

Judith Gardam (ed.)
Humanitarian Law

Ashgate/Dartmouth, Aldershot/Brookfield/Singapore/Sydney,
1999, 570 pages

Judith Gardam, from the University of Adelaide, has selected for publication a number of articles on topics related to international humanitarian law. All essays but one have been written after the Second World War, and most of them in the last ten years. They had previously appeared in prestigious journals published in the English-speaking world. The authors are well-known scholars and experts in the field of international humanitarian law, most of whom have written extensively on subjects related to this section of international law.

The author prefaces her brief introduction by a remark by an anonymous author (published in the *British Yearbook of International Law*, 1920/1) which deserves to be quoted: "... the rules that control hostilities are the worst and weakest part of international law; and yet it is by this worst and weakest part that international law has always been popularly judged and discredited." This is not a very gratifying judgment on the content and effectiveness of international humanitarian law. In introducing the 21 articles selected for this compilation, the author therefore felt the need to position present-day humanitarian law rules in the context of international law in general. The concise and well-written opening chapter traces its history from Grotius to our time, with particular emphasis on the changing relationship between international law on the use of force (*jus ad bellum*) and the rules which limit the use of such force (*jus in bello*). In nine brief pages she then comments on her selection of articles. The author's final words give a bleak picture of the present state of international humanitarian law and, with reference to the Advisory Opinion on nuclear weapons formulated by the International Court of Justice (1996), she

wonders whether that law is really “a fully-fledged component of international law”. While this is not the place to discuss what the Court said in its advisory opinion, it may be argued that the articles reassembled for publication in her book do not, as a rule, support such a pessimistic view. On the contrary, these texts prove that international humanitarian law is a thriving branch of international law whose relevance for answering current problems is beyond doubt.

In the first part of the book, Theodor Meron sets the stage with an article on the laws of war in Shakespeare’s *Henry the Fifth*, and Christopher Greenwood examines the relationship between *jus ad bellum* and *jus in bello*. Under the heading “International humanitarian law in the United Nations era”, the second part begins with two well-known texts which initiated the most recent period of international humanitarian law: Josef L. Kunz, “The chaotic state of the laws of war and the urgent necessity for their revision” (1951), and Hersch Lauterpacht, “The problem of the revision of the law of war” (1952). The subsequent articles cover several basic issues of modern humanitarian law: the role of customary law (Meron), wars of national liberation and present-day humanitarian law (Georges Abi-Saab), and the modern law on the conduct of hostilities, in particular on bombardment (Hans Blix), followed by an analysis of the reasons for rejection by the United States of the new law of Protocol I (George H. Aldrich), and the question of the rebels’ status in non-international armed conflict (Antonio Cassese).

Part III presents five papers dealing with issues related to the enforcement of international humanitarian law. Various aspects of the following subjects are covered: State responsibility for acts by its armed forces (Frits Kalshoven), crimes committed in non-international armed conflicts (Meron), the practice of the International Tribunal for the former Yugoslavia (James C. O’Brien and Christopher Greenwood), and rape as a crime in international law (Christine Chinkin). Judith Gardam takes up the broader issue of women in humanitarian law in an article published in Part IV. The only other contribution under this heading is Jochnick and Normand’s discussion of the history of the laws of war. Is this modest selection (in number, not in quality) of articles under the rather incongruous title “Theoretical perspectives” an indication of a dearth of texts on theoretical issues related to international humanitarian law?

The intention of the fifth and last part is to focus on “Future directions for international humanitarian law”. It contains four articles, in which the following issues are examined: theoretical aspects of relations between human rights law and international humanitarian law (Louise Doswald-Beck and Sylvain Vité), the protection of children (Geraldine van Bueren) and of the natural environment (Betsy Baker), and the new Convention on the Safety of United Nations and Associated Personnel (M.-Christiane Bourloyannis-Vrailas). The selection given is interesting, but the reader would perhaps like to see a greater variety of current issues addressed.

This is a most interesting and useful collection of articles which are all topical in the field of international humanitarian law. Some of them have become real classics. Readers will appreciate finding them together in one single volume. Any selection, of course, reflects the editor’s judgment of what is important and what is less so. Others will invariably make a different choice. Judith Gardam’s selection of articles on international humanitarian law is judicious.

On a purely formal level the failure to use the full customary term “*international humanitarian law*” in the book’s title is regrettable. It is moreover to be hoped that, at least in scholarly articles, “international humanitarian law” will not be replaced definitively by “IHL”. We should have the time and the patience to express what we really mean without resorting to ugly abbreviations.

HANS-PETER GASSER
Editor

Roy Gutman and David Rieff (eds)

Crimes of War — What the public should know

W.W. Norton & Company, New York/London, 1999, 399 pages

Non encore traduit en français, *Crimes of War* est destiné aux journalistes et à « ce que le public devrait savoir », ainsi que l’affirme le sous-titre. Écrit par 90 correspondants de guerre et universitaires spécialisés dans le