
INTERNATIONAL REVIEW

OF THE RED CROSS



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THE IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW

- Implementation of humanitarian law and State sovereignty
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- The International Fact-Finding Commission
- Repression of breaches of humanitarian law

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The *International Review of the Red Cross* invites readers to submit articles relating to the various humanitarian concerns of the International Red Cross and Red Crescent Movement. These will be considered for publication on the basis of merit and relevance to the topics to be covered during the year.

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THE ICRC'S HUMANITARIAN POLICY AND OPERATIONAL ACTIVITIES

The current war in the Middle East shows the extent to which the world is now beset by disruption and uncertainty. The humanitarian work of the ICRC is obviously seriously affected by this situation. Being particularly sensitive – both by its nature and because of its mandate – to the state of international affairs, the ICRC is having to cope not only with the immediate effects of an international conflict but also with the implications in humanitarian terms of internal conflicts and disturbances which continue to prevail in many regions and which equally require the constant presence of delegates from our institution.

The ICRC's presence has admittedly found expression in recent years in the form of protection and assistance for a large number of people, of relief programmes and medical care for many civilian and military victims of conflicts. Yet although this involvement gives cause for satisfaction, it must not obscure our delegates' difficulties when they are confronted by ignorance or misunderstanding of humanitarian law, by the consequent violations of the law and by the all too frequent dichotomy between States' intentions and how they actually behave. How, too, could one neglect to mention how ICRC activities are being affected by increasingly radical ideologies which undermine certain fundamental humanitarian concepts by disputing their universality, or by portrayals of violence as a commonplace, everyday event? As the President of the ICRC pointed out in the Foreword to the 1989 Annual Report: "That two ICRC delegates were kidnapped in Lebanon during devoted service there is eloquent testimony to the context of extreme tension in which the ICRC has to work".

In this highly unsettled state of affairs, the ICRC must continually reconsider and readjust its approach if it wants to remain true to its original mission. More than ever before, its activities must be kept under constant critical review if it is to solve problems not necessarily covered by existing legislation and deal with new situations.

* * *

Hence, many questions arise in regard to the ICRC's humanitarian policy:

How can the ICRC's presence be ensured when the authorities are reluctant to accept its help? How does the ICRC go about making approaches or entering into negotiations with the parties concerned to gain acceptance or at least be tolerated? When humanitarian law and human rights are being contemptuously ignored, how can misinterpretation of the ICRC's discretion as silent collusion with the offending authorities be avoided?

Do protection and assistance always go hand in hand? How did the ICRC's aid policy evolve? How can aid be provided without making people so dependent that they eventually lose part or all of their sense of self-sufficiency? How can material aid be effective if it is not accompanied by legal guarantees and political concessions? How can the ICRC shield its activities from occasional misrepresentation in the spate of media coverage? How can it co-ordinate its operation with those of the United Nations specialized agencies in complex situations rendered explosive by political and security problems? In what way is the ICRC, faced with a proliferation of private and sometimes interventionist humanitarian institutions, modifying its position?

All these questions on the ICRC's operational policy call for careful consideration; this is all the more essential in view of the constant demands being made upon the ICRC in a wide variety of fields, for its policy must be consistent and it must act accordingly. The ICRC's credibility depends upon this, and so too does the confidence placed in it by the international community.

Apart from these aspects of general policy, we realize that readers of the Review, whether representatives of diplomatic missions, dissemination officers with a National Red Cross or Red Crescent Society, lecturers in political science or journalists, are also interested in more practical or topical subjects such as methods of analysing an emergency situation and assessing humanitarian requirements, or organizing an operation together with its logistic support while bearing in mind the safety of the victims and that of the ICRC's delegates. Questions that have been asked are how do surgeons at an ICRC hospital or prison-visiting delegates organize their work and what is it like for them on mission and how has the Central Tracing Agency or the ICRC telecommunications network adapted to new requirements?

* * *

The Review intends to give its readers greater insight into this process of thought and analysis and make them more familiar with life at headquarters and in the field.

To that end, in the section headed "International Committee of the Red Cross", it has included a new item entitled "Humanitarian policy and operational activities".

