

BOOK REVIEWS

THE PRACTICAL GUIDE TO HUMANITARIAN LAW: FIRST ENGLISH LANGUAGE EDITION, FRANÇOISE BOUCHET-SAULNIER, EDITED AND TRANSLATED BY LAURA BRAV, (LANHAM, MARYLAND, US: ROWMAN AND LITTLEFIELD PUBLISHERS, 2002) 489 PAGES, PRICE US\$37.00 (PAPERBACK) ISBN 0742510638

My interest in *The Practical Guide to Humanitarian Law* was piqued by the definite article in the title and the words 'practical guide'. It is quite a claim to write a book that describes itself as 'the' practical guide to an area of law that has always given rise to conflicting views and interpretations as to its relevance and application, and continues to do so. We need look no further than the recent armed conflicts in Afghanistan and Iraq to be reminded that applying laws to protect the victims of armed conflict continues to present us with challenges. Having used the book as a practical guide during the recent armed conflict in Iraq, I am able to say that while Bouchet-Saulnier has not written 'the' practical guide to humanitarian law, she has written a useful guide which identifies key areas of law and practice that arise during armed conflict.

Françoise Bouchet-Saulnier, legal director of *Médecins Sans Frontières* ('MSF') since 1991, research director of MSF since 1995 and a law teacher at the University of Paris, has the considerable legal and practical experience required to write a guide on the application of humanitarian law. Her experience in shaping MSF's responses to the crises in Somalia, Rwanda and Kosovo also gives her considerable knowledge of the diplomatic, political and organisational dimensions that are at work during armed conflict. The topics covered in this book reflect her knowledge and experience. The edition I read is the first English language edition, edited and translated from the French by Laura Brav.

Bouchet-Saulnier's aim in writing the book 'is to introduce its readers to the international legal standards that regulate situations of crisis and conflict, to acquaint them with the laws meant to enable individuals to withstand times of inhumanity[,] chaos and insanity'.¹ In my view she achieves this aim. She goes on to state that the book presents 'humanitarian law in a new light: from the perspective of relief action carried out for the benefit of victims ... [setting] forth an interpretation of the rules that defends the interests of the weakest'.² I agree with this interpretation, providing that it recognises that international humanitarian law

represents, at least in part, a set of professional military standards and bargains among States; ... its origins are as much military as diplomatic; and ... its

¹ Françoise Bouchet-Saulnier, *The Practical Guide to Humanitarian Law: First English Language Edition* (Laura Brav trans, 2002) 1.

² Ibid.

implementation can have consequences which are for the most part compatible with the interests of those applying it.³

When examining and applying international humanitarian law it is important that one remembers that it is a body of law that requires the four fundamental principles of military necessity, proportionality, humanity and distinction to be considered together. I did not read anything in the text to suggest that the author, in her desire to defend the interests of the weakest, inappropriately interpreted the rules applicable during armed conflict.

The first English edition of *The Practical Guide to Humanitarian Law* is almost 500 pages in length and takes an A–Z approach to examining international humanitarian law. It is easy to read and covers most topics relevant to the protection of victims of armed conflict. The book has three sections. The first is the introduction, the second is the A–Z guide and the third contains two appendices. Following the French convention, no table of contents appears at the front of the book and this is unfortunate. In my view an A–Z guide requires a table of contents to permit the reader at a glance to see what topics are covered and where to find a topic of particular interest. This omission is mitigated somewhat by the index and a guide to key entries by general subject, which are both at the back of the book. The substantive parts of the book are the introduction and the A–Z entries dealing with topics relevant to international humanitarian law. Appendix A provides details about the state of ratification of humanitarian law and human rights conventions; Appendix B lists states party to international humanitarian law and human rights conventions (as of October 2000). I found Appendix B to be of little practical use because it uses a numbering system for each convention that can only be understood by reference to Appendix A. Anyone who requires a regularly updated list of states parties to the various international humanitarian law treaties would be better served using the International Committee of the Red Cross website,⁴ which provides a list of states parties and signatories by treaty or by state.

