

After analysing the concept of the environment in relation to the human rights system, the author looks at its implications for the different categories of principles and rules in force. He studies the underlying links between environmental law and human rights, especially the right to life. He then goes on to identify groups that are particularly vulnerable and which need greater legal protection because of their exposure to environmental deterioration.

An outstanding merit of the author is the comprehensive and well-documented manner in which he deals with the relationships between environmental law and international humanitarian law. Chapter VII as a whole is devoted to this subject, with a detailed analysis of the provisions laid down in the humanitarian instruments. But the author also raises equally pertinent questions concerning future legal developments that might strengthen environmental protection in the event of armed conflict. He also pays tribute to the ICRC, with which he has been working in close cooperation for many years.

Mr. Cançado Trindade's book also contains a wealth of references both to the relevant legal literature and to international legal precedent, which makes it an indispensable tool for all those interested in studying the subject.

As an expert who took part in numerous international consultations preparatory to the Conference of Rio de Janeiro, on behalf of his government or of international organizations, the author supports his text with several annexes that give a clearer idea of emerging trends in public international law. Quite a few of these documents are being published for the first time and are a valuable addition to this very useful publication.

Although the work is as yet available only in Portuguese, it will certainly become an indispensable reference work for all those who believe in the role that international law is destined to play in reshaping the world now and in the future.

Christophe Swinarski

-
- **Carlos Chipoco, *En defensa de la vida. Ensayos sobre derechos humanos y derecho internacional humanitario***, Centro de Estudios y publicaciones, Lima, 1992, 231 pp.

The author, a lawyer and professor of international law and human rights in Peru, has also been an assessor with the Inter-American Commission on Human Rights and is currently a consultant to the United Nations.

The book is intended to give the Peruvian public and political and university circles a better knowledge of human rights. A careful presentation of the history and concept of human rights, together with the instruments for their implementation, provides food for thought.

The third chapter ("*En Búsqueda de humanidad. Derecho internacional humanitario y conflicto armado no internacional en el Perú*") deals with international humanitarian law (IHL). Mr. Chipoco begins by giving a good general introduction to IHL and then goes on to examine the situation within his own country, Peru. To his mind, it is a typical example of a State with a freely elected democratic government and an international and constitutional system to safeguard human rights but which is incapable of ensuring respect for the fundamental rights of its citizens.

Since one of the aims of his article is to analyse international humanitarian law in terms of the internal conflict in Peru, he concludes that only Article 3 common to the four Geneva Conventions is applicable to the situation there, and that although Peru is party to Protocol II, the conditions of application— notably control of part of the territory by the rebels— are not fulfilled. He furthermore specifies that not only the authorities but also the insurgents are required to comply with the obligations stemming from common Article 3.

The concept of war crimes under current law applies only to international armed conflict. Nevertheless, because they are so serious, Mr. Chipoco believes that all violations of common Article 3 should be qualified as "war crimes". In his opinion, this article corresponds in content to the provisions of the law of international armed conflict which themselves designate violations as "grave breaches". On the other hand the fact that the articles on grave breaches refer only to protected persons, i.e. those to whom the Conventions apply as a whole, might run counter to this interpretation. Nevertheless, according to the author, common Article 3 creates a special category of protected persons, namely the civilian population and members of the armed forces who are *hors-de-combat*, i.e. no longer able to fight.

Similarly, international humanitarian law governing internal conflicts does not contain any mechanism to establish international penal responsibility for those guilty of violations.¹ Citing other authors, Mr. Chipoco goes beyond existing law and considers war crimes to be an abuse of force during armed conflicts, regardless of whether those conflicts are international or internal; the provisions of the Geneva Conventions relating to the repression of war crimes create universal competence and an obligation to institute legal proceedings. The author is nonetheless aware that many States are afraid of interfering in the internal politics of another State and are therefore little inclined to accept this universal competence in cases of non-international armed conflict.

¹ See Denise Plattner, "The penal repression of violations of international humanitarian law applicable in non-international armed conflicts", *IRRC*, No. 278, September-October 1990, pp. 409-420

In Mr. Chipoco's opinion, the situation in Peru clearly reveals the limitations of IHL, in particular the lack of an international court empowered to pronounce judgment on violations of IHL. One of the ways in which he feels an international court might be able to comment on the application of IHL in Peru would be to request an advisory opinion, in particular from the Inter-American Commission on Human Rights. On the other hand, the author makes no mention of the International Fact-Finding Commission which, at its first meeting, made known its availability to examine cases of internal conflict as well.

The book continues with an account, on the basis of statistics and information supplied by various institutions and organizations, of violations committed both by the Peruvian armed forces and by the rebel movements, in particular the *Sendero Luminoso* ('Shining Path') and the *Movimiento Revolucionario Tupac Amará* (MRTA).

Mr. Chipico endeavours to show the importance of applying IHL in Peru, pointing out that the main strength of this body of rules is its universal acceptance, which should prevent any ideological equivocation.

He ends by stressing that the application and dissemination of IHL in Peru is a real challenge and quotes examples where ignorance of IHL by the parties concerned has even worked to their own disadvantage.

Anne Ryniker