As regularly as possible, the Review will publish reflective articles, analyses, case studies, descriptive narratives, eye-witness accounts and experiences connected with various aspects of the ICRC's operational activities. By so doing, the Review will attempt to give readers a clearer idea of the link between the ICRC's humanitarian activities in an ever-changing geopolitical context and the underlying principles and law which provide its inspiration and impetus. It will also try to convey a better understanding of the ICRC's approach in various spheres; how it paves the way legally, diplomatically and logistically for its interventions and the difficulties it encounters; and how it co-ordinates its operations with other institutions.

In this way, the ICRC hopes to be able to answer – within the framework of the principles which govern its work – the general or specific questions which it is frequently asked and, as objectively as possible, to explain why it has intervened and how it carries out its mandate. Similarly, the ICRC deems it useful to keep a record of its operations which can be consulted by its decision-makers and its delegates to enable them to evaluate their humanitarian work and benefit from previous experiences.

* * *

This issue of the Review contains a general article by the ICRC Director of Operations and by the former head of an ICRC delegation in Africa and the Middle East on a subject which is very much to the fore today, namely ICRC activities for refugees and displaced civilians.

The authors first outline the general approach to, and principle aspects of, the protection afforded by international humanitarian law to civilian refugees and displaced persons, and go on to examine the various services and operational activities deployed by the ICRC in exercising its mandate to protect and assist war casualties; they then review some of the main problems of humanitarian policy upon which the ICRC has taken a stance in recent years and which are again of current concern today: access to victims in war zones and the question of an international convention on humanitarian assistance and inter-

vention; co-operation between humanitarian agencies; the protection of large concentrations of refugees who are at present being invited to return to their own countries (notably Afghanistan and Cambodia); and finally the limitations of food aid programmes which, geared too exclusively to providing material assistance, lack the political and diplomatic dimensions to ensure that the victims' fundamental rights will be restored.

* * *

The Review will also publish articles more exclusively devoted to individual activities and how they are being carried out, and to highlighting operations within a specific country or region.

Readers and researchers who wish to have the latest or more detailed information on current operations can naturally consult other ICRC publications: the ICRC Bulletin, the Annual Report and also a full reference document on ICRC activities, which will henceforth appear yearly as an extra issue of the Review.

In their usual place, readers will find reports on the ICRC's activities at headquarters and on missions by the President.

We hope that this new editorial policy will enable readers everywhere to participate more fully in the protection and assistance activities of the ICRC and in the lives of the men and women who serve it.

The Review

**ICRC ACTIVITIES FOR REFUGEES
AND DISPLACED CIVILIANS**

**by Frédéric Maurice
and Jean de Courten**

I. Introduction

The Red Cross has been involved with refugees for many years, in fact ever since the International Red Cross and Red Crescent Movement began assisting the victims of wars, revolutions and other disturbances. All the Movement's institutions take part at some stage in dealing with refugees, deportees and persons displaced within their own countries, for instance by providing protection in the countries of origin at the time of exile, setting up reception facilities in transit or first asylum camps and supplying material and medical aid, or by carrying out tracing activities and organizing family reunifications, not forgetting the support lent to those engaged in the often interminable and humiliating procedure of applying for asylum.

As explained below, ICRC action is for the most part restricted to the theatre of military operations, to occupied territories or areas where political violence and strife compel people to flee their homes. It is often extended to the border areas of neighbouring countries, in camps where the ICRC assumes responsibility for some aspects of protection and in first-aid or war surgery centres, and sometimes comprises material assistance. These operations have expanded considerably in the last 15 years to keep pace with the new forms of conflict that have ravaged Asia and Africa. Massive aid operations have had to be organized to cope with the resulting flood of refugees, now numbering some 14 to 15 million in the world, plus five times as many people displaced within their own countries as a result of violence and destruction.

These events have also demonstrated the limitations of the legal texts and institutional measures initially designed to deal with the refugees produced by the Second World War and to help absorb the influx from the people's democracies of Eastern Europe. Recent developments have given rise to a need for humanitarian strategies which combine extensive material aid in a great variety of cultural and ethnic contexts far removed from the world of the donors, general protection for the population against the effects of war and of policies pursued with complete disregard for fundamental human rights, and a capacity for rapid and effective action, often very costly, carried out in remote regions and in politically sensitive and sometimes hostile or dangerous circumstances.

