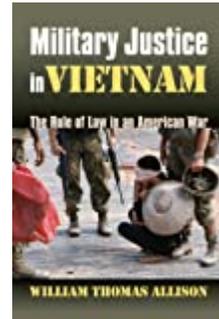


William Thomas Allison. *Military Justice in Vietnam: The Rule of Law in American Law.* Lawrence: University Press of Kansas, 2007. xv + 230 pp. \$34.95 (cloth), ISBN 978-0-7006-1460-8.



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An Introduction to Military Lawyers in Vietnam

The April 1968 issue of the Federal Bar Association's *News* reported that sixty members attended the Vietnam Chapter's luncheon meeting at the Rex Hotel in Saigon. How those lawyers spent their professional time is William Thomas Allison's theme. He says in his preface, "My primary purpose is to explain the variety of military legal activities in Vietnam, evaluate them, and share the human side of those activities, all in the context of the war itself. The broader purpose is to expose readers to the complicated nature of military law and military justice in a democratic society as well as to show how difficult it is to include military justice and legal affairs in the vanguard of nation-building operations that include spreading U.S. values as a political objective." He achieves his goals in 186 pages of extremely readable text by keeping a tight focus on Vietnam. Nothing is said about contemporaneous legal activities of the Air Force in Thailand and Okinawa, nor of the Navy's activities in the Gulf. Very little is said about the role of each service's supervising legal authorities outside Vietnam, or of the role played by lawyers and policy makers at the Commander-In-Chief, Pacific; the Joint Chiefs of Staff; and the Office of the Secretary of Defense. Law enforcement personnel fare

slightly better. Lawyers in Vietnam relied on them to make the cases which could be prosecuted, so there is some discussion of the problems faced by military police and investigators. The author's definition of American military justice in Vietnam does not extend to its products, the prisoners at the notorious Long Binh Jail, the site of a murderous race riot in 1968. This is legal history experienced in country by captains, majors, and lieutenant colonels, nearly all of them judge advocates.

That vantage point makes the book particularly useful as supplementary reading for a course on the war in Vietnam. Its chapters on the drug problem, the black market, currency manipulation and corruption, violations of the laws of war, and criminal justice issues illuminate each topic by giving examples. The case of Captain Archie Kuntze, USN ("The American Mayor of Saigon"), who, according to one witness at his court-martial, had over \$23 million stashed in an icebox, illustrates the difficulties prosecutors faced in proving corruption cases. Each chapter is replete with similar examples, some of them, like the My Lai cases, well known. Other cases, like the prosecution of PFC Michael McInnis

for attempted murder of a superior officer and related offenses, were forgotten until the author resurrected them from the files of the National Archives and Records Administration (NARA). The author's use of source material is exemplary. He relies primarily on secondary sources and, in doing so, offers an exceptional bibliography of law-related materials which would aid students in their own research. Primary materials, from NARA and the military history centers of the Army and Air Force, are used to enrich the text. The National Archives holds the research files created by Marine Lt. Col. Gary Solis as he wrote the definitive legal history of the Marines in Vietnam, *Marines and Military Law in Vietnam: Trial by Fire* (1989), which Allison mined particularly effectively. His work can serve as a model for researchers revisiting the sources of earlier official histories.

What of the general reader? A former CIA historian once categorized military history as either strategic, tactical, or anecdotal. This book works wonderfully as an anecdotal history of U.S. military lawyers in a particular time and place, enlivened by the reminiscences of veterans whose letters to the author recapture emotions and experiences now forty years past. This is the way the war must have been for the lawyers who participated in it. Their stories, and those of their clients, are a first-class read. At the tactical level, the book faces fierce competition from two books covering the same period and many of the same themes: Solis on the Marines and Maj. Gen. George Prugh on Army lawyers, *Law at War, Vietnam 1964-1973* (1975). I have not read Col. Frederic L. Borch's *Judge Advocates in Vietnam: Army Lawyers in Southeast Asia 1959-1975* (2004). Both traditional institutional histories cover events and individuals in more detail and perforce with less verve than Allison, who, with the exception of the chapter on corrupt practices, does not attempt the same level of analysis and chronology. This book is preferred as a readable brief introduction to the daily legal problems faced by military lawyers in Vietnam.

At the strategic level, the author's ambitions—if any—are unclear. Chapter 1, "A New Code for a Different Kind of War," attempts to describe, in twenty pages,

developments in U.S. military criminal justice between 1765 and 1968 without a strong narrative line. There are strategic themes available: evolving notions of "due process," (a slippery term) and the extent to which the criminal justice revolution created by the Warren Supreme Court in the early 1960s should be extended to what the Supreme Court has described as "the separate community" of the armed forces; changing demographics in the armed forces; and the consequences of changes in the Uniform Code of Military Justice in 1968. The chapter ends on that note, but the author makes no effort in the following chapters to distinguish pre- and post-1968 developments. Instead, he extends his coverage to the role of military lawyers in country building in Vietnam, without making any judgments about their success or failure.

The conclusion, chapter 8, "Still in the Vanguard," does not succeed as a coda. It starts by describing the last of the Vietnam courts-martial of the turncoat Marine Robert Garwood, then briefly summarizes the 1970s debate over efficacy of the post-1968 military justice system in wartime. Chapter 8 could offer a rich opportunity to comment on recent experience in Iraq and Afghanistan, where investigations of war crimes allegedly committed on patrol require a separate lawyer for each patrol member, and where testimony and physical evidence must be collected, according to strict U.S. due process requirements, under circumstances never imagined by the Supreme Court. The author instead gives a brief, typically one paragraph, description of judge advocates' activities in selected U.S. military operations, such as Urgent Fury (Grenada 1983), Just Cause (Panama 1989), Desert Shield and Desert Storm (Kuwait, 1990-91) and several others, including recent operations in Bosnia, Afghanistan and Iraq. Inexplicably, Allison does not mention Operations Provide Relief and Restore Hope (Somalia 1992-95). His concluding paragraph, referring to judge advocates' role in nation building, is disappointingly bland and non-judgmental. Perhaps the author had no strategic goal to use U.S. legal experiences in Vietnam as an opportunity to reflect on our experiences in Afghanistan and Iraq. If that is the case, then we can hope that his undoubted research and writing skills will lead to a sequel.

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