

LAWYERS AND THE NUCLEAR DEBATE. By MAXWELL COHEN and MARGARET E. GOUIN. [Canada: University of Ottawa Press. 1988. xv + 419 pp. Softcover: \$35.00]

THIS book presents the proceedings of the Canadian Conference on Nuclear Weapons and the Law which was held in Ottawa in June 1987. Maxwell Cohen, an eminent professor of international law and a former Judge (ad hoc) of the International Court of Justice, was Co-Chair of the Conference and one of the editors of the book. The Conference was called to provide a forum where members from all branches of the legal profession could come together to discuss the various legal issues relating to Nuclear Weapons and Nuclear Proliferation. In issuing invitations the organisers sought to achieve geographical and professional diversity so as to ensure that a broad spectrum of views was represented.

The discussions at the Conference were divided into eight panels, each addressing one of the central legal issues posed by nuclear weapons. For each panel the main presentation of each of the three speakers is presented, followed by responses from the panel and a discussion in which participants from the floor joined the debate. The papers and comments are well edited and easy to read.

The comment of Professor Oscar Schachter of Columbia University in Panel 1 introduced participants to the relevance of law, particularly international law, to nuclear weapons. He explained that it

was the general consensus among international lawyers that the possession and deployment of nuclear weapons are generally permitted under international law. He also was realistic in explaining that nuclear weapons was an area where the role which law could play was limited by political and psychological factors. He pointed out that although law and legal processes alone could never solve the problems raised by nuclear weapons, law and lawyers could play an important and essential role in the area of nuclear weapons by helping to strengthen the procedures for verification, inspection, interpretation and dispute settlement. Professor Schachter's remarks clearly had an impact, as numerous speakers in other subsequent panels referred to them.

I found the discussion in Panel 2 on the "Existing Legal Constraints on Nuclear Proliferation" the most interesting. The discussion addressed two basic issues: firstly legal constraints on the possession and use of nuclear weapons, and secondly, an analysis of the 1968 Nuclear Non-Proliferation Treaty (NPT). The speakers were selected to represent three perspectives on the NPT: the West (NATO) view, the Socialist bloc view and the view of a threshold country which is not a party to the NPT. In representing the third view, the provocative comments of Professor Yoram Dinstein of Israel generated an unusually frank discussion on the effect of the treaty and the role of the International Atomic Energy Agency (IAEA). Several speakers felt it necessary to respond to his charges that the IAEA had become highly politicised in recent years.

The speakers, in Panel 3 discussing the relevance of "International Humanitarian Law and the Law of Armed Conflict" also provoked a lively exchange of views. Some speakers took the view that the use of nuclear weapons runs counter to the basic rules of humanitarian law. Others took the view that certain uses of nuclear weapons would not violate the principles of international humanitarian law. Differing views were also expressed on the relevance of 1977 Protocol 1 to the 1949 Geneva Conventions to the use of nuclear weapons. Some speakers took the position of the major powers that it was never intended that Protocol 1 should deal in any way with nuclear weapons. Other speakers took the view that Protocol 1 was fully applicable to nuclear weapons. The exchange of views was very interesting, especially for readers with a basic understanding of the Geneva Conventions and the 1977 Protocols.

Topics discussed in the other panels concerned the legal questions raised by nuclear weapons in the following areas: the role of national law, outer space, the legal basis for nuclear deterrence, arms control agreements, and the responsibility of the legal profession. As expected, the panel on outer space had a lively discussion between the participants from the United States and the Soviet Union on the Strategic Defense Initiative (SDI) and 1972 Anti-Ballistic Missile Treaty.

The only major drawback of the book is that it contains no subject index. A subject index would have been very time-consuming to prepare, but it would have enabled users to more easily locate the comments on a particular issue or point, especially since some of the same points came up for discussion in several panels.

The book is interesting reading for any lawyer who wants to know more about the legal issues concerning nuclear weapons or for anyone who wants to see how lawyers analyze and view a contemporary problem such as nuclear weapons. Persons with a basic knowledge of the principles of international law may be able to appreciate more of the discussion on technical legal issues. But any reader should be able to better appreciate both the limitations and the potential of international law and lawyers in dealing with issues relating to the peace and security of the world.

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