plausible in view of the Soviet leadership's growing awareness of the need to make some allowance, however slight, for the expectations of civil society and to provide it with a certain standard of living, which was one of the ambitions of the "new course", the liberalization policy launched in 1953. This could explain why, after the ICRC was able to step into the breach, as it were, in 1956 because of the prevailing confusion, the new authorities allowed it to continue with its work.

This research, which covers a little known and unfamiliar area of humanitarian assistance, is enlightening on more than one account. The book is well documented, written in a lively style and sets the ICRC's work in its historical context. It also describes an aspect of the institution that usually remains concealed: the decision-making process, the different suggestions made by delegates or Committee members, the various options envisaged, the steps finally taken, etc. It is interesting, for example, to be informed of the many occasionally circuitous means devised and in some cases adopted in an attempt to visit the prisoners at last. To sum up, the book is not only an incisive portrayal of an exceptional operation but also sheds broader light on the activities of the ICRC, and will be of interest to all who wish to know more about its operational procedures.

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Olivier Paye, *Sauve qui veut? Le droit international face aux crises humanitaires*, Collection de droit international No. 31, Éditions Bruylant/Éditions de l'Université de Bruxelles, Brussels, 1996, 315 pp.

This interesting book of some 300 pages by Olivier Paye, a lecturer at the Social, Political and Economic Sciences Faculty of the Free University of Brussels and the Law Faculty of the Facultés universitaires de Saint-Louis (Brussels) and a member of the academic staff of the International Law Centre of the Free University of Brussels, is devoted to the relationship between contemporary international law and activities whose purpose is to provide humanitarian relief.

The study is divided into two parts on the basis of a wholly appropriate distinction: the first analyses the legal rules governing humanitarian assistance and the second those governing humanitarian intervention. The issues dealt with in the book's eight sections are viewed in the light of existing rules and recent legal trends; during his examination of the latter Olivier Paye identifies broad lines of development in legal norms and considers the validity of certain opinions expressed in that regard. Several aspects of what the author calls, quite aptly, the *"revendication ingériste"* (interventionist demand or claim) are subjected to rigorous criticism so that, as Pierre Michel Eiseman notes in his preface, the book readily lends itself to a comparison, in terms of clarification of the debate, with the previous study by Olivier Corten and Pierre Klein.[1]

The first part, on the legal rules governing humanitarian assistance, deals with the responsibilities of States in a humanitarian emergency and then the conditions and procedures for implementing international humanitarian assistance. In his introduction, the author presents the method used as follows: "The first step, therefore, in determining the rules governing international humanitarian assistance is to look at inalienable human rights in order to draw general conclusions whose content will subsequently be confirmed and refined through an examination of international humanitarian law, which contains more detailed provisions in that regard. Where these provisions are equivalent to customary obligations or general principles of humanitarian law, they may also be taken as constituting a general rule that is valid in all circumstances, since it would be unreasonable or even absurd to suggest that human life and dignity can be better protected in times of armed conflict than in times without conflict." (Pages 23 and 24).

We feel that this approach calls for some comment. In our opinion, international humanitarian law, defined as a set of rules applicable in situations of armed conflict, and international human rights law must each preserve its own momentum — derived from the specific nature of the problems they set out to solve — in order to ensure the best possible protection for the individual. Thus, rather than inferring from Article 3 common to the four Geneva Conventions a right to life of non-combatants with the same consequences as the right to life established under human rights law, i.e. that would create an obligation for the State to come to

[1] Olivier Corten and Pierre Klein, *Droit d'ingérence ou obligation de réaction?*, Éditions Bruylant, Brussels, 1992. See book review "The right to intervene or the obligation to react", in *IRRC*, No. 298, January-February 1994, pp. 83-84.

the aid of the population under its jurisdiction (see the author's arguments, pp. 59 to 64), we find it preferable to consider that the obligations created by the right to life do not cease to exist in times of armed conflict — insofar as they are compatible with the derogations authorized by international human rights law by virtue of their conformity with international humanitarian law. For example, in a situation of non-international armed conflict, rebel combatants capable of fighting, whose life can be taken in the course of military operations without any infringement of humanitarian law and hence without any violation of human rights, would not enjoy a right to relief supplies. Conversely, interpretation of human rights in the light of humanitarian law seems to us to be legitimate when seeking to identify the obligations of a State which, faced by an emergency situation, is finding it difficult to discharge its duties under international human rights law; humanitarian law can then be regarded as a substitute law in cases where the protective machinery of domestic legislation, supplemented or adjusted if need be by international human rights law, is lacking.

After a wide-ranging analysis of all the implications of the right to life in international human rights law (which, thanks notably to the work of the Human Rights Committee, extend to such diverse areas as the fight against illiteracy and unemployment and the raising of living standards), Olivier Paye concludes that the State with territorial jurisdiction has an obligation to provide assistance in a humanitarian emergency. As he sees it, this obligation is based on international law regarding the right to life and, in the event of armed conflict, on international humanitarian law. Identical premises lead him to conclude that foreign States have a right *and* a duty (*"droit-devoir"*) to provide humanitarian assistance where the State with territorial jurisdiction fails to do so. With regard to the implementing procedures for humanitarian assistance, a subject dealt with in Chapter II of the first part of the book, the author argues that States have an obligation, derived from general international law and humanitarian law, to obtain the consent of the receiving authorities, and that the receiving authorities likewise have an obligation, stemming from the right to life and humanitarian law, to refrain from arbitrary refusal of international humanitarian assistance.

