

M I S C E L L A N E O U S

THE TEACHING OF THE LAW OF WAR

*The teaching of the law of war is an important task, one of great interest to the Red Cross. We are therefore publishing an article on the first international course which recently took place. It was directed by Mr. F. de Mulinen, Lieutenant-Colonel EMG (Switzerland). In the introduction to the article, reproduced hereafter, Mr. de Mulinen describes the need for teaching the law of war.*¹

Army men are apt to shrug their shoulders at the very mention of "the law of war". There is no belief in the law of war, which at best is regarded as a fine but hardly practical theory. The method of teaching in the armed forces is largely to blame for this sorry state of affairs.

There are numerous military regulations and handbooks, often designed for specific levels. There are illustrated booklets for the lower ranks. But it is not enough merely to distribute such documents: they should be used for teaching purposes.

The actual teaching of the law of war is only too often marginal, the exception. One single, isolated lesson or theory, divorced from practical teaching in a school or training course over a period of several weeks or months, can produce no enduring results. Admittedly, it may have a positive effect at the time if the lesson is given in a fairly lively manner. Yet teaching must go still further. It must not be confined to those who hear the lesson. It must have widespread and lasting effects.

The law of war is most often violated in a time of crisis. The teaching of the law of war should therefore apply to critical rather than normal situations. A man who in combat is left entirely or almost alone, who sees his comrades-in-arms, his close friends struck down, who witnesses the sufferings of the wounded and the dying; a man who has fallen into an ambush and who suspects the civilian population or at least some of them of supporting the enemy, may be inclined to act in a way he would not dream of acting at any other time. He may have a desire for revenge,

¹ See *Revue militaire suisse*, Lausanne, 1976, No. 3.

and more than one army has gone through that bitter experience in the not so distant past.

It is to meet such contingencies that everyone must be acquainted with the elementary principles of the law of war. This is particularly important as the enemy may appear anywhere now that parachuting and subversion provide the contending forces with opportunities as well in the allegedly secure rear as near the front.

A knowledge of the elementary principles of the law of war does not imply familiarity with all 429 articles—let alone the annexes—of the 1949 Geneva Conventions, or with the equally numerous articles of the Hague Conventions, which have annexes of their own. Most of the provisions of the Conventions refer to rear units, to civilians. They relate to care for the wounded in hospital, the repatriation of those seriously injured, the status of medical personnel, the regulations in prisoner-of-war or civilian detention camps, the status of occupied territories, protecting powers, relief for the needy war-stricken population, and so forth. There are also a number of provisions concerning preparatory work in peace time, in order to be prepared in case of war: for example, dissemination and teaching of the law of war, administrative measures regarding medical personnel or cultural property, the use of distinctive signs, and the choice of hospital sites far away from any military objective.

This briefly sums up the elementary principles which every soldier should know.

Apart from a reminder about the basic principle that only opponents and no civilians may be attacked, the purpose is to determine what is the correct behaviour in face of new unexpected situations calling for swift decision: treatment of enemy combatants captured in action, of wounded, and of enemy military medical personnel and equipment. It is also necessary to coordinate the rules governing such cases, which appear in different conventions, concerning the attitude to protected places (medical installations or cultural property), the use of the distinctive signs, etc.

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The first international course on the law of war was organized by the International Institute of Humanitarian Law of San Remo, Italy, with ICRC support. The course, which was for officers only and conducted in French, was held at San Remo from 16 to 23 June 1976. It consisted of thirty hours of lessons, seminars, practical exercises and general conclusions, under the leadership of the director, with lectures by Avocat général B. Bosly (Belgium), Médecin général R. Kaeser (Switzerland), Professor

P. de la Pradelle (France), Professor J. Patrnoic, Vice-President of the Institute, General P. Verri (Italy) and Mr. M. Veuthey (ICRC), The trainees included officers from Belgium, Congo, Iran, Italy, Switzerland and Zaire.

At the opening ceremony, Mr. Eric Martin, then President of the ICRC, wished the course every success. He stressed the importance of disseminating humanitarian law among the armed forces, and congratulated the Institute on its initiative in organizing the course.

