

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

SEMINAR ON THE TEACHING OF HUMANITARIAN LAW TO THE ARMED FORCES

From 6 to 18 November, in San Remo (Italy) a seminar on "Instruction of Humanitarian Law in Military Institutes" was attended in a private capacity by sixty persons from twenty-eight countries. The ICRC had made available films and exhibition material on Red Cross activities during armed conflicts.

The seminar, organized by the San Remo International Institute of Humanitarian Law, was chaired by General Ottavio Orecchio, assisted by Dr. Ugo Genesio, Secretary-General of the Institute. The organizing committee was presided over by Professor Jovica Patrnogic. At the start of the session, General Vittorio La Catena, chief military inspector of the Italian Red Cross, on behalf of his National Society extended a welcome to the participants.

During the first week, a series of reports were submitted by Mr. Paul de la Pradelle, Mr. G.I.A.D. Draper, Mr. Tom Farer, Mr. Jean Pictet, Mr. Michel Veuthey, Mr. Henri Bosly and Mr. Georges Abi-Saab. In addition, a number of experts, like Professor Blichtchenko, sent papers on the subject of non-international conflict.

During the second week, the seminar split into two discussion groups whose proceedings were started after introductory papers by Mr. Ottavio Orecchio, Mr. Jovica Patrnogic, Mr. Jean Siotis, Mr. Frits Kalshoven and Mrs. Denise Bindschedler-Robert. The groups drew up a resolution and a document entitled "Guidelines for Military Instruction in International Humanitarian Law in Armed Conflicts" which were adopted unanimously in the final plenary session. The resolution and general directives are given below, together with a programme of humanitarian law study for armed forces.

Participants in the seminar asked the Institute to organize for 1973 a seminar on the training of armed forces instructors in humanitarian law. They also expressed the hope that similar seminars would be held on a regional basis.

The ICRC, which was represented at San Remo by Mr. Jean Pictet, Vice-President, Mrs. Denise Bindschedler, Committee member, and Mr. Michel Veuthey, legal adviser, cannot but welcome the holding of such seminars which promote the propagation, study and application of international humanitarian law.

*

RESOLUTION

The Seminar on instruction of humanitarian law in military institutions, held from the 6th to the 18th November 1972 by the International Institute of Humanitarian Law of San Remo,

Bearing in mind that in the four Geneva Conventions of 1949 and in the Hague Convention of 1954 on the protection of cultural property the High Contracting Parties have undertaken to disseminate as widely as possible, in time of peace as well as in time of war, the text of these Conventions in their respective countries, and particularly to include the study thereof in programmes of military and, if possible, civil instruction, so that their principles may be known to the entire population,

Recalling Resolution 2853 (XXVI) of December 1971 in which the General Assembly of the United Nations invited Member States to intensify the effort for ensuring the instruction and dissemination of international rules relating to the protection of the human being in time of armed conflicts,

Recalling Resolutions of International Conferences of the Red Cross and the recommendations of the ICRC relating to the dissemination of and instruction in the Geneva Conventions and humanitarian law,

Emphasizing equally the declaration of the second meeting of the Conference of Government Experts, organized by the ICRC in 1972, on the reaffirmation and development of the humanitarian law applicable in armed conflicts, according to which " the effective implementation

MISCELLANEOUS

of humanitarian law depends upon instruction therein and its dissemination ”,

Paying respect to the States which until now have succeeded in organising instruction of a high quality in humanitarian law for members of the armed forces, thanks to the collaboration of military commanders, military and civilian lawyers, advisers to commands on this subject, and to the utilisation of the most modern teaching methods,

Having set up two working groups one of which has established guidelines, and the other a program of instruction, for international humanitarian law applicable in armed conflicts,

Considers it timely to present the results of their endeavours to Governments.

GUIDELINES FOR MILITARY INSTRUCTION IN INTERNATIONAL HUMANITARIAN LAW IN ARMED CONFLICTS

A. Level :

1. Systematic instruction at ministerial and at army (fleet, etc.) commander level was not considered practicable, but two-day conferences might be held from time to time for such persons at which current developments in the international humanitarian law of armed conflict might be discussed with the assistance of the senior legal advisers of the armed forces.

