

# Dissemination of International Humanitarian Law The Belgian situation

by Carl Vandekerckhove

Since 20 November 1986<sup>1</sup> Belgium has been committed to comply not only with the obligations contained in the 1949 Geneva Conventions, but also with those included in the two Additional Protocols of 1977. Everybody in our country must therefore make necessary preparations for putting into effect the obligations falling within their responsibilities.

By ratifying the Protocols Belgium has committed itself to respect the above mentioned law and to ensure respect for it in all circumstances<sup>2</sup>. Therefore it is obvious that the preventive means, which should be put into action before international order is violated, are essential. The *dissemination of international humanitarian law* will undoubtedly be the key-stone of these preventive means.

We do not have the intention of going into the legal or moral considerations that led to the adoption of Articles 46, 48, 127 and 144 of the First, Second, Third and Fourth Conventions respectively and of Article 83 of Protocol I, the provisions which make up the core of the dissemination mandate.

We shall, however, try to review the present dissemination activities in the Belgian Kingdom, dealing with each of the *eight target groups, proposed by the International Committee of the Red Cross*<sup>3</sup>.

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<sup>1</sup> The two Additional Protocols were adopted with the Law of 16 April 1986 and published in the "Moniteur belge—Belgisch Staatsblad" on 7 November 1986. Since the Belgian instruments of ratification were deposited in Bern on May 20th 1986, the Protocols did not enter into force until 20 November 1986.

<sup>2</sup> See Article 1, Protocol I.

<sup>3</sup> See document C. I/2.4/1 of the 25th International Red Cross Conference, Geneva, 1986: "Dissemination of international humanitarian law."

There is no doubt that, in accordance with the above-mentioned regulations of the Conventions and Protocol I, *the Member-States* should ensure the dissemination of these instruments on as wide a scale as possible. Nevertheless the Belgian Red Cross accepts full responsibility within the framework of the resolutions of the International Red Cross Conferences<sup>4</sup>, to co-operate with the Government as auxiliary to the public authorities by contributing to this dissemination.

This has led the Belgian Red Cross to the organization of the *Symposium on the "Implementation of the Protocols additional to the Geneva Conventions"* on 27 and 28 November 1986, in Brussels. In his speech at the opening session the Belgian Prime Minister, Mr. W. Martens, held that the Authorities should take account of the signs of goodwill, shown by the Red Cross, to be a "focal point" for all initiatives for the implementation of the obligations imposed by the Conventions, without, however, exempting the State from its primary responsibility.

It was his wish, said the Prime Minister, "that the Authorities give due consideration, to the most suitable means of co-operating with the Red Cross, naturally with due observance of this organization's autonomy, "and that the latter do all it can to complement the Government's action or even take action on behalf of the Government.

The Belgian Red Cross has in fact taken dissemination amongst its volunteers to heart since the early seventies. So, please allow us to discuss the *dissemination within the Red Cross* before the other target groups. Reality confirms our conviction that, as J.-J. Surbeck puts it<sup>5</sup>, knowledge of humanitarian law amongst Red Cross volunteers is obviously of reference value with regard to all other target groups.

For lectures and training courses in international humanitarian law to local and regional branches—staff members as well as volunteers—in the Flemish section of the Belgian Red Cross, the Juridical Committee (an advisory body composed of representatives of the Civil and Military Magistrature, the Ministry of Foreign Affairs and the Universities) can appeal to lawyers, who volunteer for these jobs. The latter give adequate documentation to the volunteers and they can also select tapes (with Dutch translation) from a video library to illustrate their conferences. At Headquarters, a permanent Humanitarian Law Service with a full-time lawyer

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<sup>4</sup> See Resolution IV of the Twenty-fifth International Red Cross Conference: "Dissemination of international humanitarian law and the principles and ideals of the Movement in the service of peace", Geneva, 31 October 1986.

<sup>5</sup> Surbeck, J.-J., "La diffusion du droit international humanitaire, condition de son application" in *Studies and essays on international humanitarian law and Red Cross principles in honour of Jean Pictet*, ICRC, Martinus Nijhoff Publishers, 1984, p. 545.

takes care of the training of the speakers. He supports and co-ordinates the entire dissemination activity of the Belgian Red Cross in the Flemish section.

*Dissemination within the Belgian Armed Forces* is based on a Directive by the Minister of Defence addressed to the Head of the General Staff (1972) and to the Commander of the State Police (1973). In summary, this Directive charges the unit commanders with giving instruction on humanitarian law at the troops' level. This instruction should be recapitulated during exercises.

Non-commissioned officers are to be informed of their responsibility regarding their subordinates, who infringe humanitarian law. Emphasis is put on the need for co-operation between the School Commanders, the General Military Command and the Military Magistrature. Military magistrates should regularly consult the officers' staff in order to analyse the psychological and juridical problems involved in the training of combatants. Furthermore, apart from the number of hours, also the instruction level per target group is made explicit in the Directives to the Staffs and Military Schools.

