

War Crimes: Israel & Gaza

An interview with Professor Michael Newton

Page 1: Key Treaties and Legal Frameworks

1. The Rome Statute of the International Criminal Court

- Overview: Established in 1998, this treaty formed the International Criminal Court (ICC) and codified war crimes, crimes against humanity, and genocide.
- Key Provisions:
 - Article 8: War Crimes Definitions ([Read More](#))
 - Complementarity Principle: National courts have the primary responsibility to prosecute crimes, with the ICC as a secondary jurisdiction.
- Hyperlink: [Rome Statute - Full Text](#)

2. The Geneva Conventions

- Overview: A series of four international treaties formulated in 1949, setting standards for humanitarian treatment in war.
- Key Provisions: Protection of wounded soldiers, prisoners of war, civilians, and more.
- Hyperlink: [Geneva Conventions - Full Text](#)

3. Additional Protocols to the Geneva Conventions

- Overview: Two protocols added in 1977, expanding protections to victims of international and non-international armed conflicts.
- Hyperlink: [Additional Protocols](#)

4. Customary International Humanitarian Law

- Overview: Represents practices accepted as law, complementing treaty law.
- Hyperlink: [ICRC Customary IHL Database](#)

Page 2: Specific War Crimes and Definitions

War Crime Definitions (As Per the Rome Statute)

Intentional Targeting of Civilians

- Deliberate attacks against non-combatant civilians or civilian infrastructure.

Using Human Shields

- Forcing civilians or prisoners of war to shield military objectives from attacks.

Proportionality and Distinction in Military Operations

- Proportionality: Avoiding excessive civilian harm relative to the anticipated military advantage.
- Distinction: Differentiating between combatants and non-combatants.

Illegal Use of Weapons

- Employing weapons prohibited by international agreements.

Attacks on Hospitals and Medical Units

- Targeting medical facilities, personnel, or vehicles, which is prohibited under the Geneva Conventions.

Examples from Real Conflicts (Referenced in Interview)

- Israeli Military Operations in Gaza
 - Application of proportionality and distinction principles.
 - Use of warnings to minimize civilian casualties.
- Hamas's Actions
 - The legal status of Hamas as a non-state actor and its implications under the laws of war.
 - Conducting hostilities without combatant immunity.

Additional Resources

- International Committee of the Red Cross (ICRC) Resources on War Crimes
 - ICRC Overview of War Crimes
- United Nations Resources
 - UN Office on Genocide Prevention and the Responsibility to Protect

BIOGRAPHY

Michael Newton is an expert on terrorism, accountability, transnational justice and conduct of hostilities issues. Over the course of his career, he has published more than 90 books, articles, op-eds and book chapters. He has been an expert witness in terrorism related trials both in domestic courts and at the International Court of Justice. Professor Newton is admitted to the Counsel List of the International Criminal Court, where he helped prepare the appeal of Jean-Pierre Bemba and has participated in oral arguments at the Appeals Chamber in other cases. At Vanderbilt, he developed and teaches the innovative International Law Practice Lab, which provides expert assistance to judges, lawyers, legislatures, governments and policy makers around the world, and directs the International Legal Studies Program. Newton is the editor of *The United States Department of Defense Law of War Manual: Commentary and Critique* (Cambridge University Press).

An authority on the law of armed conflict, Newton served as the senior adviser to the Ambassador-at-Large for War Crimes Issues in the U.S. State Department from January 1999 to August 2002, during which he implemented a wide range of policy positions. He negotiated the “Elements of Crimes” for the International Criminal Court. He has been involved in coordinating U.S. support to accountability mechanisms worldwide, both at the international and domestic levels. For example, he is currently assisting judges and legislators addressing atrocity crimes committed in Ukraine under a USAID led project. He led the team teaching international law to the first group of Iraqis who began to think about accountability mechanisms and a constitutional structure. He later shuttled back and forth to Baghdad assisting international and Iraqi lawyers prosecuting cases before the Iraqi High Tribunal while serving as the International Law Adviser to the Judicial Chambers from 2006 to 2008. He began assisting Iraqi officials, victims and civil society groups on legal issues associated with documentation and investigation of crimes committed by Da’esh on Iraqi soil days after Yazidi victims fled towards Mount Sinjar. Newton remains active in providing assistance to the Iraqi judiciary in Da’esh related prosecutions. He served as the U.S. representative on the U.N. Planning Mission for the Sierra Leone Special Court and was a founding member of its academic consortium. He is an elected member of the International Institute of Humanitarian Law in San Remo, Italy and was selected for the expert roster of Justice Rapid Response. In addition to teaching the Practice Lab, he coordinates support to the Counterterrorism Bureau, U.S. Department of State under two different grants. These efforts provide a rich array of educational exposure to Vanderbilt students. He also coordinates International Legal Studies Program efforts in support of student externships and other educational opportunities.

Newton has served on the executive council of the American Society of International Law and as an invited expert for the [Genocide Prevention Task Force](#) established by the U.S. Holocaust Memorial Museum and the U.S. Institute of Peace. He serves on the advisory board of the [ABA](#)

[International Criminal Court Project](#). He was also appointed by the president of the ABA to serve on the advisory council of the Center for Human Rights for Academic Year 2022-23.

Newton served in the U.S. Army more than 21 years, beginning with his commission from the U.S. Military Academy in May 1984 as an armor officer in the 4th Battalion, 68th Armor at Fort Carson, Colorado. After his selection for the Funded Legal Education Program, he served as chief of operational law with the Army Special Forces Command (Airborne) during Operation Desert Storm, and as the group judge advocate for the 7th Special Forces Group (Airborne). His many deployments include Northern Iraq on Operation Provide Comfort to assist Kurdish civilians, and Haiti with 194th Armored Brigade (Separate), where he organized and led human rights and rules of engagement education for multinational forces, including police. He has taught international and operational law at the Judge Advocate General's School and Center in Charlottesville, Virginia, and taught international law at the United States Military Academy at West Point.