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Law and War, edited by Austin Serrat, Lawrence Douglas, and Martha Merrill Umphrey

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However, the work is approachable to the motivated reader and for the Navy's growing cadre of Asia-Pacific hands represents essential reading.

DALE C. RIELAGE



Serrat, Austin, Lawrence Douglas, and Martha Merrill Umphrey, eds. *Law and War*. Stanford, Calif.: Stanford Univ. Press, 2014. 248pp. \$75

Law and War is a collection of five essays on the role of law in war offered as part of the Amherst Series in Law, Jurisprudence, and Social Thought. What ties the essays together is their shared interest in “interrogating the assumption . . . that the insertion of law into war is necessarily a salutary achievement.” But this connection is often loose, and, while several of the essays have a great deal of individual merit, it is perhaps a weakness of the book that it lacks the degree of overall coherence that one might expect.

Sarah Sewell leads off with the essay most relevant to military legal practitioners and warfighters. In “Limits of Law: Promoting Humanity in Armed Conflict,” Sewell makes a compelling argument that modern norms about what is acceptable in war often outstrip the limits imposed by the actual law; that is, norms often make “unacceptable” conduct that the law inarguably still permits. She views this as a negative development, fearing that as gaps develop between the norms and the law, it will increasingly erode respect for the latter. By way of example, Sewell highlights the growing normative expectation that powerful states will eliminate civilian casualties in war, while the law of armed conflict has always recognized an uneasy

balance between humanitarian protection and military necessity—a balance that “the norm of minimizing civilian casualties” does not need to maintain.

Gabriella Blum follows Sewell, and in “The Individualization of War” she explains how such norms have taken hold through a process she describes as a shift from “collectivism” to “cosmopolitanism,” by which she means a shift from a “state-centered set of obligations” to one focusing on the rights of individuals to be protected from the evils of war. Like Sewell, Blum asserts that this development is not necessarily good, leading to an increasing conflation between the norms of policing and those of warfighting (with negative consequences to both).

The third essay represents a substantive, if not thematic, departure, as Laura Donohue writes on “Pandemic Disease, Biological Weapons, and War.” Donohue offers a historical treatment of U.S. federal authority for responding to such threats, and argues that post-9/11 fears have led to a paradigm shift in thinking about them—from public health menace to national security threat. This essay is probably most relevant to military practitioners dealing with domestic support to civil authorities.

Samuel Moyn's essay “From Antiwar Politics to Antitorture Politics” offers a fascinating comparison between the legal arguments offered against the Vietnam War and those often presented regarding America's conduct of its post-9/11 wars in Iraq and Afghanistan. Through a careful examination of the role of law in the antiwar movement of the 1960s and 1970s, Moyn highlights the extent to which the debate centered on the legality of America's entry into

the conflict, as opposed to focusing on *how* America fought. Moyn then traces a shift toward the end of the war, particularly Telford Taylor's trenchant criticism of American warfighting practices, which Taylor came to view as unlawful. By contrast, Moyn argues that criticism of our modern conflicts is directed at the conduct of hostilities—torture, rules of engagement, and war crimes. He ascribes this to the end of conscription and the relative inoculation of much of the American public from the effects of our wars abroad, but also to a larger shift in the broad discourse about the law of war in the modern era, in which the means and methods of warfare are much more tightly regulated.

The final essay builds to some extent on Moyn's work, though Larry May's "War Crimes Trials during and after War" is less cogent and ultimately less valuable. May sets out to examine whether war crimes trials are best prosecuted while hostilities are still under way or after hostilities are concluded. Controversially, May argues that war crimes trials during hostilities ought to address *jus ad bellum* matters: once a tribunal finds that unlawful "aggressive war" is being waged, soldiers of that side are on notice that they may be participants in the war crime of aggression. This strikes the reviewer as highly implausible, and for that reason this essay is perhaps the weakest of the five.

Ultimately, *Law and War* is a collection of essays that are largely conceptual and highly normative in their arguments. As such it is undoubtedly a thought-provoking and challenging book, but also one that is not likely to be of immediate use to military lawyers per se. On the other hand, for non-lawyers who ponder the role of law in

war, in policy making, and in shaping and reflecting societal norms, the book offers many valuable insights.

JOHN MERRIAM



Daddis, Gregory. *Westmoreland's War: Reassessing American Strategy in Vietnam*. Oxford, U.K.: Oxford Univ. Press, 2015. 320pp. \$36.95

General William Westmoreland, the American commander of Military Assistance Command Vietnam (MACV) from 1964 through 1968, remains one of the most contentious personalities of the Vietnam War, still the subject of intense debate among veterans and historians of the war. Prevalent still is the view that "Westy" could not see the forest for the trees, or vice versa, and disastrously lacked strategic vision and operational creativity owing to his parochial focus on employing Cold War "big unit" doctrine and attrition to combat an insurgent war of unification. The most extreme of such assessments of Westmoreland comes from Lewis Sorley, who in multiple works, notably *Westmoreland: The General Who Lost Vietnam* (Houghton Mifflin, 2011), all but charges Westmoreland with gross negligence.

Gregory Daddis, formerly of the Military History Department at West Point and now associate professor of history at Chapman University, offers what he believes is a more balanced view of this controversial general. In *Westmoreland's War*, Daddis argues that instead of lacking understanding of the conflict in Vietnam and warmly wrapping himself in the comfort of familiar "big unit" doctrine, Westmoreland embraced counterinsurgency approaches