2. At all levels at which instruction is to be started, it might be advisable to limit such instruction at the outset to the Geneva Conventions of 1949 and to work up to the law of war generally at a later stage of the programmes.

3. Instruction to recruits in their basic training was generally considered desirable and important, but allowance would have to be made for the national standard of education and for differing levels of education among different parts of the population in certain countries.

4. Instruction for non-commissioned officers, junior and senior, was considered to be highly desirable and indeed indispensable, and this subject should be included as part of their promotion examinations.

5. Training in cadet schools should include courses in this subject, including examinations, and every effort should be made to find time in all cadet curricula to meet this requirement.

6. It was thought desirable to give instruction to junior officers. Opinion was divided as to whether courses in this subject should be given in conjunction with courses in military law.

7. Instruction in staff colleges or their equivalents was considered to be the focal point and every effort should be made to find time for this subject in admittedly crowded staff college curricula. Such instruction could be developed and illustrated in field exercises and in tactical exercises without troops.

8. Senior officers courses, national defence academies and the like, with students at colonel and brigadier level, should include discussion groups devoted to this subject where specific problems of the law of armed conflict should be discussed.

9. It was generally agreed that special services in the armed forces stand in need of detailed instruction in this subject. Examples of such services are:

- (1) medical personnel
- (2) military police
- (3) intelligence services
- (4) service personnel engaged in civil affairs
- (5) military government personnel
- (6) social services, commandos, etc.
- (7) aircrew
- (8) personnel of units earmarked for service in United Nations peace-keeping forces

10. All such instruction should be rational, adequate, appropriate, practical and feasible.

B. Content:

1. All ranks should be made acquainted with the basic prohibitions and requirements of the Geneva Conventions of 1949 as to the proper treatment of prisoners of war, the sick and wounded and shipwrecked persons, and protected civilians.

2. Commissioned officers and cadets should have further instructions in the Geneva Conventions dealing with the common articles and certain difficulties that arise in the application of the Conventions.

3. Staff college students and officers attending defence colleges should be encouraged to see the Geneva Conventions in the wider perspective of international law and international relations, and the

MISCELLANEOUS

relevance of these subjects to contemporary strategic and tactical considerations.

4. Commissioned and non-commissioned officers or equivalents should be instructed in the law relating to obedience to superior orders in the context of international humanitarian law and in conjunction with military discipline and military law.

C. Methodology:

1. To a large extent, methodology must be determined by the level and content of the instruction, allowing for variations in different countries as to their system of training in the armed forces.

2. Methods of training in international humanitarian law include:

- a) lectures
- b) discussion groups
- c) films
- d) videotapes
- e) slides
- f) posters
- g) illustrated booklets
- h) manuals
- i) tactical exercises without troops
- j) field exercises
- k) examinations
- l) prize essays

No one of these methods should be relied upon exclusively and any one method or combination of methods will have to be selected on an empirical basis.

3. The system generally thought advisable is one whereby experts within the services radiate out instruction to unit officers who instruct at unit level.

4. If no such experts exist within the service organisation, then legal staff officers or other suitable personnel must be trained by outside sources, *e.g.*, by academic or professional law teachers.

5. The once-for-all type of instruction is not thought to be adequate and periodic refresher training at all levels is advisable.

6. There may be some value in periodic conferences of international humanitarian law instructors from the different countries meeting to exchange information, teaching techniques and proposals.

PROGRAMME OF INSTRUCTION IN HUMANITARIAN LAW FOR
THE ARMED FORCES ¹

I. *The level of other ranks.* It is suggested that instruction be given within the system of military training; it should be concise and clear with emphasis laid on respect for the human being and his dignity.

They will receive a teaching in the theory, short and precise, given preferably after the period of basic training. This theoretical teaching should be given in simple language at company level by an officer, preferably by the company commander himself, in the presence of the whole company, and a recapitulation lesson given in even more simple language by a non-commissioned officer enabling the soldier to understand the instruction. This teaching of the theory should be completed by practical examples in the field during exercises and manoeuvres, of actual situations which the soldier is likely to meet in military operations. Every soldier ought to receive a brief document giving a résumé of the instruction given and, if possible, a small illustrated booklet setting out the main situations which the combatant soldier is likely to meet. During the remainder of his military service the soldier should be reminded of his obligations by films and slides.

