



War, Law and Humanity: The Campaign to Control Warfare, 1853–1914

by James Crossland.

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War, Law and Humanity is an admirably concise, thoroughly researched account¹ of the development of the law of land warfare, particularly as it relates to battlefield carnage in Europe and the United States from the mid-nineteenth century to the outbreak of World War I. It is a story of the “humanitarians, surgeons, lawyers, pacifists, progressives, politicians, utopians and adventurers” (2) who initiated the modern law of armed conflict despite their diverging objectives and politics.

Historian James Crossland (Liverpool John Moores Univ.) begins with a description of the appalling neglect of wounded soldiers in mid-nineteenth-century wars. The story of the Swiss businessman Henri Dunant is well known: his *Memory of Solferino*,² describing the writhing combatants left to die without medical care during and after an 1859 battle between French and Austrian armies eventually led to the 1864 Geneva Convention “for the Amelioration of the Condition of the Wounded in Armies in the Field.” This first treaty addressing care of combat casualties led in turn to the creation of the International Committee of the Red Cross (ICRC).³

Less well known is the state of medical care for the wounded in the field on both sides of the Atlantic in 1853–1914. It was not merely poor but nonexistent. Soldiers were left to die where they lay or stacked atop each other in horse-drawn carts and trundled off in hopes of finding a hospital somewhere near before they died. After the First Battle of Bull Run in Virginia (21 July 1861), the defeated Union forces retreated to Washington with no medical staff or any arrangements for hospitalization: “many were reduced to begging civilians they passed for food, medicine and shelter.... Before long, the city was pockmarked with huddles of wretched men, wrapped in filthy rain-sodden, threadbare blankets” (28–29).

Public outrage at what the *New York Times* called this “official imbecility” (29) led to the formation of the US Sanitary Commission, a citizens’ group headed by the famed landscape architect Frederick Law Olmsted. The Commission made recommendations to the Union Army’s feckless Medical Bureau “on everything from rations, to housing, to surgeon training and the organization of ambulance services” (34), all of which was missing or grossly inadequate. It eventually dawned on Union military commanders that providing soldiers with clean clothing, adequate drinking water, decent rations, and sanitary hospitals with experienced doctors who could do more than amputate limbs would do wonders for their fitness and health—and possible return to duty after

1. Just under two hundred pages of text with thirty pages of notes and an impressive bibliography of primary and secondary sources.

2. French original: *Un souvenir de Solferino* (Geneva 1862). English translation: Washington: American Nat’l Red Cross, 1939.

3. See, further, Jonathan Marwil, *Visiting Modern War in Risorgimento Italy* (NY: Palgrave Macmillan, 2010), with review by Dennis Showalter, *MiWSR* 2011-048.

they were treated. By contrast, the Confederacy, in the absence of such reforms, saw 40 percent of its troops incapacitated by wounds and disease by 1863; the Union's rate was half that (52).

In the meantime, two indomitable women—Florence Nightingale in Europe and Clara Barton in the United States—organized and deployed qualified volunteers to go to the battlefields and tend to wounded and sick men. Commanders on both continents were suspicious of these itinerant “meddlers,” who answered to no military chain of command. But the women persisted. Nightingale soon recognized the need to integrate her volunteers into some form of coordination with military authority, though she insisted that would only amount to a stopgap measure toward accomplishing what armies should be doing themselves. Barton organized the American Red Cross with her own scant resources, when those of her charitable donors were depleted.

Those who devoted their efforts and skill to the health, fitness, and care of fighting men had to contend not only with obstinate civilian and military commanders but with what Crossland calls peacemakers—civilian activists who sought to end all war and saw humanitarian measures as wrongheaded attempts to prolong it: keeping soldiers healthy only enabled armies to attain their lethal objectives more effectively. Led by the London Peace Society and the American Peace Society, their concern—“contrary to that of the many volunteers now stirred to humanitarian service—had always been to end the practice of war, rather than mitigate the suffering of its victims” (87). There were intermittent efforts to conciliate the two movements, but, in the words of the American group in 1869, “Such reconciliation will be found impossible. The principles underlying, and the spirit pervading the system are essentially inhuman, cruel and barbarous.... You can no more make war either Christian or humane than you can mix oil with water, or blend light with darkness” (89).

Decentralized into national chapters, the international Red Cross movement faltered, except in militaristic Prussia, which adhered to the obligation to treat the enemy's wounded as well as its own. But the national chapters were “not an army of disciplined volunteers in the mould envisioned by [ICRC co-founder and president Gustave] Moynier, but an assortment of adventurers, half-trained medical students and well-meaning Samaritans who came together under the banner of the Red Cross to bring humanity to a conflict” (93) that did little but strengthen the military might of already powerful states. The Geneva Convention went unheeded in many countries, most notably France, where civil war in 1871 consumed Paris in “a maelstrom of fury and blood, the savagery of which—for all the apparent progress in the campaign to humanize war—put the horrors Dunant had witnessed at Solferino firmly into the shade” (112).

The ICRC's Moynier, with Fedor von Martens, legal advisor to the Russian Foreign Ministry, took the lead in organizing international conferences, first in Brussels in 1873 and later (and more successfully) in the Hague, to advocate a regime of international law, the strengthening of the Geneva Convention, and the formation of an international tribunal to investigate and punish violators of Geneva. The 1899 Hague Convention deftly combined regulations against the use of gas, poison, and exploding bullets with the aspirational goals of the humanitarians that “populations and belligerents remain under the protection and empire of the principles of international law, as they result from the usages established between civilised nations, from the law of humanity and the requirements of the public conscience” (182–83). The Martens Clause, as it is known today, is

a nebulous, but important edict. This was that, irrespective of what was agreed to at [the Hague], ... there was a need in times of war to accept that there are “civilized” norms of behaviour to which belligerents must adhere.... Military necessity was no longer the be all and end all in the process of weighing up humanitarian considerations with the use of force. (183)

Crossland elucidates the complicated political maneuvers that made this possible, including the creation of an international tribunal of arbitration, which ultimately proved ineffective and was little used. But the idea was revived and broadened in the Treaty of Versailles as the Permanent Court of International Justice, which lasted until the formation of International Court of Justice in the United Nations Organization after World War II. The peace societies, with their “relentless activism ... survived the cataclysm [of the Great War] with both their credibility intact, and their mission recognized by statesmen, the general public and even some soldiers as being more relevant than ever” (192).

Readers will find no uncritical homage to the peacemakers in this resolutely objective account of political changes during a turbulent half-century of conflict and suffering. Despite their many false starts, failed initiatives, and bitter rivalries, the campaigns to control warfare opened the way for the International Military Tribunal at Nuremberg, the UN Charter, and the 1949 recodification of the Geneva Conventions, including new and explicit provisions regarding treatment of POWs and civilians in occupied lands. James Crossland’s patient examination of the decades before World War I is an essential guide to understanding how these fundamental changes in the law of warfare after World War II came to be.