

1980

The New Humanitarian Law of Armed Conflict

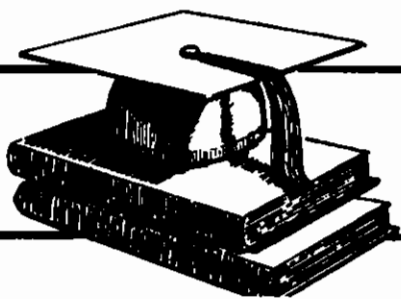
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PROFESSIONAL READING

BOOK REVIEWS

Cassese, Antonio, ed. *The New Humanitarian Law of Armed Conflict*. Naples, Italy: Editoriale Scientifica S.r.l. 1979. 501pp. Distribution: Dobbs Ferry, N.Y.: Oceana Publications.

Reviewing a volume that consists of a collection of essays by a number of different authors is always a problem, particularly where, as here, there are many items worthy of specific mention and only a limited amount of space is available for the review. While this reviewer must admit that not every one of the essays engendered in him the enthusiasm displayed by Professor Ruegger in the Preface, there is no question but that, on the whole, this is an excellent collection of studies on an important subject—the new humanitarian law of armed conflict contained in the two Protocols drafted by a Diplomatic Conference consisting of over 100 national delegations over a period of 4 years (1974-1977) and signed in June 1977.

As the Preface discusses each individual essay, this reviewer will not attempt to repeat the information therein contained. Suffice it to say that the articles that were found to be of particular interest and to be particularly well done were those written by Obradovic ("La Protection de la Population Civile dans les Conflits Armés Internationaux"), Cassese ("Means of Warfare: the Traditional and the New Law") and "A Tentative

Appraisal of the Old and the New Humanitarian Law of Armed Conflict"), Roling ("Aspects of Criminal Responsibility for Violations of the Law of War"), and Bierzanek ("Reprisals as a Means of Enforcing the Laws of Warfare; the Old and the New Law"). In addition, an interesting group of four articles (three in English and one in French), but of varying value, is presented under the rubric "The Attitude of States Toward the Development of Humanitarian Law."

The selection of the foregoing essays on the evolving humanitarian law of armed conflict as being of particular interest should not be construed as indicating concurrence with all of the conclusions reached by the several authors named. For example, this reviewer disagrees with Bierzanek's conclusion that, in drafting the 1977 Protocol I (International Armed Conflicts), the Diplomatic Conference did not go far enough in prohibiting reprisals. On the contrary, there appears to be considerable validity to Roling's observation that it is doubtful whether an absolute prohibition of reprisals contributes to the elimination of misbehavior; and, in fact, in certain circumstances, reprisals may actually serve a useful purpose. (This reviewer also joins in Professor Roling's expression of regret that the Diplomatic Conference elected to reject in its entirety a proposal to include in Protocol I a provision with respect to

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the defense of "superior orders" in war crimes trials.)

The importance that the nations of the world of today place on the need for a far-reaching and enforceable humanitarian law of armed conflict has been vividly demonstrated by the costs they underwrote and the talent they contributed to the four sessions of the Diplomatic Conference concerned with that subject. There is an urgent need to supplement the Protocols themselves with published discussions by experts in this field of international law, discussions that will help to clarify and to publicize these documents. This volume is a major contribution to this process.

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Coles, Alan. *Three Before Breakfast*.

Homewell, Havant, Hampshire, Eng.: Kenneth Mason, 1979. 192pp.

Three Before Breakfast recounts a little known story of the sinking of three aged *Bacchante*-class British cruisers by a single (probably) German U-boat in World War I. What makes this story so unusual is not that the three were sunk, but that all three were sunk in less than an hour's time—just before breakfast. Alan Coles has balanced an incredible amount of scholarly research with a carefully conceived measure of poetic license that makes the personalities on both sides come alive, and it is through their eyes that the morning becomes real. The result is a suspenseful, colorful, romantic, and sometimes sentimental inquiry into one of Britain's darkest days at sea. The incident sparked a great deal of debate on the readiness of Britain's naval forces, the priorities and responsibilities of its senior commanders and the operational plans of the fleet. Additionally, it marked the first action that confirmed the U-boat's value as an effective although admittedly ungentlemanly

In September 1941 *Aboukir*, *Hogue*, and *Cressy* were patrolling the "Broad Fourteens" where the English Channel pushes into the North Sea. At that time and since, some have argued that the three coal-burning cruisers were positioned as unescorted live bait for the German Fleet. Ironically, Churchill had decided to withdraw them from this forward position, to be replaced with a balanced, more modern force. However, his decision was 24 hours too late for a bold U-boat commander named Weddigen had already maneuvered the U-9 for an attack.

Coles' account of the sinkings reads like a novel and he pieces each ship's story together in a skillful manner. None of the ships was ready for the attack—they had fallen into the routine monotony of the patrol. *Aboukir* was the first ship to be attacked (torpedoed or mined, thought the captain) and shortly afterward was abandoned. *Hogue* steamed to assist the foundering *Aboukir* and provided a stationary broadside target for Weddigen. Despite a thick armor belt of Krupps steel, two torpedoes opened up *Hogue's* hull and magazine explosions finished the work. While pandemonium reigned on the surface, U-9 stalked *Cressy*. With her batteries nearly discharged, Weddigen ordered an attack and succeeded in sinking *Cressy*.

Littered with thousands of men and boys (midshipmen from Dartmouth were assigned to the ships' companies) and an assortment of rafts, launches, and flotsam, the sea became the stage for dramatic heroism and survival. First reaching the survivors were British and Dutch fishing trawlers. The fleet, having been alerted by *Cressy's* dispatch "ABOUKIR SUNK, HOGUE SINKING", arrived on the scene several hours later—just before lunch.

Though not as interesting, the second half of the book deals with the aftermath of the triple sinking, the rescue of survivors, reaction of the