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INTERNATIONAL

REVIEW

OF THE RED CROSS



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*The International Review of the Red Cross
wishes its readers
all the best for 1990.*

INTERNATIONAL REVIEW OF THE RED CROSS

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THE INTERNATIONAL REVIEW OF THE RED CROSS

IN 1990

In 1990, the *Review* will be covering a number of themes, including:

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- **Visibility of the protective emblem**
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- **Repression of violations of international law**
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- **The application of the Fundamental Principles of the Red Cross and Red Crescent**
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The law of armed conflict and its application in Colombia*

by **Hernando Valencia Villa**

I

Like war itself, which was one of the first and will undoubtedly be the last of mankind's social activities, the effort to regulate violent confrontations has a long history. Indeed, the laws of war in ancient China, 400 and 500 years before Christ, the chivalry of mediaeval knights, and the modern law of armed conflict, which started to take shape in the mid-nineteenth century, are but a few examples of the countless attempts made by different political regimes and legal systems to humanize the use of weapons as a means of settling disputes between States, and even between rulers and those they govern. Colombia is no stranger to this civilizing tradition. On the contrary, its history contains a number of illustrious precedents. The fact that they have fallen into oblivion makes them no less binding on the parties to the conflict ravaging the country at present.

On 25 and 26 November 1820, the recently constituted Republic of Colombia signed two treaties with Spain, the *Tratado de Armisticio y Suspensión de Armas* (the Treaty of Armistice and Laying-down of Arms) and the *Tratado de Regularización de la Guerra* (the Treaty to Regulate Warfare). Foreign specialists cite both as the first modern examples of the law of armed conflict, or *jus in bello*. Signed by

* Article based on a lecture given at the Seminar on the Application of International Human Rights Instruments in Colombia, organized by the Colombian Section of the Andean Commission of Jurists, Bogotá, 30 March-1 April 1989.

Bolívar and Morillo in Trujillo (Venezuela) to “avoid bloodshed whenever possible”, the treaties were rediscovered around 1914 by French jurist Jules Basdevant, who drew attention to them in a famous article published in the *Revue générale de droit international public*.¹ Basdevant considered that the 1820 treaties, which contained innovative provisions on the exchange of prisoners of war and humane treatment for the sick and wounded in the field, were of exceptional importance because they constituted the first known application of the customs of war to civil strife, or what we would now call a war of national liberation. What is more, he presented the second treaty, the one “regularizing” war, as a “convention between the Sovereign’s representative and his rebel subjects whose status as belligerents was thereby recognized”. He pointed out that the Colombian Commissioners, Antonio José de Sucre, Pedro Briceño Méndez and José Gabriel Pérez, had proposed an article stating that “It is in civil war that the application of the law of nations should have its greatest scope and that humanity claims most imperatively the application of its precepts”.² The proposal was tuned down by the Spanish negotiators.

A generation later, General Tomás Cipriano de Mosquera again introduced the law of nations as a moderating set of rules in internal armed conflict, with the express purpose of humanizing civil war by distinguishing between combatants and non-combatants. During the 1860-1861 civil war, the only one in Colombia’s history won by the insurgents, Mosquera, the leader of the Liberal party’s radical faction, signed three truce agreements with the forces of the Conservative government for the suspension of hostilities and the exchange of the wounded and prisoners of war: the *Pacto de Chinchiná* (27 August 1860), the *Esponsión de Manizales* (29 August 1860) and the *Armisticio de Chaguani* (3 March 1861). These agreements were known collectively as sponsions (from the Latin *sponsio*, or solemn promise), which under classical international law are engagements on behalf of a State undertaken by an unauthorized agent. This, obviously, was the case of the truce agreements between Mosquera’s troops and the regular army. President Ospina Rodríguez refused to ratify them, all hope of reconciliation was lost, and the conflict ended only with the *côup d’état* of 18 July 1861, when the rebel leaders made a triumphant entry into Bogotá.

¹ See “A Little-Known Convention on the Law of War”, *International Review of the Red Cross*, No. 160, July 1974, pp. 344-354.

² *Ibid.*, pp. 346 and 347.

The advent of the federal system in Colombia, however, did not bring a halt to attempts to humanize war by incorporating the law of nations into internal legislation. Nor did it spell the end of the chronic disruption caused by armed clashes. For this reason, those who drafted the constitution of the United States of Colombia insisted on institutionalizing the application of the ancient laws and customs of international war in internal warfare. The minutes of the Rionegro Convention (session of 5 May 1863) mention that citizens Tomás Cipriano de Mosquera and Salvador Camacho Roldán proposed a new article for inclusion in the constitution. This article is worth printing in its entirety, for it constitutes a compendium of international humanitarian law which the country has forgotten or chosen to ignore:

"The United States of Colombia do not recognize political crimes, only political errors, insofar as no crime has been committed in violation of individual guarantees. When the inhabitants of one State rise up for reasons of domestic differences and marshal troops to overthrow the authorities, there shall be a recognized state of civil war and the belligerents shall be under the obligation to respect the law of war and to wage war in accordance with the principles recognized by civilized peoples.

It is not permitted to wage war to the death, to poison or assassinate enemies, to kill prisoners, to burn buildings and fields, to rape women, or to pillage property. Persons committing such excesses shall be charged with criminal offences and subject to trial under the laws of war. Persons who are neutral in the struggle, children, women and the elderly, and foreigners, shall be immune from attack, and attacks on any such person shall be considered as acts punishable by the law of war. Prisoners shall be exchanged and messengers respected. There shall be a right to suspend hostilities and to agree to armistices and conventions for the restoration of peace. Any party violating these principles renders itself subject to the laws of war of talion and reprisal, but no such measures may be taken against the relatives, partisans or political or personal friends of the offenders. Persons taking such measures render themselves guilty of criminal offences.

Colombians breaching these principles shall be tried as enemies of humanity and their acts shall not be considered to be political errors.

The damage inflicted on the enemy shall not exceed that permitted by the law of war as a means of obliging him to make peace. Nor shall letters of marque be given to foreign vessels, and any such vessels armed by a political party shall be considered to be pirate vessels.

*The National Executive shall appoint a commission of legal advisers and statesmen, up to eleven individuals, to draw up a treatise on natural international law and the law of war to serve as a reference in the United States of Colombia. The treatise shall be used to resolve questions of equity which may arise, and all related procedures and judgments shall be within the competence of the Supreme Court.”*³

Mosquera and Camacho Roldán’s ambitious initiative was later replaced by Article 91 of the Rionegro Constitution, which remained in force for almost a quarter of a century. The wording of this article is equally surprising:

“The law of nations is part of national legislation. Its provisions shall govern in particular cases of civil war. Consequently, a civil war may be ended by treaty between the belligerents, who shall respect the humanitarian practices of Christian and civilized nations.”

The men of the Regeneration, who were at the root of the “black legend” obtaining to this day about the federal experience, did not share the radical Liberals’ humanitarian ideals regarding internal public order and adopted, in its stead, the unfortunate disciplinary provision of the state of siege mentioned in Article 12 of the Constitution. However, in spite of their policy of reaction and restoration, they were unable to prevent reference being made to the law of nations as a complementary order moderating government action when political peace was disturbed by external war or internal strife. In that event, as has always been maintained by democratic opinion and as recognized by the Supreme Court in its decision of 16 June 1987, the law of nations confers no additional or exceptional powers on the Colombian government or any other government involved in a non-international armed conflict or faced with internal disturbances and tension. Quite to the contrary, the law of nations, or public international law, simply sets limits and imposes obligations on a government purporting to invoke its rules with a view to controlling internal disturbances or dealing with armed insurrection by legal, i.e. civilized and civilizing, means.

The most remarkable thing about these national precedents for the humanization of war, including civil war, is that they emerged at about the time when modern international humanitarian law was being shaped around two traditions: the philanthropic concern of the Swiss Henry

³ See *Constitución Política para los Estados Unidos de Colombia* (1863), facsimile edition, Universidad Externado de Colombia, Bogotá, 1977, folios 275 and 276.

Dunant after he witnessed the battle of Solferino (1859), which gave rise to the International Red Cross Movement; and the thought and codification work of the German-American Francis Lieber on the humanization of irregular warfare, which resulted in his precedent-setting opuscule of 1862 on the application of the laws and customs of conventional warfare in guerrilla war and the well-known General Order No. 100 of 1863, whereby President Lincoln's government gave effect to the first military code to humanize civil strife. The two currents converged in the 1864 Geneva Convention, considered to be the official source of the entire body of the contemporary law of armed conflict. It contained multilateral obligations with regard to the protection of victims of war and gave rise to the two main branches of current *jus in bello*: the law of Geneva, or international humanitarian law, and the law of The Hague, or the law of war.

It would be remiss of us to examine each of these standard-setting traditions and their application in Colombia without first mentioning another attempt to regulate war in the country: the 1881 Military Code, the extensive Book IV of which includes not only specific provisions on the conduct of hostilities and the treatment of victims and prisoners of war, but also the official and complete texts of the 1864 Geneva Convention and the 1868 Saint Petersburg Declaration, which for the first time prohibited the use of certain weapons and types of ammunition. This direct incorporation of two basic instruments of the then emerging law of armed conflict, decided on by the legislator of the time (the 1881 Code was brought into force by a decree of the First Republic), bears eloquent witness to the legal knowledge and, more important, the humanistic, humanitarian ethic of the country's last radical governments. But this was also the time when the federal wars were lost—probably the political event that has had the greatest repercussions on national life in Colombia, as Gabriel García Márquez, the historian of the Colombian soul, recently reminded us.⁴

II

The law of war is contained in the three 1899 and the thirteen 1907 Conventions of The Hague. It governs means of waging war and the hostilities themselves and is based on three fundamental principles:

⁴ See *Semana*, No. 358, Bogota, 14-20 March 1989, p. 31.

- 1) hostilities may be directed only against combatants and military objectives;
- 2) means of warfare which cause superfluous or unnecessary harm are prohibited;
- 3) perfidy and dishonourable conduct are prohibited.

The law of The Hague therefore prohibits particularly vicious weapons such as explosive bullets, flamethrowers and poison gas, and chemical and bacteriological weapons. However the ultimate weapon, the atomic bomb, has not been prohibited because of the balance of terror on which the established disorder we call international order is based. And traditional armed struggle has degenerated to such an extent—terrorist tactics (torture, genocide, forced disappearances), paramilitarism and vigilantism now being a matter of course—that almost all the rules of the law of war have become meaningless.

Colombia is not a party to any of the 16 instruments composing the law of The Hague. The military law in force in the country utterly ignores the question of the humanization of war and, what is worse, both regular and irregular troops increasingly tend to commit extremely violent acts which are unworthy not only of civilized warfare but also of so-called military honour.

For its part, international humanitarian law protects civilians who are not taking part in the fighting, in particular the victims of international and non-international conflicts. It is set down in the four 1949 Geneva Conventions and their two Additional Protocols of 1977. Colombia is party to the Conventions, which were incorporated in national law by Decree 5 of 1960, but not to the Protocols. Although generally speaking the Conventions preserve human rights in international armed conflicts, some of their provisions are also applicable in different kinds of internal conflicts. Protocol II of 1977 is not, however, applicable to the internal conflict in Colombia, since our Government has refused for over a decade to ratify it and submit it for approval to Congress, on the dubious grounds that doing so would give the groups of insurgents fighting the State for the past quarter century the status of belligerents. This interpretation on the part of the Government has given rise to intense debate in recent months.

It is to be hoped that the present Colombian government, in the light of the instruments of humanitarian law applicable in civil strife, will show greater political will to honour the country's external commitments and, at the same time, regain the initiative in the democratic management of public order. A government which claims to be legiti-

mate cannot overlook the fact that Article 3 common to the 1949 Geneva Conventions provides for the full application of humanitarian standards, whether set down in the Conventions or customary, in an internal conflict without that application affecting or modifying the status of the combatants. This means, to put it plainly, that the use of the law of Geneva to humanize the guerrilla war in Colombia cannot be interpreted as, nor can it give rise to, recognition of the rebels as belligerents.

In this respect, the International Court of Justice in The Hague has repeatedly pointed out that the law of armed conflicts as a whole is part of *jus cogens*, or the customary law of nations, and as such must be respected by all civilized members of the international community, even States which are not signatories to the instruments of Geneva and The Hague.⁵ This is also the meaning of the Martens Clause, which reads:

*“... in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized people, from the law of humanity, and the dictates of the public conscience.”*⁶

In any case, it is paradoxical that the insurgents themselves should be the first to emphasize that the Conventions and the Protocols should be applied to humanize the guerrilla war being waged in the country with greater ferocity and violence with each passing day. Both the law of Geneva and the law of The Hague contain many provisions which the State and its armed forces, and civilian society and its movements and organizations, could use to alleviate suffering, avoid deaths, distinguish between combatants and non-combatants, and pave the way for confidence and understanding between the insurgents and the establishment with a view to the democratic reconciliation of Colombians.

III

We must therefore plead for the humanization of the guerrilla war in Colombia, but this should not be interpreted as an obstacle to the search

⁵ See Rosemary Abi-Saab, “El Derecho Humanitario según la Corte de La Haya”, *Boletín de la Comisión Andina de Juristas*, No. 17, Lima, February 1988.