It should be noted that the obligation to obtain the consent of the receiving authorities is incumbent on States, the author having made clear in his introduction that he is concerned solely with the role that States or *inter-State* organizations can assume in humanitarian assistance (p. 24). On the other hand, he gives a certain amount of attention to the relationship between Article 3 common to the four 1949 Geneva Conventions, which mentions the services that can be offered by "an impartial humanitarian

body" and Article 18, paragraph 2, of 1977 Protocol II, whose reference to "the High Contracting Party" conveys the impression that only a State's governmental authorities are required to give their consent for relief action. Taking the view that the provisions of common Article 3 prevail over those of Protocol II, he nevertheless concludes that this interpretation, which would enable a relief operation to be envisaged as soon as the party controlling the territory on which it would take place consents to it, applies only for the impartial humanitarian body referred to in common Article 3 (p. 92). The author does not, however, expand further on the meaning that should be given to the latter term.

The titles of the two chapters forming the second part of the study, which deals with the legal rules governing humanitarian intervention, provide a key to some of the author's conclusions. The chapters are entitled, respectively, "[the] prohibition on action by foreign States to terminate a situation of non-provision of humanitarian assistance by force of arms" and "[the] right of the United Nations to terminate a situation of non-provision of humanitarian assistance by force of arms".

Chapter III of the book reaffirms, in essence, the argument steadfastly advanced by Olivier Corten, Pierre Klein and a great many other writers that international law prohibits armed action by States to terminate a situation of non-provision of humanitarian assistance, except with the validly given consent of the authorities with territorial jurisdiction, and "that recent legal trends provide (...) hardly any grounds for a looser interpretation of [this] traditional prohibition" (p. 179). Of particular interest in this chapter are the passages in which the author takes a critical look at the argument concerning the disappearance of the State which has been advanced, for example, in connection with the absence, at least temporarily, of any governmental authority in Liberia and Somalia. Drawing on a number of considerations in support of his view, Olivier Paye concludes that the principle of equal rights of peoples and of their right to decide for themselves is incompatible with the use of force by foreign States to terminate a situation of non-provision of humanitarian assistance.

Section 2 of the fourth and last chapter is probably one of the most instructive in the book. After showing in the first section that the Security Council is increasingly inclined to regard certain situations of gross violation of basic human rights or international humanitarian law as constituting *as such* "threats to peace" within the meaning of Chapter VII of the Charter of the United Nations, the author presents us, in the section entitled "[the] right of the Security Council to take centralized or decentralized armed action", with a full-scale review of operations conducted

by the United Nations itself or under its auspices since its establishment. Precedents of peace-keeping operations ranging from the Congo to Bosnia-Herzegovina and Rwanda and including *inter alia* Cyprus, Lebanon, Cambodia, Mozambique and Somalia are analysed in terms of the type of mission and the conditions of consent and legitimate defence. An examination of recent legal trends reveals, in particular, the increasing incorporation in such missions of an explicitly humanitarian dimension, a "limited degree of emancipation from the customary substratum of consent" (pp. 225-226) and, in the case of legitimate defence, a broadening of its scope and authorization by the Security Council to use force in specific circumstances. Of particular interest is the author's meticulous dissection of the various types of intervention by the Council in Somalia through both centralized and decentralized action, a subject to which two subsections are devoted.

The precedents of North Korea and Southern Rhodesia are addressed in the subsection entitled "[the] right to subcontract armed action to Member States", while the analysis of recent legal trends focuses on the cases of Bosnia-Herzegovina, Somalia and Rwanda. The author concludes that "interventionist writers are absolutely right to emphasize the innovative character of the authorization to use force which States have been given by the Security Council in order to end certain recent humanitarian crises" (p. 266); he notes, however, that these decentralized operations are accompanied, in accordance with the wishes of the Security Council itself, by close coordination between the Secretary-General and the States or regional bodies concerned, a circumstance that should allay any doctrinal reservations about the principle of delegating armed action of this kind to States.

At the end of this essentially descriptive section dealing with current practice with regard to humanitarian intervention, the reader begins to wonder why Olivier Paye chose such a provocative title[2] for his book. The answer lies in the overall conclusion, particularly as reflected in the final pages of his study. Questioning the standpoint according to which humanitarian intervention establishes the moral foundations for international law, the author implies that a fundamental consequence of the reference to ethical principles is the obligation incurred by supporters of intervention

[2] Translator's note: The book's title *Sauve qui veut?* (literally "save as save will") is a wordplay on the term *Sauve qui peut* (literally "save as save can"), which means "every man for himself". Thus the literal English translation of the title would read: *Save as save will: International law faced by humanitarian crises.*

to engage in discussion, to reveal their deep-seated motives and to lay them open to criticism. This approach, which he calls the "ethics of discussion", is guaranteed in the author's opinion by the current (limited) potential for military-humanitarian action, which can be decided only after a debate has taken place with the authorities who represent territorial sovereignty and with the members of the Security Council (pp. 278-279). This relative optimism is tempered, however, by the finding, on which the book closes, that politicians are increasingly inclined to conceal some of their less admissible choices behind the screen of humanitarian action, "as evidenced, in their disparate ways, by interventions that may be described as ongoing in Iraq, contained in Bosnia-Herzegovina, belated in Rwanda and incomplete in Somalia" (p. 280).

Olivier Paye has produced a work that allies the rigour of a legal mind and the accuracy of an historian with political sensitivity, bringing a breadth of knowledge to his subject that seems certain, in our opinion, to appeal to any reader with an interest in the development of international relations.

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