

Law and Humanitarian Ethics

An international conference on the subject of "Law and Humanitarian Ethics" was held in Paris from 26 to 28 January 1987. The Conference was organized by Médecins du Monde and the faculty of law at the University of Paris-Sud. Its opening session was attended by Mr. François Mitterrand, President of France, and its closing session by Mr. Jacques Chirac, the Prime Minister.

About 400 persons took part in the conference, which was addressed by some 50 speakers from French political and academic circles, non-governmental organizations, private agencies and the media.

The ICRC was invited to attend and was represented by Mr. Alain Modoux, head of the Information Department, and Mr. Jean-Daniel Biéler, deputy head of the Division of International Organizations.

The main aim of the Conference was to study the humanitarian activities of non-governmental organizations from the political, social, moral and methodological point of view, taking into account Western and Third World conceptions of human rights.

Reviewing the history of humanitarian assistance, Dr. Bernard Kouchner, honorary president of Médecins du Monde, identified three phases. First, there was Henry Dunant's creation of the Red Cross and assistance to wounded people and prisoners. Basically, the charitable drive, the desire to assist, is always present, as several speakers reminded their audience. A second generation of altruists began carrying out humanitarian activities during the 60s—doctors and nurses who both treat those in need and bring their plight to the attention of the rest of the world. Finally, recent years have seen the advent of movements which to a great extent depend on media coverage, reporting "live" from the scene and becoming embroiled in polemics. In view of these excesses, Dr. Kouchner felt that the time had come for all humanitarian organizations "to come

together and elaborate a code of ethics, a charter of basic rules for humanitarian aid”.

Recalling that the most fundamental human right was the right to life and that our primary duty was to assist people in danger, Mr. François Mitterrand underlined the challenge facing the humanitarian organizations of today—how to “reconcile” the law, recognized principles and the assistance required with the complexity of government structures, regulations, prohibitions and suspicions. The humanitarian organizations—those who uphold “the ethics of the extreme emergency”—must ensure that “international law show increasing recognition of the rights of the individual human being and that individual rights be not denied in the course of everyday life, that they be not denied by the law of States”.

These days, an ever-growing number of non-governmental organizations feel that they have a “right to take humanitarian action”, whereas any unilateral intervention is illegal because it violates national sovereignty. Some legal experts, including Mario Bettati, dean of the law faculty at Paris-Sud, felt that the victims of conflicts had an inalienable right to receive assistance when that assistance was purely humanitarian and intended to protect the right to receive care and the right to life. Dr. Bettati said that respect for and implementation of such a right, while not totally rejected by the States and international organizations, had not so far been formally recognized by the international community. He felt that it was time for such recognition, for the following four reasons: the scope of armed conflicts and natural, industrial and nuclear disasters; the speed and efficiency of private assistance; the practical application of the right to life and the right to health (Article 3 of the Universal Declaration of Human Rights) and, finally, the right to humanitarian assistance which is a corollary of the duty to show solidarity. This duty implies, among other things, the duty to co-operate, in accordance with the United Nations Charter (Articles 55 and 56). He therefore proposed that the participants adopt a resolution referring, among other things, to the existing rules of international humanitarian law and affirming “that both the right of victims to humanitarian assistance and the obligation of States and non-governmental organizations to contribute to and facilitate that assistance should be acknowledged by all of the members of the international community in a single international instrument”.

The Conference also dealt with other closely related topics presented in the form of questions, e.g. “Are human rights a

universal language?”, “Are human rights exportable?”, “Can human rights and humanitarian aid be imposed from outside?”.

It is true, as Professor Guy Carcassonne pointed out, that there is a strong tendency these days within humanitarian organizations to act in the name of values stemming from Western civilization and to “promote what they would wish for themselves”. This brings with it the risk of imposing rights which not everyone perceives as natural, even when “it is difficult not to view them as universal, not to attribute moral value to them”.

The essential thing is to act quickly when help is needed, to take action because suffering and injustice are intolerable. Above all, humanitarian activities must be clearly distanced from political motives and ‘manipulation’ must be avoided.

That being the case, how can the conduct of humanitarian workers be defined? How can we deal with the emotions created in us by human suffering while, at the same time, remaining uncompromising in our denunciation of human rights violations? How can we keep the world informed without endangering our ability to come to the aid of the victims?

Several speakers were in favour of denouncing violations of human rights because, in many cases, firm and coherent protests had saved thousands of lives. This was the reasoning behind the call by Médecins du Monde to the medical profession, and medical students in particular, to complement the Hippocratic oath with the solemn commitment to speak out against any violation of human dignity.

Other speakers stressed instead the importance of taking direct action at government level and, more generally, the need for the work done by individuals or associations to complement that performed by public authorities.

As for the media, they provide new scope to individuals and non-governmental organizations. Without them, humanitarian work would be impossible. When they describe, or better, show an event, this leads to humanitarian action; in the same way, the media do much to ensure that the assistance is financed. This, however, does not alter the fact, as noted by Christine Ockrent, a journalist, that the relationship between the media and humanitarian work remains ambiguous. “The media are capricious and fickle”, their priorities change. “Television has the means to cover an event but it is not capable of following the development over a long period”. “Our eyes become used to the horror and our attention flags at the profusion of humanitarian undertakings. The

pictures of boat people and starving children move us and make us indignant—but they no longer surprise us. Our indignation is being exhausted. Thoughtful analysis must therefore take its place”. The media and the humanitarian agencies may also be rivals; so it is essential for all those who work in either field to co-ordinate their activities with great care.

Observing that humanitarian morality is not to be confused with human rights, but that the former cannot exist where the latter are trampled upon, Mr. Chirac, in closing the conference, declared his support for humanitarian ethics which he defined as “forgetting that which divides us and concentrating on the essential things which bring us together. “The ethics of the extreme emergency” are little different from ethics in the usual sense of the term, save that Good is embodied in the faces of the wounded, the starving and the oppressed, whoever they are and wherever they come from, whereas Evil is represented by their oppressors and even by all who employ bombs, whatever their motivation”.

Finally, the participants paid tribute to the work of the ICRC while stressing that, in their opinion, its discretion should be defined as one stage in the long march of humanitarian endeavour.

