

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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International Law Threatened by Multiple International Tribunals by J I CHARNEY Professor at Vanderbilt University Nashville *International Law and History* Ignacio de la Rasilla, 2021-01-21 This interdisciplinary exploration of the modern historiography of international law invites a diverse assessment of the indissoluble unity of the old and the new in the most global of all legal disciplines The study of the history of international law does not only serve a better understanding of how international law has evolved to become what it is and what it is not Its histories which rethink the past in the present also influence our perception of contemporary matters in international law and our understandings of how they may potentially unfold This multi perspectival enquiry into the dominant modes of international legal history and its fundamental debates may also help students of both international law and history to identify the historical approaches that best suit their international legal historical perspectives and best address their historical and legal research questions *Index général du Recueil des cours de l'Académie de droit international de La Haye....* Académie de droit international de La Haye, 1968

The Access of Individuals to International Justice Antônio Augusto Cançado Trindade, 2011-08-25 This book contends that the right of access to justice at national and international levels constitutes a basic cornerstone of the international protection of human rights and conforms a true right to the Law It amounts *lato sensu* to the right to the realization of justice In such understanding it comprises not only the formal access to a tribunal or judge but also respect for the guarantees of due process of law the right to a fair trial and to reparations whenever they are due and the faithful execution of judgments On its part the right to an effective domestic remedy is a basic pillar of the rule of law in a democratic society In its part the right of international individual petition together with the safeguard of the integrity of international jurisdiction constitute the basic foundations of the emancipation of the individual vis vis his own State This is a domain that has undergone a remarkable development in recent years It is submitted that the right of access to justice belongs today to the domain of *jus cogens* Without it there is no legal system at all The protection of the human person in the most adverse circumstances has evolved amongst considerations of *ordre public* Such recent evolution has been contributing to the gradual expansion of the material content of *jus cogens* Furthermore the very notion of victim encompassing direct indirect and potential victims has been the subject of a considerable international case law Victims have had their cause vindicated in situations of utmost adversity if not defencelessness e g abandoned or street children undocumented migrants members of peace communities in situations of armed conflict internally displaced persons individuals in *infra human* conditions of detention surviving victims of massacres

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Table of Contents Recueil Des Cours Academie De Droit International De La Haye

1. Understanding the eBook Recueil Des Cours Academie De Droit International De La Haye
 - The Rise of Digital Reading Recueil Des Cours Academie De Droit International De La Haye
 - Advantages of eBooks Over Traditional Books
2. Identifying Recueil Des Cours Academie De Droit International De La Haye
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Recueil Des Cours Academie De Droit International De La Haye
 - User-Friendly Interface
4. Exploring eBook Recommendations from Recueil Des Cours Academie De Droit International De La Haye
 - Personalized Recommendations
 - Recueil Des Cours Academie De Droit International De La Haye User Reviews and Ratings
 - Recueil Des Cours Academie De Droit International De La Haye and Bestseller Lists
5. Accessing Recueil Des Cours Academie De Droit International De La Haye Free and Paid eBooks
 - Recueil Des Cours Academie De Droit International De La Haye Public Domain eBooks
 - Recueil Des Cours Academie De Droit International De La Haye eBook Subscription Services
 - Recueil Des Cours Academie De Droit International De La Haye Budget-Friendly Options

6. Navigating Recueil Des Cours Academie De Droit International De La Haye eBook Formats
 - ePub, PDF, MOBI, and More
 - Recueil Des Cours Academie De Droit International De La Haye Compatibility with Devices
 - Recueil Des Cours Academie De Droit International De La Haye Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Recueil Des Cours Academie De Droit International De La Haye
 - Highlighting and Note-Taking Recueil Des Cours Academie De Droit International De La Haye
 - Interactive Elements Recueil Des Cours Academie De Droit International De La Haye
8. Staying Engaged with Recueil Des Cours Academie De Droit International De La Haye
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Recueil Des Cours Academie De Droit International De La Haye
9. Balancing eBooks and Physical Books Recueil Des Cours Academie De Droit International De La Haye
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Recueil Des Cours Academie De Droit International De La Haye
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Recueil Des Cours Academie De Droit International De La Haye
 - Setting Reading Goals Recueil Des Cours Academie De Droit International De La Haye
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Recueil Des Cours Academie De Droit International De La Haye
 - Fact-Checking eBook Content of Recueil Des Cours Academie De Droit International De La Haye
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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