

BOOKS AND REVIEWS

MODERN WARS

The Humanitarian Challenge *

Mention has already been made in this *Review* of the Independent Commission on International Humanitarian Issues and its work, particularly with reference to contacts between the Commission and the ICRC¹.

Modern Wars is the report submitted to the Commission on one of its major concerns: the application of humanitarian rules in times of armed conflict. The Commission's objective in requesting this report was partly to promote ratification of existing international instruments and partly to propose more appropriate methods of tackling the new problems raised by modern armed conflicts.

Following the general report by Mr. Bedjaoui, there are also papers by recognized experts whose research has been used as a basis for reflection by the Commission.

These experts are:

- Georges Abi-Saab (“Respect of humanitarian norms in international conflicts”);
- Antonio Cassese (“Respect of humanitarian norms in non-international armed conflicts”);
- Asbjørn Eide (“Respect of humanitarian norms in internal disturbances and tensions”);
- Konstantin Obradović (“Enquiry mechanisms and violations of humanitarian law”);
- Igor Blishchenko (“Humanitarian norms and human rights”);
- Jiri Toman (“The socialist countries and the laws of armed conflict”).

* *Modern Wars—The Humanitarian Challenge*, a report for the Independent Commission on International Humanitarian Issues, presented by Mohammed Bedjaoui; foreword by Pierre Graber; Zed Books Ltd., London and New Jersey, 1986, 195 pp. Also available in French: *La Guerre aujourd'hui — défi humanitaire*, Berger-Levrault, Paris, 1986, 291 pp.

¹ See *International Review of the Red Cross*, No. 236, September-October 1983, p. 275; No. 238, January-February 1984, pp. 3-17.

The foreword is by Pierre Graber. The book also includes some basic texts concerning the protection of individuals from torture and, more generally, protection in times of armed conflict and internal disturbances or tension.

The general report emphasizes how great a need there is for international humanitarian law in view of the persistence of armed conflict. This highly developed branch of international law is not, however, complete, since it does not cover such matters as the law of neutrality, or the technical means of ensuring the security of medical transport, for example. More important still, nevertheless, are its "shortcomings". At the top of the scale these are reflected in the current controversies concerning the law applicable to nuclear arms; and at the other end, by the fact that humanitarian law does not apply to internal disturbances and tension. The very nature of the law governing human rights and the possibility of derogation in these situations call for the development of new norms, in a form yet to be decided.

One of the reasons making it difficult to implement the existing instruments even when they are legally applicable is "the sheer intricacy and complexity" of the regulations (para. 29).

Efforts for dissemination, therefore, should be pursued in such a way that, without prejudice to the treaties themselves, the principles they contain, applicable in all circumstances, would be rendered more readable and recognizable.

As far as the content of the law is concerned, the current priority is not a new round of codification and gradual development, but the universal acceptance and effective implementation of existing law. The fact that implementation is frequently inadequate is not for lack of mechanisms provided for this purpose by the treaties. The reason is rather that in the end too many of these mechanisms depend *de jure* or *de facto* on the consensus of the States concerned.

In addition to efforts to disseminate and to implement humanitarian law at national level, there is also a need for greater commitment, in the event of armed conflict, on the part of all States bound by the treaties. Individual States should be made to understand that "the best way... for the State to succeed is for humanitarianism to succeed" (para. 107).

The report and the expert papers evaluate both the state of the law and the difficulties encountered in implementing it. These contributions, completed as they are by a historical review of these two aspects and proposals for action, should effectively arouse a sense of awareness and encourage a general movement towards humanitarian goals.

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