# GEORGIA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW

VOLUME 45	2017	NUMBER 3

# TABLE OF CONTENTS

# ARTICLES

WOUNDED COMBATANTS, MILITARY MEDICAL PERSONNEL, AND T	ΉE
DILEMMA OF COLLATERAL RISK	
Geoffrey Corn & Andrew Culliver	445
WHOSE ARMED CONFLICT? WHICH LAW OF ARMED CONFLICT?	
Adil Ahmad Haque	475
A CRITIQUE OF THE ICRC'S UPDATED COMMENTARY TO THE FIRST	Г
GENEVA CONVENTION: ARMING MEDICAL PERSONNEL AND THE	•
Loss of Protected Status	
Nicholas W. Mull	495
CONTORTING COMMON ARTICLE 3: REFLECTIONS ON THE REVISED	
COMMENTARY	lene
Michael A. Newton	513
HUMANITY'S COMMON HERITAGE: 2016	
HUMANITY'S COMMON HERITAGE: 2016 INTERNATIONAL COMMITTEE OF THE RED CROSS	5
	5
INTERNATIONAL COMMITTEE OF THE RED CROSS	5
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA	5
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA	
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION	
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY O THE FIRST GENEVA CONVENTION	
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY C	DN
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY OF THE FIRST GENEVA CONVENTION PUBLIC PANEL RAPPORTEUR SESSION	DN
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY OF THE FIRST GENEVA CONVENTION PUBLIC PANEL RAPPORTEUR SESSION Matthew Courteau & William Ogden	<b>DN</b> 529
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY OF THE FIRST GENEVA CONVENTION PUBLIC PANEL RAPPORTEUR SESSION Matthew Courteau & William Ogden	<b>DN</b> 529
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY OF THE FIRST GENEVA CONVENTION PUBLIC PANEL RAPPORTEUR SESSION Matthew Courteau & William Ogden	<b>DN</b> 529
INTERNATIONAL COMMITTEE OF THE RED CROSS COMMENTARY ON THE FIRST GENEVA CONVENTION CONFERENCE ON THE 2016 ICRC COMMENTARY OF THE FIRST GENEVA CONVENTION PUBLIC PANEL RAPPORTEUR SESSION Matthew Courteau & William Ogden	<b>DN</b> 529 537

AFTERNOON RAPPORTEUR SESSION THREE Jamie McDowell & Hannah Ponders	545
THE UPDATED COMMENTARY ON THE FIRST GENEVA	
CONVENTION—A NEW TOOL FOR GENERATING RESPECT FOR	
INTERNATIONAL HUMANITARIAN LAW	

# NOTES

AMERICAN HYPOCRISY: HOW THE UNITED STATES' SYSTEM OF MASS INCARCERATION AND POLICE BRUTALITY FAIL TO COMPLY WITH ITS	
OBLIGATIONS UNDER THE INTERNATIONAL CONVENTION ON THE	
ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION	
R. Danielle Burnette	. 571
CYBERSECURITY AND THE RIGHTS OF THE INTERNET USER IN FRANCE Jennifer Cross	. 609
REGULATORY RESPONSE TO E-CIGARETTES <i>Morgan Johnson</i>	. 645
AN ATTEMPT TO EVADE LIABILITY: AUSTRALIA'S ROLE IN DETENTION CENTER ABUSE AND THE REFOULEMENT OF SRI LANKAN ASYLUM SEEK IN THE CONTEXT OF THE CONVENTION AGAINST TORTURE	
Carson Masters	. 669

## GEORGIA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW

NUMBER 3

#### EXECUTIVE BOARD 2016-2017

2017

Editor in Chief GREGORY W. DONALDSON

Executive Managing Editor MICAH DAVID SMITH

VOLUME 45

Executive Articles Editor ANDREW ZACHERY RYAN SMITH

> Senior Articles Editor JENNIFER JOYCE CROSS

Executive Conference Editor JASON T. VUCHINICH

## MANAGING BOARD

Conference Editors ELLIOT C. KIM BRITTANY MARIE PARTRIDGE

Submissions Editors REED LOFTON BENNETT THOMAS A. GIANNOTTI MORGAN MELODIE JOHNSON LEE A. MANGUM ADAM C. SMITH CHRISTOPHER D. STOKES DAVID R. WALDREP

CHARMAINE AMY MECH

CHLOE I. OWENS

OLIVIA M. SCOFIELD

EDWARD GRAHAM NEWSOME

ERIC ALEXANDER STERLING

CALVIN A. WEBB

#### Articles Editors

HAROLD J. BACON, III KADEN B. CANFIELD JANIS KATINA DABBS

BRADLEY DANIEL DUMBACHER FAITH A. KHALIK ALEC LAWRENCE MANZER BLAKE A. MCLEMORE

Notes Editors

HAYES MICHAEL DEVER, JR.