The introduction outlines the aim of the book and briefly critiques the role of international humanitarian law and humanitarian action. The critique of the role of international humanitarian law focuses on the fact that it has not provided a ‘coherent legal discipline that allows the most favorable laws to be applied to individuals when their lives are threatened’⁵ and that ‘a large majority of individuals and humanitarian organizations continue to be unaware and ignorant of the exact content of the rights and duties toward humanity that the [*Geneva Conventions*] set forth’.⁶ Bouchet-Saulnier also critiques the revival of humanitarian action, lamenting how ‘little responsibility non-governmental organizations (NGOs) and other humanitarian actors accept’,⁷ particularly in the

³ Adam Roberts, ‘Implementation of the Laws of War in Late Twentieth-Century Conflicts’ in Michael Schmitt and Leslie Green (eds), *The Law of Armed Conflicts into the Next Millennium* (1998) 359, 381.

⁴ International Committee of the Red Cross, *Treaties Database* <<http://www.icrc.org/ihl>> at 1 October 2003.

⁵ Bouchet-Saulnier, above n 1, 3.

⁶ *Ibid* 4.

⁷ *Ibid* 6.

areas of accountability and the ethics of relief action.⁸ She comments on the challenges faced by the international community when it tries 'to integrate humanitarian activities into global and strategic frameworks related to peace and security, and to link the delivery of humanitarian assistance to political objectives such as restoring peace, democracy, and the rule of law'.⁹ I agree with the author's assessment as to where some of the tensions and challenges lie in applying international humanitarian law. I found her articulation of those tensions and challenges useful when examining the various topics contained in the A–Z guide. I do not agree, however, with the author's statement that the 'provisions of international law are superior to those of domestic law'.¹⁰ The superiority of international law in the context of domestic law depends on where the law is being applied and to what extent the national courts of a state recognise the application of international law.¹¹

In relation to the A–Z guide, the author certainly achieves her aim of '[enumerating] the rights of victims and humanitarian organizations in times of conflict, tension, and crises'. The guide consists of just over 400 pages devoted to topics such as adoption, children, collective security, detention, family, food, health, human rights and fundamental freedoms, humanitarian and relief personnel, humanitarian law, international law, missing or disappeared persons, occupation, population displacement, peacekeeping, refugees, the United Nations, violations of law, wounded and sick persons, war and women. For each topic Bouchet-Saulnier outlines the key legal principles applicable under international humanitarian law. Where relevant, she makes effective and accurate reference to international treaties and correctly identifies which responsibilities lie with whom, and in which circumstances. The author also utilises techniques such as highlighting key points (boxed, shaded text), additional important points (boxed, unshaded text) and cross-references to the various topics. It is helpful having key points highlighted and the cross-referencing prompts readers to consider other issues relevant to a particular topic. I remain uncertain as to the benefit of having additional points highlighted in the manner chosen by the author, as I cannot see why those points could not have been included in the main text. At the end of each entry there is also reference to additional reading which may be of use to readers interested in further exploring a topic. Where the topic is an organisation, the author provides the organisation's contact details.

By way of example, the entry on 'Children' starts with a clear and concise articulation of the status and vulnerability of children.¹² A shaded box outlines the vulnerability of children during armed conflict, the need to develop external systems of protection for children, the responsibilities of all actors in society to provide that protection, and the difference in legal terms between a minor and a child. Below the shaded box the text continues outlining the application of international conventions to children. After that introduction, which runs for two

⁸ Ibid 6–7.

⁹ Ibid 6.

¹⁰ Ibid 9.

¹¹ For a general explanation of the relation between international law and municipal law, see Ian Brownlie, *Principles of International Law* (5th ed, 1998) 31–6; Ivan Shearer, *Starke's International Law* (11th ed, 1994) 63–78.

