

Books and reviews

ON HUMANITARIAN ASSISTANCE

During the past few years much has been written on the various aspects — legal, political, social and media-related — of humanitarian assistance. To supplement the articles published in this issue of the *Review*, we are presenting two recent books by two eminent French doctors. Both of them have devoted long years to the humanitarian cause, but the conclusions they draw from their personal experience are often conflicting.¹

According to Bernard Kouchner, one of the founders of *Médecins sans frontières* (MSF) and currently France's Minister for Health and Humanitarian Action, it was the experience of French doctors working in many parts of the world to help people stricken by war or natural disasters that led the French government to propose to the United Nations General Assembly the "right to humanitarian assistance". That proposal led to the adoption of resolutions 43/131 of 8 December 1988 and 45/100 of 14 December 1990 by the Assembly and of resolution 688 of 5 April 1991 by the Security Council.

Dr. Kouchner affirms that MSF's work in behalf of Iraqi Kurds was exemplary in that it was carried out on the basis of the "*droit d'ingérence humanitaire*" proposed by the French government. The author is convinced, in fact, that media coverage — and TV coverage in particular — of the plight of Iraqi Kurds in 1991 rallied public opinion and put considerable pressure on governments, forcing them finally to intervene.

Looking back over MSF's twenty years of activity, Xavier Emmanuelli, also a founding member of MSF and its Honorary President, concludes that the organization has attained a high degree of professionalism which enables it to handle even the most difficult situations.

In the course of his missions Dr. Emmanuelli had to deal with a great many of what he calls the "vultures of humanitarian work", namely the media and politicians who use humanitarian activities for their own ends. When during the Gulf war he managed to get to the Turkish-Iraqi border with an MSF team, he was deeply shocked to see just how much equipment the media had brought to the spot, especially TV networks, which were broadcasting live the tragedy of the Kurdish people while the Coalition forces simply dropped

¹ Bernard Kouchner, *Le malheur des autres* (The misfortune of others), Editions Odile Jacob, Paris, 1991, 339 pp. and Xavier Emmanuelli, *Les prédateurs de l'action humanitaire* (Vultures of humanitarian work), Editions Albin Michel, Paris, 1991, 250 pp.

relief supplies on refugee camps without even worrying about the damage they were causing.

One of the central arguments of Dr. Emmanuelli's book is that politics represents a real danger when allowed to interfere with humanitarian activities; Bernard Kouchner, on the other hand, maintains that the media should be used to mobilize public opinion, which will then put pressure on governments and force recalcitrant States to let humanitarian assistance reach all the victims.

Despite their differences, both authors feel that it is their duty to denounce publicly any breaches of international law observed during their missions; they are consequently critical of the ICRC which, as a rule, maintains a policy of confidentiality.

In this regard, here is what ICRC President Cornelio Sommaruga had to say about the institution's policy of confidentiality in an article published in the magazine of the Spanish Red Cross in March 1990.²

"Let us take an example: an ICRC delegate finds that international humanitarian law, which it is the ICRC's duty to uphold, is being violated. His first reaction might be to express his legitimate indignation to the first journalist he sees. That may ease his conscience, but what are the likely consequences? The authority that opened the doors of its prisons to the ICRC would probably waste no time in pulling them shut once again. This does not mean that public opinion has no role to play in bringing about a change in the attitude of authorities not known for their compliance with international humanitarian law. Other humanitarian organizations and journalists can perfectly well make their findings public, but for the ICRC such a step can be taken only as a last resort, after careful consideration and in accordance with precise criteria. (...)

Indeed, the ICRC takes a public stand on breaches of international humanitarian law only if they are serious and repeated and if its own confidential approaches have not succeeded in putting a stop to them. In addition, the violations must be witnessed by its delegates or be common knowledge. When the ICRC is making its decision the interests of the people affected or threatened by such violations override all other considerations. In serious cases, therefore, the ICRC can abandon its traditional policy of discretion and call on the States party to the Geneva Conventions to urge the State guilty of such breaches to put an end to them.

(...)

Heart and mind are sometimes at odds: when a man of action witnesses a violation of international humanitarian law, the indignation this arouses in him may prompt him to act in a certain way, but if he stops to think he may see things differently. Every single person who has ever worked for the Red Cross has been faced with this dilemma at one time or another. To speak or not to speak? With very few exceptions, for 126 years ICRC staff have most

² Cruz Roja, March 1990, pp. 6-7.

often chosen to keep silent. In their heart of hearts they know that silence, although a heavy burden to bear, is the best way, the one that will open the doors behind which suffering, solitude and misery are often to be found."

Françoise Perret

INTERNATIONAL HUMANITARIAN LAW IN THE CONTEMPORARY WORLD

*From traditional humanitarian law
to expanded humanitarian law*

Established more than twenty years ago to promote the dissemination and development of international humanitarian law and to work at all levels for its implementation, during this time the International Institute of Humanitarian Law has become — thanks to congresses, round tables, meetings of experts and training courses — a genuine humanitarian forum fostering ongoing dialogue between representatives of States, international, intergovernmental and non-governmental organizations, academic institutions and many leading figures interested in humanitarian problems.³

This booklet by Jovica Patrnogić, former President of the Institute, and Boško Jakovljević, an expert in humanitarian law,⁴ is fully in line with the Institute's objectives and methods which are to make an up-to-date assessment of humanitarian law (including human rights law and refugee law), stress its merits, expose its weaknesses and examine ways of developing it in accordance with the realities of the present-day world so as to ensure the best possible protection for the ever-increasing number of victims of calamities in our time. To achieve this, the authors decided to "provoke" — in the best sense of the term — the reader into reacting to the ideas, initiatives and suggestions which are interspersed throughout the booklet.

The authors begin by tracing the origin of humanitarian law as positive law. They describe how it evolved since 1864 and highlight the main features of the Geneva Conventions and their Additional Protocols, together with the

³ In this connection see "Working for a humanitarian dialogue — the International Institute of Humanitarian Law celebrates its twentieth anniversary", *IRRC*, No. 278, September-October 1990, pp. 450-455.

⁴ Jovica Patrnogić & Boško Jakovljević, *International Humanitarian Law in the Contemporary World*, International Institute of Humanitarian Law, San Remo, 1991, 64 pp. (Collection of publications — No. 10) (in English).