

Pour conclure, il faut souligner que la présente étude est une contribution importante à la théorie et à la pratique de l'établissement des faits dans le cadre du droit international humanitaire. Elle est bien structurée, sur la base d'une conception claire et nette. Elle mérite en tout cas l'attention aussi bien des érudits de la théorie du droit humanitaire que des praticiens de la procédure de l'enquête.

ERICH KUSSBACH

ancien ambassadeur d'Autriche

Membre de la Commission internationale
d'établissement des faits

William G. O'Neill

**A Humanitarian Practitioner's Guide to
International Human Rights Law**

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Human rights law, law of armed conflict (or international humanitarian law) and refugee law constitute the international legal parameters which are becoming ever more important in today's armed conflicts, especially in determining political demarches, military interventions and humanitarian actions which the international community wishes to undertake in response to humanitarian crises. The latest of the publications of the Humanitarianism and War Project, an independent policy initiative supported by a number of UN organizations, governments, NGOs and foundations, sets forth the content of these three bodies of international law and addresses some issues that are of importance to their application.

The text is written by an international lawyer for people who work in the humanitarian field and is intended to serve them as a guide when it comes to placing humanitarian activities within the context of human rights laws, international humanitarian law and refugee law. The author, William G. O'Neill, has extensive field experience in various parts

of the world and with diverse international governmental and non-governmental organizations. He has structured his short and very readable guide in two halves.

In the first four chapters he tells the history and presents the content of the three bodies of international law in a simple, understandable fashion. The objective of this part of the *Humanitarian Practitioner's Guide* is to promote a better understanding of the legal framework in which today's humanitarian activities are taking place. In such a brief presentation it is not possible to go into all legal instruments in detail. The question is whether a restricted, somewhat superficial knowledge of the applicable law can suffice when attempting to integrate it into the operational approach of a humanitarian organization. Seen in this light, the descriptive part of the booklet certainly serves as a first introduction, but is not enough to equip a person or an organization with the essential information required to intervene credibly and professionally on the basis of the relevant international law. It should be borne in mind not only that governments and many specialized NGOs (including local ones) have become well versed in international law, but also that the subjects of "human rights" have become highly politicized and controversial or — as the author himself says — are regarded by many as "political and confrontational intrusions". For many years the ICRC has therefore opted to incorporate experts in international humanitarian law into its think tanks and operational teams, and to include them in consultations when opening a dialogue with civilian and military authorities on the dissemination of international humanitarian law, its application and respect for it. This approach has proved useful and given the organization a privileged position as an expert on the subject.

At the end of the presentations of each of the three particular bodies of laws, the author — quite rightly so — states that the main challenge remains the acceptance, implementation and enforcement of the obligations by the parties to the conflict. Except for some observations on international humanitarian law, he does not examine further the reasons for this fact. He believes that the changed nature of armed conflicts, the proliferation of arms and the disintegration of armed groups lead to non-respect for the rules applicable in armed conflict. This observation is undoubtedly correct. As far as refugee law and human rights laws are concerned, the author could have enlarged upon a tendency

observed among States to shy away from referring to binding international instruments.

In the second part of the guide (Chapters 5 and 6) the author addresses many of today's important challenges and gives an interesting outlook on future developments of international law protecting the person. He discusses for example the ongoing debate on the universality of human rights law, stressing that one of its core principles, namely non-discrimination, must be upheld in all circumstances. He also addresses the consequences of the creation of the International Criminal Court and the impact it might have on respect for international law. He then draws the reader's attention to the dilemma which might possibly arise for a humanitarian organization when it has to choose between an "operational" and a "legalistic" approach. Are the two compatible? Can an organization both gain and maintain access to the victims and provide them with assistance and protection while sharing information on violations and abuse with an international court (or local court for that matter)? Or shall we see a specialization within the community of humanitarian organizations and a redistribution of their functions? Without providing final answers, the author pleads in any case in favour of an effective division of labour. In his discussion, O'Neill does not raise the question of how far "justice" and "peace" are interrelated when it comes to resolving an armed conflict. Several experiences have shown that peace negotiations can hardly resolve an armed conflict that has not ended in a clear-cut winner/loser situation, unless amnesty is granted to some or all of the players involved in the conflict even though they may have committed serious crimes. At the same time it has been seen that lasting peace can ensue only when all survivors have been able to gain satisfaction in their claim for justice.

O'Neill identifies and raises many valid questions, but does not provide final answers. There are none for the time being. The text (especially in the second part) is full of illustrative and recent examples. Although the author succinctly addresses the question of universality and indivisibility, the text seems to be primarily intended for members of international humanitarian organizations acting outside their own context, and not for local human rights NGOs. The booklet thus unfortunately does not directly contribute to the building of a strong civil society that would integrate the three bodies of law.

The *Humanitarian Practitioner's Guide* is highly relevant at our time, when States and other players on the international scene commonly commit serious violations and abuse of international law protecting the individual in situations of armed conflict or internal tensions. Current times are also marked by a trend toward intervention in internal conflicts by outside armed or political forces (with or without a United Nations mandate), with a view to restoring respect for international human rights and/or humanitarian law. Today's ultimate challenge for the community of humanitarian organizations is to maintain its credibility in the perception of all concerned through operational independence and impartiality. The *Humanitarian Practitioner's Guide to International Human Rights Law* is a useful contribution to the training of personnel for humanitarian organizations, preparing them to meet that challenge more effectively.

RETO MEISTER

Head of Operations

for Latin America and the Caribbean

ICRC