It is in the light of the above that we propose to review briefly the general approach and main aspects of the protection offered by international humanitarian law to refugees and displaced civilians, before looking at the various services and operational activities organized by the ICRC under its mandate to protect and assist war victims. Lastly, we shall consider some of the main issues of humanitarian policy on which the ICRC has taken a stand in recent years:

- access to victims in war areas and the often-raised question of an international convention on humanitarian assistance and intervention;
- co-operation between humanitarian agencies;
- protection for major concentrations of refugees currently being encouraged to return to their countries, particularly Afghanistan and Cambodia;
- the limitations of food aid operations, which concentrate too exclusively on material aid and lack the political and diplomatic dimensions needed to restore the victims' fundamental rights.

II. Protection of refugees and displaced civilians under international humanitarian law

Unlike the 1951 United Nations Convention on Refugees or the 1969 OAU Convention, the instruments of international humanitarian law (IHL) do not make the protection of refugees conditional upon a legal definition of their status. Whether a displaced person has fled persecution or has abandoned his or her home as a result of armed conflict or unrest, that person is protected not on account of the reasons for his or her departure but as *a civilian affected by the existence of hostilities*, regardless of whether the armed conflict is interna-

tional or non-international.¹ Nor is the fact that the person has crossed an international border in itself decisive: the Fourth Geneva Convention of 12 August 1949 relative to the protection of civilian persons in time of war and the relevant provisions of the Additional Protocols of 8 June 1977² are designed to avoid, or at least to limit, the effects on civilians of conflict situations in which they can be caught up and which make them especially vulnerable.

The legal provisions that define, either directly or indirectly, the status and protection due to civilians in time of war amount to a sizeable set of standards, the general architecture of which has, incidentally, varied substantially with successive codifications of international humanitarian law. For the sake of simplicity and to keep the overall picture in view, we may distinguish the basic elements outlined below.

1. *The rules governing the conduct of hostilities* (Additional Protocol I) prohibit, in particular, methods and means of warfare of a nature to cause superfluous injury or unnecessary suffering and call for a distinction to be made at all times between the civilian population and combatants and between civilian objects and military objectives, so that civilians and civilian property are afforded general protection against the effects of hostilities.

There is also the rule prohibiting the use of methods and means of warfare which are intended to cause widespread and long-term damage to the natural environment.

These general rules give rise to a very comprehensive set of provisions which, if observed, should prevent not only harm and damage being caused to civilians but also the mass population movements that generally ensue.

The following rules are particularly relevant to our purpose:

- the prohibition not only of attacks against civilians as such, but also of “acts or threats of violence the primary purpose of which is to spread terror among the civilian population”;³
- the prohibition of “indiscriminate attacks”, reprisal attacks against the civilian population and objects and the use of civilians for mili-

¹ See *International Review of the Red Cross*, “Refugees and conflict situations”, No. 265, July-August 1988, pages 321-378.

² Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977.

³ Additional Protocol I, Article 51, paragraph 2.

tary purposes, either “in attempts to shield military objectives from attacks” or to shield military operations.⁴

In the same spirit, starvation as a method of warfare against civilians is strictly prohibited, as it is prohibited to destroy objects indispensable to the survival of the civilian population “whether in order to starve out civilians, to cause them to move away, or for any other motive”.⁵

2. In what might be termed a “second phase” of protection, the Fourth Geneva Convention and Additional Protocol I provide for a number of measures, to be instituted by agreement or by an *ad hoc* declaration, intended to protect a locality, a region, a particular establishment or a special category of civilians from military operations or from certain effects of hostilities; such measures include the setting up of *demilitarized zones*, *medical establishments* and *neutral zones*, to which may be added provisions regarding the *evacuation of areas under siege*, *dispatch of food and medicines to the population under blockade or embargo* and the *reunion of dispersed families*.⁶

3. Section III of the Fourth Geneva Convention deals with the *status* and *rights* of a special category of people, namely *aliens in the territory of a Party to the conflict*. The provisions in question cover the limits of administrative restrictions, methods of repatriation or transfer and, in particular, the protection of refugees who are nationals of an enemy State. Article 44 of the Fourth Convention stipulates in this respect that refugees who are nationals of an enemy State shall not be treated as enemy aliens on the basis of their nationality *de jure* of an enemy State. More generally, another provision states: “In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs”.⁷ Both these rules confirm and strengthen the principle of the right of asylum in time of war.

