

WAR AND CONSCIENCE IN THE NUCLEAR WAR

This is both a readable and thoughtful book on the ethical problems posed by war in the light of the present state of international politics and law.* In many respects, this book is largely a reproduction of an earlier work published by the author in 1972 entitled "Prohibitions and Restraints in War". Like the earlier work, the author reviews the "Just War" doctrine in Christian ethics, its development in international law from the time of Grotius onwards, the basic rules of humanitarian law, and finally arms control and disarmament.

These subjects are expanded and updated in the later book and more emphasis is given to the section on disarmament and arms control which outlines the principal means used in these treaties to supervise or control the ownership of nuclear weapons. The major qualitative difference between the earlier work and this one is that the latter contains more thought on ethical problems, particularly on the justice of pacifism or non-pacifism and the problems arising from taking either of these stands. Although the arguments are largely based on Christian ethical norms, the discussion is of equal validity to persons of other religious or philosophical persuasions. The last chapter is a particularly interesting study of the thoughts of certain men faced with these dilemmas and the work of those who made major contributions towards the present state of law.

The book contains sufficient humanitarian law and arms control law to be used as a good introduction to these subjects, but care should be taken in certain places because the author uses the law as part of his ethical discussion and at times gives an inaccurate impression of the law itself. His assertion, for example, that there is a close connection between the "Just War" doctrine and humanitarian law is valid only in so far as one excludes those aspects of the former that relate to the *jus ad bellum* which is totally divorced from and irrelevant to humanitarian law.

In the same vein, he states that Protocol I "legitimizes" national liberation movements, which is false as humanitarian law can never legitimize any use of force and is totally neutral. In the chapter on irregular fighters and internal wars, he fails to point out that there is no combatant or prisoner-of-war status in internal conflict and incorrectly implies that Protocol I gives combatant status to all fighters who carry their arms openly. He supports this by citing only Article 44(3), thus ignoring the essential Article 43 and the general rule to distinguish from the civilian population that is reaffirmed in the first part of Article 44(3).

* Sydney D. Bailey, *War and Conscience in the Nuclear Age*, Macmillan Press Ltd, Houndmills, Basingstoke, Hampshire, London, 1987, 210 p.

In the chapter entitled "Human Rights in Armed Conflicts", he does not study international human rights law applicable in armed conflict, as might be thought from the title, but rather the United Nations' contribution towards the adoption of the 1977 Protocols. This chapter is misleading in that it gives the impression that the major impetus came from the UN, thus understressing the work of the ICRC in this respect.

On the subject of the Protocols, he categorizes these as the "law of Geneva" whereas, as he pointed out himself, this is a term of art describing the law on the protection of victims. Much of the Protocols in fact relate to the "law of the Hague" i.e. the law on the conduct of hostilities.

In conclusion, this book cannot be used as a legally accurate textbook on humanitarian law, but it is to be recommended as a thought-provoking introduction to this area of law, not only for its philosophical analysis but also for its historical background and overview of the law in today's world.

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New publication

INDEX ON THE TEACHING OF INTERNATIONAL HUMANITARIAN LAW IN ACADEMIC INSTITUTIONS

(Ed.: Danuta Zys, Christine Seydoux, Inge Bracke) Henry Dunant Institute, Geneva, 1987, 2 vols. (published in three languages: *English, French and Spanish*). This index provides a basic list of universities and other academic institutions that give courses on international humanitarian law or plan to include such courses in their future programmes.

It is composed of two loose-leaf binders providing details on each of those institutions and information on current and planned international humanitarian law curricula. It also describes the assistance that each university or institution would like to receive from the International Red Cross and Red Crescent Movement at the national and/or international levels.

The *Review* will be commenting on this major publication in its next issue.