⁶ See César Moyano Bonilla, “El Derecho Humanitario y su Aplicación a los Conflictos Armados”, *Universitas*, No. 72, Bogotá, June 1987, p. 204.

for a negotiated settlement between the government and the insurgents. Humanizing the struggle does not mean legalizing or prolonging it, and even less, as stated above, granting the status of legitimate combatants to the different groups of the armed opposition. It is, rather, an attempt to give the struggle a moral dimension, no matter how incongruous this statement may sound to some people, first by introducing the basic distinction between combatants and non-combatants which is the keystone of all international humanitarian law, and then by laying down minimum standards for regular fighting which are acceptable to and accepted by the parties to the conflict. For this, the State must regain its legitimate monopoly of force throughout the territory and over the entire population. This implies that the State must not only maintain public order through democratic process and punish crimes by State justice, but also ensure by all means possible that paramilitary and self-defence groups do not take the place of the authorities in clashes with insurgents or take the kind of police or preventive action which private individuals can never take without upsetting the democratic rule of law. This new legitimization of the country's institutions must prepare the way for renunciation by all combatants, whether they belong to regular or irregular forces, of the criminal practices they have engaged in during these recent years of spiralling violence. That the government's agents must obey this dictate of civilization and humanity seems obvious for clear legal and moral reasons related to the constitutional responsibility for democratic order and human rights incumbent on the government. As for the insurgents, only by engaging in open and honourable combat against the armed forces of the dominant social sector can they hope to justify themselves ethically in the eyes of the non-combatant civilian population, in which sovereignty is vested and which alone has authority to replace those in power or change institutions. None of these tasks and opportunities could in any way hinder the parties in conflict in their simultaneous search for common ground to end the war and negotiate peace, or at least a truce. Moreover, any peace process would greatly benefit from the humanization of the fighting. There is no point in avoiding all recourse to humanitarian law and allowing the conflict to escalate and degenerate, when there is no possibility of a military victory on either side and it is becoming clearer every day that the victims of the killing are innocent, defenceless Colombians.

Now, given that the law of Geneva is for the most part incorporated in Colombian legislation and could therefore be used to mitigate the harmful effects of the guerrilla war on the unarmed citizenry, what would be the implications of its application in the country's

present situation? The Chilean legal expert, Hernán Montealegre, in line with current thinking, has this to say:

*“While the law of war overrides internal law and legally absorbs the conflict, determining the status of the parties, international humanitarian law co-exists with internal law, which continues to be generally applied and does not affect the legal status of the parties to the conflict.”*⁷

This means that the 1949 Geneva Conventions, in particular their common Article 3, can be immediately and fully applied, and the 1977 Additional Protocols speedily and unconditionally ratified, as demanded by Colombian public opinion. Neither measure would have any effect on the status of the parties to the conflict. The same does not hold true for the law of The Hague, which when invoked raises the thorny problem of recognition or granting of the status of legitimate belligerents to the rebels in respect of the Colombian State, other States and international intergovernmental organizations. Three conditions must be met before an insurgent or irregular force can be recognized:

- 1) there must be hostilities or a relation of war between the State and the rebels;
- 2) there must be an organized rebel force which controls part of the territory and is in a position to apply the laws and customs of war;
- 3) there must be express or tacit recognition of the uprising.⁸

In practice, the Colombian case seems to be one of *de facto* recognition, with limited rights, of a simple insurrection or state of belligerency, as defined by Verdross.⁹ It is indeed a moot point whether the guerrilla groups have real territorial or only political control, as the National Liberation Army itself affirms,¹⁰ and above all whether the rebels are willing to wage war more humanely. There can be no doubt that the last three governments have *de facto* recognized in different ways the different irregular armies as insurgents, rebels or belligerents. The Turbay administration in 1980 negotiated with M-19 for the release

⁷ Cited by Mauricio Hernández Mondragón, *Derecho Internacional Humanitario: Aplicación en los Conflictos Armados Internos*, mimeograph, Bogotá, November 1988.

⁸ See Alfred Verdross, *Derecho Internacional Público*, Aguilar, Madrid, 1980, pp. 190-194, and James E. Bond, *The Rules of Riot: Internal Conflict and the Law of War*, Princeton University Press, Princeton, 1974, pp. 34 and 53.

⁹ Alfred Verdross, *op. cit.*, p. 193.

¹⁰ Letter from the ELN (National Liberation Army) to López, *La Prensa*, Bogotá, 16 February 1989, p. 9.

of the diplomats held in the embassy of the Dominican Republic;¹¹ in 1981 it exercised the right of maritime arrest on the *Karina*, a merchant vessel sailing under the Panamanian flag and transporting contraband weapons for M-19.¹² The Betancur administration signed five armistice agreements with four armed organizations (FARC, M-19, EPL and ADO) in 1984, 1985 and 1986. In 1986 the Attorney General, speaking before the House of Representatives, charged the President of the Republic and the Minister of Defence with violating the law of nations and international humanitarian law in the battle for control of the *Palacio de Justicia*. In 1987, the Barco administration ratified the truce agreements with the FARC and at the beginning of the same year signed a joint communiqué with M-19.

In this complex environment of conflicting rights and crumbling honour in war, the law of armed conflict is not the solution to all our problems. But it is a civilizing and humanizing force which is well worth using, and the current outcry in civilian society would seem to make calls for its application a matter of national purpose.

Hernando Valencia Villa

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¹¹ See Luis Carlos Pérez, *La Guerrilla ante los Jueces Militares*, Editorial Temis, Bogotá, 1987, pp. 108-126.

¹² See Michael Akehurst, *Introducción al Derecho Internacional*, Alianza Editorial, Madrid, 1986, p. 350; A. Verdross, *op. cit.*, pp. 447-450; and Germán Castro Caycedo, *El Karina*, Plaza & Janés, Bogotá, 1986.

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*IN GENEVA, STATUTORY MEETINGS OF THE
INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT
(October 1989)*

**VIIth Session of the General Assembly
of the League of Red Cross and
Red Crescent Societies**

(Geneva, 23-26 October 1989)

The League General Assembly held its VIIth session from 23-26 October 1989 in Geneva. The session was attended by about 400 delegates from 144 National Red Cross and Red Crescent Societies.

At the opening ceremony, the League President, Mr. Mario Villarroel Lander, said: "The future of the League lies in the hands of all of us who are here today. We, as its present leaders, have great responsibilities to face, but it is essentially on you that its success depends; for it is you, as representatives of a world-wide organization, who will have to plan and carry out its new strategies".

The President reported on his activities since his election in Rio de Janeiro in 1987, prefacing his remarks with the statements that "an institution that came into being to serve humanity at large could not have survived, and cannot still survive, unless it follows that lofty principle without discrimination... Year by year our difficulties grow worse, the challenges we have to face are greater, our resources fewer; but the greater the danger, the greater our courage". He added that the Movement's future success depended on its unity.

Mr. H. Meier, Deputy Director-General of the International Labour Organisation, where the General Assembly was held, Mr. C. Sommaruga, President of the ICRC, and Mr. J. Vernet, President of the Council of State of the Republic and Canton of Geneva, also spoke on this occasion.

After having heard and adopted the Secretary General's report on League activities since the General Assembly's VIth session (November 1987), the Assembly dealt with the following main topics.

1. Elections

● **President:** The General Assembly elected **Mr. Mario Villarroel Lander** President of the League for a four-year term of office.

● **Vice-Presidents:** The General Assembly elected the National Societies and appointed League Vice-Presidents for a four-year term of office, as follows:

Algerian Red Crescent	Dr. Mouloud Belaouane
Canadian Red Cross Society	Mr. Darrell Jones
Red Cross Society of China	Mr. Tan Yuhne
Cuban Red Cross	Mr. Esmildo Gutierrez Sánchez
Icelandic Red Cross	Mr. Gudjon Magnusson
Red Cross Society of Niger	Mr. Ali Bandiaré
Syrian Arab Red Crescent	Dr. Fouad Hamzah
Alliance of Red Cross and Red Crescent Societies of the USSR	Dr. Dimitry Venedictov

In his capacity as President of the Swiss Red Cross, **Dr. Karl Kennel** is the ninth Vice-President of the League *ex officio*.

● **Executive Council:** The General Assembly elected the following 16 National Societies as members of the Executive Council for a four-year term:

Africa	Asia/Pacific
Burkina Faso	Australia
Sierra Leone	India
Sudan	Japan
Swaziland	Malaysia
Togo	

Europe

Great Britain

Spain

Turkey

Americas

Brazil

Mexico

Trinidad and Tobago

United States

2. Admission of new National Societies

The General Assembly admitted the National Society of Saint Vincent and the Grenadines as the 149th member of the League and confirmed the provisional admission of the National Societies of Chad, Mozambique and Dominica.

3. Ratification of the new ICRC/League Agreement

The General Assembly ratified the new Agreement between the ICRC and the League, signed on 20 October 1989. The Agreement defines co-operation between the two institutions in all spheres of humanitarian work. It specifies the respective mandates and responsibilities of each in international Red Cross and Red Crescent relief operations, in time of armed conflict or in peacetime, and in special or changing situations. The Agreement also lays down guidelines for the development of National Societies, the recognition and admission of National Societies and examination of their statutes, public relations and information, and fund-raising and training. The National Red Cross and Red Crescent Societies help implement the Agreement, in accordance with their obligations under the Movement's Statutes and the League Constitution. For the text of the Agreement, please turn to page 23.

4. Programme of Transition for the South African Red Cross Society

The General Assembly approved a two-year Programme of Transition to make the South African Red Cross Society (SARCS) "truly multiracial". Indeed, concerned about recent reports of conflict and racial tension within the SARCS, the General Assembly approved the Secretary General's proposal to set up a League delegation in South Africa to help the SARCS strengthen Red Cross activities in poor

communities. It invited the President and Secretary General of the League to set up a Red Cross/Red Crescent Transitional Assistance Group (REDTAG) to work with SARCS, in co-operation with the ICRC, on this programme of change.

5. League budgets for 1990 and 1991

After having adopted the financial reports for 1987 and 1988, presented by the Finance Commission, the General Assembly approved the budgets proposed by the Secretary General: 21,775,000 Swiss francs for 1990 and 23,265,000 Swiss francs for 1991. It also approved the scale of statutory contributions for the same period.

6. New League Treasurer General

The Assembly appointed **Mr. Bengt Bergman** to the post of League Treasurer General for a four-year team.

7. Strategy for the Nineties

The Assembly approved a “Strategic Work Plan for the Nineties”, the purpose of which is to increase the League’s capacity to meet the challenges of the modern world and to promote a development process that would limit human vulnerability. The National Societies were urged to be guided by the Strategic Work Plan in playing a more active role in emergency situations, improving their disaster-preparedness systems and strengthening their operational capacity for the benefit of communities. The League Executive Council was asked to set up a working group to evaluate the implementation of the Strategic Work Plan.

8. Principles and Rules for Development Co-operation

The Assembly, recognizing that co-operation among National Societies had to be increased to strengthen their institutional structures and their services to the community, adopted a paper on *principles and rules*, as yet provisional, for *development co-operation*. The paper deals

with the definition of development within the Movement, development co-operation agreements, priorities for development assistance, the organization and preparation of development plans on the national level, and the responsibilities of participating and operating National Societies, the League and the ICRC in the field of international development assistance.

The Assembly also voted to establish a “Fund for the Development of National Societies”, to help the National Societies draw up development plans and in particular to help the operating Societies strengthen their institutional structures and management capacity.

9. Health and social welfare work

Concerned by the fact that over 500,000 women die each year during pregnancy and childbirth and that many millions more suffer from pain and disability for the rest of their lives, the Assembly adopted a decision on “safe motherhood” requesting the League Secretary General to set up development programmes to improve the educational status and health of girls and women. The National Societies were requested to strengthen and develop their existing activities and links with governments, inter-governmental and non-governmental organizations in order to contribute more effectively to the Safe Motherhood Initiative, which aims to cut maternal mortality by at least half by the year 2000.

The Assembly also appealed to the National Societies to support young people, many of whom had expressed concern about environmental factors that affect their health, in their efforts to develop suitable health activities.

In addition, recognizing that many governments and the World Health Organization had developed policies restricting the number of drugs to be used in national health programmes, the Assembly urged the National Societies to ensure that requests for drugs, medical equipment and other medical supplies complied with national policies and were a constituent part of well-defined programmes which focused on the priority health needs of vulnerable communities. The Secretary General was requested to take a strong co-ordinating role and to establish appropriate guidelines in order to ensure that drugs, medical equipment and other medical supplies were requested and donated in a manner that was both technically and operationally sound and would strengthen the League’s commitment to primary health care.

10. Women and Red Cross/Red Crescent development

The General Assembly, taking special note of the role played by women in development, endorsed a Plan of Action of Women in Red Cross/Red Crescent Development. The Assembly urged the National Societies to respond to the needs of women in all services and training programmes, to associate women closely in the drawing up of relief and development programmes and to create a favourable environment for the advancement of women in managerial and decision-making positions.

11. Refugees and displaced persons

Refugees, asylum seekers, displaced persons and returnees have always been among the League's main concerns. On this point the Assembly adopted a decision recommending *inter alia* that the Movement's activities for the survivors of torture be maintained and developed. Above all, it reiterated the Movement's readiness to respond to refugee emergencies, in co-operation with other representatives of the international community, and to continue to provide information aimed at better understanding and mutual acceptance between refugees and their host communities.

12. Reports by the Constitutional Commissions

The Assembly adopted the reports by four League Commissions: health and community services, disaster relief, development and youth.

- **Health and Community Services:** The Commission recommended that League activities to promote "safe motherhood", the League's Social Welfare Service and the participation of young people in health activities be strengthened and that policy on the supply of drugs for relief operations be clearly defined.

- **Disaster Relief Commission:** The Commission took note of the League's active participation in the "International Decade for Natural Disaster Reduction" and heard reports on operational procedures, tracing in natural disasters, guidelines for welfare work in disasters, and the use of credit balances from relief operations. The Assembly, for its part, reaffirmed the League's support, in co-operation with the

appropriate United Nations agencies, for efforts to meet the goals of the "International Decade". It urged the National Societies to play an active role in the national and regional Committees to be set up to reduce, through adequate preparedness and preventive measures, the consequences of natural disasters.

- **Development:** The Commission adopted a set of guidelines on development co-operation with a view to improving it and urged that the guidelines become operational immediately. It also supported the proposal to establish a League Development Fund comparable to the Disaster Emergency Fund. After hearing the Secretariat's report on improving the training of field personnel, the Commission urged the League to draft a standard training manual for use at national level.

- **Youth:** The Assembly expressed its satisfaction at the success of *Supercamp 89*, which took place in September in Italy and Geneva and was the culminating event of the celebrations marking the 125th anniversary. The participants considered the camp to be an example of harmony, friendship and peace which would have a considerable influence on the development of many National Societies.

