

The Sovereign Order of Malta Today¹

by Béat de Fischer

A half century has gone by since 1927. During that time, the sovereign Order of Malta has sought to adapt itself to the evolution of international life and international law. Its experience during the First World War, in which it brought aid to the wounded, the sick, the prisoners and the refugees with its medical units, ambulances, trains, aircraft and ships, enabled it to make its working methods responsive to emerging needs. In addition, the mid-century dialogue between the Order and the Catholic Church led to the acceptance of a formula put forward by the Cardinals' Commission, whereby the Holy See recognized the functional sovereignty of the Order in carrying out its international humanitarian activities. Finally, the increasing number of its members, particularly those recruited from amongst those distinguished personalities who combine a spiritual life with an intimate association with governmental circles, provides the order with an invaluable human reserve of men of thought and action who are available in case of need.

What is the juridical basis of the Sovereign Order today, and what is the basic structure for its international humanitarian mission ?

As we know, the Order was established at the end of the 11th century to provide care for pilgrims from Jerusalem. This initial task was very soon followed by another one, to care for the wounded and sick victims of armed conflicts. To guarantee the Order the independence required for such activity, the Supreme Pontiff, who then constituted the source of law, granted important exemptions to it. These exemptions, together with the provisions of feudal law, were the source of the functional

¹ We are pleased to publish this article, continuing, as it were, a contribution on the Sovereign Order of Malta by the author's father, Bailli Henry B. de Fischer, and published in *Revue internationale de la Croix-Rouge* in October 1927.

sovereignty which the Order has enjoyed, without interruption, up to the present day.

After leaving the Holy Land and establishing itself successively on Rhodes and on Malta, the Order continued to exercise territorial sovereignty during the period from 1308 to 1789. After the seizure of Malta by Napoleon, the leaders of the Order retired to the Continent, and for a century and a half constituted a government-in-exile. After the Second World War, it recognized the Kingdom of Malta and established diplomatic relations with it. Without abandoning the possibility of setting itself up once more on territory of its own, if the circumstances and requirements of its mission indicated the need, the Order henceforth concentrated upon its functional sovereignty which, without territory, assured it the international status it had to have to perform its supranational humanitarian mission.

International law today, at a time when regional or worldwide inter-governmental organizations are demanding ever larger parcels of sovereignty, indicates that territory in itself is no longer indispensable to a legal international status. This state of affairs, in an epoch marked by uprisings against imperialism and colonialism, is an advantage to the Order, and not a source of weakness.

As noted above, the Order has maintained this status as an entity recognized by international law since its origin, and in this respect its status is quite similar to that of the Catholic Church. The two organizations are the oldest supranational institutions in the western world. Today, more than forty nations recognize the Order as an entity under international law, possessing sovereignty and the right of legation.

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The remarkable capacity of the Order for constant adaptation to changing circumstances, in the course of centuries, undoubtedly provides proof of its vitality. This vitality is shown not only in its juridical status, but also in its modern organizational practices.

Apart from its ancient priories and estates, most of which have disappeared under the pressure of historic circumstances, the Order now has national associations and auxiliary organizations in more than sixty countries, on almost every continent. These organizations carry out numerous humanitarian tasks and constitute, together, a technical

operating mechanism which enables the Order to intervene quickly wherever the need appears.

Among its humanitarian activities, the Sovereign Order of Malta has assumed the tasks of assisting the wounded and sick in connection with armed conflicts; helping the victims of major catastrophes; participating in international activities on behalf of refugees, emigrants, exiles and abandoned children; fighting against endemic diseases, in particular leprosy, a disease which today afflicts from 10 to 15 million persons throughout the world. The latter task, to which it is especially devoted, gave rise to the creation of the International Committee of the Order of Malta for Assistance to Lepers, with headquarters in Geneva. This organization, in co-operation with various National Associations and frequently with the World Health Organization, contributes to the relief of suffering from this disease in Asia, Africa, South America and Europe. In 1974, for example, the Order inaugurated the Leprology Centre at Dakar, the only institute in French-speaking Africa capable of carrying out research and teaching methods for combating this terrible disease.

In all of its humanitarian work, in conformity with its age-old traditions, the Order observes the principles of absolute independence and neutrality, along with equality in treatment for all those in need, without distinction of race, religion, status or location. In particular, it observes the regulations provided in the diplomatic conventions concerning international humanitarian law—the Geneva Conventions, the Hague Conventions, those of the International Relief Union and the Declaration of Human Rights. In addition, it concludes agreements with the powers concerned on co-operative humanitarian activities. Finally, upon request, it is prepared to undertake certain special tasks, such as those of a Protecting Power or of substitutes for such powers, etc.

In order to carry out its supranational humanitarian activity, as noted above, it maintains diplomatic or other regular official relations with nations with which it shares humanitarian concerns. It also accredits observers to various intergovernmental organizations, international private organizations and others which are involved in international humanitarian activities. It now has representatives at the Office of the United Nations High Commissioner for Refugees, the ICRC, ICEM, UNICEF, the Council of Europe and UNESCO, and is thus in a position to remain in close touch with international humanitarian life. To the same end, it is now taking part in the work of the Diplomatic Conference on the

Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts and offers its good offices in the event that various powers may wish to entrust certain tasks to it, tasks which it will be glad to undertake in appropriate circumstances in agreement with the International Committee of the Red Cross. The Order hopes also to take part in the forthcoming conference to be held in Vienna under the auspices of the United Nations, for the drawing up of regulations governing relations between governments and intergovernmental organizations. The Order hopes that these regulations will also govern its own relations with intergovernmental organizations, thus confirming a de facto situation of long standing.

The Sovereign Order of Malta, one of the oldest precursors of the Red Cross concept and certainly the first organization for international humanitarian assistance, thus carries on today an activity which it has exercised for the past nine hundred years, under the aegis of that unique principle of sovereignty, in the service of charity.

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