

1980

Protection of War Victims: Protocol I to the 1949 Geneva Conventions

W. Hays Parks

Howard L. Levie

Follow this and additional works at: <https://digital-commons.usnwc.edu/nwc-review>

Recommended Citation

Parks, W. Hays and Levie, Howard L. (1980) "Protection of War Victims: Protocol I to the 1949 Geneva Conventions," *Naval War College Review*: Vol. 33 : No. 6 , Article 15.

Available at: <https://digital-commons.usnwc.edu/nwc-review/vol33/iss6/15>

This Book Review is brought to you for free and open access by the Journals at U.S. Naval War College Digital Commons. It has been accepted for inclusion in Naval War College Review by an authorized editor of U.S. Naval War College Digital Commons. For more information, please contact repository.inquiries@usnwc.edu.

106 NAVAL WAR COLLEGE REVIEW

Levie, Howard S. *Protection of War Victims: Protocol I to the 1949 Geneva Conventions*. Dobbs Ferry, N.Y.: Oceana, v. I 1979, 542pp., v. II 1980, 545pp.

Between 1972 and 1977 the United States and more than 100 other nations, various international organizations, and slightly more than a handful of so-called national liberation movements gathered in Geneva to negotiate treaties that would update the law of war. The result was Protocol I, which relates to international armed conflict, and Protocol II, which is concerned with internal conflict.

Howard S. Levie, former holder of the Charles Stockton Chair of International Law at the Naval War College, author of Volume 59 of the International Law Studies, *Prisoners of War in International Armed Conflict*, and editor of Volume 60 in that series, *Documents on Prisoners of War*, has betrayed his trust as an international lawyer to the principle of "complicate if at all possible" by turning his skilled hand to the extremely complex negotiating record of those myriad conference sessions to produce a simple, easy to follow chronological presentation of each article relating to war victims (the wounded, sick and shipwrecked; medical personnel; prisoners of war; and civilians not taking a direct part in the hostilities) from the original 1973 International Committee of the Red Cross draft text to the final approved 1977 article. That he was able to accomplish this in only four volumes is testimony to his already highly regarded abilities in the field of international law.

Volumes I and II deal with the general provisions of Protocol I; the wounded, sick, and shipwrecked; medical personnel and transportation; and the initial articles regarding prisoners of war. Of particular interest in Volume II is the negotiating record of Article 44 that substantially changed the

criteria for qualification as a prisoner of war. Volumes III and IV, which will address those Protocol I articles relating to the balance of the POW provisions as well as civilians, civil defense personnel, journalists, and other general provisions, are to be published in the coming year.

The volumes are a legislative history of many, but not all, of the provisions of Protocol I. They do not cover Protocol II, which is not likely to receive much attention in the practice of nations, nor the meetings of the Ad Hoc Committee on Conventional Weapons. Professor Levie has served as an editor of the complex negotiating record while wisely eschewing the opportunity to editorialize; he has facilitated the research of those who will follow without attempting to influence their endeavors.

The value of his contribution lies ultimately in the thousands of hours he will save future researchers in assembling in logical order the negotiating record of the Diplomatic Conference that produced Protocol I. While this suggests that *Protection of War Victims* are not exactly coffee-table books for entertaining invited company and/or small children, it should be emphasized that they should be regarded as an invitation to research, thinking, and writing by all students and practitioners of warfare rather than international lawyers alone. Article 42, for example, addresses the very complex issue of treatment of airmen descending by parachute from a disabled aircraft. During debate on this article, proposals ranged from a prohibition on further attack of combat aircraft once it was "disabled," a term that remained undefined, to declaring aviators descending over their own territory legitimate targets, the latter not without valid rationale and historical precedent. Full analysis of these discussions undoubtedly would constitute an interesting and invaluable contribution

PROFESSIONAL READING 107

to the pages of the *Naval War College Review* or other military journal. Professor Levie has facilitated a future author's research of this point by arranging in chronological order all formal discussion that led to adoption of this article.

No international agreement portends greater effect upon the manner in which combat operations are planned or conducted than does Protocol I, particularly for those involved in combat in densely inhabited areas such as Western Europe. Although some of the very best minds in the U.S. military worked assiduously throughout the course of the Diplomatic Conference to produce a document consonant with our military interests, the provisions of the two Protocols are the product of the very difficult give-and-take process of interagency coordination and international negotiation, and should be viewed in that light. Because of its import, Protocol I is undergoing comprehensive operational analysis prior to the Joint Chiefs of Staff concurring in its contents as part of the ratification procedure. Professor Levie's volumes contribute substantially to that evaluation process, which in itself serves as a worthy endorsement of their value.

W. HAYS PARKS

Lovell, John P. *Neither Athens Nor Sparta: The American Service Academies in Transition*. Bloomington: Indiana University Press, 1979. 362pp.

John Lovell has thoroughly described and analyzed the problems of modernization and reform at the service academies in the decades following the Second World War. His central theme concerns the tension between the Spartan conception of education (duty, honor, discipline, mental and physical fitness) and the Athenian conception (wisdom, culture, individualism, diversity).

In Part I, Lovell shows both approaches to have been present at the birth of American military education—the West Point seminary-academy. There, in addition to the Spartan emphasis, Athenian spirit was very much in evidence in a very progressive, for the times, academic concern for mathematics, science and technology. Unfortunately, by the 20th century the programs at the Military Academy and the newer Naval and Coast Guard Academies had lost their academically innovative character and ossified into routines wherein the Spartan elements overshadowed the Athenian.

The author describes the Athenian revival beginning in World War II, as the revolution in military thinking, practice and technology forced on the academies' new programs, expanded faculties and staffs, greatly increased enrollments, and new public interest and intervention in the affairs of these institutions. It became professionally imperative for the academies to adapt to changed interservice relationships, technological innovation, modern management techniques, and increased military involvement in domestic and international politics. It also became necessary to solve postwar problems of recruitment, attrition, academic deficiency and adverse public image.

Lovell devotes Part II of this study to examination of the ensuing process of modernization and reform at each of the academies. The Air Force Academy is described as both the product of the new pressures and the catalyst and model for the changes later adopted by the other institutions. West Point is represented as a less hospitable environment for many of the new ideas, a place where ingrained tradition and suspicion of technological and academic change contributed to the greatest reaffirmation of Spartan virtues. The Coast Guard Academy emerges as an institution that transcended the wartime eclipse of its mission and