

ANNALES DE DROIT INTERNATIONAL MÉDICAL

The *Annales de Droit international médical*, published regularly by the Commission Médico-juridique de Monaco¹, is a constant source of interest.

Issue No. 18 contains some particularly important contributions. The first of these is an article by Professor Paul de La Pradelle which, under the title *Jus cogens et Conventions humanitaires*, deals with a problem which is topical because one provision of the draft drawn up by the UN International Law Commission on the law of treaties is intended to nullify any treaty which is in conflict with an imperative general international law standard recognised as *jus cogens*. After recalling the doctrinal bases for this concept, the author considers the incidence on international humanitarian law and particularly the Geneva Conventions.

We then find in the last issue of these *Annales*, under the title "*l'application des Conventions de Genève*", a report by Mr. J. C. Scholsem which gives an account of an enquiry into this subject by the *Centre d'études de Droit international médical de Liège*, in co-operation with the International Law Association, among competent people and institutions.

The enquiry included three fundamental aspects: 1) What is the nature and legal scope of the Geneva Conventions? 2) How should the first article which is common to all four Conventions—"The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances"—be construed? 3) If one admits that States are committed to ensuring that other States respect the Geneva Conventions, what permissible and effective means have they of doing so?

Mr. Scholsem gives us a summary of twenty-five detailed replies. Most of them recognize that the Geneva Conventions are not treaties which are founded on reciprocity of benefits. They postulate,

¹ Palais de Monaco. This publication is in French and the extracts quoted in this article are translated by us.

among States, a community of aims which demands concerted action of those States. The purpose and nature of these Conventions demand as extensive an interpretation as possible.

It has been pointed out that in the first article of the Geneva Conventions the expression " respect " might be considered superfluous since it covers an obligation resulting from the fact that the Parties have signed the Conventions and it might also be held that " to ensure respect " is far too vague. On the interpretation of these latter words, opinions are extremely divided. Some hold that they impose only internal obligations on States. Others consider they apply equally on an international plane, and that they would otherwise have no meaning.

The public order character of humanitarian law—the report says—requires active co-operation by all States to maintain and reinforce the higher legal order which they sought and established. The obligation to ensure respect for the Red Cross Conventions internationally is not the product of a rash, or as some might say, thoughtless interpretation: it is implicit in the very nature of the Conventions.

This idea seems to be acquiring wider and wider acceptance. For instance, one resolution adopted by the International Conference on Human Rights at Teheran in 1968 on the protection of human rights in the event of armed conflicts states that the Conference notes " that states parties to the Red Cross Geneva Conventions sometimes fail to appreciate their responsibility to take steps to ensure the respect of these humanitarian rules in all circumstances by other States, even if they are not themselves directly involved in an armed conflict ".

It need hardly be said that this is a point which the ICRC has interpreted very widely in its Commentary on the Conventions.

We would also mention another article, "*la place des Conventions humanitaires dans le droit des gens*" by Mr. Maurice Benoit.

As usual, the *Annales* contain a wealth of documentary material which forms a useful supplement to this welcome issue.

J. P.