

Foreword

In 1998, after arriving at West Point for assignment as the United States Military Academy's Staff Judge Advocate, I was selected to be Professor and Head of West Point's Department of Law. That's when I had the good fortune of meeting Professor Gary Solis, with whom I began a personal and professional relationship that has been one of the highlights of my career.

Professor Solis, a retired United States Marine, had revitalized a moribund Law of War program in the Department of Law and created the first elective at the Military Academy on that topic. Because I had come from recent operational law assignments, the subject area was of great interest to me, and we frequently talked about related issues, both historical and contemporary. After I moved to the Department of Law, we continued to develop our shared interest and, on occasion, we had the chance to teach the elective together. When Gary left his professorial position in the summer of 2001, I took over the teaching of the course, building on the great foundation he had laid.

Over the next few years, the department asked Professor Solis to return to West Point as Visiting Professor, normally a one-year arrangement. Because of his remarkable contributions, including devising and coordinating an overall cadet program in the law of armed conflict (LOAC) that included practical training exercises as well as classroom instruction, he was asked to stay on as our Visiting Professor for a second year, until he again retired. He continues to return to West Point every semester, and we team teach the introductory class in this essential area that all cadets attend.

During our discussions and teaching, Gary and I would occasionally lament the lack of organized textual material necessary for teaching a course in LOAC, particularly the lack of a good textbook. Anyone involved with international humanitarian law (IHL) – academics, commanders and soldiers, cadets, and concerned citizens – should be delighted that Professor Solis has devoted his expertise to writing that textbook. There is no one more qualified.

Gary Solis has not only studied and taught these principles, he has lived them and advocated their practical application. This textbook reflects an academic apprenticeship that includes a master of laws in criminal law from George Washington Law School and a doctorate in the law of war from the London School of Economics and Political Science. He has previously published two outstanding books on law of war issues related to Vietnam, as well as numerous articles on LOAC topics. He is in demand as a lecturer, commentator, and expert witness on these issues.

This book is shaped by Professor Solis's years of experience in teaching this subject at both the undergraduate and law school levels, and reflects classroom lessons learned.

Professor Solis has created a book with a clearly stated approach to learning the subject, a textbook organized to lead students from the most basic issues to the more difficult and complex. He includes commonly raised classroom issues, using real-world examples. His military career has provided him with an appreciation and understanding of the material he addresses, rarely found in a textbook. He combines academic rigor and expertise with his experience as a combat Marine to communicate how these issues unfold on the ground.

Before he went to law school, Gary Solis was a young officer in Vietnam, commanding Marines in combat during two tours of duty and serving as a company commander after his predecessor was killed in action. His understanding of LOAC issues is informed not only by those experiences but also by his experience as a judge advocate, which included serving as chief prosecutor in two of the Marine Corps' three divisions, as a military judge, and as the staff judge advocate of a major command. He has participated in more than 700 courts-martial (several involving allegations of violations of the law of war). His active-duty service culminated in a position in which he headed the military law section of the Marine Corps worldwide that earned him recognition for his role in modernizing the *Manual for Courts-Martial*. No one who works on these issues, no one who thinks about them, or has taught them matches Professor Solis's combination of academic thought and scholarship, teaching, and practical experience. He is exactly the person who should write a textbook on law of armed conflict.

As you read this book, you will appreciate that the chapters on conflict status and individual status could only be written by an individual with academic experience in IHL and LOAC. The chapters on command responsibility and rules of engagement could only be composed by a soldier or Marine who has experienced these issues in more than a theoretical setting.

This is a work of mature scholarship, a clearly written guide to IHL and LOAC for the student who comes to the classroom knowing little or nothing of these topics. When Professor Solis and I first discussed these issues, we were greatly interested in them because of our prior experiences, and they were topical because of war crime trials in The Hague. That was prior to September 11, 2001, when the world changed. The events that have occurred in the intervening years, from Iraq to Afghanistan, from Abu Ghraib to Guantanamo, from torture allegations to the treatment of detainees, demonstrate the need for an understanding of the principles of IHL. This book provides that understanding.

Professor Solis's work is historical as well, describing hundreds of cases – in the United States and internationally. He traces the history of concepts, concentrating on significant cases from ancient times to the war on terrorism. He artfully mixes legal and military history, recognizing that we can't know where we are without understanding where we've been. The thousands of footnotes, which allow interested readers to locate further readings on almost any topic discussed, include a wide range of source materials, from law review articles to academic texts and military documents, and even a reference to *Dr. Strangelove*. This textbook also includes material from Professor Solis's personal files and unpublished trial records and military reports not available anywhere else.

In his approach to difficult issues, Professor Solis never soft-pedals miscalculations by the political and military leaders of the United States or excuses their often poorly considered positions in the so-called war on terrorism. The chapter on torture should be a guide to military and civilian leadership.

Every professor and teacher with classes in international law, national security law, or any aspect of the war on terrorism – in undergraduate institutions to graduate programs to law schools – will profit by using this book. The broad coverage of essential IHL should make this book a *vade mecum* for upper-division undergraduate students, as well as those in law school. This book is an excellent resource for military officers of all grades and is absolutely indispensable for every deployed judge advocate. Any tactical legal advisor should make sure that this book is the first item packed in the rucksack. Legal advisors and other users can take advantage of the comprehensive table of contents, which allows the reader to quickly locate significant points of law of war and IHL.

Any textbook covering complex and emerging questions, with issues and answers still being argued and formed, is bound to include arguable points and occasional errors. Professor Solis does not shy away from gray or unsettled areas. He takes clearly stated positions based on experience, expertise, and best interpretations of the law. In doing so, he provides clear guidelines to students and other users.

Professor Gary Solis made a lasting impact on the Law of War program at the United States Military Academy at West Point, ensuring that the next generation of our Army's leaders understand and appreciate LOAC and IHL. His efforts enabled those young men and women to realize and inculcate the guidelines that control our actions in armed conflict and the essential principles and values that underpin these laws and requirements. Because of his contributions, Professor Solis is one of the very few honorary members of West Point's Association of Graduates. With this outstanding textbook, Professor Solis makes a broad contribution to the study of an area of the law that is critical to the manner in which countries, armed forces, and individuals conduct themselves. It is likely to have an impact that will last for decades.

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