Moreover, these simple ideas of humanitarian law should be repeated in the course of his general military training and integrated, for example, in technical and operational instruction or in that relating to field service.

This minimum instruction ought to be given to troops by all the methods previously recited and if possible by others of even greater perfection, and should emphasize, after an instruction about respect for the human being and a description of the distinctive signs for protection :

— that members of the armed forces wounded, sick or shipwrecked must be respected in all circumstances and treated and cared for with humanity;

— that personnel assigned to medical formations and establishments must be respected and protected in all circumstances;

— that the enemy who lay down their arms must be respected;

¹ This Seminar did not want to submit a fixed programme. The authorities entrusted with organising instruction in humanitarian law for the military or with making changes in courses already being given in the military institutions of their country, can equally validly find guidance in the up-to-date teaching given in certain countries on this subject.

MISCELLANEOUS

- that the prisoners of war enjoy a general protection;
- that civilians must be protected against all attacks upon their person;
- that cultural property must be safeguarded.

The Soldier's Manual published by the ICRC is a document which those responsible for the organisation of the training of the troops could use with profit.²

II. *The level of non-commissioned officers.* Taking into account their rôle which is to respect and to ensure respect for the principles of humanitarian law by the men placed under their command, NCO's will receive training adequate to ensure that they can supervise the proper implementation in time of peace as in time of war of the principles mentioned above which are taught to soldiers.

III. *Officer level.* The teaching of humanitarian law to this category will be at a depth commensurate with their responsibilities. This teaching will normally be given in military schools for all categories of regular officers and in military institutions (war schools, military academies, etc.) in which staff officers are trained.

A. *For all regular officers,* the training course³ will include a theoretical portion, if possible with the most modern technical aids, and a practical portion in the field during manoeuvres and exercises. Moreover, humanitarian rules must be repeated in operational training courses for officers, when practical war situations will be depicted. The content of basic training courses for all regular officers could be as follows:

Part One. Introduction⁴: character and sources of public international law (Art. 38 of the Statute of the International Court of Justice); the concepts of *ius ad bellum* and *ius in bello* as well as international and non-international armed conflicts; the conception

² The International Institute of Humanitarian Law at San Remo possesses certain documents and instruction manuals used by different countries. It is prepared to make these available to all who demand them. It hopes that over and above this the countries whose representatives have taken part in the Seminar from the 6th to the 18th November 1972 and who have not yet sent in their documentation on the subject, would be so kind as to do so.

³ As an indication, the Seminar considers that this course could usefully take place over about 20 hours. For reserve officers the length could be reduced to about 6 hours.

⁴ In the view of the members of the Seminar, this introductory first part calls for no more than a brief exposé.

and function of humanitarian law; the principal instruments of humanitarian law; the scope of humanitarian law in place and time; the responsibility of States and individuals: sanctions and jurisdictions; persons and values protected; protecting Powers and their substitutes; the ICRC, the national Red Cross (etc.) societies and other humanitarian organisations.

Part Two. Exposé of the humanitarian Conventions and other international instruments of humanitarian law and of the law of war.

1. General provisions of the four Geneva Conventions of 1949; applicability—Article 3 common to the Conventions—non-renunciation of rights—prohibition of reprisals—beginning and end of application.

2. Amelioration of the condition of the wounded, sick and shipwrecked (Conventions I and II of 1949): protection conferred on these persons—protection of medical personnel—the rôle of relief societies—medical units and establishments—repatriation of medical personnel—medical equipment and means of transport—distinctive sign.

3. Treatment of prisoners of war (Convention III of 1949): categories of persons enjoying the status of prisoners of war—treatment to be accorded to prisoners of war—their régime—authorized work—the question of escape—contacts between prisoners of war and representatives of the protecting Powers and the ICRC—relations between the prisoners and the authorities—different methods whereby captivity ceases—release and repatriation—information bureaux, the Central Information Agency and the relief societies.

