

this perhaps explains the shortcomings of the international community. But how can one reasonably believe that humanitarian action, now ennobled as the religion of love, can by itself reconcile antagonists, overcome wilful omissions, banish doubt, ease people's anguish, and crush evil?

For the time being, in Kundera's words, "Man proceeds in the fog."<sup>18</sup>

Both of these outstanding essays raise fundamental questions about the nature and the future of humanitarian action. Ferry's utopian conclusions and Finkelkraut's pessimistic ones leave many questions unanswered, and some of their assertions are not wholly convincing. Both authors, however, must be given credit for putting forward arguments that go far beyond anything offered on this vast subject up until now. Their opinions and questions are a powerful incentive for us to continue reflecting on the meaning of life, the problem of evil and the future of the humanitarian ideal; they also serve as a reminder that we should not slacken our efforts to adapt humanitarian action to the challenges facing us on the threshold of a new millennium.

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**Mario Bettati, *Le droit d'ingérence. Mutation de l'ordre international*, Éditions Odile Jacob, Paris, 1996, 384 pp.**

**Alain Pellet (éd.), *Droit d'ingérence ou devoir d'assistance humanitaire?*, Problèmes politiques et sociaux, Nos. 758-759, December 1995, La Documentation française, Paris, 136 pp.**

Advocates of the "right of intervention" see evidence of the success of their proposals in the adoption by the United Nations General Assembly of resolutions 43/131 (1988) and 45/100 (1990) on "humanitarian assistance to victims of natural disasters and similar emergency situations".

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<sup>18</sup> Milan Kundera, *Testaments Betrayed*, Faber & Faber, London, 1996, p. 240, quoted by Finkelkraut, p. 134.

The excellent compilation by Professor Pellet, who emphasizes the largely French nature of such a “right”, contains about 60 texts on the subject (UN resolutions, international agreements, commentaries). It advises less optimism and cautions against the too-ready affirmation that the recognized duty to “intervene” heralds a new and decisive stage in international humanitarian law.

Indeed, some ten years after the debate around this concept began, no new right has come into being. While it is true that humanitarian issues are referred to and international humanitarian law invoked much more frequently, this does not mean that those issues are better understood or that the law — which Professor Bettati describes as “traditional” — is complied with more faithfully. In his book the author, whose role in the debate on intervention is well known, provides a summary of and expands on his initiatives and legal interpretations. His criticisms of “traditional” humanitarian law (and at the same time of the ICRC) are essentially of two kinds: first, that the law pays too much attention to States and to respect for their sovereignty; secondly, that humanitarian action based on the law and on the principle of neutrality favours discretion and persuasion to the detriment, in both cases, of free access by aid organizations to victims.

It remains to be seen whether the “combination of intervention plus eyewitness accounts” provides better results, both on a global level and in the long term. Reference has already been made to the “false novelty” (Ch. Zorgbibe) of the right of intervention and to the paradoxical attempts, through the UN, to give legal expression to such a right; at the same time, it was considered that “Red Cross law” showed excessive respect for State sovereignty. Two other aberrations of this right of intervention, which has been made much of by the media, should be mentioned: first, its contribution to the *politicization* and *militarization* of humanitarian law (whereby the law is harnessed by States for use in conducting their foreign policy — including by military means); secondly, and above all, the *denaturalization of humanitarian action* as a truly neutral and impartial undertaking. These aberrations have made humanitarian players the target of new threats (humanitarian action is fought on the ground by various parties which, as we have seen, can go so far as to murder aid workers in order to put an end to what is perceived as foreign intervention).

One final criticism: given the new dimensions of today’s so-called “anarchic” conflicts, the proposed right of intervention — which is supposed to stand in opposition to State sovereignty — is clearly obsolete: the State no longer exists, or certainly not in its previous form. In these circumstances,

how can the “new victims” be assured of receiving the protection and assistance they need? The views of Professor Bettati, who generalizes the concept of intervention by applying it to any number of cases (“subtractive intervention”, “deterrent intervention”, “preventive anti-drugs intervention”) and thereby only generates confusion, are in this case of little use. Even if it has some shortcomings (due less to its formulation than to States’ unwillingness to comply fully with its provisions), “traditional” international humanitarian law seems better able to meet the need for humane relations among people than do the falsely novel proposals made by Professor Bettati. It is therefore in support of that law that I should like to reiterate the judicious phrase used by René Cassin in 1947, which the author quotes at the beginning of his work: “In any case, humanity’s right to supervise the relations between the State and the individual must be affirmed”.<sup>1</sup> Such a requirement, which is inherent in international human rights law, is also applicable in the case of international humanitarian law.

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**Tathiana Flores Acuña, *The United Nations Mission in El Salvador: A humanitarian law perspective*, Nijhoff Law Specials, Vol. 14, Kluwer Law International, The Hague/London/Boston, 1995, 253 pp.**

The value of this book lies both in the topicality of its subject and in its innovative approach to the study of international humanitarian law. Based on the author’s Ph.D. thesis, it draws a number of lessons from the conflict in El Salvador, a case that is of particular importance in that field of law since it was the first internal conflict in which 1977 Additional Protocol II supplementary to Article 3 common to the 1949 Geneva Conventions was applied.

Tathiana Flores Acuña sought to examine the activities of the United Nations Observer Mission in El Salvador (ONUSAL) in terms of the

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<sup>1</sup> ICRC translation.