4. The Fourth Convention also sets out, fully and in detail, the *rights* and *obligations of States towards civilians in the power of the enemy as a result of military occupation*. Two rules in particular are of special relevance here: the prohibition of individual or mass forcible transfers and of the deportation of inhabitants from occupied territory to the territory of the Occupying Power or to that of any other

⁴ *Ibid.*, Article 51, paragraphs 4, 5 and 7.

⁵ *Ibid.*, Article 54, paragraph 2.

⁶ Fourth Geneva Convention, Part II; Additional Protocol I, Articles 59 and 60.

⁷ Fourth Convention, Article 45, paragraph 4.

country, whatever the motive.⁸ Under a further provision, nationals of the Occupying Power who have sought refuge in the territory of the occupied State before the outbreak of hostilities may not be arrested, prosecuted, convicted or deported to their country of origin for acts committed before the outbreak of hostilities.⁹ This provision therefore confirms the continued protection of refugees to whom asylum had been granted by a State whose territory was subsequently either partially or fully occupied.

5. A number of other rules, less detailed but based on the same principles, apply to *persons displaced within their own countries* as a result of a *non-international armed conflict*. Such persons enjoy the protection afforded by the minimum provisions regarding the treatment of persons taking no active part in the hostilities set out in Article 3 common to the four Geneva Conventions, supplemented by the provisions of Protocol II relating to the protection of victims of non-international armed conflicts.

III. Operational activities

At present the ICRC has some 48 delegations operating in 80 countries and deploys 740 expatriates assisted by some 4,000 local staff in the field.¹⁰ It works in behalf of prisoners of war, war wounded, security detainees, deportees, separated families, civilian populations affected by warfare, bombing or shelling, famine and all forms of armed repression. Needless to say, there are refugees and displaced civilians in practically all these categories, so they are never far from the institution's focus of attention.

Some ICRC operations, however, are more specifically aimed at providing protection for refugees, certain categories of displaced persons and civilians who, suffering the effects of war or famine, would have no other choice than to flee their homes if no protection or emergency material assistance were forthcoming. For the record, we can mention examples such as El Salvador and Nicaragua, Sudan, Angola, Mozambique, Uganda and Somalia, Afghanistan, Pakistan and the Thai/Cambodian border, and the territories occupied by Israel,

⁸ *Ibid.*, Article 49.

⁹ *Ibid.*, Article 70, paragraph 2.

¹⁰ See ICRC Annual Reports.

where a substantial proportion of the resident population is made up of refugees.

The main operational activities undertaken to assist these various groups of civilians are as follows:

- **Representations** to governments and armed movements, to promote understanding and acceptance of the law of war and certain humanitarian principles so as to ensure that they are observed by all parties. These representations, which initially consist of offers of services made through diplomatic channels, should subsequently become a permanent operational dialogue through regular contacts with the political and military leaders concerned. Access to political authorities also enables the ICRC to fulfil its role as a neutral intermediary with regard to various humanitarian issues which need to be settled between parties to the conflict, such as setting up safety zones, protecting hospitals, organizing relief convoys, exchanging prisoners or forwarding grievances.

- **Active protection** through the deployment of delegates in sensitive areas, access to refugee camps and visits to places of detention. This presence, provided for under the Fourth Geneva Convention, is intended as a means of monitoring the observance of the law, detecting violations and taking action at the appropriate level of government and the military hierarchy, and is an essential component of all ICRC operations. In the territories occupied by Israel it accounts for most of the ICRC's activity, which is almost exclusively devoted to the protection of civilians, and refugees in particular. Material assistance and basic services are provided by UNRWA, while the ICRC exercises its general mandate of protection as defined by the Fourth Convention. This mandate has been recognized by the Israeli authorities and confirmed by a series of specific agreements which give the ICRC access at all times to all places where Palestinian refugees and Arabs from neighbouring countries are to be found.

- **Medical, food and material assistance.** The ICRC has set up war surgery hospitals in several countries of Africa and Asia: in northern Kenya for the population of southern Sudan; in northern Somalia, for wounded civilians and combatants; in Pakistan and Afghanistan, where three surgical hospitals and a number of orthopaedic rehabilitation centres are treating Afghan refugees, persons displaced within Afghanistan and wounded combatants; and on the border between Cambodia and Thailand (Khao-I-Dang surgical hospital). The services of these hospitals are supplemented by first-aid and evacuation posts located in the combat zones, often deep in areas held by rebels.