The Assembly approved a recommendation by the Youth Commission that a Youth Policy and Strategy be defined, to be submitted to the 1991 session of the General Assembly. The Secretary General was asked to examine the possibility of establishing an International Youth Fund.

On the recommendation of the Executive Council, the Assembly elected the Chairman and the 12 National Society members of each of these four Commissions as well as the Chairman and the members of the Finance Commission for a four-year term of office, according to the new provisions of the League Constitution.

AGREEMENT

between the International Committee of the Red Cross and the League of Red Cross and Red Crescent Societies

Geneva, 20 October 1989

The International Committee of the Red Cross (hereinafter called “the ICRC”), represented by Mr. Cornelio Sommaruga, President, and by Mr. Yves Sandoz, Director, on the one hand, and

the League of Red Cross and Red Crescent Societies (hereinafter called “the League”), represented by Mr. Mario Villarroel Lander, President, and Mr. Pär Stenbäck, Secretary General, on the other hand,

conclude the present Agreement in accordance with Article 7 of the Statutes of the International Red Cross and Red Crescent Movement (hereinafter called “the Movement”).

AGREEMENT

PART I GENERAL

Article 1 Purpose of the Agreement

The present Agreement is intended to:

- facilitate the implementation of the Statutes of the Movement in terms of Article 7, paragraph 3, thereof, respecting the basic texts relevant to the subjects of this Agreement and adopted by the statutory bodies of the Movement;

- defend, in accordance with the Fundamental Principles, the interests of all those whom it is the Movement’s mission to protect and to assist;
- strengthen the unity of the Movement;
- ensure that the Movement’s work is carried out as efficiently as possible, avoiding any overlapping;
- establish working methods designed to harmonize activities and facilitate their co-ordination.

Article 2

National Societies

The National Red Cross and Red Crescent Societies (hereinafter called “the National Societies”) shall assist in the implementation of this Agreement and contribute to it in conformity with their obligations as far as provided in the Statutes of the Movement and in the League Constitution.

PART II

PROVISIONS RELATING TO ACTIVITIES

Section A - Co-operation in general activities

Article 3

Fundamental Principles

The ICRC, which is responsible for maintaining and disseminating the Fundamental Principles, shall co-operate with the League in their dissemination and to ensure that these Principles are universally respected by the Movement’s components and statutory bodies. The two institutions shall keep each other informed of their respective activities in this respect.

Article 4

Movement and peace

The ICRC and the League shall co-operate in continuing to implement the “Programme of Action of the Red Cross and Red Crescent as a Factor of

Peace” and to perform all the tasks set out in the documents on peace which they have approved. They shall draw up jointly documents on peace and endeavour to adopt a common attitude and co-ordinate their activities in this respect.

Article 5
Use of the emblem

- 5.1 In co-operation with the League, the ICRC shall draw up draft regulations on the use of the emblem by the National Societies. These draft rules shall be submitted for consideration by the Council of Delegates of the International Red Cross and Red Crescent Movement (hereinafter called “the Council of Delegates”) and for approval by the International Conference of the Red Cross and Red Crescent (hereinafter called “the International Conference”).
- 5.2 The League shall support the ICRC in its efforts to ensure that the governments and the National Societies respect and ensure respect for the provisions on the use of the emblem contained in the Geneva Conventions and any other relevant texts.

Article 6
Establishment and development of National Societies
with a view to their recognition by the ICRC
and admission to the League

- 6.1 The ICRC and the League shall co-operate in promoting the establishment and development of a National Society, wherever it is necessary, and shall keep each other informed of their respective activities in this regard.
- 6.2 The ICRC and the League shall study together all requests for the recognition of new National Societies. They shall take appropriate measures to assist the applicant Society to be prepared for recognition by the ICRC and admission to the League.

Article 7

Development of the National Societies

- 7.1 In accordance with the Movement's Statutes, the development of National Societies shall fall within the competence of the League.
- 7.2 The ICRC can contribute to the development of the National Societies in the following matters:
- technical and legal assistance in establishing and reconstituting National Societies;
 - support of the National Societies' programmes for disseminating knowledge of international humanitarian law and the Fundamental Principles;
 - involvement of the National Societies in measures taken to promote international humanitarian law and ensure its implementation;
 - preparation of the National Societies for their activities in the event of conflict;
 - contribution to the training of National Society leaders in fields, related to its mandate.
- 7.3 With the League's consent, the ICRC may undertake other activities if the National Society concerned so wishes.
- 7.4 In armed conflict situations, the ICRC may expand its co-operation with the National Societies involved in order to strengthen their operational capacity. In such cases, the development work of the League and of the ICRC must be closely co-ordinated.
- 7.5 In order to establish a co-ordinated development policy for the Movement and to ensure the best utilization of available resources, the two institutions agree to give their contributions in the framework of development plans of National Societies. The ICRC and the League shall keep each other informed of their respective plans and decisions contributing to the overall development efforts.

Article 8

Review of the Statutes of National Societies

Guided by the resolutions adopted by the International Conference, the ICRC and the League shall jointly study the Statutes of the National Societies and their implementation and, when necessary, make appropriate recommendations.

Article 9
Protection of the integrity of National Societies

Whenever it appears to either institution that a National Society has become unable to protect its integrity and to act in accordance with the Fundamental Principles, the ICRC and the League shall consult each other on the advisability of taking action, either jointly or separately. In the latter case, the two institutions shall keep each other informed of any action taken and of subsequent consequences.

Article 10
Tracing

- 10.1 Tracing activities relating to situations covered by Articles 18 and 20 fall within the competence of the ICRC.
- 10.2 The ICRC, in co-operation with the League, shall promote and encourage the establishment in the National Societies of tracing services capable of taking action in the situations covered by Articles 17 to 21.
- 10.3 The ICRC shall act as adviser to the National Societies and co-ordinate tracing operations with regard to technical methods and procedures.

Article 11
International humanitarian law

- 11.1 The ICRC, which is responsible for promoting, developing and disseminating international humanitarian law, shall encourage the States to become party to the Geneva Conventions and their Additional Protocols. It shall draw up commentaries on those instruments and prepare model agreements, texts on implementation and other similar documents.
- 11.2 The League shall assist the ICRC in the promotion and development of international humanitarian law and co-operate with the ICRC in dissemination of knowledge of that law among the National Societies.

Article 12
Public relations and information

- 12.1 In their public relations, the ICRC and the League, while performing their respective functions, shall harmonize their activities so as to present a

common image of the Movement to demonstrate its unity and to contribute to a greater understanding of the Movement by the public.

- 12.2 The ICRC and the League shall endeavour to prepare and implement co-ordinated or joint plans and activities.
- 12.3 The ICRC and the League shall keep each other informed of any bulletin and circular letter of common interest sent to National Societies. Important matters of common interest shall be the object of prior consultation.
- 12.4 On subjects of common interest, the ICRC and the League shall co-operate in the preparation of material to be sent to the National Societies.

Article 13 **Fund-raising**

The ICRC and the League shall consult each other on fund-raising whenever necessary.

Article 14 **Training**

- 14.1 The ICRC and the League shall co-operate in the establishment of training programmes for both their own and National Society staff in the dissemination of international humanitarian law and the Fundamental Principles, and shall co-ordinate their activities in this field.
- 14.2 The League shall co-operate with the ICRC in the latter's statutory function of contributing, in anticipation of armed conflicts, to the training of medical personnel and to the preparation of medical equipment.
- 14.3 The ICRC, supported whenever possible by the League, shall contribute to the training of staff for the tracing services of the National Societies.
- 14.4 The ICRC and the League shall work together to set up training programmes for staff engaged in relief operations, whether in connection with armed conflicts or disasters, and to promote such programmes within the National Societies.
- 14.5 The ICRC and the League shall take part in the training activities of the Henry Dunant Institute.

Article 15
Relief preparedness

The ICRC and the League shall co-ordinate their respective methods for relief preparedness, including methods of co-operating with other organizations.

Article 16
Co-operation in the medical field

In addition to their co-operation in training medical and paramedical staff, the ICRC and the League shall work together to standardize the supplies and medical equipment used in relief operations.

**Section B - Co-operation in Red Cross and Red Crescent
international relief operations**

Article 17
Relief operations

Under the present Agreement, relief operations by the components of the Movement shall comprise the provision of all material assistance and the assignment of personnel of all categories.

Article 18
Activities in situations of armed conflict

In situations of international or other armed conflict, the ICRC, by virtue of the role of a specifically neutral and independent institution and intermediary conferred on it by the Geneva Conventions and the Statutes of the Movement, shall assume the general direction of international Red Cross and Red Crescent actions.

Article 19
Activities in situation of peace

In situation of peace the League shall, in accordance with its Constitution, co-ordinate the relief work of the National Societies following any major

disaster. It shall take part in distributions and direct the action when asked to do so by beneficiary National Societies.

Article 20
Activities in other situations

In situations not covered by Article 18, and requiring action by a specifically neutral and independent institution, the ICRC shall assume the general direction of Red Cross and Red Crescent international action.

Article 21
Activities in changing or special situations

- 21.1 If a situation covered by Articles 18 or 20 arises in a country where the League is working under Article 19, the ICRC shall assume responsibility for the action. However, if the situation covered by Article 19 affects a zone not involved in that covered by Article 18 or 20, the League shall continue to be responsible for action in that zone.
- 21.2 If a situation covered by Article 18 or 20 comes to an end but the effects of a disaster persist, the League shall assume responsibility for the action.
- 21.3 If, in a country where the ICRC is working in a situation covered by Article 18 or 20, a situation covered by Article 19 arises in a zone not involved in that covered by Article 18 or 20, the League shall assume responsibility for action in that zone.
- 21.4 In cases covered by paragraphs 1 to 3, the ICRC and the League shall act in co-operation with the National Societies of the affected countries. The two institutions shall together decide on interim measures and co-operate in accordance with Article 23.

Article 22
Operational difficulties

- 22.1 In a situation where an international relief operation has been obstructed, the ICRC and the League shall use all their influence, in any way open to them, to ensure that all the components of the Movement are able to assume their respective roles at the earliest possible date to relieve the suffering of the victims.

22.2 In the meantime, the ICRC and the League shall agree on any interim measures to be taken by one or the other of the two institutions. Any such measures shall be taken without delay unless there is disagreement, in which case the procedure set out in Article 23 shall be followed.

Article 23

Implementation

23.1 In situations covered by Articles 21 and 22, the ICRC and the League shall keep each other informed and take the decisions necessary to ensure rapid and effective action by the Movement:

23.2 If, within three days following the initial contact, there is no decision taken according to paragraph 1, the President of the ICRC accompanied by the Director of Operations, and the President of the League accompanied by the Secretary General, shall meet without delay to settle the areas of disagreement and to decide on interim measures which they consider necessary. They shall be assisted by any person whose presence they deem useful. Should one of the above mentioned participants be unable to attend, he shall be replaced as provided in the Statutes of the ICRC and the Constitution of the League.

23.3 If a decision according to paragraph 2 cannot be reached, the ICRC and the League may take any interim measures in accordance with the Statutes of the Movement which they consider necessary.

23.4 The ICRC and the League shall inform the National Societies of the decisions taken by them.

23.5 The ICRC and the League shall review the interim measures jointly, whenever it is deemed necessary, and in any event before a period of three months has elapsed.

Article 24

Request or supply from a National Society

The fact that a National Society submits a request to the ICRC or to the League, or spontaneously hands over relief supplies to one of those institutions, shall not alter the distribution of functions between the two institutions.

Article 25
Appeals to National Societies

As a general rule, appeals for support with regard to an international relief operation shall be sent to the National Societies by the institution which assumes responsibility for that operation. There may also be joint appeals.

Article 26
Co-ordination with other organizations

The ICRC and the League shall seek to co-ordinate international Red Cross and Red Crescent relief operations with the humanitarian activities of other intergovernmental and non-governmental organizations.

PART III
METHODS OF CO-OPERATION

Article 27
Invitations

- 27.1 Representatives of one of the institutions may be invited to a meeting at the other when a matter of common interest is on the agenda. These representatives may take part in the discussions but may not vote.
- 27.2 When one of the two institutions organizes a meeting with National Societies, it shall inform the other and invite it to take part if matters of common interest are to be discussed.

Article 28
Meetings of the Presidents

In addition to the extraordinary meeting provided for in Article 23, the Presidents of the ICRC and League shall meet as often as they deem useful.

Article 29
Co-operation in routine matters

- 29.1 The Directorate and staff of the ICRC and the Secretary General and staff of the League shall co-operate on daily routine matters in any way they deem appropriate, within the limits of their respective areas of competence.
- 29.2 The ICRC and the League shall inform each other about major missions they are planning and about the important visitors they are to receive.

Article 30
Co-operation between delegates

In countries where both institutions are present, ICRC and League delegates shall maintain contact and co-operate in order to increase the Movement's effectiveness.

Article 31
Relations with international institutions

In their relations with the United Nations and other international institutions, the ICRC and the League shall consult each other with a view to adopting, if possible, a common approach so as to maintain and strengthen the unity, independence and effectiveness of the Movement. They shall do likewise where there is a gathering or other event in which either institution has been invited to participate.

Article 32
Amendments to the Statutes of the Movement

The ICRC and the League shall consult each other and endeavour to harmonize their comments on any proposed amendments to the Statutes of the Movement. They may also consult on any question of interpretation of the Statutes.

Article 33
Amendments to the respective Statutes
of the two institutions

Neither the ICRC nor the League shall amend its Statutes or Constitution on a point related to their respective spheres of competence without giving the other institution an opportunity to express its views on the proposed amendment.

Article 34
Sharing of administrative expenses

As a general rule, the ICRC and the League shall each pay one half of the administrative expenses incurred by the statutory bodies of the Movement (International Conference, Council of Delegates, Standing Commission) and other subsidiary joint bodies, where such expenses are not covered by the organization hosting the meeting.

Article 35
Joint meeting

A “Joint Meeting”, comprising staff members from the ICRC and from the League, shall take place at least three times a year in order in particular to assist the statutory bodies of the Movement in all procedural and substantive matters. These meetings shall in principle be held alternatively at the headquarters of each of the two institutions and shall be chaired by a representative of the host institution.

