2000	330

BOOK REVIEW

Larry Maybee and Benarji Chakka, <i>Custom as a Source of International Law</i> <i>Vinai Kumar Singh</i>	334
---	-----

SELECT ARTICLES

Select Articles on International Humanitarian and Refugee Law 2006-2007 <i>Meenakshi Bhan</i>	340
---	-----

ISIL YEARBOOK OF INTERNATIONAL HUMANITARIAN AND REFUGEE LAW

Editorial Board

Editor-in-Chief

Rahmatullah Khan

Chief Editor

V.S. Mani

Chief Adviser

R. K. Dixit

Managing Editor

Manoj Kumar Sinha

Executive Editors

Christopher Harland

Yamini Pande

Members

Vera Gowlland-Debbas

Raul Pangalangan

B. Errabbi

Gudmundur Alfredsson

Rosemary Rayfuse

Umesh Kadam

C. Jayaraj

Dr. Burra Srinivas

Lakshmi Jambholkar

Assistant Editor

Vinai Kumar Singh