

July 2015

# Sweden and Humanitarian Law

Atle Grahl-Madsen

Please take a moment to share how this work helps you [through this survey](#). Your feedback will be important as we plan further development of our repository.

Follow this and additional works at: <https://ideaexchange.uakron.edu/akronlawreview>

 Part of the [Human Rights Law Commons](#), [International Humanitarian Law Commons](#), and the [International Law Commons](#)

---

## Recommended Citation

Grahl-Madsen, Atle (1985) "Sweden and Humanitarian Law," *Akron Law Review*: Vol. 18 : Iss. 3 , Article 5.  
Available at: <https://ideaexchange.uakron.edu/akronlawreview/vol18/iss3/5>

This Article is brought to you for free and open access by Akron Law Journals at IdeaExchange@UAkron, the institutional repository of The University of Akron in Akron, Ohio, USA. It has been accepted for inclusion in Akron Law Review by an authorized administrator of IdeaExchange@UAkron. For more information, please contact [mjon@uakron.edu](mailto:mjon@uakron.edu), [uapress@uakron.edu](mailto:uapress@uakron.edu).

by

ATLE GRAHL-MADSEN\*\*

Professor Jacob W.F. Sundberg's article on "Humanitarian Laws of Armed Conflict in Sweden: Ogling the Socialist Camp"<sup>1</sup> has neither head nor tail. When coming to the author's "conclusions" the reader is likely to be dumbfounded: he may not have realized that this was what the article was all about. Up to that point he has been introduced to a variety of matters, presented in a hodge-podge manner. The article is failing on its own "merits."

However, the article is full of innuendo, half-truths and untruths. If published at home, no one knowing the author and his ideas would have paid much attention. But as the article is published in a foreign country, where the readership may be unfamiliar with the persons and the issues involved, there may be a need to put certain matters straight.

Professor Sundberg's first assertion is that mass-media in Sweden are geared not to write anything which might upset what he calls "the Socialist Camp." Of course, there is no censorship in Sweden, nor any secret understanding that certain issues should not be mentioned or mentioned only in a special way. That certain matters — like the mercenary trial of Col. Callan in Angola or the British returning Capt. Astiz to Argentina — are not given the same coverage in Sweden as in, say, Britain, may be due to journalistic perspective, not any sinister design. My own impression, as a Norwegian, of leading dailies like *Svenska Dagbladet* and *Dagens Nyheter* is that they are fairly critical of the powers that be in Eastern Europe, including the Soviet Union. And the coverage of the submarine incidents in Swedish waters hardly deserves the label of "whitewashing," even less to be described as Soviet propaganda.

When in this connection Professor Sundberg complains that the scholarly *Tidskrift i sjöväsendet* refused to publish his paper read at a conference at the Naval War College, Newport RI, the reader should not exclude the possibility that the paper might be lacking in scholarship, nor the possibility that the editors may have been disinclined to publish what might amount to slander of other members of the Kungl. Orlogsmannasällskapet (Royal Naval Society).

Professor Sundberg may be unhappy about Swedish neutrality, and that is, of course, his democratic right. But even from a NATO point of view Swedish neutrality and the "Nordic balance" have their advantages. Provided

---

\*This article is a reply to Sundberg, *Humanitarian Laws of Armed Conflict in Sweden: Ogling the Socialist Camp*, 16 AKRON L. REV. 605 (1983).

\*\*Professor of International Law, University of Bergen (Norway), formerly of Uppsala University (1976-81).

<sup>1</sup>16 AKRON L. REV. 605 (1983).

that Sweden maintains a strong defense, it means an extra threshold which a potential aggressor must consider, before making any move against any of the Nordic countries.

It is not the first time that Professor Sundberg is visiting the Swedish Government International Law Committee (Folkrättskommitten), appointed by Order in Council in 1978. This time he has singled out myself for special treatment:

Presumably because Swedish experts had turned out to be rather skeptical, one Norwegian citizen, Professor Atle Grahl-Madsen, was asked to serve on the Committee as expert in international law. Grahl-Madsen, at that time, held the professorship of International Law at the University of Uppsala, Sweden. In 1980, Commander Torgil Wulff — another member of the Committee — was appointed honorary doctor at the same university. The extensive Committee membership — 17 people — joined in enthusiastic support of Dr. Blix' achievements.<sup>2</sup>

We are also told that "every third student at the University of Uppsala [is] pleading allegiance to Communism."<sup>3</sup> Is this innuendo, or worse?

The presumption is Professor Sundberg's and his alone. Let us put the record straight. The Committee was appointed in connection with the Swedish ratification of the Additional Protocols to the Geneva (Red Cross) Conventions on the Protection of Victims of Armed Conflicts, adopted by a Diplomatic Conference in Geneva in 1977.<sup>4</sup> It is quite correct that Dr. Hans Blix, who at the time was Legal Adviser in the Swedish Ministry for Foreign Affairs,<sup>5</sup> played a leading role in the preparation of the Protocols, but so did the American delegate Ambassador Aldrich. The Protocols are rather important instruments, and it was quite natural that the Swedish Government desired a thorough appraisal of the commitments that Sweden undertook by ratifying the Protocols. The idea has never occurred to anybody but Professor Sundberg that the Committee's task should be to acclaim Dr. Blix. When I happened to be invited to serve as an adviser (not a member) on the Committee, it was because the holders of the two other chairs of International Law in Swedish universities — Lund and Stockholm — happened to be primarily specialized in private international law (conflict of laws), not in public international law like myself. Professor Sundberg is professor of jurisprudence, not of international law, in Stockholm University. His Institute of International and

<sup>2</sup>*Id.* at 607-08.