Article 36
Joint working groups

The ICRC and the League may agree to set up joint working groups to implement the present Agreement. The two institutions shall together decide the membership, mandate, duration and methods of work of such groups.

PART IV FINAL PROVISIONS

Article 37

Previous provisions and coming into force

The present Agreement replaces the 1969 Agreement between the ICRC and the League as well as its 1974 Interpretation for the purpose of specifying certain of their respective functions in relief operations. It shall come into force as soon as it has been ratified by the ICRC and the League in accordance with their respective Statutes and Constitution.

Article 38

Revision

Whenever one of the two institutions perceives the necessity to revise any provision of this Agreement, it shall notify its intention to the other institution which shall agree to negotiate on the subject matter within a time limit not exceeding three months.

Article 39

Withdrawal

- 39.1 Either institution may withdraw from the present Agreement by giving advance notice of at least six months.
- 39.2 In the event of such withdrawal, both institutions shall make appropriate arrangements either for the continuation or termination of joint or co-ordinated actions already under way and for the maintenance of friendly relations and co-operation between them in the spirit of the Fundamental Principles.

Done and signed in duplicate originals
in Geneva on 20 October 1989.
Authentic languages: English and French.

For the ICRC:

CORNELIO SOMMARUGA

YVES SANDOZ

For the League:

MARIO VILLARROEL LANDER

PÄR STENBÄCK

Council of Delegates

(Geneva, 26-27 October 1989)

The Council of Delegates of the International Red Cross and Red Crescent Movement, which brings together representatives of the National Societies, the International Committee of the Red Cross (ICRC) and the League of Red Cross and Red Crescent Societies, met on 26 and 27 October 1989 in Geneva.

The meeting was opened by Dr. Ahmed Abu-Goura, Chairman of the Movement's Standing Commission, who called on all present to establish peace in the world and build it in the minds of people.

His proposal for the election of Mr. Cornelio Sommaruga, President of the ICRC, as Chairman of the Council and Mr. Mario Villarroel, President of the League, as its Vice-Chairman was unanimously adopted.

In his opening address, Mr. Sommaruga described the challenges facing the Movement and the commitments of the ICRC. He concluded by expressing his hope that a spirit of brotherhood, mutual trust and determination would guide the Council's work.

The first part of the session on 26 October was devoted to presentation of the Henry Dunant Medal to six members of the Movement and the first award of the Red Cross and Red Crescent Prize for Peace and Humanity, which went to the Lebanese Red Cross.

The Council also adopted an appeal proposed by Dr. Mouloud Belaouane, President of the Algerian Red Crescent, and calling for the immediate and unconditional release of Emanuel Christen and Elio Erriquez, the two ICRC orthopaedic technicians abducted in Sidon, Lebanon, on 6 October 1989.

An account of the two awards and the appeal was given in the previous issue of the *Review* (No. 273, November-December 1989, pp. 578-579).

The Council met again on 27 October to discuss several subjects of interest to the Movement. It adopted a series of resolutions which were published in the previous issue of the *Review* (See pp. 580-585).

- **Commission on the Red Cross, Red Crescent and Peace**

Mr. Alexandre Hay, the commission's Chairman, presented a report covering the "Seminar on Information and Dissemination of International Humanitarian Law as a Contribution to Peace", held in Leningrad on 10-14 October 1988 (see the *IRRC*, No. 267, p. 531), the "World Campaign for the Protection of War Victims", the "Final Report of the Group of Experts on Human Rights", and lastly the Commission's future.

- **World Campaign for the Protection of War Victims**

This Campaign is part of the information policy proposed to the Council of Delegates by the ICRC and the League. Its objectives are to alert public opinion and governments throughout the world to the distress of war victims and thereby avoid new conflicts as far as possible, to give practical help to today's victims and to improve long-term assistance.

The Campaign, the first of its kind to be launched on such an overall scale, is intended to bring about a worldwide humanitarian mobilization and thus reinforce the Movement's efforts to protect war victims and promote peace. It will culminate in an extensive media event on World Red Cross and Red Crescent Day (8 May) in 1991.

Such a mobilization will require the active participation of the entire Movement. In addition to their usual activities, the 149 National Societies should plan to take part in it to the extent of their capabilities.

Though the Campaign is being organized by the Movement, other governmental and non-governmental organizations will be asked for their support.

The Campaign's main target audience will be the general public, both in conflict and non-conflict areas, but methods will differ depending on local conditions. Its programme will have to be innovative, interesting to the media, and ensure that the long-term impact of dissemination work is increased.

The Campaign programme presented by Ms. Christina Magnuson, Vice-Chairman of the Swedish Red Cross and Chairman of the Campaign's Steering Committee, and illustrated by a video film, gave rise to lively discussion. The Council of Delegates then adopted both the Campaign's general objectives and its preliminary programme and called on the National Societies, the ICRC and the League to take active part in its implementation.

- **Respect for human rights**

The Council of Delegates adopted the final report of the Group of Experts on Human Rights which had previously been adopted by the Commission on the Red Cross, Red Crescent and Peace. The report, which was presented by Mr. Yves Sandoz, Director of the ICRC's Department of Principles, Law and Relations with the Movement, describes the wide range of activities by which the Movement is making a significant contribution to respect for human rights, including active contributions in particular to five rights mentioned in the International Covenant on Economic, Social and Cultural Rights. These rights clearly exemplify the Movement's humanitarian dedication on behalf of the weak, and the victims, both in time of conflict and in natural disasters: the right of the family to the widest possible protection, the right to an adequate standard of living, the right to health, the right to education and the right to take part in cultural life and to enjoy the benefits of scientific progress.

The Report is an invaluable means of making the Movement and its commitment to the cause of human rights more widely known, the Movement's very diversity reflecting the specificity of its various components.

The Report contains a series of recommendations concerning spheres of activity in which the Movement, without prejudice to its Fundamental Principles and without overstepping its fundamental mission, can and should commit itself with greater energy and determination in support of human rights, while respecting the specific nature of each of its components. It ends by urging the Movement as a whole to step up its activities in four specific fields: in the fight against torture, forced or involuntary disappearances and racial discrimination, and in the protection of children's rights.

The Council called on the National Societies, the ICRC and the League to implement the Report's conclusions and recommendations.

- **The Commission's future**

The Council of Delegates decided to renew the mandate of the Commission in its present composition until its next session, asking it to complete its work on a four-year plan for the Programme of Action of the Red Cross as a Factor of Peace and on reactivation of the Plan of Red Cross and Red Crescent Action in the Struggle Against Racism and Racial Discrimination.

● The Movement's Information Policy

Ms. Michèle Mercier, Acting Head of the ICRC's Communication Department, and Mr. George Reid, Director of the League's Public Affairs Department, jointly presented a report on the Movement's information policy. The report was illustrated by a video.

This information policy is essentially a practical programme to enhance the Movement's ability to communicate a clear and consistent message at the international level.

After extensive research and consultation with the National Societies, the policy is based on an *Identity Statement* firmly rooted in the Statutes and Principles of the Movement and explaining, in simple language, what the Movement is, what it does and why it does it.

The Statement's text is as follows:

THE STATEMENT

The International Red Cross and Red Crescent Movement is dedicated to protecting human life and dignity worldwide, thereby promoting lasting peace.

The 250 million people of the Movement help those hurt by armed conflict, natural disasters and other human tragedies. Victims around the world have come to trust the people of the Movement to be there to provide essential humanitarian services.

The people of the Movement help anyone in urgent need. No regard is paid to political, racial, religious or ideological differences. No point of view or person is favoured over another. Neither influence nor pressure will ever alter these facts.

Red Cross and Red Crescent members protect life and alleviate suffering through the International Committee of the Red Cross, the League of Red Cross and Red Crescent Societies, and 149 National Societies, each organization having a specific mandate and field of action. Together, these organizations form a lasting and evolving Movement, grounded in humanitarian principles and recognized by international law and custom. This unique network has spanned generations, linking people around the world who share a commitment to prevent and ease suffering and a readiness to protect human life and dignity—no matter whose, no matter where, no matter when.

But the International Red Cross and Red Crescent Movement is more than a philosophy, a treaty or an historical institution. It is the embodiment of a worldwide belief that human life and dignity are worthy of respect and of protection from the ravages of man and nature.

It is a belief that is made real every day by the actions of skilled and trained people who are motivated by a deep personal desire to help others without regard for their own material gain.

Through its constituent organizations, members of the Movement come to the aid of people caught in the violence of armed conflict and other emergencies by providing supplies to sustain life, visiting prisoners of war and other detainees, helping people communicate with loved ones, and reuniting families.

Red Cross and Red Crescent members help people prepare for, recover from and, if possible, prevent the effects of hurricanes, floods, fires, drought, or other disasters that threaten individuals and communities.

They help people prevent and handle emergencies through social service programmes and by teaching life-saving and health skills. Where needed and possible, they save millions of lives by providing a reliable supply of blood.

And they share resources, so developing such services throughout the whole Movement.

The financial support of individuals, corporations and governments make this work possible.

The International Red Cross and Red Crescent Movement: Protecting Human Life and Dignity Worldwide

* * *

The policy also recognizes the need to assist information staff in developing National Societies and outlines practical steps to do so.

Finally, provision is made for the basic financing and staffing of the policy to be covered by the existing budgets of the ICRC and the League and by certain National Societies.

● Universal Exposition in Seville

After the showing of a video film on preparations for the Universal exposition (EXPO 92) in Seville, Mr. Pär Stenbäck, League Secretary General, M. Maurice Aubert, ICRC Vice-President, and Mr. Leocadio Marín, President of the Spanish Red Cross, spoke in turns about this event which, over a period of some six months, should enable millions of visitors to be informed about the Movement's humanitarian work.

The Council of Delegates reaffirmed that the Movement will participate in EXPO 92 and decided, among other things, that the Spanish Red Cross would be the legal representative of the ICRC and the League vis-à-vis the Exposition's organizers, that the President of the Spanish Red Cross would be General Commissioner of the Red Cross and Red Crescent pavilion and that the Spanish Red Cross would be entrusted with fund-raising for the pavilion, in conformity with existing regulations and principles.

Finally, under the terms of an agreement between the Presidents of the ICRC, the League and the Spanish Red Cross and in accordance with the resolution adopted on the information policy, all matters relating to the sponsoring and to the construction and content of the pavilion will be studied by the group assigned to implement the Movement's information and sponsorship programmes.

- **Use of the emblem**

At its 1987 meeting in Rio de Janeiro, the Council of Delegates decided to submit the revised *Regulations on the Use of the Emblem by the National Societies*, drafted by the ICRC in consultation with the National Societies and the League Secretariat, to the next International Conference of the Red Cross and Red Crescent for formal adoption.

At the suggestion of several National Societies which have had new experience in the use of the emblem, for example in fund-raising, the Council invited "the ICRC, in consultation with the League, to study the questions raised by the implementation of certain rules and, to this end, to form a working group with representatives of the League and of National Societies from the various parts of the world...". The ICRC will report to the next Council of Delegates before the draft revision of the Regulations is presented to the next International Conference.

- **Respect for and dissemination of the Fundamental Principles of the Red Cross and Red Crescent**

An interim report on respect for and dissemination of the Fundamental Principles was presented by Mr. Pierre Keller, a member of the ICRC's Executive Board.

The report contained the views of the ICRC and of leading members of the Movement. They recognized that the Fundamental Principles constitute the "cornerstone" of the Movement's components in all circumstances. There was for the present no need to alter the Principles as they stand in the Movement's current Statutes, but it was important to ensure that their meaning was better understood, adapting the

methods for their dissemination to the specific conditions of each country. To this end, the experts had studied various matters relating to the Principles and identified others which deserve further attention in order to make the Principles more widely known and better understood.

The Council of Delegates, reaffirming the importance of respect for the Fundamental Principles by the Movement's components and the need to promote knowledge of the Principles among the general public as well, asked the ICRC to continue the study in consultation with all the National Societies, the League and the Henry Dunant Institute. It further asked the Movement's components to collect any material they consider useful for promoting a wider knowledge and understanding of the Principles and to forward it to the ICRC.

- **Events to mark the Movement's 125th Anniversary**

The Council of Delegates took note of a report presented by Mr. Maurice Aubert on the various events held to mark the 125th anniversary. The report on *Supercamp 89*, a particularly appreciated event in which over 500 young people from 132 countries took part, was presented by Mr. Pär Stenbäck.

- **Activities of the Henry Dunant Institute**

Finally, the Council took note of the report on the activities of the Henry Dunant Institute presented by His Honour Darrell D. Jones on behalf of Mr. Mario Villarroel, the Institute's Chairman.

The next meeting of the Council of Delegates will be held at the same time and place as the next League General Assembly.

INTERNATIONAL COMMITTEE OF THE RED CROSS

News from Headquarters

● New ICRC Vice-President

Mr. Claudio Caratsch will act as new permanent Vice-President of the International Committee of the Red Cross as from 1 June 1990. He was co-opted as a member of the Committee by the Assembly at its meeting on 9 November 1989 and will take up his duties in that capacity on 1 March 1990.

Mr. Caratsch, from S-chanf and Sta Maria in Müntertal in the Swiss canton of Graubünden, was born in 1936 and studied in Berne, Basel, Paris and Neuchâtel. He is a graduate of the Institute of Political Studies of the University of Paris and of the Institute of Economic and Social Development. After joining the Federal Political Department in 1960, Mr. Caratsch occupied several diplomatic posts (London, Berne, Cairo, Warsaw, Vienna). From 1984 to 1988 he was Swiss Ambassador to the Côte d'Ivoire, Burkina Faso, Niger and Guinea. Since 1988 he has been Swiss Ambassador to Egypt and the Sudan, a post he will leave in February 1990 to join the ICRC.

● Appointment of honorary members

At its 14 December 1989 meeting the Assembly appointed as honorary members the following three Committee members, who have reached the statutory age limit:

- Mr. Alexandre Hay
- Mr. Robert Kohler
- Mr. Raymond Probst

Mr. Hay, former President of the ICRC, was awarded the Committee's gold medal for outstanding merit.