Emergency food and material aid has developed considerably, especially in Africa, and more particularly since the start of relief operations in Ethiopia in 1984. In principle the ICRC, which in 1988 distributed some 45,000 tonnes of relief supplies to civilians affected by war, comes to the aid of population groups which, for political or security reasons, other organizations cannot reach. ICRC assistance is distributed directly to beneficiaries after detailed evaluation of requirements on the spot. The ICRC never delegates its work in the field, so as to ensure strict control over the use of food aid and prevent its being diverted or used for political ends by the armed forces or other armed groups. This policy of independent supervision not only guarantees the impartiality of humanitarian operations but also constitutes an important factor of protection for the assisted population.

Sanitation, cattle vaccination and seed distribution programmes have been launched to provide some degree of self-sufficiency to the resident or displaced population groups whose agricultural resources have been destroyed by war.

On the Angolan Planalto and in Mozambique, for instance, this combination of medical assistance, material aid and emergency rehabilitation has contributed to greater stability and has helped prevent or limit mass population movements and the formation of new concentrations of refugees.

● ***Tracing and family reunification:*** The work of the Tracing Agency, which is a part of all field operations, is naturally especially important for displaced families and refugees. Two examples may be cited. In the Near East, the ICRC set up a radio network in 1967 to facilitate contacts between members of dispersed Palestinian families who had taken refuge in Lebanon, the West Bank and Gaza, Jordan, Egypt and Syria. Some 1,500 messages a month were exchanged in this way, in addition to family reunifications, the tracing of missing persons and the exchange of messages between detainees and their families. In South-East Asia, a Tracing and Mailing Service was set up with the co-operation of the National Red Cross Societies of ASEAN countries in order to trace Vietnamese boat people and facilitate contacts between the latter and members of their families already settled in various countries of asylum. Thanks to this operation, contact was restored between thousands of family members and a great many families were reunited.

IV. Questions of humanitarian policy

1. Legal framework for action: the question of a Convention on emergency humanitarian assistance

International public opinion has realised that, quite apart from matters concerning the status and special protection granted by international law to refugees and displaced civilians who are victims of conflict, the main operational problems are still actual access to the victims and the technical, logistic, financial and other means employed in providing them with assistance. In the 1980s several drafts¹¹ were drawn up with the aim of regulating relief operations or even proposing that States endorse a general obligation to accept any unarmed humanitarian action in aid of the population within their borders. Some of these drafts were definitely weaker than existing law and, if adopted, would have substantially lessened the obligations contracted by States under international humanitarian law. Others were too interventionist or imbued with too much humanitarian optimism, so that it would have been politically unrealistic to set them before the States.

The ICRC is of the opinion that the existing legal provisions constitute a sufficient framework for impartial and effective assistance and protection operations in aid of displaced civilians and refugees. With regard to international armed conflicts, the 1949 Geneva Conventions and Additional Protocol I of 1977 contain many specific provisions concerning relief operations and the principles of impartiality and neutrality on which such operations should be based. With regard to internal armed conflicts, on which much legislative work remains to be done, Article 3 common to the four Geneva Conventions and especially Article 18 of Additional Protocol II of 1977 enshrine the prin-

¹¹ Examples include the draft UNDRO Convention on appropriate measures to speed up emergency relief of 18 June 1984 (UN General Assembly Reference A/39/269/Add. 2) or the "Kouchner" Resolution (named after its sponsor) of 1988. Special mention should be made, however, of the resolution on "The protection of human rights and the principle of non-intervention in the internal affairs of the State" (adopted by the Institute of International Law on 13 September 1989 and circulated by the Secretary-General under reference E/CN.41 1990/NGO/55, in a document dated 12 February 1990. This resolution strikes a satisfactory balance between the protection of human rights and the sovereignty of States; it recalls that the obligation to respect human rights is applicable *erga omnes*, confirms the conditions under which a State can intervene to restore respect for human rights in a third State and extends the right of humanitarian initiative, in the case of offers of services which concern medical and food aid, to situations not covered by international humanitarian law (internal disturbances and tension).

ciple of assistance and the right of humanitarian initiative, providing relief operations with the most binding legal basis to which the States have agreed so far:

“If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned”.