¹² Ibid 34.

pages, the author briefly examines in Part I the subject of ‘Protecting Children in Times of Conflict: The *Geneva Conventions and Protocols*’.¹³ Within Part I she discusses such topics as sheltering children from hostilities, maintaining the family unit, providing specific care and relief for children in times of conflict, children in armed forces, judicial guarantees, and guarantees for children in non-international armed conflicts. Part II briefly examines ‘Situations Other than Armed Conflict’¹⁴ by addressing the *Convention on the Rights of the Child*,¹⁵ standards regarding children deprived of their liberty, and regional and national protection. At relevant points throughout the entry the author refers the reader to other topics in the guide that further develop the particular issue being referred to. The cross-references stated in the body of the entry are also repeated at the end of the entry.

In light of the fact that I was reading the book during the recent use of force against Iraq, I tried to assess its contribution against some of the issues that arose during that armed conflict to see whether it could in fact be used as a practical guide to humanitarian law. In general terms the book does provide such a guide. For example, under the heading of ‘Bombardment’ the author provides an adequate summary of the applicable law and also refers the reader to other relevant topics such as attack, methods (and means) of warfare, protected objects and property, protected persons, war and weapons. To take another example, the entry for ‘Prisoners of War’¹⁶ is, as one would expect, quite lengthy, and to assist with coming to grips with the topic the author starts with a brief and helpful summary of what the topic covers. The entry is broken into four sections: Definition of Prisoners of War, Protection of Prisoner of War Status, Status of Prisoner of War and Fundamental Guarantees. While it is true that the entry on POWs and the cross-references to other topics at the end of that entry provide an adequate examination of the basic principles of international humanitarian principles, I found it disappointing that there was no mention of parole or release of POWs. In any conflict where the possibility of a large number of combatants surrendering exists, or of special forces operating in circumstances precluding the holding of POWs, the options of parole or release are very attractive practical solutions that balance the operational requirements of the belligerent with the responsibility to ensure the protection of POWs. Most of the other topics that I

¹³ Ibid 36; *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, opened for signature 12 August 1949, 75 UNTS 31 (entered into force 21 October 1950); *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, opened for signature 12 August 1949, 75 UNTS 85 (entered into force 21 October 1950); *Geneva Convention Relative to the Treatment of Prisoners of War*, opened for signature 12 August 1949, 75 UNTS 135 (entered into force 21 October 1950); *Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, opened for signature 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950); *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts*, opened for signature 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978); *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts*, opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978).

¹⁴ Bouchet-Saulnier, above n 1, 40.

¹⁵ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 44 (entered into force 2 September 1990).

¹⁶ Ibid 285.

referred to, such as occupied territories, detention, mercenaries, responsibility and children, provided me with an adequate summary of the applicable law.

The Practical Guide to Humanitarian Law is more detailed than the book *Crimes of War: What the Public Should Know*,¹⁷ which also uses a similar structure of looking at international humanitarian law by listing key topics from A–Z. However, as a textbook or as a source of reference, my preference still lies with leading texts such as *How Does Law Protect in War?*¹⁸ and *The Handbook of Humanitarian Law in Armed Conflicts*.¹⁹

There is no doubt, however, that I will use this book as a reference guide when teaching and practicing international humanitarian law. Its emphasis on the different ways in which international humanitarian law can be used for relief actions will remind me of the need to take into account the perspectives of all those who continue to strive to find ways to use international humanitarian law to defend humanity. In summary, *The Practical Guide to Humanitarian Law* is a useful text for teachers and practitioners of international humanitarian law.

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¹⁷ Roy Gutman and David Rieff (eds), *Crimes of War: What the Public Should Know* (1999).

¹⁸ Marco Sassòli and Antoine Bouvier, *How Does Law Protect in War?: Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law* (1999).

¹⁹ Dieter Fleck (ed), *The Handbook of Humanitarian Law in Armed Conflicts* (1995).

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