

BOOKS AND REVIEWS

ASSISTING THE VICTIMS OF ARMED CONFLICTS AND OTHER DISASTERS*

Mr. Frits Kalshoven, former legal adviser to the Netherlands Red Cross and Professor of International Humanitarian Law at the University of Leyden, edited this book which contains the 21 papers delivered at the International Conference on Humanitarian Assistance in Armed Conflict, held in The Hague in June 1988.

The texts are grouped in three sections. The first deals with the principles and moral aspects, the second with the practical and legal problems, and the third with the organizational aspects of such aid.

The book begins with the opening speech, then the introductory comments by Mr. Kalshoven himself and *Mr. René Jean Dupuy*, Professor of International Law at the *Collège de France*. It ends with a series of annexes giving the relevant legal texts.

With the exception of three papers, the book is entirely in English.

Mr. Kalshoven, who chaired the Conference, describes in this preface why and how it was organized and who attended. He points out that the meeting not only provided an exchange of sometimes opposing views, but often revealed that the participants discovered more common ground than they probably had expected. In his opening speech *Mr. Pieter Bukman*, Netherlands Minister for Development and Co-operation, spoke of the theme of the conference, emphasizing the topicality of humanitarian assistance and giving its legal, political and institutional background. Mr. Kalshoven dealt with a number of related issues such as the difficulty of defining "disaster" and singled out the main connotations given to "international humanitarian assistance". Mr. Dupuy presented humanitarian assistance as a human right over and above State sovereignty and considered the extent to which human rights can be useful in setting up more extensive rules for the provision of humanitarian assistance.

* Frits Kalshoven (editor), *Assisting the Victims of Armed Conflicts and Other Disasters*, Martinus Nijhoff Publishers, Dordrecht, 1989, 258 + VI pp.

The first section opens with a paper by *Mr. André Pasquier*, as ICRC Director of Operations, on the Red Cross philosophy of assistance and protection, in which he elucidates the relationship between action and law: ICRC action takes place in accordance with a code of operational ethics based on international humanitarian law and the Fundamental Principles of the Red Cross and Red Crescent, and humanitarian assistance in turn enables the civilian population to be protected against certain consequences of armed conflict. *Mr. Reginald Moreels*, head of the Belgian branch of *Médecins sans frontières*, describes guidelines adopted by non-governmental organizations such as his own and *Médecins du Monde*. *Mr. Bernard Kouchner*, French Secretary of State for Humanitarian Action and former head of *Médecins du monde*, examines the morals of urgent needs, saying that humanitarian assistance constitutes both a right and a duty. *Mr. Thomas G. J. Kerstiens*, the head of several non-governmental development aid organizations, discusses the philosophy and practical possibilities of Christian, and especially Catholic, organizations. Reviewing the long-term development aspects of humanitarian assistance in armed conflicts, *Mr. Paul J.I.M. de Waart*, Professor of International Law at the Free University, Amsterdam, considers that the principle of development implies a duty to prevent humanitarian assistance in armed conflicts from becoming a mere substitute for everyone's entitlement to a socially and internationally proper order. Finally, *Mr. Koert Lindijer*, a Dutch journalist, discusses the relationship between assistance and the media.

The second section opens with an analysis by *Mr. Michael Bothe*, Professor of Public Law at the University of Frankfurt, of several issues in international law relating to relief actions in armed conflict. He examines situations in which a State may be induced to accept relief; the obligation to accept relief; the question of which party to the conflict must accept relief; valid reasons to refuse international relief operations; the legality of unilateral action, i.e. undertaken without the consent of the High Contracting Party concerned and, finally, permissible counter-measures when consent is not given. Lawyers are encouraged to read his detailed views on each of these subjects. *Mr. Peter Macalister-Smith* of the Max Planck Institute for Foreign Public and International Law in Heidelberg considers the rights and duties of the agencies involved in providing humanitarian assistance and their personnel in armed conflict. He takes a general approach but, although he presupposes a thorough knowledge of the institutions founded on international humanitarian law to guarantee care for the wounded and sick, he does not stress their specific role. *Mr. Yves Sandoz*, Director of the ICRC's Department of Principles, Law and Relations with the Movement, explains the correct and incorrect use of the red cross or red crescent emblem. He first sets out the rules for the emblem's use and then discusses some of the problems relating to the work of non-governmental organizations outside the International Red Cross and Red Crescent Movement. He thereby underscores the need to avoid confusion in the area of humanitarian aid and for the organizations concerned to establish an identity. *Mr. Sandoz'* text is followed by two contributions on children in

armed conflicts. *Ms. Geraldine Van Bueren*, adviser to the *Save the Children Fund* in the United Kingdom, deals with the provisions of international humanitarian law prohibiting the recruitment of children less than 15 years of age. *Mr. Rup C. Hingorani*, professor of international law at the University of Patna in India, describes the various ways in which children are used in warfare and points out that children under 15 who meet the conditions of Article 4 of the Third Geneva Convention are entitled to prisoner-of-war status and to special protection in view of their young age. *Mr. Dhirendra P. Verma*, of the Faculty of Law at Banares Hindu University in Patna, India, gives his views on India's humanitarian assistance to Sri Lanka in June 1987. *Mr. Gervase J. L. Coles*, of the UNHCR Division of Refugee Law and Doctrine, analyses the condition of refugees from situations of armed conflict and internal disturbances in terms of the relevant instruments of international law. He points out that international humanitarian law deals with the protection of refugees *within* areas of armed conflict rather than *from* situations of armed conflict—since that body of law does after all protect people who live *inside* a country affected by armed conflict, whether international or non-international.

The third section of the book opens with the paper presented by *Mr. Carl Vandekerckhove*, Director General of the Flemish-speaking Community of the Belgian Red Cross, who describes his Society's preparation for emergency aid. *Mr. Tom W. Buruku*, head of the Africa Department at the League of Red Cross and Red Crescent Societies, concentrates on problems of co-ordination and co-operation in Red Cross action. Oxfam's views on the same problems are then given by *Mr. Marcus Thompson*, Emergency Assistance Coordinator of Oxfam (UK). Finally, *Mr. Jiri Toman*, Deputy Director of the Henry Dunant Institute in Geneva, takes stock of the existing international law relating to disaster relief and debates the advantages of having a body of law specifically covering this area. In a final chapter, *Mr. Frits Kalshoven* and *Ms. Charlotte Siewertsz Van Reesema*, of the Netherlands Red Cross, summarize the discussion that took place at the Conference. Among the points they make is that the work of the various humanitarian organizations is complementary; that Articles 16 of Additional Protocol I and 10 of Additional Protocol II protect the medical personnel, whilst Article 71 of Protocol I provides for the protection of personnel participating in relief actions; that "humanitarian diplomacy", of which the duty to maintain discretion is an important part, is indispensable; and, finally, that it is necessary to avoid rivalry and reach a consensus on certain ethics for co-operation in humanitarian assistance.

The numerous papers reproduced in this book cover the manifold aspects of relief work in armed conflicts. With the wealth of ideas and considerations it contains, it should prove most useful to lawyers, theoreticians and practitioners alike.

Denise Plattner