It is therefore essential for States, in their bilateral relations, to reaffirm the need to respect and ensure respect for these rules and to encourage the ratification of the Protocols, which probably constitute the greatest concessions that the community of nations is willing to make at present to the humanitarian cause and offer the best prospects for relief operations in situations of armed conflict during the coming decade.

This effort expected from the States should be matched by a stricter ethical approach on the part of humanitarian agencies and a greater ability to co-ordinate and distribute tasks according to the political context and the problems involved. It is the willingness to make this effort, rather than any claim to an unconditional right to take action, that is likely to make humanitarian action an unavoidable necessity on the international scene.

What we need, therefore, is not new conventions but rather co-operation agreements and detailed consultations between agencies about their working methods and criteria, in order to clarify their respective mandates and avoid piecemeal negotiations with States and other political authorities on whose territory humanitarian assistance and protection operations are to be conducted.

2. Co-operation with the United Nations High Commissioner for Refugees (UNHCR) and other organizations

Several resolutions adopted by the International Red Cross and Red Crescent Movement¹² and indeed practical necessity have led the ICRC and UNHCR to co-operate and to co-ordinate their operations. The division of responsibilities is, at least in theory, fairly clear-cut: the ICRC assumes primary responsibility for persons displaced within

¹² Resolution XXI adopted by the 24th International Conference of the Red Cross (Manila, 1981); Resolution XVII adopted by the 25th International Conference of the Red Cross (Geneva, 1986).

a country as a result of a conflict, while in principle UNHCR has exclusive responsibility for refugees in countries of temporary or first asylum.¹³ The two institutions have concurrent or complementary responsibilities with regard to protection and assistance activities for refugees concentrated in border areas which are subject to attacks or military operations.

The ICRC fully intends to continue its activities in the field along these lines, especially in favour of displaced civilians and refugees who do not fall within the definition set out in the 1951 Convention, and those who cannot be reached by UNHCR or other organizations because of political obstacles or hazardous security conditions. This was very recently the case in north-west Somalia, where the ICRC extended its operations in aid of Ethiopian refugees after WFP and UNHCR food programmes were suspended for security reasons.

This agreed distribution of tasks between the ICRC, UNHCR and the other organizations concerned should therefore be continued according to their respective mandates and statutory competence and in keeping with the capacity of each institution to operate in situations of political instability or armed conflict.

3. Settlement of conflicts and return of refugees

Progress towards political settlement of regional conflicts has opened up the prospect of repatriation for hundreds of thousands of refugees, especially in Pakistan and on the Thai border. The ICRC feels that it should give a word of warning here against the dangers of premature repatriation of refugees to areas which are militarily unstable or where there has been widespread destruction of basic services. It is also important to ensure that they are not compelled to swell the ranks of various movements or factions and thus give fresh impetus to civil strife. Now more than ever, priority should be given to international supervision and to the refugees' safety and freedom of choice.

With the exception of a few very limited areas, all regions of Afghanistan are currently affected by civil war, partisan rivalries or interethnic strife. In several disputed provinces the fighting has actually intensified in recent years, as shown by the steady increase in the number of war wounded admitted to the hospitals in Kabul or on the

¹³ See *Red Cross action in aid of refugees*, document prepared by the ICRC and the League for the Council of Delegates (meeting of October 1983, Geneva, CD/8/1, pages 2 and 3).

Pakistan border; furthermore, in some regions agriculture is practically derelict and the infrastructure either destroyed or overloaded as a result of internal population movements. All this leads one to fear that, on their return, civilian refugees will face many dangers in a situation which is still highly volatile and offers little scope for reconstruction. Here, too, the ICRC would wish to have detailed consultations with the States concerned and with the donors and appropriate agencies in order to establish strategies for safeguarding the victims' interests and fundamental rights.