- **Re-elections**

Mr. U. G. Middendorp, Mr. Athos Gallino and Mr. André Ghelfi were re-elected for a new four-year term. For professional reasons Mr. Odilo Guntern did not stand for re-election.

Mr. Pierre Keller was re-elected as a member of the Executive Board.

Mr. Guy Deluz, appointed Director-General of the ICRC on 24 August 1989 (see *IRRC* No. 272, September-October 1989, p. 472), took up his duties on 1 January 1990.

Presidential missions

Between November 1989 and January 1990 Mr. Cornelio Sommaruga, President of the ICRC, carried out the following missions:

- **To Chad**

The President of the ICRC, accompanied by Mr. Dieter Pfaff of the ICRC's Africa Zone, paid an official visit to Chad from 4 to 7 November 1989. He was received by Mr. Hissen Habré, President of the Republic of Chad, with whom he discussed the question of the Libyan prisoners of war detained in Chad, pointing out the advantages that Chad could derive from closer collaboration with the ICRC, particularly if the ICRC was allowed to carry out its mandate under the Geneva Conventions as regards visits to prisoners of war and their repatriation. An agreement in principle was concluded on this subject between the ICRC and Chad, and it was agreed that the procedure for implementing it should be finalized by, and with the mutual consent of, the Ministry of Foreign Affairs and the ICRC. The President of the ICRC also had talks with the Minister of Foreign Affairs and the Minister of Health.

During his stay in N'Djamena, Mr. Sommaruga was received by the Youth Section of the Red Cross of Chad, which proclaimed him an honorary member at a ceremony in Koundoul. He also visited Red Cross headquarters, the Ministry of Public Health's blood bank and the

big SECADEV/ICRC orthopaedic centre, which fits the war disabled and victims of accidents or disease with prostheses.

Lastly, a lecture followed by discussion was held at N'Djamena University, during which Mr. Sommaruga, who was welcomed by the Dean of the Faculty of Political Science, Economics and Management, talked to more than 250 students on the subject of international humanitarian law.

● **To the European Community**

On 4 December the President of the ICRC, accompanied by Mr. Andreas Lendorff, Head of the Relief Division, visited Brussels for a meeting with Community officials.

The President had talks with Mr. Manuel Marin, Vice-President of the Commission of the European Communities, in charge of Co-operation and Development. At this interview the ICRC representatives expressed their gratitude for the exceptional support given to the ICRC throughout the year by the Directorates headed by Mr. Marin. The European Community contributed more than 60 million Swiss francs in cash and food aid to the ICRC's operational budgets, and was the principal donor to the ICRC in 1989, after the Swiss Confederation.

The President of the ICRC also had detailed talks with the Chairman of the Permanent Representatives Committee, Mr. Vidal, Permanent Representative of France.

While in Brussels Mr. Sommaruga also visited the *Belgian Red Cross*, where he had talks with the Vice-President Mr. Jacques Delruelle and the two Directors-General, Mr. Guy Hullebroek and Mr. Carl Vandekerckhove; he gave a complete account of current operational activities and discussed certain questions regarding the whole Movement.

● **In Lebanon and Syria**

From 17 to 20 December 1989 the President of the ICRC visited Lebanon and Syria to meet their Heads of State and enlist their support for the release of the two Red Cross delegates kidnapped in Sidon on 6 October (see *IRRC* No. 273, November-December 1989, pp. 575 and 579).

On 18 December at Ablah in northern Lebanon, Mr. Sommaruga had talks with Mr. Elias Hrawi, President of the Lebanese Republic, who strongly condemned the seizure of members of the ICRC

as hostages and stressed that he attached great importance to the ICRC's being able to continue its work.

At the end of this interview Mr. Sommaruga, who was accompanied by Mr. Michel Dufour, Head of the ICRC delegation in Lebanon, Mr. André Pasquier, the President's Special Adviser in charge of humanitarian negotiations, and Mr. Carlos Bauverd, Head of the ICRC Press Division, answered questions from Lebanese journalists and representatives of Swiss media.

On Tuesday 19 December, after two interviews with Mr. Dia al Fattal, the Syrian Deputy Minister of Foreign Affairs, the ICRC President had talks with Mr. Farouk ash-Shara, Minister of Foreign Affairs, and Mr. Abd al-Halim Khaddam, Vice-President of the Syrian Arab Republic, both of whom assured him of their Government's full support in this matter.

During his stay in Damascus Mr. Sommaruga met the President of the Syrian Red Crescent, who was accompanied by two senior members of the National Society.

● In Austria

At the invitation of the Austrian Government the President of the ICRC visited Vienna from 14 to 17 January 1990, where he met leading personalities including the Federal Chancellor Dr. Franz Vranitzky, the Minister of Foreign Affairs Dr. Alois Mock, the Finance Minister Mr. Ferdinand Lacina, the Minister of National Defence Dr. Robert Lichal, and the Health Minister Dr. Harald Ettl. The President also had an interview with Mr. Kurt Waldheim, President of the Austrian Republic.

During these discussions, the President gave an account of the ICRC's activities, including the relief operation in Romania, spoke in favour of active financial support by the Austrian Government, and asked for its help in furthering the ratification of the Protocols in Eastern Europe and elsewhere.

Finally, at a press conference, the President again appealed for the immediate unconditional release of the two ICRC delegates kidnapped in Lebanon.

During his visit the President called on the Austrian Red Cross where he was received by its President, Dr. Heinrich Treichl, and his close colleagues.

The President's talks with the Austrian Red Cross mainly concerned humanitarian aid in Central Europe and co-ordination of the Movement's activities for that purpose. There were also exchanges of

views on the subject of the next International Conference of the Red Cross and Red Crescent. At the end of the visit President Treichl awarded Mr. Sommaruga the highest decoration of the Austrian Red Cross and informed him that the Society would make a special contribution to the ICRC of one million Austrian schillings.

During his visit Mr. Sommaruga discussed ICRC operations with high officials of the Ministry of Foreign Affairs and gave a lecture at the «Gesellschaft für Aussenpolitik» (Foreign Affairs Society) on “Taten statt Worte—Das Internationale Komitee vom Roten Kreuz in einer konfliktreichen Welt” (Deeds speak louder than words—The International Committee of the Red Cross in a world of many conflicts). Lastly he visited UNRWA headquarters, where he took part in a working session with its top officials, chaired by Mr. Giacomelli, its Commissioner-General. The President was accompanied on this mission by Mr. Jürg Bischoff, ICRC spokesman, and Mr. Hans-Peter Gasser, Legal Adviser.

EXTERNAL ACTIVITIES
November-December 1989

Africa

Angola

In November, the ICRC completed its seed distributions to civilians affected by the conflict on the Angolan Planalto. During the operation, which started at the end of September, delegates distributed over 1,000 tonnes of seed to about 120,000 families in the provinces of Benguela, Bié and Huambo, where the conflict had seriously disturbed the normal crop cycle. ICRC teams conducted regular nutritional surveys which revealed a particularly high incidence of malnutrition, resulting from drought and the continuing conflict. To remedy the situation, the ICRC started to distribute food rations as early as October, along with the seed. Food distributions were stepped up in November and in December, reaching a total of about 65,000 people at the end of the year.

A prisoner of war of Namibian origin, whom the ICRC had visited several times in Luanda, was released and handed over to the ICRC by the Angolan authorities on 27 November. The ICRC organized his repatriation. He was handed over to the South African authorities in Johannesburg, then accompanied by the ICRC delegation in Windhoek to his home in Namibia.

Somalia

During the reporting period, ICRC activities in north-western Somalia expanded. The ICRC surgical hospital in Berbera, opened in mid-August, admitted a steadily growing number of patients, up to 25 per week in December. The wounded came either from Berbera itself or were flown in by the ICRC from other towns in the north-west. In addition, following the surveys of medical facilities conducted throughout the year, the delegates started an assistance programme for the civilian hospitals of Boroma, Burao, Hargeisa and Las Anod on

4 November. The hospitals are receiving food, medical equipment, medicines and blankets.

Uganda

In mid-December, the new Deputy Minister of Defence informed the ICRC delegation in Kampala of the Ugandan authorities' decision to allow the ICRC to resume visits to military barracks being used as temporary places of detention. In the past, the ICRC had twice had access to these barracks, but the visits were interrupted in March 1989. Moreover, during the reporting period the delegates finished the fourth series of visits to civilian prisons in which security prisoners are held under the authority of the armed forces.

The delegates also continued material and food assistance programmes for vulnerable groups (displaced persons, seriously malnourished children, etc.) in the Gulu and Soroti districts. Medical teams, in addition to their usual work (consultations, medical evacuation), vaccinated numerous women of child-bearing age and children in remote villages.

Sudan

On 3 November, contending that deteriorating security conditions were a direct threat to the flights of humanitarian organizations working in Sudan, the Khartoum government decided to close Sudanese air space. As the closure continued, preventing the ICRC from conducting its activities for the victims, the institution made a series of representations to the Sudanese government, reminding it of the ICRC's specific mandate in an attempt to obtain authorization to make emergency flights and thereby evacuate the wounded, replenish stocks of medicines and other relief supplies and replace expatriate personnel stranded in the field. This authorization had still not been received by the end of 1989.

Despite the ban on flights, the ICRC continued all its assistance activities for vulnerable groups in the government towns of Juba, Wau and Malakal, where it had sufficient stocks. However, ICRC staff in areas under SPLA control, who were completely isolated, were not able to continue all the programmes they had undertaken because they were not receiving regular supplies. Only a few of the medical programmes were maintained on a very irregular basis.

In December, delegates based in Juba visited five SPLA combatants held in an army prison. The previous visit to these persons had taken place in August.

In a tragic incident, an airplane from *Médecins sans Frontières/Aviation sans Frontières* (MSF/ASF) was shot down on 21 December shortly after take-off from Aweil. The four passengers and crew were killed. After obtaining reliable safety guarantees from both parties, the ICRC evacuated the mortal remains of the four passengers and crew to Khartoum, as well as the expatriate MSF staff and the ICRC nurse still in Aweil.

Latin America

El Salvador

On 11 November, the Farabundo Marti National Liberation Front (FMLN) launched its heaviest offensive since the conflict started in 1980 against the country's towns, especially the capital. Eight of fourteen departments were affected and President Christiani declared a state of emergency on 12 November. From the outset, the ICRC delegation concentrated on emergency needs resulting from the fighting, doing its utmost to obtain a truce so that combat areas could be reached and the victims assisted.

The fighting was so intense that Salvadoran Red Cross employees often could not get through to the wounded, some of whom died before help arrived.

After three days of violence with a state of emergency and a curfew, the ICRC launched an appeal in Geneva for an immediate truce so that Red Cross teams could evacuate the wounded from combat areas to hospitals in the capital. The appeal remained unheard, and the fighting continued. Two days later, the ICRC again asked all the parties to respect the rules of international humanitarian law. It reminded them in particular that they were duty bound to spare civilians and allow medical personnel, ambulances and hospitals to work without hindrance.

When the fighting first broke out, a Salvadoran Red Cross employee was wounded while assisting the victims. Two ambulances were also destroyed and five others damaged when they were caught in crossfire. The ICRC delegation in San Salvador immediately demanded that the red cross emblem be respected.

In spite of the particularly dangerous conditions, Salvadoran Red Cross employees were able to evacuate over 450 wounded civilians and combatants during the first week of the fighting. The ICRC provided ambulances and additional medical supplies to help the National Society cope with the emergency.

The ICRC delegates closely monitored the situation in the hospitals to which the wounded were admitted. Medical requisites were distributed to hospital facilities in the capital and in San Miguel, 140 km east of San Salvador, where the influx of casualties had rapidly depleted stocks. Over 15 tonnes of additional medical supplies were immediately flown in to meet needs.

Tens of thousands of civilians fled combat areas in San Salvador and San Miguel in search of safer places. By mid-November, the government and the churches had set up over 50 shelters in San Salvador alone, providing refuge to about 17,000 people. ICRC delegates visited the shelters and gave medical assistance when necessary.

Also in San Salvador, on 20 November the ICRC evacuated 17 civilians from the Sheraton Hotel, which had been taken by FMLN guerrillas. The operation was carried out during a one-hour ceasefire negotiated between the parties to the conflict, via the Spanish embassy and a church commission.

ICRC delegates immediately took steps to gain access to the hundreds of people arrested in the aftermath of the events. Following interviews with the country's highest authorities they obtained the same kind of agreement for visits as the ICRC had had during the state of emergency in force from 1982 until January 1987, i.e. access to detainees 8 days after arrest. During the two months covered by this report, the delegates made 311 visits to 63 places of detention and registered 717 persons, 277 of them on their release.

Panama

On 20 December, the United States took military action in Panama. That same day, an ICRC regional delegate based in Costa Rica left San José for Panama, arriving there the following day. Two doctors and the relief co-ordinator from the delegation in Nicaragua joined him on 22 December. At the same time, an offer of services was sent to the United States and to the government of Panama, reminding them of their obligations in a situation of war in which the Geneva Conventions were fully applicable. The ICRC also asked both States to allow it to provide protection and assistance to the civilian victims and prisoners.

The ICRC doctors observed that the Panamanian hospitals, which had admitted 300 war wounded, were sorely in need of medicines; two tonnes of medicines were flown in by two chartered aircraft on 27 December and distributed the next day with the help of the National Society. About 12,000 displaced persons had sought temporary refuge in schools or churches but were not in need of ICRC aid. Generally speaking, the emergency as such ended on 30 December.

The delegates sought to visit persons arrested by the U.S. armed forces. Visits to prisoners of war and civilian victims finally got under way on 30 December in Empire Range camp, in the canal zone. The visits were scheduled to continue in January.

Asia

Afghan conflict

As 1989 came to an end, the ICRC's activities for the victims of the Afghan conflict remained intense. Its hospitals in Peshawar and Quetta (Pakistan) continued to work at maximum capacity. In Afghanistan, it was decided in November to start increasing the capacity of the hospital in Kabul from 150 to 200 beds, after a steady rise in the number of patients over the preceding months. Also in November, the ICRC supplemented its flights from Peshawar to Kabul with weekly flights to Mazar-i-Sharif and Herat (respectively north and west of Kabul), where delegates have been permanently based since August 1989. Besides transporting personnel, these flights enable the ICRC to take medical supplies to both towns and bring amputees to Kabul to be fitted with artificial limbs at the orthopaedic centre. Finally, the number of patients coming for consultation to the dispensary opened by the ICRC in Herat in October increased regularly during the last two months of the year.