4. Protection of civilians (Convention IV of 1949): respect for the human being—limitations on the protection guaranteed to civilians by the Convention—general protection of the population against certain effects of the conflict—status and treatment of protected persons—internment and assigned residence of civilians.

5. Protection of cultural goods (Hague Convention of 1954): respect and protection—distinctive sign—abuse—prohibition of reprisals—measures in time of peace—registration with UNESCO of cultural goods.

6. Law of war: Hague Conventions of 1899 and 1907, particularly Regulations annexed to the IVth Convention—Geneva Pro-

MISCELLANEOUS

tozol of 1925—military objectives—principle of proportionality—principles of limitation adopted by Resolution 2444 (XXIII) of the General Assembly of the United Nations of 19th December 1968—Genocide Convention of 1948—Convention of 1968 on the imprescriptibility of war crimes and crimes against humanity.

B. *For qualified staff officers*: in view of their participation in the command decision-making process, it would be advisable to complete the instruction which they have received in military schools by courses, conferences or participation in a seminar in which will be repeated the principles of humanitarian law, the provisions with which they will be confronted by reason of their function and the actual problems of humanitarian law.⁵

C. The knowledge of humanitarian law at officer and staff officer level must be assessed, if it has not already been done, by an examination the passing of which will be a condition for obtaining a title or diploma awarded by the military institution concerned.

IV. *The level of personnel, military and civil, belonging to special categories*. Such personnel who are required in certain countries to take part in certain operations of the armed forces during armed conflicts, should receive an instruction adapted to their special functions. Authorities responsible for planning this instruction can find in the minimum programme referred to above suggestions which, adapted to those respective functions, might well be used.

The Seminar has in mind medical services (doctors and staff of civil and military hospitals), Red Cross personnel, civil defence and other rescue organisations, the gendarmerie, police (military as well as civil), frontier guards, etc.

V. *The level of officers commanding large formations and services and others responsible for instruction in humanitarian law*. In order to maintain a high level of knowledge of humanitarian law on the part of those who undertake extensive responsibilities, it is advisable that officers commanding large formations and the heads of equi-

⁵ Among these topical questions, the Seminar mentions the measures designed to elaborate the common Article 3 in all that concerns the protection of the wounded and sick, the security of medical transports, particularly medical aircraft, guerrilla warfare (distinction between combatants and civilian population), humanitarian missions, the protection of the human being in non-international armed conflicts, safety zones, hospital zones and open towns, the precautions of belligerents in respect to the civilian population, the strengthening of sanctions designed to prevent and repress violations of humanitarian law.

valent services, and jurists teaching humanitarian law in officers schools, legal advisers of military commanders and personnel directing special services (heads of medical services, gendarmerie commanders, civil or military police chiefs, heads of frontier services, etc.) participate in conferences, seminars, etc. dealing with topical questions of humanitarian law.⁶

VI. *General considerations.* This instruction at all levels can be effectively carried out only if those who are required to give it themselves get the necessary training for this assignment. A high degree of collaboration must be arranged between jurists (military magistrates, legal officers, lawyers of the appropriate departments, professors of universities and military colleges) and general and senior officers responsible for instruction in the armed forces. In officers schools, the theoretical part of the instruction⁷ must be given by a law graduate or a legal expert⁸ specialised in the subject, and the practical part by equally specialised senior officers.

In the senior military schools, courses and conferences might usefully be given by experts in the subjects dealt with.

At the level of non-commissioned officers, this instruction should be given by officers who have themselves received instruction in this subject from the officers schools.

Let it be remembered that at the level of the troops this instruction requires the participation of company commander, platoon commanders and non-commissioned officers.

⁶ See note 7 concerning staff officers (p. 45).

⁷ To perfect their training, the students could usefully participate in international seminars and should have at their disposal instruction material considered necessary (up-to-date legal documentation, reviews, films and slides).

⁸ By this expression, the Seminar means those who hold diplomas of establishments on university level and who moreover have received a legal training which has prepared them for advanced study in humanitarian law.