In spite of the above-mentioned Directives, instruction in humanitarian law among the Belgian Armed Forces remains fairly problematic <sup>6</sup>:

- the military command still lacks a useful guide-book that clearly explains the Belgian Army doctrine concerning humanitarian law;
- the instruction is disparate, academic and non-integrated in military reality. Besides, it is limited to the private's training;
- there are no adequate teaching aids;
- information on humanitarian law (for the military press) is quasi non-existent;
- there is no procedure for the evaluation of this knowledge.

With respect to *dissemination in the government administration*, we ascertain that not a single specific measure has been taken, although in our opinion the civil defence and the diplomatic corps should be interested in a good knowledge of humanitarian law in the event of a conflict.

There is no general directive in *educational circles* for the integration of humanitarian law in the curricula. *Dissemination among Belgian youth* has not been started either, apart from a number of very specific activities of

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<sup>6</sup> See also Major Blondieau, J.-P., «Droit de la guerre et droit humanitaire en Belgique», *I.R.S.D.*, Brussels, 1985. In this dissertation for the Royal Defence College, Major Blondieau analyses the observance of the Ministerial Directives. By means of a number of random tests, he comes to the (alarming) conclusion that "the theoretical knowledge of the interviewed officers is insignificant. Their reactions to possible combat situations would often be incorrect".

Red Cross Youth<sup>7</sup>. Nevertheless, we are convinced that a sustained policy of dissemination, adapted to the various age groups, would create possibilities for the future (military service, profession...) and could be a first attempt towards making the general public more aware, a domain in which nothing has yet been realized.

In the *universities* a chapter on "Red Cross Conventions" is provided only in the curricula of the Faculty of Law, and to a lesser degree in those of the Schools of Criminology; no other disciplines even mention humanitarian law. In order to introduce humanitarian law as a definite and attractive part of the legal training, the Flemish section of the Belgian Red Cross annually invites a foreign professor to devote a two-hour lecture to this matter in the four largest universities. For the university professors involved, the initiative of a lecture by a visiting professor seems to be the most advisable method of raising interest for a subject which has no immediate significance for the future professional career of the students.

In the deontological training of *medical and para-medical personnel*, indeed some notions of humanitarian law are taught, yet also here a systematic and thorough instruction on this matter is non-existent. In the Flemish part of the country we do not know of any school for nursing personnel which takes action in this respect. The Belgian Red Cross seldom receives requests for documentation. Nevertheless, we should mention that civilian and military doctors regularly participate in humanitarian law seminars of the ICRC or the Henry Dunant Institute. Moreover, each year some military doctors attend the Courses on the Law of War in San Remo.

Making the *mass media* aware of problems regarding the application of international humanitarian law is done only on a voluntary basis in Belgium. Neither the authorities, the journalists themselves nor their professional associations seem to be inclined to discuss—let alone to propagate—the principles of humanitarian law in their coverage of concrete situations in which this law is applied. Therefore the Belgian Red Cross seizes every opportunity of bringing one or more journalists to the source of information or to counsel them. In this way a real information campaign was set up on the occasion of the latest International Red Cross Conference, the Belgian ratification of the Additional Protocols, the lectures given on international humanitarian law at the universities and the Red Cross Symposium.

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<sup>7</sup> In its teaching programmes for "International Understanding and Global Education", Red Cross Youth in the Flemish Section trains its leaders to acquaint all members with the Red Cross ideals and principles of respect for the human being in times of conflict.

The *general public*, finally, is still an unknown factor: at this moment, neither the State nor any other institution professes to take any action for the dissemination of international humanitarian law towards this all-embracing target-group. Nevertheless this group, through initiatives aimed at the above-mentioned specialized target-groups can be reached—be it only very partially and occasionally.

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Considering this short analysis of the Belgian situation in the field of the dissemination of international humanitarian law, we can *conclude* with the hope that in this field imagination and goodwill go hand in hand to strive for feasible and, at the same time, effective solutions. It leaves little doubt that few countries in the world open more convincing perspectives with regard to the problems with which we are dealing.

Nevertheless, this cannot be a reason for Belgium to leave it like that.

The decision of the Red Cross Symposium of November 1986, that it would be desirable to set up a permanent mechanism for the implementation of the humanitarian Conventions, has already yielded its first remarkable result after three months. On 20 February 1987 the Council of Ministers decided to set up an interdepartmental commission. It falls under the direct authority of the Prime Minister and it is chaired by the President of the Commission for National Defence Issues.

It is the express wish of the Belgian Red Cross to achieve well-organized and efficient dissemination of international humanitarian law in co-operation with the competent authorities, mindful of the aim of Henry Dunant who gave shape to one of the most beautiful, dignified ideals. And we end with another great man from our region: "It is not necessary to have high hopes to take action, nor to succeed to persevere" (Willem van Oranje).

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