A third complete visit to sentenced prisoners in Pul-i-Charki (Kabul) was begun by a team of delegates on 7 November and was continuing at the end of the year. The previous complete visit took place at the end of 1988. At the same time, delegates based in Pakistan continued to go to various Afghan provinces to carry out a number of activities, including visits to detainees held by the opposition.

In Pakistan itself, the ICRC had interviews without witnesses with four Soviet prisoners handed over by the Afghan opposition to the Pakistan authorities in November. During the interviews, two of them expressed the wish to be able to return to their families in the USSR after their release, while the other two opted to stay in Afghanistan. At

the same time, three Afghan prisoners who had just been released from Pul-i-Charki were given the hospitality of the ICRC delegation in Kabul pending an agreement on their transfer to Pakistan. The ICRC, which had informed the various parties of its availability as an intermediary in simultaneous release and transfer operations for these prisoners, was still waiting for an answer at the end of the year.

Sri Lanka

The ICRC delegation opened in Sri Lanka in October, after years of negotiations, rapidly got under way in the following two months. In November an agreement was signed with the authorities allowing the ICRC to visit, in accordance with its customary procedures (interviews without witnesses), all persons held in connection with the disturbances. The same month, a first visit was made to Boossa Army Detention Camp, 15 km from the southern city of Galle. The ICRC registered over 2,300 detainees during the visit. From 4 to 8 December, about 1,300 detainees were visited in Pelawatta Camp, also in the south. Other places of detention were visited in December, in particular temporary places of detention in which people are held immediately after arrest.

Parallel to these visits, the ICRC tracing activities sharply increased. After drawing up lists of the persons visited, it was able to inform their families of their arrest and thereby answer some of the almost 4,000 tracing requests received by 31 December, or pass on messages to them.

The ICRC also checked whether any medical assistance was required as a result of events, but surveys continued in different parts of the island did not reveal a need for ICRC action. The delegation also tried to go to the north and east of the country, where the information at its disposal suggested that needs were substantial, but had not been able to do so by the end of the year.

The ICRC sent a delegate specialized in dissemination to the armed forces to Sri Lanka in November. He organized a programme of seminars on international humanitarian law for various target groups made up of members of the army and police forces. At the end of December, the ICRC delegation in Colombo consisted of 18 expatriates, including one doctor and three nurses.

Cambodian conflict

The ICRC continued its activities for the victims of the conflict in Cambodia, seeking primarily to develop its medical and tracing activities in Cambodia along the same lines as those on the Thai border. After receiving permission in October to work in Battambang, the ICRC

twice sent a team there in December with urgently required medical supplies for the town's hospitals until the ICRC is able to set up a permanent medical facility.

Indonesia

On 31 December the ICRC completed its first series of visits in Irian Jaya, started in September: 84 detainees belonging to the OPM were seen in eight places of detention.

Philippines

In December the ICRC delegation was very active when the attempted coup led to clashes mainly affecting the capital. It maintained regular contact with all the parties involved in the fighting, seeking to ensure that the civilian population was spared in military operations. Several messages were broadcast to this effect, calling also for respect for the red cross emblem after four volunteers from the Philippines National Red Cross (PNRC) were wounded while carrying out their duties.

The ICRC also helped the PNRC to evacuate the wounded by placing three ambulances and six drivers at its disposal. The National Society was very active during the fighting, evacuating 571 wounded and 79 dead, i.e. almost all the victims. Four temporary first-aid posts were set up near the scene of the fighting and the ICRC provided medical equipment and supplies, including blood, to the PNRC and the capital's hospitals. Over 10,000 civilians assembled in evacuation centres outside the area of fighting received medical and food aid.

Middle East

Lebanon

On 6 October unidentified gunmen kidnapped ICRC delegates Emanuel Christen and Elio Erriquez when, as usual, they were on their way to work at the Sidon orthopaedic centre. The ICRC, both in Lebanon and from Geneva, repeatedly approached all factions represented on Lebanese territory and governments with influence in Lebanon. They were unanimous in condemning the kidnapping, which contravenes the most fundamental rules of international humanitarian law; without respect for those rules no humanitarian activity is possible (see *IRRC*, No. 273, November-December 1989, pages 575-576).

Throughout November and December, the ICRC redoubled its efforts to obtain the delegates' release. From 17 to 20 December, the ICRC President was in Lebanon and Syria, where he met the newly appointed President of the Lebanese Republic, Mr. Elias Hrawi, and the Syrian Minister of Foreign Affairs, Mr. Farouk ash-Shara, and the First Vice-President of the Syrian Arab Republic, M. Abd al-Halim Khaddam (see also above, page 45.)

On 6 December, the ICRC launched another appeal for the immediate and unconditional release of both hostages. At the same time about 25,000 signatures expressing solidarity and disapproval collected in Switzerland were deposited at the orthopaedic centre in Sidon.

In the field, heavy demands were made upon the ICRC as from 23 December, when armed clashes broke out between Amal and Hezbollah in the Iklim-al-Touffah. The institution provided medical facilities in the area—and in Beirut where the wounded were brought—with medicines and dressing material.

The delegation's activities for detainees were also intense during the last three months of the year: 484 detainees were visited and 259 of them newly registered.

Israel and occupied territories

In addition to the ongoing activities of the ICRC delegation, a relief delegate made an assessment of the needs of detainees' families in the occupied territories from 29 November to 2 December. The deteriorating economic situation has affected these families in particular, since in 41% of the cases the detainee is the family breadwinner.

The ICRC reacted to the death under interrogation of a detainee in Gaza prison on 20 December by sending a letter to Mr. Rabin, Israeli Minister of Defence.

Iran/Iraq

In December, the Delegate General for the Middle East went to Tehran and Baghdad; he had talks in each capital with the Minister of Foreign Affairs and his staff, and with the military authorities responsible for the prisoners of war. The discussions focused on the repatriation of wounded and sick prisoners and on the other obligations laid down in the Third Convention, namely the registration of prisoners of war, and visits by the ICRC.

In Iraq, ICRC delegates conducted the sixth annual series of visits in December to about 17,000 Iranian prisoners of war.

Europe

Romania

At the end of December, the ICRC organized a large-scale emergency operation to assist the victims of the events which occurred in Romania during the second half of the month.

On 22 December, a few hours after the fall of the Ceaucescu regime, a first ICRC team arrived at Bucharest airport, where it took care of about 300 civilians unable to leave because of the fighting. The delegates treated the wounded and registered the first detainees. The next day, the ICRC broadcast a radio appeal asking all concerned to respect the basic humanitarian principles and the red cross emblem.

The humanitarian response to the events in Romania was tremendous and relief supplies flooded in by land, sea and air. The situation stabilized on 25 December and the ICRC was able to ascertain that the emergency phase was over. About twenty National Societies participated in the Red Cross operation, which was co-ordinated by the ICRC with the co-operation of the Romanian Red Cross and the agreement of the League. The National Societies in the neighbouring countries were especially active. After 25 December, the ICRC attempted to channel the surge of support towards specific aid better matched to the actual humanitarian needs in Romania. To this end it launched an appeal for 18 million Swiss francs.

The kind and amount of relief supplies needed and distribution priorities were determined by a field survey conducted by teams of ICRC and National Society delegates based in Bucharest and along the Bulgarian and Hungarian borders. At the end of the year, 34 ICRC delegates and 28 National Society members were still on the spot, and a large team was co-ordinating activities from ICRC headquarters.

Death of Mr. Olof Stroh

The ICRC learned with great sadness of the death on 3 December 1989 of Mr. Olof Stroh, former Secretary General of the Swedish Red Cross. His passing deprives the Movement of one of its outstanding members of the last thirty years.

Mr. Stroh was born in Uppsala, Sweden, on 7 June 1918. After studying languages at Uppsala University, he took up a military career. He was successively appointed Military Secretary to the Parliamentary Defence Committee (1955-1958), Expert to the Government for the Reorganization of Civil Defence (1956) and Expert to the Committee for the Reorganization of the Top-Level Military Command (1958-1960).

He worked as a delegate for the World Health Organization in 1960 during the paralysis epidemic caused by adulterated cooking oil in the Meknes area of Morocco.

At the end of 1960 he was appointed Secretary General of the Swedish Red Cross, a post he occupied until he retired in 1978. In this capacity, he took part in many of the Movement's meetings worldwide and carried out important missions which gave his career a prominent international dimension.

In January 1967 he was appointed Chief Delegate of the League of Red Cross Societies in the Republic of Viet Nam for the international relief operation for civilians launched by the League at the request of the country's National Society. In October 1972, after a cease-fire took effect in Indochina, he was assigned to conduct a survey there. In December of the same year he was appointed head of the Indochina Operational Group (IOG) set up by the ICRC and the League to protect and assist those in need in the war-stricken areas of Indochina. He worked in this capacity until March 1974.

After retiring, Mr. Stroh continued to work at the international level. From 1981 to 1982, as Special Assistant to the Secretary General of the League in charge of operations, he played a leading role in the joint League/ICRC operation in Poland and from 1981 to 1984 was co-director (with J.-P. Hocké, then ICRC Director of Operations) of the "Poland Operation Group". He also acted as a League representative at the Assembly of the Henry Dunant Institute.

Both an idealist and a realist, Mr. Stroh devoted his exceptional intellect to the advancement of the Movement's humanitarian ideals. In his quest for perfection, he not only took action but also gave it careful thought and regular reconsideration, aware as he was of the Movement's need to adapt to a constantly changing world. Always guided in his work by the fundamental principles of the Red Cross and Red Crescent, he was a man of high achievement, well aware of practical realities, who proved a skilful co-ordinator and whose every action demonstrated a deep concern for preserving the Movement's unity and respecting its components' specific mandates.

The ICRC members and staff who knew Mr. Stroh will long remember him as a man of great distinction, generosity and warmth totally devoted to serving humanity.

Mr. Stroh was laid to rest in Stockholm on 15 December 1989. The ICRC was represented at his funeral by Mr. Michel Convers, Director of its Operational Support Department, who paid him the following tribute: "The Red Cross owes much to Olof Stroh, both nationally and internationally. He has left us a message and an example. The best way for us to mark our respect for him is to follow in his footsteps".

MISCELLANEOUS

XIVth INTERNATIONAL CONGRESS ON PENAL LAW

(Vienna, 1-7 October 1989)

International crimes and domestic criminal law

In autumn 1989 the ICRC took part in an important intellectual event. The International Association of Penal Law, whose aims are “to encourage exchange of ideas and close collaboration between those who, in different countries, are concerned with the study or application of criminal law or with research on crime and its causes, [and] to promote theoretical and practical development of international penal law”, held the XIVth International Congress on Penal Law in Vienna from 1 to 7 October 1989, on which occasion it also commemorated its centenary.

About 600 people (university professors, researchers, law officers and officials of Ministries of Justice) were present.

The agenda of the meeting comprised the following four topics:

- I. The legal and practical problems posed by the difference between criminal law and administrative penal law;*
- II. Criminal law and modern biomedical techniques;*
- III. The relations between the organization of the judiciary and criminal procedure;*
- IV. International crimes and domestic criminal law.*

A Round Table on organized crime was added to the programme of the Congress.

Each of the four topics was dealt with by a separate section, which prepared a draft resolution that was adopted in plenary session at the end of the Congress.

Of the four topics on the agenda of the Congress, “International crimes and domestic criminal law” was of direct interest to the ICRC. The following text accordingly deals with the proceedings of Section IV and their results.

The fourth topic on the Congress agenda came under the heading of international penal law, i.e., that part of penal law which is internationalized by public international law. The wording of this item of the agenda indicated that the section should pay particular attention to the way in which domestic criminal law represses the violations defined by the international legal system.

The ICRC had two special reasons to be interested in the treatment of the topic of international crimes and domestic criminal law. First, it had to make sure that war crimes were included in the concept of international crime that the Congress was about to adopt. Secondly, as the ICRC had been particularly concerned with national measures for the application of international humanitarian law since the adoption of Resolution V by the International Conference of the Red Cross held in Geneva in 1986 (see *IRRC* No. 263, March-April 1988, p. 121 ff.), the Congress provided an opportunity to sound the opinion of specialists in penal law on the incorporation of “international” violations in the domestic legal system, and to exchange views on the repression of grave breaches of international humanitarian law.

Contrary to common belief, international humanitarian law is not without procedure for punishing violations that may occur in an international armed conflict. The procedure it prescribes for punishing failure to respect the obligations it imposes makes the representative of a State who is guilty of violating international humanitarian law personally responsible under penal law. However, not all violations of international humanitarian law entail this penal responsibility. The Geneva Conventions of 1949 and Additional Protocol I of 1977 contain an exhaustive list of acts that violate the rules of behaviour laid down by international humanitarian law and that are grave breaches as defined by those instruments. In other words, such acts are *war crimes*.

Grave breaches of international humanitarian law include violence to the life and person, such as murder or torture, of anyone protected by that law, or violations of their liberty, such as illegal detention of civilians.

Whenever a grave breach is committed, *all* States Parties to the instruments concerned are obliged to do everything possible to have the criminal judged by a national criminal court. The State on whose territory the criminal is must bring him before its own courts. If any other State is more interested in prosecuting the war criminal, the State on whose territory the criminal is shall be obliged to extradite him, in accordance with the principle *aut dedere aut judicare*.

These obligations arise when a war crime is committed. To comply with them, national legislation has to be adopted that provides for the repression of grave breaches under domestic law. It is therefore of the greatest importance that national legislation shall clearly define the elements that constitute each grave breach of international humanitarian law, and prescribe the penalties applicable to them. Needless to say, such measures are designed not only to repress but also to prevent war crimes; domestic law then fulfils its dual purpose of acting as a deterrent with respect to violations of international humanitarian law, and making known the principal duties the latter imposes on representatives of the State.