The ICRC is trying to put across a similar point of view with regard to the 300,000 Khmer refugees on the Thai border, who are likely to be decimated if they return to a country still ravaged by war and are resettled in areas lacking even basic services and infested with malaria and other serious diseases. Faced with this prospect, which has already begun to materialize, the ICRC has made its position known and is trying to draw the attention of the main parties involved (the major powers, the governments concerned, various movements and armed factions, the United Nations) to a few strictly humanitarian principles which, if observed, could prevent a new and particularly atrocious tragedy, ten years after the first exodus. We give below an extract of a recent official communication on the subject:

“For humanitarian reasons, and in accordance with the comprehensive plan of action for Cambodia, the ICRC deems it essential that the following points be taken into consideration by all parties concerned:

1. In order to ensure maximum security for the returnees, the repatriation of the border population should take place only after a comprehensive political settlement has been reached, and after this settlement has led to an end of hostilities in Cambodia.

2. Under no circumstances should the border population be encouraged or compelled to move into areas where people's health and safety are clearly at risk, given the presence of mines, malaria and other diseases and, at least in some areas, a precarious food situation. Over the past few months, thousands of former residents of the satellite camps relocated inside Cambodia have returned to camps in Thailand to receive medical care. Most of them were suffering from malaria, and sometimes arrived in a very poor state of health.

3. Once the time for repatriation has come, the Khmer population in the border camps should be given the free choice as to how and where in Cambodia they wish to return. A free choice can be made only on the basis of full and independent information provided to the

population of the camps. This freedom of choice will have to be monitored by an independent international organization.

4. It is the opinion of the ICRC that only a carefully planned repatriation under the auspices of the United Nations can create the necessary conditions to prevent future moves back to Thailand by people accommodated in dangerous and unhealthy areas of Cambodia, close to the Thai border.”¹⁴

4. The protection factor

More attention should be given to the need to provide displaced persons and refugees with protection. The humanitarian efforts made in response to disasters which have occurred in Africa, for instance, have centred too exclusively on food aid. The ICRC draws the attention of States to indiscriminate acts of war, the bombing or shelling of civilian targets, extensive use of anti-personnel mines, the diverting of international aid and violations of fundamental rights, which have resulted in famine and mass population movements. In order to be effective, humanitarian aid must be underpinned by legal guarantees and political concessions.

In other words, humanitarian agencies cannot restrict their role to that of mere suppliers of medical and food aid. They must back up their emergency operations in the field with representations regarding the conduct and policies which lead to famine and violations of fundamental human rights, not to mention means of combat which are prohibited by the law of war.

During the Biafra war, under the pressure of world opinion and humanitarian agencies all Western countries decreed officially that while a government could legitimately combat an attempted secession it could not do so through starvation. The Nigerian Federal Government raised its food blockade soon afterwards. Since then this principle has been enshrined in positive law, which stipulates that “starvation of civilians as a method of warfare is prohibited” and that it is therefore prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population.¹⁵

¹⁴ *Memorandum on Unco-ordinated Moves of Camp Dwellers to Cambodia*, 14 November 1990. Excerpt from an official document handed over by the ICRC to the States and UN agencies involved in the Cambodian question.

¹⁵ Additional Protocol I, Article 54; Additional Protocol II, Article 14.

And yet in recent years civilians have all too often suffered as much from disregard for all moral principles as from the effects of war itself: no one disputes the fact that many of the major outbreaks of famine which have had such dire effects on the people of Africa are not exclusively attributable to war or drought.

Admittedly, any action in this respect is diplomatically sensitive and politically risky or downright costly, and yet it constitutes the indispensable protective aspect of any relief operation, without which no lasting improvement in the condition of conflict victims can be assured. And after all, to paraphrase Orwell, this brings us back to our starting point, which is always the need to take a stand, spurred on by a sense of injustice.

Frédéric Maurice

*Former ICRC Head of Delegation
in Africa and the Middle East*

Jean de Courten

*ICRC Director
of Operations*

CONFLICT IN THE MIDDLE-EAST

Immediately after hostilities broke out between Iraq and Kuwait on 2 August 1990, the ICRC reminded all parties of their obligations under the 1949 Geneva Conventions, of which they are signatories (see *IRRC* No. 278, September-October 1990, p. 444).

While hoping that a peaceful solution to the crisis could still be found, in autumn 1990 the ICRC took various diplomatic and operational measures, in Geneva and in the Middle East, so as to be able to act rapidly and efficiently in case of war.

In a *note verbale* dated 17 January 1991, the ICRC reminded the parties concerned of the rules and principles of international humanitarian law and offered its services to provide protection and assistance to the victims of the conflict and act as a neutral intermediary between the belligerents in matters of humanitarian concern. This offer of services was favourably received.

