

# Jakub Czepek

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"Współczesne problemy praw człowieka i międzynarodowego prawa humanitarnego", Toruń 2009 : [recenzja]

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Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

## RECENZJE I OMÓWIENIA

***Współczesne problemy praw człowieka i międzynarodowego prawa humanitarnego*, pod red. Tadeusza Jasudowicza, Michała Balcerzaka, Julii Kapelańskiej-Pręgowskiej, Toruń 2009, ISBN 978-83-7285-484-1**

Due to recent developments, both in international affairs and international law, International Humanitarian Law and its interpretation has gained a paramount importance. Interpretation of IHL is particularly important for the future development of law of armed conflicts and protection of individuals *durante bello*.

International Humanitarian Law is facing today many important questions. These are questions about the role of Security Council and the UN in the law of armed conflicts, especially after the American intervention in Iraq.

There are questions about the concept of “war” and “peace”, which is particularly important recently, when almost no “wars” are declared. Yet, there are still many armed conflicts waging. Lack of declarations of “wars” is caused by the international legal mechanisms<sup>1</sup>. Due to such situation, character of terms such as “armed conflict”, “*ius ad bellum*” becomes very important question. Another major issue is the legal character of prohibition of use of force in international law. It concerns its character as *ius cogens* and its effectivity.

Apart from the above, International Humanitarian Law poses important and difficult questions about protection of individuals, both in the time of peace and war, which implies the important question about the relations between IHL and human rights. These are also questions about protection of the children during armed conflicts, the use of child-soldiers, for example during the conflict in Sierra Leone. There is also a question of preventing genocide (Rwanda, Darfur) and another question concerning the use of humanitarian intervention. Generally speaking, many questions concerning the practical effectiveness of the protection of individuals during armed conflicts must be answered.

It occurs, that in view of so many difficult questions, there are very few answers. That stresses the necessity for scientific approach. Sadly, despite the gravity of the above problems, there are not enough publications concerning them.

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<sup>1</sup> Such as prohibition to use force and renouncement of war.

The book *“Współczesne problemy praw człowieka i międzynarodowego prawa humanitarnego”* edited by Tadeusz Jasudowicz, Michał Balcerzak and Julia Kapelańska-Pręgowska not only tries to deal with most difficult problems of the modern IHL, but makes an effort to discuss these issues in interesting and interdisciplinary way. It's also important, that most of the authors not only presents the contemporary problems of IHL, but they also seek to grasp the future development and future problems that IHL may be facing.

The book consists of six sections. First section, entitled *Koncepcja “wojny” i “pokoju”* (*The concept of “war” and “peace”*) deals with problems of terms peace and war. Some authors pose important questions concerning modern regulation of *ius ad bellum* (T.Iwanek), others give some thought to renouncement of war and backing up peace in modern constitutions and international law (O.Cabaj and E.Krzysztofik). First section is concluded by very interesting article about concept of war and peace in its theological aspect written by late Tadeusz Płoski, who died tragically in the accident of the presidential aircraft on 10<sup>th</sup> april 2010.

Second section concerns the prohibition to use force in international law (*Zakaz użycia siły w prawie międzynarodowym*). This section begins with interesting article about the right to use force and its future developments (P.Daranowski). The prohibition to use force is examined as the *ius cogens* of international law (A.Właż) and as the rule founded in The Charter of United Nations (T.Jasudowicz).

Section number 3 is entitled *“Problemy teorii i filozofii praw człowieka”* (*The problems of theory and philosophy of human rights*). Very important issue in this section is the universal character of human rights (A.Bieńczyk-Missala, M.Piechowiak). Also a diagnosis on effectiveness of the international protection of human rights is made (Ch. Swiniarski). In this section a difficult problem is raised: the problem of humanitarian intervention and its extension (J.Zajadło).

Section 4 concerns the problems of International Humanitarian Law (*Problemy prawa humanitarnego*). The scope of this section is to underline important contemporary issues concerning IHL. The problems are numerous: the rights of the child during war conflicts (P.Jaros), human rights standards as third generation of *ius contra bellum* (R.Fordoński), legal status of private military contractors (A.Szpak), medical personnel protection (M.Lubiszewski) or the minimal humanitarian standards for the time of war and peace (M.Szuniewicz).

Fifth section *“Problemy międzynarodowego prawa karnego”* (International Penal Law Problems) consists of 3 articles. All of them – in some aspects – concern war crimes and crimes against humanity. First one seeks to find important answers in historical treaties (I.Topa), second one concerns the *nullum crimen sine lege* rule in the context of war crimes and crimes against humanity in the jurisdiction of ECHR (M.Balcerzak). The third one underlines the role of Interpol in the pursuit for the responsible for genocide, war crimes and crimes against humanity.

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The last-but not least- section 6 is entitled “Varia” and consists of three interesting articles by M.Górczyńska, Z.Kępa and M.Kun-Buczko.

All of the articles grouped in the above sections are very interesting. All of them concern “real” not merely “theoretical” problems facing contemporary IHL. All of them maintain high scientific standard and – are very interesting in the same time. To sum up, the book “*Współczesne problemy praw człowieka i międzynarodowego prawa humanitarnego*” takes an important place in the discussion about International Humanitarian Law and the problems facing it.

*Jakub Czepek* (UWM Olsztyn)