The obligation of adopting these measures arises as soon as the State becomes a Party to the instruments of international humanitarian law.

As regards the various aspects of applying international humanitarian law in domestic legal systems, the debates that took place in Section IV on international crimes and domestic law showed that there was full agreement between the ICRC and all the specialists in penal law present. Thus the Resolution adopted at the end of the proceedings stipulates that:

The States Parties to international conventions containing penal provisions should make all necessary efforts to incorporate these provisions into their domestic legislation.

At the present stage of the development of international criminal law, the transformation of conventional provisions into domestic law by a specific act of national legislation is the most appropriate method.

However, the direct application of international conventions is not excluded if they contain provisions of a sufficiently precise character.

The most important obligation resulting from international conventions containing penal provisions is to criminalize certain acts in domestic law. Explicit criminalization by creating new criminal provisions is the best method to fulfil this obligation. [...]

In doing so and as far as war crimes are concerned at least the "grave breaches" of the Geneva Conventions should be expressly formulated in domestic law.

Section IV's Resolution also contains a clause relating to orders from a superior, which reads: "*Justification or excuse shall only be derived from having acted in compliance with superior order, if this order is not manifestly illegal*".

This is certainly an important gain for the state of international law on this question.

Lastly, the imprescriptible nature of war crimes was reaffirmed as follows: "*The special character of international crimes stricto sensu (violation of the highest values of the international community — Ed.) justifies that they are not subject to statutory limitation*".

It will be seen from the above that the proceedings of the XIVth International Congress on Penal Law concerning international crimes and domestic criminal law are of great interest to anyone concerned with the relationship between international humanitarian law and international penal law, or who would like to see the domestic legal system accommodate the obligations placed on the State by international humanitarian law. Accordingly, it is very strongly to be hoped that the work of the Congress will have the complete success it deserves.

D. P.

Course on humanitarian law for senior armed forces officers in South America

(Buenos Aires, 23 October - 3 November 1989)

A course on international humanitarian law for senior armed forces officers from nine South American countries was held in Buenos Aires from 23 October to 3 November 1989.

Organized under the auspices of the Ministry of Defence by the International Humanitarian Law Department of the University of the Saviour in Buenos Aires, with the participation of the ICRC, the course was attended by 19 officers of tactical command level from Argentina, Bolivia, Brazil, Chile, Ecuador, Peru, Paraguay, Uruguay and Venezuela. The course had classes on theory and practical exercises, and was based on the courses for officers given at the International Institute of Humanitarian Law in San Remo, but adapted to regional needs.

The first week of the course consisted of a series of classes on the theory of international humanitarian law given by the head of the above-mentioned Department, General Carlos Cerda, and his colleagues. Lectures were also given by specialists from the region: Mr. Fernandez Illanes of the Chilean Ministry of Foreign Affairs spoke on the system of collective security in America; Dr. Cañado Trindade, legal adviser at the Brazilian Ministry of Foreign Affairs, spoke on the use of force in public international law; and Dr. Cova Arria, from Venezuela, spoke on non-international armed conflicts. The ICRC regional delegate in Buenos Aires, Christophe Swinarski, gave talks on international humanitarian law and human rights, repression of breaches of international humanitarian law, and the humanitarian activities of the ICRC.

The second week of the course was taken up by practical exercises aimed at showing the participants how to introduce elements of international humanitarian law into the military decision-making process. This part of the course was led by Bruno Doppler, delegate in charge of dissemination to the armed forces at the ICRC Co-operation and Dissemination Division, and Colonel R. Martin Lucati, a colleague of General Cerda.

On 3 November, the Argentine Ministry of Foreign Affairs arranged a lecture by Mrs. Z. Regazzoli, Under-Secretary of State for Human Rights. For his part, the Swiss Ambassador in Buenos Aires gave a talk on neutrality to commemorate the 125th anniversary of the initial Geneva Convention.

Both the participants and the organizers considered the course to be a constructive experience in the field of dissemination to the armed forces in South America.

Palestine and the Geneva Conventions

On 21 June 1989, the Swiss Federal Department of Foreign Affairs received a letter from the Permanent Observer of Palestine to the United Nations Office at Geneva informing the Swiss Federal Council “that the Executive Committee of the Palestine Liberation Organization, entrusted with the functions of the Government of the State of Palestine by decision of the Palestine National Council, decided, on 4 May 1989, to adhere to the Four Geneva Conventions of 12 August 1949 and the two Protocols additional thereto”.

On 13 September 1989, the Federal Department sent a note of information concerning this letter to the Governments of the States party to the Geneva Conventions, together with the text of the letter.

The *Review* is publishing the text of the **note of information** to Governments by the Swiss Federal Department of Foreign Affairs, which reads as follows:

On 21 June 1989, the Permanent Observer of Palestine to the Office of the United Nations at Geneva transmitted to the Federal Department of Foreign Affairs, through the intermediary of the Permanent Mission of Switzerland to the international organizations in Geneva, a communication concerning the participation of Palestine in the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977.

Due to the uncertainty within the international community as to the existence or non-existence of a State of Palestine, and as long as the issue has not been settled in an appropriate framework, the Swiss Government, in its capacity as depositary of the Geneva Conventions and their Additional Protocols, is not in a position to decide whether this communication can be considered as an instrument of accession in the sense of the relevant provisions of the Conventions and their Additional Protocols.

The Federal Department of Foreign Affairs, following the practice relating to the functions of the depositary State as codified in the Vienna Convention on the Law of Treaties of 23 May 1969, transmits to the Governments of the States parties to the Geneva Conventions, for their

information, a copy of this communication attached hereto, in the original Arabic and in an English translation.

The unilateral declaration of application of the four Geneva Conventions and of Additional Protocol I made on 7 June 1982 by the Palestine Liberation Organization remains valid.

Berne, 13 September 1989

The Byelorussian Soviet Socialist Republic ratifies the Protocols

On 23 October 1989, the Byelorussian Soviet Socialist Republic ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts, adopted in Geneva on 8 June 1977.

The instrument of ratification contained the following declaration:

“In accordance with Article 90, paragraph 2 (a) of Protocol I the Byelorussian Soviet Socialist Republic declares that it recognizes ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission”.

The Byelorussian Soviet Socialist Republic is the **seventeenth** State to make this declaration concerning the International Fact-Finding Commission. The Commission will be set up when twenty States have made such a declaration.

In accordance with their provisions, the Protocols will enter into force for the Byelorussian Soviet Socialist Republic on 23 April 1990.

The Byelorussian Soviet Socialist Republic is the **92nd** State to become party to Protocol I and the **82nd** to Protocol II.

States party to the Protocols of 8 June 1977

as at 31 December 1989

Below we give the lists, drawn up in chronological order as at 31 December 1989, of all the States party to Protocols I and II additional to the Geneva Conventions of 12 August 1949, adopted on 8 June 1977.

The names of the States are shown in abbreviated form; the numbering of States party to the Protocols has been divided into two columns, the first for States party to Protocol I, the second for those party to Protocol II.

The third column indicates the form of official act received by the depositary, the Swiss Federal Council: R = ratification; A = accession.

The fourth column indicates whether the ratification or accession was accompanied by any reservations or declarations (using the State's own designation thereof). It also indicates by the abbreviation "Int. Commission" whether the State concerned has accepted the competence of the International Fact-Finding Commission by making the declaration provided for in Art. 90, para. 2 of Protocol I.

PROTOCOL			OFFICIAL DATE	TYPE OF ACT	
I	II		OF REGISTRATION	RECEIVED	REMARKS
1978					
1	1	Ghana	28 February	R	
2	2	Libya	7 June	A	
<i>Date of entry into force of the Protocols: 7 December 1978</i>					
3	3	El Salvador	23 November	R	
1979					
4	4	Ecuador	10 April	R	
5	5	Jordan	1 May	R	
6	6	Botswana	23 May	A	
7		Cyprus	1 June	R	Protocol I only
8	7	Niger	8 June	R	

9	8	Yugoslavia	11 June	R	Declaration
10	9	Tunisia	9 August	R	
11	10	Sweden	31 August	R	Reservation; Int. Commission
1980					
12	11	Mauritania	14 March	A	
13	12	Gabon	8 April	A	
14	13	Bahamas	10 April	A	
15	14	Finland	7 August	R	Declaration; Int. Commission
16	15	Bangladesh	8 September	A	
17	16	Laos	18 November	R	
1981					
18		Viet Nam	19 October	R	Protocol I only
19	17	Norway	14 December	R	Int. Commission
1982					
20	18	Rep. of Korea	15 January	R	Declaration
21	19	Switzerland	17 February	R	Reservations; Int. Commission
22	20	Mauritius	22 March	A	
23		Zaire	3 June	A	Protocol I only
24	21	Denmark	17 June	R	Reservation; Int. Commission
25	22	Austria	13 August	R	Reservations; Int. Commission
26	23	Saint Lucia	7 October	A	
27		Cuba	25 November	A	Protocol I only
1983					
28	24	Tanzania	15 February	A	
29	25	United Arab Emirates	9 March	A	Declaration
30		Mexico	10 March	A	Protocol I only
31		Mozambique	14 March	A	Protocol I only
32	26	Saint Vincent and the Grenadines	8 April	A	
33	27	China	14 September	A	Reservation
34	28	Namibia*	18 October	A	
35	29	Congo	10 November	A	
36		Syria	14 November	A	Protocol I only; Declaration
37	30	Bolivia	8 December	A	
38	31	Costa Rica	15 December	A	

* Instruments of accession deposited by the United Nations Council for Namibia.

1984

	32	France**	24 February	A	Protocol II only
39	33	Cameroon	16 March	A	
40	34	Oman	29 March	A	Declaration
41	35	Togo	21 June	R	
42	36	Belize	29 June	A	
43	37	Guinea	11 July	A	
44	38	Central African Rep.	17 July	A	
45	39	Western Samoa	23 August	A	
46		Angola	20 September	A	Protocol I only; Declaration
47	40	Seychelles	8 November	A	
48	41	Rwanda	19 November	A	

1985

49	42	Kuwait	17 January	A	
50	43	Vanuatu	28 February	A	
51	44	Senegal	7 May	R	
52	45	Comoros	21 November	A	
53	46	Holy See	21 November	R	Declaration
54	47	Uruguay	13 December	A	
55	48	Suriname	16 December	A	

1986

56	49	Saint Christo- pher and Nevis	14 February	A	
57	50	Italy	27 February	R	Declarations; Int. Commission
58	51	Belgium	20 May	R	Declarations; Int. Commission***
59	52	Benin	28 May	A	
60	53	Equatorial Guinea	24 July	A	
61	54	Jamaica	29 July	A	
62	55	Antigua and Barbuda	6 October	A	
63	56	Sierra Leone	21 October	A	
64	57	Guinea-Bissau	21 October	A	
65	58	Bahrain	30 October	A	
66	59	Argentina	26 November	A	Declarations
	60	Philippines	11 December	A	Protocol II only

1987

67	61	Iceland	10 April	R	Reservation;
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** When acceding to Protocol II, France sent a communication concerning Protocol I.

*** On 27 March 1987.

68	62	The Netherlands	26 June	R	Int. Commission Declarations; Int. Commission Reservation
69		Saudi Arabia	21 August	A	
70	63	Guatemala	19 October	R	
71	64	Burkina Faso	20 October	R	

1988

72	65	Guyana	18 January	A	
73	66	New Zealand	8 February	R	Declarations; Int. Commission
74		Dem. People's Rep. of Korea	9 March	A	Protocol I only
75		Qatar	5 April	A	Protocol I only; Declaration
76	67	Liberia	30 June	A	
77	68	Solomon Islands	19 September	A	
78	69	Nigeria	10 October	A	

1989

79	70	Gambia	12 January	A	
80	71	Mali	8 February	A	
81		Greece	31 March	R	
82	72	Hungary	12 April	R	
83	73	Malta	17 April	A	Reservations; Int. Commission Declarations; Int. Commission
84	74	Spain	21 April	R	
85	75	Peru	14 July	R	
86	76	Liechtenstein	10 August	R	Reservations; Int. Commission Declarations; Int. Commission
87	77	Algeria	16 August	A	
88	78	Luxembourg	29 August	R	
89	79	Côte d'Ivoire	20 September	R	
90	80	Bulgaria	26 September	R	
91	81	USSR	29 September	R	Declaration; Int. Commission
92	82	The Bielorussian Soviet Socialist Rep.	23 October	R	Int. Commission

On 31 December 1989, 92 States were parties to Protocol I and 82 to Protocol II.

Seventeen States had accepted the competence of the International Fact-Finding Commission.

BOOKS AND REVIEWS

ASSISTING THE VICTIMS OF ARMED CONFLICTS AND OTHER DISASTERS*

Mr. Frits Kalshoven, former legal adviser to the Netherlands Red Cross and Professor of International Humanitarian Law at the University of Leyden, edited this book which contains the 21 papers delivered at the International Conference on Humanitarian Assistance in Armed Conflict, held in The Hague in June 1988.

The texts are grouped in three sections. The first deals with the principles and moral aspects, the second with the practical and legal problems, and the third with the organizational aspects of such aid.

The book begins with the opening speech, then the introductory comments by Mr. Kalshoven himself and *Mr. René Jean Dupuy*, Professor of International Law at the *Collège de France*. It ends with a series of annexes giving the relevant legal texts.

With the exception of three papers, the book is entirely in English.

Mr. Kalshoven, who chaired the Conference, describes in this preface why and how it was organized and who attended. He points out that the meeting not only provided an exchange of sometimes opposing views, but often revealed that the participants discovered more common ground than they probably had expected. In his opening speech *Mr. Pieter Bukman*, Netherlands Minister for Development and Co-operation, spoke of the theme of the conference, emphasizing the topicality of humanitarian assistance and giving its legal, political and institutional background. Mr. Kalshoven dealt with a number of related issues such as the difficulty of defining "disaster" and singled out the main connotations given to "international humanitarian assistance". Mr. Dupuy presented humanitarian assistance as a human right over and above State sovereignty and considered the extent to which human rights can be useful in setting up more extensive rules for the provision of humanitarian assistance.