ROBIN DANIELLE BURNETTE

FABIAN J. GOFFE GREGORY D. MARK

## EDITORIAL BOARD

WILLIAM CARROLL HART WILLIAM NEAL HOLLINGTON MARY S. HONEYCHURCH CAROLINE ANNE JOZEFCZYK IAN M. LAMB DANA LOHRBERG ROBERT P. MANGUM JAMIE MCDOWELL SHAWN ERIC MCKENZIE ANN PARKS MINOR ETHAN KEITH MORRIS ANDREW F. NEWPORT NICHOLE NOVOSEL

WILLIAM BLAKE OGDEN STEVEN CHASE PARKER HANNAH E. PONDERS CLAIRE H. PROVANO KATHERINE NICOLE REYNOLDS LANEY J. RILEY CAROLINE FRANCES SAVINI RYAN HOLDEN SHRIVER ADAM J. SUNSTROM BEVERLY ELIZABETH TARVER MAX MATHEW WALLACE II WHEATON P. WEBB DEVON GAYLE ZAWKO

> Publications Specialist GRACIE W. WALDRUP

MARK D. CHRISTOPHER KASSIDY LENORA DEAN

JEREMY HALL AKIN MICHAEL D. AUNE MICHAEL LAWRENCE BAKER VICTORIA AYNNE BARKER MARGARET ANNE CHRISTIE JUSTIN T. CONWAY MATTHEW J. COURTEAU SPENCER NEWTON DAVIS MEGAN COLLEEN DEMPSEY SHREYA PRAFUL DESAI EVAN C. DUNN TAYLOR SHEA EISENHAUER KAITLYN CLAIRE FAIN

Faculty Advisor HARLAN G. COHEN Associate Professor of Law

Executive Editors KATHERINE L. EKSTRAND LOUIS JOE POTENTE

Senior Managing Editor

CARSON E. MASTERS

Executive Notes Editor

CAITLIN V. HILL

Senior Notes Editor

BROOKE E. HROUDA

### Cite as GA. J. INT'L & COMP. L.

The *Georgia Journal of International and Comparative Law* is published three times each year at the School of Law, University of Georgia, 225 Herty Drive, Athens, Georgia 30602-6012, U.S.A. Telephone 706-542-7286. Subscriptions, inquiries, and manuscripts should be sent to the above address. Manuscripts should be typewritten and triple-spaced, with footnotes triple-spaced and separate from text in accordance with THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (20th ed. 2015). These manuscripts cannot be returned. Manuscripts may also be submitted via the ExpressO submission system, which can be found at http://www.law.bepress.com/expresso. All opinions expressed in the *Journal* are those of the individual author and may not reflect the views or opinions of the University of Georgia or the Board of Regents of the University System of Georgia.

Subscriptions are renewed automatically upon expiration unless notice to the contrary is received before expiration. Cancellation notice must be received prior to payment. Change of address should include both old and new address with zip codes. The current Volume rate is U.S. \$40.00 domestic and U.S. \$50.00 foreign. Current issues may be purchased by contacting the Senior Managing Editor of the *Georgia Journal of International and Comparative Law* at a cost of \$15.00 (plus \$6.00 for foreign mailing). Back issues are available for purchase from William S. Hein & Co., Inc., 2350 North Forest Road, Getzville, New York 14068-1296, U.S.A., 800-828-7571, http://www.wshein.com, or in electronic format through HeinOnline, at http://heinonline.org.

Copyright © 2017, The Georgia Journal of International and Comparative Law, Inc. In addition to the rights of fair use granted by law, the author of each article in this issue, except as otherwise expressly provided, has granted permission for copies of that article to be made and used by any non-profit educational institution. Any copies of articles appearing in the *Journal* must be distributed at or below cost and the author and the *Journal* must be identified in addition to the placement of the proper notice of copyright on each copy. Printed by Joe Christensen, Inc., 1540 Adams Street, Lincoln, NE 68521.

The University of Georgia is an equal opportunity/affirmative action institution.

Member of the National Conference of Law Reviews and the National Conference of International Law Journals