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Right vs Might: International Law and the Use of Force

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a discussion among the panelists, followed by a question and answer period with each panelist fielding questions from the audience.

The range of areas covered is breathtaking. Sessions on "Redefining National Security," "Implications of the Diffusion of Military Technology," "Future U.S. Defense Requirements," "Issues on Science," "Specialized Sessions on Chemical and Biological Weapons," "Arms Control," "Nuclear Proliferation," and "Naval Forces and Arms Control" give the book an extraordinarily wide scope. All areas are given about equal space, and therefore the book moves along quickly; the reader does not get bogged down with too many details.

The chapter entitled "Naval Forces and Arms Control: Implications for Security" should be of particular interest to naval professionals. It generated some of the most interesting and difficult questions from the colloquium attendees. The panelists were Ronald O'Rourke (naval analyst for the Congressional Research Service, Library of Congress) and Eric Kunsman (Principal Deputy Director, Office of Strategic and Theater Policy, Department of State), who are well recognized experts in their fields and on the topic of naval arms control, particularly between the United States and the former Soviet Union.

If there is a unifying theme in this work, it is the connectivity between security requirements and emerging technology. However, its basically eclectic nature is its weakness, and it is unclear just how much editing the

editors accomplished: the book reads like a verbatim transcript.

The statements made by each of the panelists are well prepared, tightly woven, and interesting to read, but unfortunately they make up only about one-third of the book. The remaining panel discussions, and the questions and answers, are loosely wound and not particularly enlightening. At best, they represent verbal sparring. For example, in response to a statement made by Randall Forsberg who suggested that fundamental changes were taking place in the Soviet Union, Frank Gaffney responded, "I think you have to be brain-dead to believe that the Soviet Union has changed"; in response to Lawrence Korb regarding the lack of Nato participation during Desert Storm, Edward Luttwak noted that "Germans are wonderful at operating panzer divisions in the desert. Let them do it."

This compendium measures up as a work containing authoritative statements on topical issues by individuals who are experts in their fields. As entertaining reading, this book is a winner. As a meaningful addition to serious works in the national security community, it does not measure up. Readers who choose it for the former reason will be well entertained; those who choose it for the latter will be disappointed.

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Henkin, Louis, et al. *Right vs Might: International Law and the Use of Force*,¹

New York: Council on Foreign Relations Press, 1991. 200pp. \$14.95

When may a nation rightly use military force in international relations? This second edition of five essays was originally written in the mid-1980s and contains an appended discussion of force in the New World Order. One might presume that this work has little to offer to the foreign policy questions of tomorrow, but one would be wrong. The six contributing authors (or co-authors) (Louis Henkin, Jeane Kirkpatrick, Allan Gerson, Stanley Hoffmann, William Rogers, and David Scheffer) offer balanced, well written viewpoints that are pertinent to questions that must be faced today and tomorrow. This book should be read by any U.S. military officer responsible for or interested in the use of armed force in the post-Cold War world.

The central theme of the book is well worth our consideration: to what extent should the restrictions of international law bind U.S. policy when national interests or moral responsibilities conflict with the doctrine of sovereignty? Kirkpatrick and Gerson argue that the Reagan doctrine "is above all concerned with the moral legitimacy of U.S. support—including military support—for insurgencies under certain circumstances. . . . It rejects the notion that any government must be respected; that is, it rejects the inviolability of sovereignty."

Henkin presents the conservative view of the international lawyer:

"The U.N. Charter . . . remains the authoritative statement of the law on the use of force. . . . All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." Henkin urges that even "justified grievances and a sincere concern for 'national security' or other 'vital interests' . . . could not justify the use of force between states. . . . Peace was more important than progress and more important than justice [because war] inflicted the greatest injustice, the most serious violations of human rights, and the most violence to self-determination and to economic and social development. . . . [T]he only 'just war' would be war against an aggressor." Thus, he writes, "whatever its domestic appeal, the 'Reagan policy' as commonly understood is untenable in law, and the United States cannot lawfully pursue it," whether in Nicaragua, Grenada, or Libya.

Stanley Hoffmann's essay, "Ethics and Rules of the Game between the Superpowers," suffers the most from the collapse of the Soviet Union. Hoffmann condemns the Reagan doctrine on "ethical grounds," although some analysts credit that doctrine for our "winning" the superpower game. But the game has ended, and its rules no longer matter.

William D. Rogers offers an elegant, reflective commentary on "The Principles of Force, The Force of Principles." A lawyer with State Department experience at the assistant and undersecretary levels, he understands the legal perspective, is attuned

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to world cultural and political trends, and knows first-hand how policy decisions are reached. He writes, "The actual conduct of foreign relations, whatever the persistent demands of those out of office for a disciplining strategy, is more fact-specific than principle-oriented." His brief essay captures most of this volume's debate in a manner which will entrance the thoughtful man or woman of action.

David J. Scheffer's essay, "Use of Force After the Cold War: Panama, Iraq, and the New World Order," contrasts how the Bush administration operated to reinforce the architecture of international law throughout the Persian Gulf crisis with the fact that "none of these objectives [stated by Bush administration officials to justify the 1989 invasion of Panama] survives legal scrutiny with much credibility." In fifty well documented pages, Scheffer argues that U.S. decisions in these two crises "do not form a consistent vision of the 'new world order' President George Bush propounded during the Gulf conflict. Instead, they reveal the difficult choices that governments must make between the national interest, narrowly conceived, and the emerging global interest of the post-Cold War era." As an addendum to the first edition, Scheffer's essay is *vital* reading about what the New World Order should and should not involve.

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Robertson, Horace B., Jr., ed. *The Law of Naval Operations: International Law Studies*. Vol. 64. Newport, R.I.: Naval War College Press, 1991. 540pp. (No cost)

This excellent collection of essays edited by Emeritus Professor Robertson, former Stockton Professor of International Law at the Naval War College and a former Judge Advocate General of the Navy, is an elaboration and commentary on *The Commander's Handbook on the Law of Naval Operations* (NWP-9A). The unannotated version of NWP-9A is reprinted as an appendix.

This version of NWP-9A will serve line officers well. Lawyers and researchers, however, should have the annotated version available when consulting *The Law of Naval Operations*. All readers should be cautioned that NWP-9, as an official naval warfare publication of the U.S. Navy, is subject to periodic updating and revision. Therefore, the version of NWP-9 appended to this book will necessarily become obsolete over time. In any event, a prudent commander will consult a judge advocate before acting on the basis of this or any other book concerned with the law of military operations.

The authors of the book rank among the most distinguished international law scholars from around the world, including five former Stockton Professors at the War College. The volume is rightly dedicated to the memory of Professor L.F.E. Goldie; his essay, "Maritime War Zones and