

HUMAN RIGHTS IN INTERNAL STRIFE: THEIR INTERNATIONAL PROTECTION

This study on the international protection of human rights in internal strife* begins with the following proposition: "Ideally, there should be a continuum of norms protecting human rights in all situations, from international armed conflicts at one end of the spectrum to situations of non-armed internal conflicts at the other". The author raises the question whether the system of legal protection of the individual person is really as comprehensive as this assertion claims, especially in situations which can be classified neither as peace nor as armed conflict: internal strife. A very thoughtful analysis of the law of human rights and of international humanitarian law leads him to the conclusion that there is no such continuum, that indeed there is a lacuna in the international protection of human beings. That lacuna appears "in the area where humanitarian law meshes with human rights law, i.e. in internal strife". The gap needs to be filled, says the author, and he proposes the drawing up of a Declaration on Internal Strife which would safeguard fundamental human rights in such particularly difficult situations.

Internal strife is a problematical concept. Although ubiquitous, the phenomenon is not defined by any international instrument. All that the international lawyer knows for sure is that humanitarian law is not applicable to internal strife, humanitarian law being that part of public international law which deals specifically with problems arising in armed conflicts, which are situations characterized by the confrontation of armed forces. The suffering wrought upon the population of a country torn by internal strife is, however, such that the normal "peacetime" approach does not correspond to the needs of the situation, as the author quite clearly demonstrates. His presentation and discussion of various attempts to define the concept of internal strife and to introduce adequate rules into international law cover the activities of institutions as far apart as the *International Committee of the Red Cross* and the *Overseas Private Investment Corporation*. A common phenomenon emerges, however, from the author's various descriptions: **violence**, all of which leads to **human rights abuses** (incommunicado detention, torture, physical disappearance, extrajudicial killing, etc.), which cause **human suffering**. It is important to note that these abuses may be committed either by governments or by private groups.

* Theodor Meron, *Human Rights in Internal Strife: Their International Protection*, Hersch Lauterpacht Memorial Lectures, Cambridge, Grotius Publications United, 1987 (172 pp.).

An entire chapter is devoted to examining the ICRC's response to internal strife, which is to visit detention places in order to protect the specially vulnerable group of political detainees from abuses of power. The author's analysis shows his thorough knowledge of the ICRC's work in situations where the institution has no explicit legal basis on which to act. The absence of a legal framework is, in the author's eyes, an obstacle to a more comprehensive activity which would cover all the victims' needs. One could also say that, on the contrary, it is the absence of legal rules that permits that extraordinary flexibility and adaptability which is a condition for effective work in situations where governments do not want to accept binding international rules.

Having shown the inadequate response of human rights law to the humanitarian issues raised by internal strife, and the silence of humanitarian law on the subject, the author pleads for the drafting of a new text. As the negotiation of a formal treaty on the subject seems quite impossible today, a non-binding declaration could be a more promising way to success. A whole chapter is devoted to the normative content of such a text.

Whether one agrees or not with the author's thesis that there is a lacuna in the law protecting human beings in situations of internal strife, Meron's book certainly fills a lacuna in legal literature. His thorough analysis of the connections between the human rights and the humanitarian law systems is an excellent starting point for any discussion on how to improve the protection of human rights in internal strife.

The author's proposal to draft a declaration on internal strife is timely; it is also a useful contribution to the ongoing debate on the answers that the law can provide to the specific humanitarian problems raised by internal strife. This is a plea for action in a field which has long been neglected by the international legal community. It deserves to be heard.¹

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¹ This book is an expanded version of the Hersch Lauterpacht Memorial Lectures which the author was invited to deliver in 1986 at the University of Cambridge Research Centre for International Law (United Kingdom).