

ACADÉMIE DE DROIT INTERNATIONAL DE LA HAYE : RECUEIL DES COURS ¹

Ce volume contient deux contributions particulièrement intéressantes pour la Croix-Rouge puisque l'une, celle de M. Roger Pinto, s'intitule « Les règles du droit international concernant la guerre civile » et l'autre, celle de M. G. I. A. D. Draper, a pour titre « The Geneva Conventions of 1949 ». Les auteurs, éminents juristes de droit international, ont fait partie de Commissions d'experts du CICR.

Les Conventions de Genève, on le sait, étendent l'application d'un minimum de règles du droit humanitaire aux conflits armés ne présentant pas un caractère international, et M. Pinto analyse les différents aspects des obligations qui en résultent pour les Etats signataires. Dans la dernière partie de son exposé, il étudie particulièrement l'article 3 de ces Conventions, en montrant tout d'abord la mise en œuvre, qui n'est soumise à aucune condition de réciprocité, puis les obligations assumées. L'application effective des règles humanitaires demeure bien, comme il le dit, « le problème fondamental ». « Elle ne peut, ajoute-t-il, être laissée à la seule appréciation des Etats, responsables pourtant en premier chef. L'intervention d'un organisme humanitaire impartial s'impose nécessairement ».

C'est pourquoi, dans le chapitre suivant, il évoque l'intervention du CICR, qui a lieu tantôt avec le concours des organisations locales de la Croix-Rouge, tantôt sous sa seule responsabilité... « En définitive, le CICR est le garant de l'exécution fidèle du droit humanitaire ». Alors même que, dans bien des cas, les principes mêmes qui inspirent ce droit ne sont pas respectés, ils représentent des normes juridiques qui, il faut l'espérer, finiront par s'imposer.

Le professeur G. I. A. D. Draper, lui aussi, fait une analyse très poussée des quatre Conventions de Genève de 1949 qu'il définit, dès le début, comme « the latest and fullest development of the humanitarian legal tradition as it has emerged during the last one hundred years ». Il en expose les principes généraux et les articles communs, notamment l'article 3, auquel M. Pinto avait voué une attention particulière et qui fut, en 1949,

¹ Recueil des Cours 1965-I, A.W. Sijthoff, Leyde, 582 p.

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