In the following, Mr. de Mulinen refers to the need for courses on the law of war and describes the first international course directed by himself, and which was very well received, and draws the following conclusion from this initial experiment, which will be repeated at an early date.

First, an army man will regard the law of war as hardly plausible and in fact a hindrance in the proper fulfilment of his duties. This must be borne in mind in establishing the right approach and atmosphere for teaching this discipline.

In view of the wide range of international treaties concerning the law of war (the Hague and Geneva Conventions), which will extend even further with the future Protocols additional to the 1949 Geneva Conventions, a simple brief system of tuition should be devised. Each army man should be given only what he needs to accomplish his task.

It is for this purpose that the International Institute of Humanitarian Law, San Remo, started international courses for officers in 1976 on the law of war. Each course is conducted in one language.

The teaching is designed for military people and deals with the conduct of hostilities (essentially the Hague Law) and the protection of victims of armed conflicts (essentially the Geneva Law).

The courses are concerned with the subject matter rather than a systematic study of each Convention. Work is carried out in small groups, with few lectures and plenty of time for seminars and exercises. The purpose of the seminars and exercises is to demonstrate the role of the different hierarchical levels in the law of war, to show the importance of inter-service relations, to find solutions to problems that arise in combat, and to devise the best means of ensuring that the armed forces acquire the essential principles of the law of war.

The courses are intended for senior officers, who are able to ensure dissemination of the law of war among the armed forces, and for a wide range of specialists, in order that in seminars and exercises provision may be made for the specific features of the different arms and services.

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The number of trainees attending the first international course (seventeen, plus one observer during part of the time) was relatively small, but because they came from three continents and belonged to different arms and services it is possible to draw some general conclusions which may hold good in the future. Besides, the limited number of those present at the first course made for direct contact between lecturers and trainees and made it possible to deal more effectively with the trainees' problems and needs.

Teaching by subject rather than going through the Conventions proved a wise choice, as was the method of providing an initial lecture on each subject for all participants followed by in-depth study in seminar classes of not more than ten trainees, on the basis of tactical situations, and some brief practical exercises calling for prompt decision; and finally general conclusions on the more important subjects, for all participants.

The practical exercises in which each trainee carries out a specific function (as a commander or as staff officer), makes it possible to recognize the problems that arise at the different levels and in the different services. The repercussions of a given decision, at whatever level, must be analysed. Thus a link can be seen between the international rules and the precise data relating to the organization and terminology of each State and its armed forces.

In the last exercise, the problems of the law of war are considered from different angles, and dialogue is started between neutrals and belligerents, on the one hand, and between the belligerents, on the other. In the latter case, the dialogue may be direct or through a third party (Protecting Powers, the ICRC, the United Nations and UN forces, or Unesco).

Experience has shown that each trainee's "speciality" is known only at the beginning of the course when he completes his registration form. To ensure that every trainee, whatever his assignment or occupation (e.g. airman, seaman, army law officer, or doctor), derives the greatest possible benefit, instruction should be adapted to training for specific functions. Without altering the plan of work or the timetable, participants active in different fields should be assembled in ad hoc groups throughout or during part of the seminar. In the study of practical cases, whether in the seminars or during the exercises, stress may be laid on a given subject. An event may be replaced by some incident more likely to arise in the case of a specific activity or hierarchical level.

Staffing must be international because of the nature of the course, but would of course vary according to the spot, the language in which

tuition is given and the lecturers available. It is desirable to make arrangements for preparatory meetings to be held between the teachers and the director several weeks or months ahead, although that is only rarely possible. The staff meeting immediately preceding the course is therefore particularly important.

In the circumstances, there should not be an unduly large number of teachers. This means that they should be polyvalent, both in the legal and the military sphere, able to present an introductory statement, to direct the seminar and to grasp essentials for the general conclusions. Again, polyvalence is an absolute necessity where a lecturer cannot attend and must be replaced at the last moment, as happened at the first course.

To sum up, teaching by subject calls for strict organization and a precise definition of the subjects to be dealt with in the lessons or lectures, seminars or exercises. Moreover, it is necessary to bear in mind the various activities which the trainees may carry out in their national armed forces, and teaching should be adapted to requirements. That is why the course should be so organized as to allow flexibility, in order that the director may be able to adapt the work to circumstances and needs.
