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Citation

Regilme, S. S. (2023). The complex social ontology of international law on war. *International Studies Review*, 25(3). doi:10.1093/isr/viad025

Version: Accepted Manuscript

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Downloaded from: <https://hdl.handle.net/1887/3636653>

Note: To cite this publication please use the final published version (if applicable).

The Complex Social Ontology of International Law on War

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Book review of Ka Lok Yip's (2022) *The Use of Force against Individuals in War under International Law: A Social-Ontological Approach*. Oxford: Oxford University Press.

Please cite as:

Salvador Santino F Regilme, Jr., The Complex Social Ontology of International Law on War, *International Studies Review*, Volume 25, Issue 3, September 2023, viad025, <https://doi.org/10.1093/isr/viad025>

In times of war, is it permissible under the law to deliberately take someone's life, or to apprehend and detain them? Ka Lok Yip's book examines the international legal norms for using force against individuals in war. The book employs a multidisciplinary approach, combining law, social theories, and empirical case studies to offer a many-sided analysis. This multidisciplinary perspective, focusing on the interplay between social theory and international law, is commendable because so much of prominent legal scholarship on human rights tends to avoid dipping into theoretical debates motivated by other fields of inquiry such as social theory (Regilme 2022).

Yip theorizes that the use of force in war is influenced by the dynamic confluence of institutional, structural, cultural, and agential forces. Yip suggests that the interaction of structure and agency is the root cause of every use of force in war, which legal norms attempt to regulate. The Law of Armed Conflict distinguishes between individuals who are part of a collective and those who are seen as individuals, requiring those who use force to treat the latter as such. Both individuals and structures shape outcomes during war. International humanitarian law (IHL) focuses on regulating individual behavior, while international human rights law (IHRL) aims to transform broader structural conditions. The tension between these two fields is a pressing issue in contemporary international law.

Ka Lok Yip's book is thought-provoking, and it motivates us to reflect on several issues that resonate very well to scholars of global politics. First, Ka Lok Yip's book highlights the analytic need to understand the law as part of society, rather than law as the overarching force that underpins societal transformation. The book has successfully shown the plausible contradictory applications of IHL and IHRL especially when it comes to understanding legal accountability in war. Beyond the conflict between those two types of legal norms, Ka Lok Yip's book underscores the complexity of social, political, and other structural factors that trigger the causes of armed conflict.

This book offers important insights that are relevant for global studies scholars. First, while our immediate goal in armed conflict is to end the violence, a crucial question is why mass violence and human rights abuses persist. One key factor that triggers armed conflict pertains to the power asymmetries and inequities in access to material resources. A key example is Royal Dutch Shell, accused of contributing to conflict in Nigeria's Niger Delta region through

environmental degradation, human rights abuses, and support for military suppression of dissent. There are reports of persistent violence and conflict involving armed groups and the military, but Shell has been criticized for not doing enough to address the issues. Global studies scholars may further investigate alternative forms of global order where international legal norms and the political economy of material resources are more likely to prevent armed conflict, especially those that are generated by powerful non-state actors such as multinational corporations.

Second, the book highlights the notion of ‘norm conflict’. The clash of norms seems to reflect the conflicts amongst actors’ substantive interests and demands. Rights and legal demands function as tools for political actors to advance their own material and other substantive interests. As such, rights-oriented discourses are employed to mobilize support, attack opponents, and hide controversial policies (Bob 2019). Rights and norms are used as rhetorical weapons that can be adapted and reinforced by political actor to empower themselves and undermine others. Indeed, norm effectiveness is shaped by several factors including rhetorical appeal, legal factors, and material resources. I wonder how the international law on the use of force against individuals in war emerge as arenas of norm contestation of actors with conflicting substantive political interests.

Third, the book underscores the relationship between international law with International Relations theories and controversies. The structure-agency problem constitutes one of the key theoretical dilemmas in social theory. I wonder how international law on the use of force against individuals in armed conflict could engage with the call for ‘global IR’ (Acharya 2014; Regilme 2021). Global IR aims for the transformation of IR as a field of inquiry into something that actually captures and explains the relationships among states, non-state actors, and societies in all parts of the world: East, West, North, South. A global IR perspective on IR theory does not seek to displace existing theories but challenges them to broaden their horizons and acknowledge the place and role of the non-Western world. It also asks us to revisit what kind of global orders existed before Western hegemony and reimagine global orders that could emerge in the future that maybe beyond the narrow conceptual and analytic tools of Western scholarly and political imagination. If international law on the use of force against individuals is just a modality of reinforcing the current global order, then is it enough to reform such legal instruments in ways that still maintain that global order? What kind of global legal order is necessary for emancipatory politics, particularly in ways that make international law cognizant of the complex social ontology of violence? How and under which conditions could we transform the law on armed conflict in ways that acknowledge the political agency of the global South?

In conclusion, Ka Lok Yip’s monograph is an important contribution to the scholarly literature on international law, human rights, global studies, and social theory. I hope this book inspires more scholars to analyze other conceptions of justice and moral responsibility in the context of war, while carefully considering the various domestic and global factors that generate mass political violence.

Acharya, Amitav. 2014. “Global International Relations (IR) and Regional Worlds.” *International Studies Quarterly* 58(4): 647–59.

Bob, Clifford. 2019. *Rights as Weapons: Instruments of Conflict, Tools of Power*. Princeton University Press.

Regilme, Salvador. 2021. *Aid Imperium: United States Foreign Policy and Human Rights in Post-Cold War Southeast Asia*. Ann Arbor: The University of Michigan Press.

Regilme, Salvador. 2022. "The Global Human Rights Regime: Risks and Contestations." In *Human Rights at Risk, Global Governance, American Power, and the Future of Dignity*, ed. Salvador Santino F. Regilme and Irene Hadiprayitno. New Brunswick: Rutgers University Press, 3–22.