

# CONTENTS

<i>Acknowledgements</i>	page x
<i>Table of Cases</i>	xii
<i>List of Abbreviations</i>	xiii

1	Introduction	1
1.1	Reciprocity and IHL	3
1.1.1	A More Nuanced View of Reciprocity	3
1.1.2	Beyond Codified Law: Reciprocity in Practice	4
1.2	Methodology	7
1.3	Structure of Book	10
2	Reciprocity and IHL Compliance	12
2.1	IHL: Rules Governing the Conduct of Hostilities	13
2.2	Reciprocity and IHL	20
2.2.1	Reciprocity: An Initial Definition	20
2.2.2	Neoliberal Institutionalism and Reciprocity	22
2.2.3	The Original Position and Reciprocity	25
2.3	The Humanization of Humanitarian Law	28
2.3.1	The Special Character of IHL	28
2.3.2	Restrictions on Belligerent Reprisals	32
2.3.3	The Principle of Universal Jurisdiction	36
2.4	Preserving Expectations of Reciprocity within IHL	39
2.4.1	A More Nuanced Version of Specific Reciprocity	39
2.4.2	Hart, Secondary Rules and Specific Reciprocity	42
2.4.3	The Domestic Multi-actor Setting	45

2.5	Alternative Mechanisms for Gaining Compliance with IHL	48
2.5.1	Legal Process and Compliance with IHL	49
2.5.2	The Compliance Pull of the IHL	52
2.5.3	Identity and Compliance with IHL	54
2.6	Conclusion	57
3	Reciprocity and the Updating of the Geneva Conventions	59
3.1	The Expectation of Reciprocity and IHL Prior to the Second World War	60
3.2	The Application of the Geneva Conventions and Additional Protocols	70
3.3	Reciprocity and the Treatment of POWs	81
3.4	Reciprocity and the Treatment of Civilians	89
3.5	Conclusion	93
4	The Expectation of Reciprocity and the War in Vietnam	95
4.1	USA and Compliance with IHL Prior to the Vietnam War	96
4.2	The Decision to Apply the Geneva Conventions to the War in Vietnam	100
4.2.1	The Logic of Appropriateness and Applying the Geneva Conventions	101
4.2.2	Reciprocity and the Decision to Apply the Geneva Conventions	103
4.3	The POW Status of Detainees	105
4.3.1	The Logic of Appropriateness and the POW Status of Detainees	106
4.3.2	Reciprocity and the POW Status of Detainees	109
4.4	War Crimes	114
4.4.1	The Logic of Appropriateness and War Crimes	114
4.4.2	Reciprocity and War Crimes	116
4.5	Conclusion	126

5	The Expectation of Reciprocity and the GWOT	128
5.1	The USA and IHL Obligations: Vietnam to Yugoslavia	129
5.2	The Use of Military Commissions to Try Detainees	134
5.2.1	The Logic of Appropriateness and Military Commissions	135
5.2.2	Reciprocity and Military Commissions	139
5.3	The POW Status of Detainees	144
5.3.1	The Logic of Appropriateness and POW Status	144
5.3.2	Reciprocity and POW Status	147
5.4	The Use of EITs on Detainees	156
5.4.1	The Logic of Appropriateness and EITs	159
5.4.2	Reciprocity and EITs	165
5.5	Conclusion	167
6	Conclusion	169
6.1	Summary of Empirical Evidence	169
6.2	The Trump Administration and IHL	176
6.3	Generalizing Beyond IHL	179
	<i>Appendices</i>	185
	<i>Bibliography</i>	191
	<i>Index</i>	208