

- in situations of emergency, humanitarian priorities should prevail over political considerations, for example by the granting of “mercy corridors” in order to reach the victims speedily;
- closer attention should be paid to the actual causes of disasters and early warning systems should be improved; the provision of external aid which might lead to a state of dependency should be avoided;
- co-ordination amongst the various non-governmental organizations should be improved and young people encouraged to lobby government bodies more effectively;
- an Independent Bureau for Humanitarian Issues, empowered to promote multilateral action, should be established; an attempt should be made to set up independent commissions in each country, and even Ministries of Humanitarian Affairs.

The entire report attributes great importance to dialogue. Itself an outcome of listening to governments, non-governmental organizations, experts, etc., it calls for a consideration of ethical imperatives, for a heightened awareness of the dignity and universality of the human being. The International Red Cross and Red Crescent Movement can but endorse the report in this approach.

Jean-Luc Blondel

WARS OF NATIONAL LIBERATION IN INTERNATIONAL HUMANITARIAN LAW

No other provision in the Protocols additional to the Geneva Conventions has received as much written comment in the twelve years since their adoption as Article 1, paragraph 4 of Protocol I. This new provision places wars of national liberation fought by a people in the exercise of their right to self-determination (originally considered to be the internal affair of the colonial State among wars governed by the law of international armed conflict). In writing his doctoral thesis,¹ which has now been published in the *Europäische*

¹ Christian Koenig, *Der nationale Befreiungskrieg im modernen humanitären Völkerrecht. Ein Beitrag zum Geltungsumfang des Artikels 1 Absatz 4 des I. Zusatzprotokolles von 1977 zu den Genfer Konventionen von 1949 (Wars of national liberation and modern international humanitarian law. A consideration of the scope of application of Article I, para. 4 of Additional Protocol I to the 1949 Geneva Conventions)*, *Europäische Hochschulschriften*, Vol. 752, Peter Lang, Frankfurt am Main-Berne-New York-Paris, 209 pp. + appendix.

Hochschulschriften series, Christian Koenig has undertaken to explain how this controversial innovation came into being, what it concerns and the way in which it takes effect. The author has succeeded in giving a well balanced and documented account, paying particular attention to the problems encountered in actual practice.

At the beginning of his study, Koenig discusses several aspects which must be thoroughly grasped to understand the matter at hand. He explains the inadequacy of the current system of law and its division into two parts, internal strife and international conflict, by pointing out that a new concept—the people's right to self-determination—has meanwhile emerged and that it is precisely wars of national liberation which give rise to problems of particularly grave humanitarian concern. For lawyers the chapter about the various teachings on guerrilla war and wars of national liberation, giving the standpoints of East, West and South, is a good introduction to the legal questions involved. In discussing the attitude adopted by the United States, Koenig sites a kind of "forerunner" to the solution provided by Article 1, paragraph 4: during the war in Vietnam, senior American commanders decided that captured Vietcong fighters should be treated as prisoners of war provided that they had been openly bearing arms (and not using terrorist methods). Such a pragmatic solution for an acute human and political problem still deserves attention today, especially for situations in which the new rule created by Article 1, paragraph 4 has no legal force because the State concerned has not ratified Protocol I.

The author then proceeds from an analysis of current law to a description of how Article 1, paragraph 4 came into being, from the preparatory phase characterized by considerable hesitation on the part of the ICRC to its proposal by the Third World countries and finally, after heated controversy, its adoption by the Diplomatic Conference. He considers that the adoption of Article 1, paragraph 4 created new international treaty law and rightly rejects the view that it was a matter of "instant custom" that customary law was merely codified thereby.

The author places a restrictive interpretation on the terms defining the new article's area of application (colonial domination, alien occupation, racist regimes). This is also the prevailing approach in literature on the subject and of governments around the world. Only the concept of "alien occupation", contained in Article 1, paragraph 4, could be regarded as an innovation of some importance. It remains to be seen whether the classic legal concept of *occupatio bellica* which is based on the law of The Hague can also cover interventions purportedly in response to a "call for help" when such an intervention obviously takes place against the will of the people and when the puppet government doing the inviting is under the influence of the "invited" foreign troops.

Koenig's work makes some things clear which, in the often confused and confusing debate about Article 1, paragraph 4, must be repeated time and time again. In particular, Koenig stresses that the new provision adopted in 1977 solves only one problem of international humanitarian law. The question of whether the use of force is legitimate or not must be decided according to other criteria. Article 1, paragraph 4 is not guilty of mingling *jus in bello* with the right of recourse to force.

This well-documented work is enriched by its many references to the practical implementation of humanitarian law, especially the work of the ICRC. It is a useful contribution to our understanding of this new provision. By putting the whole matter in its proper perspective, Koenig makes, in his own words, a "plea" for ratification of Additional Protocol I.

Hans-Peter Gasser

THE LAW OF WAR AND NEUTRALITY

Recently published: *The Law of War and Neutrality—a Selective English-language Bibliography*, prepared by Howard S. Levie, Oceana Publications, Inc., Dobbs Ferry, New York, 1988.

This bibliography has been compiled by an American who is very well known among experts on the law of armed conflicts. It is especially intended for English-speaking readers since it refers only to works published in English. Research workers in this field will find the new bibliography by Levie invaluable.

The bibliography lists 2,284 references; to facilitate consultation it is divided into 21 sections which are further broken down into a large number of sub-sections. At the end there is a helpful author index.
