

## BOOKS AND REVIEWS

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### ARMED CONFLICT AND THE NEW LAW: ASPECTS OF THE 1977 GENEVA PROTOCOLS AND THE 1981 WEAPONS CONVENTION\*

This work, edited by Mr. Michael A. Meyer, Head of the Legal and Committee Services of the British Red Cross, consists of eleven essays on the contribution to international humanitarian law (IHL) made by the 1977 Additional Protocols and the Convention on the use of conventional weapons that was adopted in 1980. These essays were initially presented in a Discussion Group held under the auspices of the British Institute of International and Comparative Law.

Following a preface by *Professor G. Best* and an introduction by the editor, Part I covers general aspects. It begins with a study by the late *Colonel G.I.A.D. Draper* on the major stages of development and fundamental aim of IHL. *Mr. H. McCoubrey* then explains the basic distinction between *jus ad bellum* and *jus in bello*, and to his mind perceives a renaissance of "just war" thinking in Protocol I, particularly in Articles 1 (4), 44 (3) and 47, despite the safeguard clause provided in paragraph 5 of its Preamble. *Miss F. Hampson* explores the relationship between human rights and humanitarian law in internal conflicts, with particular emphasis on the practices of the bodies responsible for applying the European Convention on Human Rights (ECHR). Lastly, *Dr. H.-P. Gasser* examines the main controversies arising from the Protocols and shows that they are generally the result of misinterpretation.

In Part II, which addresses the situation of persons who enjoy increased protection under the Protocols, three British Army lawyers, *Brigadier M.H.F. Clarke*, *Lt. Colonel T. Glynn* and *Lt. Colonel A.P.V. Rogers*, discuss the changes in combatant status brought about by Protocol I. *Mrs. L. Doswald-Beck* examines the rules in Protocol I which are designed to protect the civilian population against the effects of hostilities. She shows that the provisions contained in the Protocols, although often no more than the natural outcome of earlier developments, are nevertheless important in that they do away with the uncertainty and controversy inherent in all customary law, an uncertainty exacerbated in this case by the experience of the Second World

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\* Michael A. Meyer (ed.), *Armed Conflict and the New Law: Aspects of the 1977 Geneva Protocols and the 1981 Weapons Convention*, British Institute of International and Comparative Law, London, 1989, 298 + XIV p.

War and the pessimistic conclusions drawn by legal scholars in the post-war period.

In the part dealing with humanitarian assistance, *Professor A. Roberts* delineates the first *international regime of civil defence*, which is contained in Protocol I and is an important yet little discussed innovation. *Mr. M. Meyer* describes how a balance between humanitarian interests and State sovereignty is achieved by the provisions of both Protocols pertaining to relief operations.

In the last part, which concerns the use of weapons, *Mr. C. J. Greenwood* refers to Part IV of Protocol I, arguing that its prohibitions against reprisals go too far and are unrealistic in the face of massive enemy violations of its provisions. *Professor F. Kalshoven* describes and comments on the legislative history of the 1980 Convention on conventional weapons and *Major General R. Scott* demonstrates the relativity from the medical and military point of view, of any distinction between unnecessary and "necessary" suffering.

This collection constitutes a highly useful and interesting contribution to the study of IHL and its dissemination. Its only flaw is the occasional lack of accuracy that has slipped into some of the essays. For example, p. 15 contains three errors. It is incorrect to say that no one has yet been brought to trial for a grave breach of the Geneva Conventions (for instance, the United States in connection with the Vietnam War) or that it was at the UN's request that Switzerland convened the 1974-77 Diplomatic Conference. Furthermore, national liberation movements, to which the text refers, have signed not the Protocols, but merely the Final Act of the Diplomatic Conference. Lastly, pages 39 to 41 of *Mr. McCoubrey's* essay refer erroneously and almost invariably to Articles 45 (1) and 44 (5) of Protocol I instead of the pertinent Articles 43 (1) and 44 (3). However, these minor imperfections in no way detract from the merit of the editor and the British Institute of International and Comparative Law for having provided us with a collection of essays which, although highly diverse and sometimes critical, prove that the Protocols additional to the Geneva Conventions have become an integral part of IHL.

*Marco Sassòli*

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## THE LAW OF NAVAL WARFARE

This book has been published as part of a reflective process begun in recent years on the need to update the law of naval warfare\*. Although Protocol I of

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\* Natalino Ronzitti (ed.), *The Law of Naval Warfare*, Martinus Nijhoff Publishers, Dordrecht, 1988.