<sup>3</sup>*Id.* at 613.

<sup>4</sup>INT'L COMM. OF THE RED CROSS [I.C.R.C.], PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUG. 1949 (1977).

<sup>5</sup>Dr. Blix, who subsequently has held the posts of Foreign Minister and Under-Secretary of State, is at present Director-General of the International Atomic Energy Agency, a United Nations organization with headquarters in Vienna, Austria.

Public Law is a private venture. It would appear, on formal grounds alone, that the choice of the Professor of International Law at Uppsala University as adviser to the Committee was a rather obvious one. There was not at the time, and has never been, any doubt about my integrity and independence.<sup>6</sup>

As to Dr. Torgil Wulff, he is not a Commander, but a Commodore<sup>7</sup> (retired) in the Swedish Navy, and at present Adviser on humanitarian law matters in the Swedish Ministry of Defence. He is recognized as a man of knowledge and integrity, and has played an important role as Swedish delegate in many international conferences dealing with humanitarian law, arms control etc. He is reared in the best Scandinavian tradition of humanity, and his scholarly achievements are considerable. Although not a graduate from law school, the Faculty of Law at Uppsala University felt proud to bestow upon him the dignity of Doctor of Law honoris causa.

As to "every third student at the University of Uppsala pledging [pledging ?] allegiance to Communism," this is news to me. I always thought that the Uppsala students generally had the reputation of being "blue" rather than "red." My only touch with "the other side" in Uppsala was when I was once photographed on the street near the University by a person looking as if he could be from east of the Baltic Sea.

The notion that the Committee should be composed of "enthusiasts" or even "fellow travellers" is utterly ridiculous. As to its publication *Krigets lagar* (i.e. The Laws of War),<sup>8</sup> it is simply a collection of conventions and other international instruments related to armed conflicts. There is a preface, covering six pages; that this contains no harangue against certain foreign Powers is hardly a shortcoming.

As to the Soviet view on international law in general, and on humanitarian law of armed conflicts in particular, much could be said, but Professor Sundberg's article is hardly illuminating. With respect to the Second World War, it is important to be aware of the fact that the Soviet Union had not ratified the Red Cross conventions of 1929, including the one relating to prisoners of war. Its provisions were therefore not applied on the Eastern Front, neither by the Soviet Union nor by Hitler's Germany. There are many things connected with the Second World War which it is not pleasant to think about. Even neutral Sweden was not without blemish. Thus, the Swedish Government's surrender to the Soviet Union of Baltic citizens and German

---

<sup>6</sup>Those interested in my vita are referred to the *International Who's Who*.

<sup>7</sup>Kommendör av första graden, the equivalent of a Commodore Admiral, US Navy.

<sup>8</sup>*Krigets lagar: Konventionssamling utgiven av folkrättskommittén*: Stockholm 1979; 495 pp. (SOU 1979:73; ISBN 91 38 04949 X). The final report of the Committee is now published under the title *Folkrätten i krig: Rättsregler under väpnade konflikter — tolkning, tillämpning och undervisning*: Stockholm 1984; 432 pp. (SOU 1984:56; ISBN 91 38-08309-4, ISSN 0375-205X). A summary in English may be available from the Swedish Department of Defense, S-103 33 Stockholm, or the Swedish Embassy in Washington DC.

military internees will remain a dark page in Swedish history.<sup>9</sup>

To the extent that the law today is different, the events of the Second World War appear to prove very little. The Soviet Union has, for instance, ratified the up-dated Red Cross conventions of 1949. It is quite true that the Soviet Union has filed a reservation to article 85 of the Third Geneva Convention of 1949, relative to the Treatment of Prisoners of War, but this reservation does not apply to prisoners of war in general, but only to "prisoners of war who, under the law of the USSR, have been convicted of war crimes or crimes against humanity."<sup>10</sup> In the official International Red Cross Commentary to the Convention, it is said that it is clear from the Soviet note that "prisoners of war accused of war crimes or crimes against humanity will continue to enjoy the benefits of the Convention until such time as the penalty to which they have been sentenced becomes enforceable, that is to say until all courses of appeal have been exhausted."<sup>11</sup> Professor Sundberg does not mention war criminals in his essay, and much of his account becomes thereby misleading.

It may be that Professor Sundberg believes that humanitarian law of armed conflict is not worth the paper on which it is written. But in that case he should not levy his criticism against his own countrymen alone. The manuals of the American forces are just as "gullible" as the Swedish ones. It may well be that he proves to be right; it cannot be doubted that a third world war will be worse than terrible. But that does not mean that the effort to "humanize" warfare should not be made. Without the effort, we would surely be in the hands of the dark forces.

When Sir Winston S. Churchill visited Norway after the war to receive an honorary doctorate at the University of Oslo, he was asked about people and events in Britain. "I never discuss domestic issues abroad," was his answer. That is good advice.

---

<sup>9</sup>cf., e.g., Col. Gunnar Smedmark (ed.), *Interneringläger Backamo*. Grunnebo: published by Kungl. Bohusläns Regementes Historiekommitte; Uddevalla 1963; 376 pp.

<sup>10</sup>THE GENEVA CONVENTIONS OF 12 AUGUST 1949: COMMENTARY: III. GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR: Geneva, International Committee of the Red Cross, p. 424. (Jean S. Pictet ed. 1960).

<sup>11</sup>*Id.* at 425.