bekannt ist: In Frankreich von der Lehre im Anschluß an Art. 1382 Code Civil entwikkelt, in Deutschland in Erweiterung des ursprünglichen § 626 BGB von Lehre und Rechtsprechung aus § 242 BGB abgeleitet, in der Schweiz ausdrücklich in Art. 2 ZGB stipuliert (nicht aber in Österreich, trotz § 1295 ABGB). In Italien ist ein Rechtsmißbrauchsverbot ebenso unbekannt wie im gesamten angelsächsischen Rechtskreis und im islamischen Recht. Der von Befürwortern häufig ins Feld geführte Art. 1 des sowjetischen ZGB von 1922 aber entpuppt sich bei näherem Hinsehen – erst recht in der jetzt geltenden Form des Art. 5 ZGB von 1964 – als Norm zum Schutz der »sozialistischen Wirtschafts- und Gesellschaftsordnung«, kann also für unser Thema außer Betracht bleiben. Ein allgemeiner Rechtsgrundsatz im Sinne eines Rechtsmißbrauchsverbots ist also nicht feststellbar. Hieraus folgt das Gesamtergebnis: Das heutige Völkerrecht kennt kein Rechtsmißbrauchsverbot. Im letzten Kapitel bringt Neuhaus überzeugende Indizien dafür, daß sich hieran mangels durchsetzungsfähiger Rechtsetzungs- und Rechtsprechungsinstanzen in absehbarer Zeit nichts ändern wird.

Karl Leuteritz

Géza Herczegh
Development of International Humanitarian Law
Akadémiai Kiado, 1984, 239 p., DM 38,—

Three reasons make this book of particular interest both to scholars of International Law and those involved in practice in many places where armed conflicts are taking place. These are: Firstly, the book seems to be the first extensive major work written on the subject by a person not directly involved with the work of the Red Cross movement. The famous authors in this field of law like Prof. J. S. Pictet, Dr. Jiro Toman, Mr. M. Veuthey etc. have worked in the Red Cross and thus some time advocate ideas partisan to the movement. In this view the book can claim independence from views advanced by either the International Committee of the Red Cross, the League of the Red Cross or other organisations associated with the Red Cross Movement.
Secondly, the book is written from a socialist point of view. Therefore, the author at various parts of the books seizes the opportunity to clarify a socialist position on various principles of International law. This is fundamentally important because many of the presently recognized principles of Public International law have their base from traditions recognised and evolved in Western States. It is only in the last few decades that socialist and developing states have had the opportunity to contribute to the shaping of Public International Law especially under the United Nations system. Thirdly, and even more important is the fact that the book is a result of practical involvement in the process of making of International Humanitarian Law. The Author participated actively

both at the Consultative meetings of the Experts to the Diplomatic Conference and also in the Conference itself. In a way the book is a child born of practice.

The book itself is divided into eight chapters in which the author chronicles with admirable accuracy the evolution and development of Humanitarian Law from its humble beginning last century to the present day. The author begins by examining the evolution of rules of International law aimed at serving victims of wars. The author submits that side by side with data on violent conflicts in history of mankind, also exists ample documentary evidence of manifestations of humanitarianism and efforts directed at welfare of all Human Beings and reduction of suffering and aid to the sufferers. He goes on to document early efforts to reduce cruel practices in wars in old times by insistence of human approach to war and prohibition of certain weapons in warfare. He notes that because of lack of State organisation these humanitarian traditions could only be applied within a limited scope.

An important breakthrough in codification of humanitarian rules came with the work of Henry Dunant – the founder of the Red Cross Movement. Having witnessed grave sufferings at the battle of Solferino in Northern Italy, Dunant wrote a book called *A Memory of Solferino* in which he proposed for establishment throughout Europe of relief societies to support the medical services in time of war and that states should conclude International Conventions in support of the operation of those relief societies. On his initiative a five member committee was established which later developed into the International Committee of the Red Cross. This Committee was very instrumental to the preparations and finally the signing of the Geneva Convention of 1864 by a Diplomatic Conference convened by the Swiss Fenderal Council. This Convention known as the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field marked the beginning of systematic codification of laws related to armed conflicts.

Development of mankind embraces all spheres of life including warfare. That means that methods of warfare and weapons for use change with time. The deadlier the weaponry the greater the danger to mankind. This explains the various efforts to re-evaluate the laws relating to armed conflicts. Landmark in the development of Humanitarian Law was the signing of the four Geneva Conventions in 1949 only four years after the 2nd World War. These Conventions are: The Convention for the Amelioration of the Conditions of Wounded and Sick in Armed Forces in the Field (Geneva Convention I); Convention for the Amelioration of the conditions of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Geneva Convention II); Convention relative to the Treatment of Prisoners of War (Geneva Convention III); and Convention relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV). Although preparations for the Geneva Conference were under way quite some time before the 2nd World War, one can not miss the link between the horrors and grave sufferings brought by that war and the signing of these four elaborate Conventions.

Another important phase in the development of International Humanitarian law was 1974–1977 when the Diplomatic Conference took place at Geneva. The Conference

which was also attended by many developing countries and liberation organisations emerged with two documents. These are Additional Protocol I with 102 articles which deals with Protection of Victims of International Conflict and Additional Protocol II with 24 articles on Protection of Victims of Non-International Armed Conflicts. While Protocol I is an addition to the four Geneva Conventions of 1949, Protocol II supplements Article 3 common to the four Geneva Conventions.
The reader may wish to note two interesting developments incorporated in Protocol II. These are recognition of guerilla warfare conducted by liberation movements fighting for Independence as legitimate wars and thus conferring those involved prisoner of war status in case of capture by the enemy. This is associated with the recognition of the right of the people suffering under colonial, oppressive and racist regimes to fight for self-determination. Secondly was on Mercenarism. For the first timethis slipperly issue was dealt with at length in form of codificaton. The Protocol gave an elaborate definition of a mercenary and denied anybody involved in mercenarism the status of prisoner of war and other privileges given to other »lawful« combatants.
Of course the aim should always be elimination of wars, however, as the author notes, until the use of armed forces has been eliminated there is still an urgent need of strengthening the protection of victims of armed conflicts. This makes development and perfection of International Humanitarian law important.

Chris M. Peter

Ulrich J. Nussbaum
Rohstoffgewinnung in der Antarktis
Forschungen aus Staat und Recht Nr. 69, Springer Verlag, Wien/New York 1985, 236 Seiten, DM 98,—

Im Zuge der Neuordnung des internationalen Seerechts ist das allgemeine Interesse auch in der Bundesrepublik Deutschland an der Antarktis erneut erwacht. Auf der Grundlage des reichhaltigen internationalen Schrifttums sowie der jüngsten Veröffentlichungen aus deutschen Quellen (z. B. Polarforschungsinstitut Bremerhaven, Institut für Internationales Recht, Kiel) hat Nussbaum mit seiner Saarbrücker Dissertation die Rechtsfragen der zukünftigen Rohstoffgewinnung in der Antarktis in einer ansprechenden Monographie aufgearbeitet.
Das Buch erscheint zu einem Zeitpunkt, in dem das internationale Interesse an der Antarktis sich etwas voreilig auf die Rohstoffgewinnung zu kaprizieren scheint, obwohl die wissenschaftliche Grundlagenforschung über diesen Teil der Erde noch längst nicht abgeschlossen ist. Die Vereinten Nationen, wichtige Länder der Dritten Welt und die antarktischen Vertragsstaaten selbst haben das Thema Rohstoffgewinnung offenbar »ent-