* Frits Kalshoven (editor), *Assisting the Victims of Armed Conflicts and Other Disasters*, Martinus Nijhoff Publishers, Dordrecht, 1989, 258 + VI pp.

The first section opens with a paper by *Mr. André Pasquier*, as ICRC Director of Operations, on the Red Cross philosophy of assistance and protection, in which he elucidates the relationship between action and law: ICRC action takes place in accordance with a code of operational ethics based on international humanitarian law and the Fundamental Principles of the Red Cross and Red Crescent, and humanitarian assistance in turn enables the civilian population to be protected against certain consequences of armed conflict. *Mr. Reginald Moreels*, head of the Belgian branch of *Médecins sans frontières*, describes guidelines adopted by non-governmental organizations such as his own and *Médecins du Monde*. *Mr. Bernard Kouchner*, French Secretary of State for Humanitarian Action and former head of *Médecins du monde*, examines the morals of urgent needs, saying that humanitarian assistance constitutes both a right and a duty. *Mr. Thomas G. J. Kerstiens*, the head of several non-governmental development aid organizations, discusses the philosophy and practical possibilities of Christian, and especially Catholic, organizations. Reviewing the long-term development aspects of humanitarian assistance in armed conflicts, *Mr. Paul J.I.M. de Waart*, Professor of International Law at the Free University, Amsterdam, considers that the principle of development implies a duty to prevent humanitarian assistance in armed conflicts from becoming a mere substitute for everyone's entitlement to a socially and internationally proper order. Finally, *Mr. Koert Lindijer*, a Dutch journalist, discusses the relationship between assistance and the media.

The second section opens with an analysis by *Mr. Michael Bothe*, Professor of Public Law at the University of Frankfurt, of several issues in international law relating to relief actions in armed conflict. He examines situations in which a State may be induced to accept relief; the obligation to accept relief; the question of which party to the conflict must accept relief; valid reasons to refuse international relief operations; the legality of unilateral action, i.e. undertaken without the consent of the High Contracting Party concerned and, finally, permissible counter-measures when consent is not given. Lawyers are encouraged to read his detailed views on each of these subjects. *Mr. Peter Macalister-Smith* of the Max Planck Institute for Foreign Public and International Law in Heidelberg considers the rights and duties of the agencies involved in providing humanitarian assistance and their personnel in armed conflict. He takes a general approach but, although he presupposes a thorough knowledge of the institutions founded on international humanitarian law to guarantee care for the wounded and sick, he does not stress their specific role. *Mr. Yves Sandoz*, Director of the ICRC's Department of Principles, Law and Relations with the Movement, explains the correct and incorrect use of the red cross or red crescent emblem. He first sets out the rules for the emblem's use and then discusses some of the problems relating to the work of non-governmental organizations outside the International Red Cross and Red Crescent Movement. He thereby underscores the need to avoid confusion in the area of humanitarian aid and for the organizations concerned to establish an identity. *Mr. Sandoz'* text is followed by two contributions on children in

armed conflicts. *Ms. Geraldine Van Bueren*, adviser to the *Save the Children Fund* in the United Kingdom, deals with the provisions of international humanitarian law prohibiting the recruitment of children less than 15 years of age. *Mr. Rup C. Hingorani*, professor of international law at the University of Patna in India, describes the various ways in which children are used in warfare and points out that children under 15 who meet the conditions of Article 4 of the Third Geneva Convention are entitled to prisoner-of-war status and to special protection in view of their young age. *Mr. Dharendra P. Verma*, of the Faculty of Law at Banares Hindu University in Patna, India, gives his views on India's humanitarian assistance to Sri Lanka in June 1987. *Mr. Gervase J. L. Coles*, of the UNHCR Division of Refugee Law and Doctrine, analyses the condition of refugees from situations of armed conflict and internal disturbances in terms of the relevant instruments of international law. He points out that international humanitarian law deals with the protection of refugees *within* areas of armed conflict rather than *from* situations of armed conflict—since that body of law does after all protect people who live *inside* a country affected by armed conflict, whether international or non-international.

The third section of the book opens with the paper presented by *Mr. Carl Vandekerckhove*, Director General of the Flemish-speaking Community of the Belgian Red Cross, who describes his Society's preparation for emergency aid. *Mr. Tom W. Buruku*, head of the Africa Department at the League of Red Cross and Red Crescent Societies, concentrates on problems of co-ordination and co-operation in Red Cross action. Oxfam's views on the same problems are then given by *Mr. Marcus Thompson*, Emergency Assistance Coordinator of Oxfam (UK). Finally, *Mr. Jiri Toman*, Deputy Director of the Henry Dunant Institute in Geneva, takes stock of the existing international law relating to disaster relief and debates the advantages of having a body of law specifically covering this area. In a final chapter, *Mr. Frits Kalshoven* and *Ms. Charlotte Siewertsz Van Reesema*, of the Netherlands Red Cross, summarize the discussion that took place at the Conference. Among the points they make is that the work of the various humanitarian organizations is complementary; that Articles 16 of Additional Protocol I and 10 of Additional Protocol II protect the medical personnel, whilst Article 71 of Protocol I provides for the protection of personnel participating in relief actions; that "humanitarian diplomacy", of which the duty to maintain discretion is an important part, is indispensable; and, finally, that it is necessary to avoid rivalry and reach a consensus on certain ethics for co-operation in humanitarian assistance.

The numerous papers reproduced in this book cover the manifold aspects of relief work in armed conflicts. With the wealth of ideas and considerations it contains, it should prove most useful to lawyers, theoreticians and practitioners alike.

Denise Plattner

LA CONDUCTA ARRIESGADA Y LA RESPONSABILIDAD INTERNACIONAL DEL ESTADO

Reckless conduct and the international responsibility of the State

This work by Carlos Jiménez Piernas, professor of public international law at the University of Alicante, Spain, contains a very interesting analysis of existing provisions for the protection of aliens in States affected by situations of internal conflict or disturbances.¹

A state of emergency brought about by internal conflict may justify the suspension of certain human rights by the authorities of a country. The law of international responsibility provides for cases of injury or damages suffered in such a situation by alien visitors or residents, since they cannot always be kept away from the ongoing events.

This law, which absolves the State from responsibility for incidents resulting from internal conflicts, is strengthened and complemented by the minimum rules of humanitarian law for the treatment of individuals, set out in Article 3 common to the 1949 Geneva Conventions. These rules, valid for all nationalities, afford solid grounds on which States may base protests or claims, or demands for diplomatic protection, in respect of their nationals who have suffered injury or damages.

However, reckless conduct by such aliens constitutes a mitigating factor with regard to international responsibility, and may induce a State to withdraw or deny diplomatic protection.

Jiménez Piernas shows, through an analysis of international practice in situations of armed conflict, that States generally decline any responsibility for their nationals who engage in reckless conduct and no longer afford them diplomatic protection, and this also applies to cases where the aforementioned minimum rules are violated.

The author concludes this excellent work, which contains an extensive bibliography and a review of international case law, by suggesting a definition for reckless conduct and proposing, *de lege ferenda*, a draft article

¹ Carlos Jiménez Piernas, *La conducta arriesgada y la responsabilidad internacional del Estado* (Reckless conduct and the international responsibility of the State), University of Alicante, 1988, 340 pp.

incorporating the minimum rules for the treatment of individuals laid down by humanitarian law into the law of diplomatic protection and international responsibility, with due consideration for the variable and indeterminate nature of objective risk.

Maria Teresa Dütli

ACTUALITÉ DE LA PENSÉE JURIDIQUE
DE FRANCISCO DE VITORIA

*Topicality of the legal thinking
of Francisco de Vitoria*

This book¹ contains five papers presented at the University of Louvain, Belgium, on 5 December 1986, during a day of study devoted to Vitoria's work and organized by the Charles De Visscher Centre for International Law. The event was a most useful way of marking the 500th anniversary of Vitoria's birth (around 1496; exact date unknown).

The value of short collections of critical studies such as this (128 pp.) is that they arouse the reader's interest in the thought of eminent forerunners or founders of international law, whose original texts are hardly ever consulted except by a few specialists. Studying the work of pioneers such as Vitoria, Suarez, Grotius and Gentili gives us a greater insight into the essence of international law and how the relationship between that law and the dynamics of the international community has evolved over time.

Today, when the Red Cross has just celebrated the 125th anniversary of the Movement and of the original Geneva Convention (1864), when a major campaign is being launched for the protection of war victims and the United Nations has decreed that the last decade of the century shall be the Decade of International Law, simple humility sends us back to the sources, to gain a better understanding of the ground already gained, the pitfalls to be avoided and developments to be recommended.

¹ *Actualité de la pensée juridique de Francisco de Vitoria* (Topicality of the legal thinking of Francisco de Vitoria), by Antonio Truyol Serra, Henry Mechoulan, Peter Haggemacher. Antonio Ortiz-Arce, Primitivo Marino and Joe Verhoeven (preface by François Rigaux), Bruylant, Brussels, 1988, 128 pp.

The five papers presented in Louvain and published in this work with a preface by François Rigaux are on the following subjects:

- “*The main stages in the life of Vitoria*”, by Antonio Truyol Serra;
- “*Vitoria, father of international law?*” by Henry Mechoulan;
- “*The place of Francisco de Vitoria among the founders of international law*”, by Peter Haggemacher;
- “*Resort to force in the work of Vitoria*”, by Antonio Ortiz-Arce and Primitivo Marino;
- “*Vitoria or the matrix of international law*”, by Joe Verhoeven.

From Antonio Truyol Serra we learn that Vitoria expressed his most outstanding ideas in a series of 15 “*relectiones*, that is, special lectures that all professors were expected to give once a year in solemn circumstances” (p. 6). The two most important lectures for international law were the one devoted to the colonization of the Americas (“*De Indis prior*”) and the one on the law of war (“*De Indis posterior*”, better known under the title “*De jure belli*”). Both date from 1539.

It was Vitoria’s desire to legitimize the conquest of America by Spain in the XVIth century that gave rise to his fundamental notion of *communitas orbis*, the universal community, the oneness of all human society. As Henry Mechoulan stresses, it is this “universalism” of Vitoria that led his disciples to see him as the father of international law. However, Jews and Saracens, among others, had no place in his *totus orbis*. According to Peter Haggemacher, on closer examination this *totus orbis* is in fact an *orbis christianus*. The new *jus gentium*, a compromise between natural and divine law, is therefore not without ambiguity.

Our interest naturally focused on the study by Antonio Ortiz-Arce and Primitivo Marino which analyses Vitoria’s view of the law of war, expounded most fully in “*De jure belli*”. This is primarily a treatise on *jus ad bellum*, that is, the law of resort to force and the just causes that warrant it. Among Vitoria’s key concepts, highlighted by the two authors, is that of the necessary *injuria*, the grave violation of a right which alone justifies resort to force as long as it is associated with one of the just causes proposed by Vitoria. The rights he propounds are seven in number and include the *jus communicationis* (the right to communicate, navigate and engage in trade) and the right of humanitarian intervention, that is, the right to help innocents subjected to the tyranny of barbaric chiefs. Together with Antonio Ortiz-Arce and Primitivo Marino, we should like to mention three of the final recommendations of “*De Jure belli*”: “war, even just war, must be considered only as an extreme remedy. The aim of war is to restore justice and not to impose the will of the strongest. Victorious peace must be marked by Christian moderation and local concern for all” (p. 93).

Notwithstanding some reservations, most of the authors found that Vitoria’s main strength was the prominence he gave to alterity, i.e., awareness of and respect for others. Joe Verhoeven adds that to his mind Vitoria’s

most striking innovation was the fact that he considered the sovereign State as the subject of international law.

Was Vitoria the founder of international law or only an illustrious precursor? The eminent jurists meeting in Louvain do not agree on this point. Indeed, the question is academic. It is more important and useful to bear in mind Vitoria's tenet that the lawyer must not be a learned man at the service of the powerful, or indeed, just before we celebrate the 500th anniversary of the "discovery" of America (1492), that "there is a close relationship between maintaining freedom within each State and maintaining peace between States" (p. 96).

René Kosirnik

RECENT PUBLICATIONS

I. ICRC

- *International Law Concerning the Conduct of Hostilities*

A collection of treaties of the law regulating the conduct of hostilities. It gives the texts of international legal instruments such as the Hague Conventions relating to the conduct of hostilities on land, at sea and in the air, followed by texts on the rights and duties of neutral States during war on land and at sea, and finally declarations and conventions on prohibitions or restrictions on the use of certain weapons.

In *English*, 196 pages. Price: Sfr.15.

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French version of the original English edition *Handbook on the Law of War for Armed Forces* published in 1988. (See *IRRC* No. 264, May-June 1988, p. 316). 270 pages. Price: Sfr. 20.

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This joint publication by the ICRC and the Inter-American Institute of Human Rights (IIDH) gives an account of the symposium held in Mexico from 16 to 20 March 1987 by the IIDH and the ICRC in conjunction with the Mexican Red Cross and the Institute of Juridical Research at the Universidad Autónoma de México (UNAM). It includes the following papers:

- “La regulación jurídica internacional de los estados de emergencia en América Latina” by H. Gros Espiell and D. Zovatto.
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These publications may be obtained from the ICRC (COM/EDOC).

2. League of Red Cross and Red Crescent Societies

- ***Guidelines for Red Cross and Red Crescent Social Welfare Work in Disasters***

This 44-page booklet is a summary of guidelines and responsibilities for implementing the social welfare part of a relief operation. It covers the National Societies’ role in the various phases—disaster preparedness, emergency phase, rehabilitation—and training in social welfare in disaster situations.

- ***Guidelines for Tracing in Disasters***

This 15-page booklet published jointly by the League and the ICRC complements the aforementioned booklet and the ICRC Central Tracing Agency’s *Guide for National Red Cross and Red Crescent Societies*. Whilst focusing on emergency situations, it examines the responsibilities of each of the Movement’s components.

These two publications, which can be obtained from the League Secretariat in *English, French, Spanish and Arabic*, are designed to help the National Societies to meet the social and psychological needs of disaster victims and their families.

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