The ICRC also intensified its efforts to gain access to the areas worst affected by the hostilities, in order to meet—without delay and in conformity with its principles of independence, neutrality and impartiality—the needs of the civilian population, prisoners of war and the sick and wounded.

Below are some of the statements made by the ICRC between December 1990 and February 1991 and its appeals to States party to the Geneva Conventions and to all parties to the conflict to remind them of their obligations. These texts are not an account of the ICRC's operational activities in connection with the conflict.

This general overview of ICRC action ends with an outline of the legal aspects of the Middle East conflict.

* * *

1. *Note verbale* and memorandum of 14 December 1990

*Following the adoption of resolution 678 (1990) by the United Nations Security Council, on 14 December 1990 the International Committee sent a **note verbale** and a memorandum to the 164 States*

party to the 1949 Geneva Conventions, reminding them of their obligation to respect the provisions of international humanitarian law applicable in time of international armed conflict.

In addition, ICRC delegates based in Geneva conducted missions to countries which had deployed armed forces in the Gulf region.

*The **note verbale** and the memorandum are printed in full below:*

NOTE VERBALE

The International Committee of the Red Cross (ICRC) presents its compliments to the Permanent Mission of ... and has the honour to request it to inform the Government of ... of the following:

After the Iraqi armed forces entered Kuwait on 2 August 1990, the ICRC offered its services and has since made repeated representations on the basis of the 1949 Geneva Conventions.

Regrettably, these representations have not proved successful so far. The ICRC therefore intends to pursue its efforts.

Without taking a stand on a matter that does not come within its competence, and expressing the hope that the present crisis will be resolved by peaceful means, the ICRC has taken note of the adoption by the United Nations Security Council of resolution 678 on 29 November 1990.

In view of the highly sensitive and tense situation in the Gulf, where large units of several States' armed forces are deployed, the ICRC deems it its duty to emphasize that the humanitarian consequences of military operations involving States party to the Geneva Conventions make it imperative for those States to respect all the provisions of the said Conventions and of other international treaties applicable in time of armed conflict.

The ICRC, in its capacity as a neutral, impartial and independent humanitarian institution and pursuant to its mandate to promote and ensure respect for international humanitarian law, is therefore sending the enclosed memorandum to all States party to the 1949 Geneva Conventions to remind them of their responsibilities and obligations under that law.

The International Committee of the Red Cross avails itself of this opportunity to convey to the Permanent Mission of ... the renewed assurance of its high consideration.

Geneva, 11 December 1990

MEMORANDUM

on the applicability of international humanitarian law

I. Protection of persons not participating or no longer participating in hostilities

The four Geneva Conventions of 12 August 1949 are applicable as soon as armed hostilities break out between two or more parties to the Conventions.

Under the Conventions, the following principles in particular must be respected:

- persons not participating or no longer participating in the hostilities, such as the wounded, the sick, the shipwrecked, prisoners of war and civilians, must be respected and protected in all circumstances;
- the wounded, the sick and the shipwrecked must be collected and cared for regardless of the party to which they belong;
- civilians and all non-combatants must be respected and protected, and violence to life and person, the taking of hostages, deportations, outrages upon personal dignity, and the passing of sentences and carrying out of executions without fair trial are specifically prohibited.

II. Conduct of hostilities

The parties to an armed conflict must also observe a number of rules on the conduct of hostilities. These rules are, in particular, laid down in the Hague Conventions of 1899 and 1907, most of which have become part of customary law.

These rules have been reaffirmed, and in some cases supplemented, in 1977 Protocol I additional to the Geneva Conventions. The following general rules are recognized as binding on any party to an armed conflict:

- the parties to a conflict do not have an unlimited right to choose methods and means of injuring the enemy;
- a distinction must be made in all circumstances between combatants and military objectives on the one hand, and civilians and civilian objects on the other. It is forbidden to attack civilian persons or objects or to launch indiscriminate attacks;

- all feasible precautions must be taken to avoid loss of civilian life or damage to civilian objects, and attacks that would cause incidental loss of life or damage which would be excessive in relation to the direct military advantage anticipated are prohibited.

With regard to the use of certain weapons, the following rules are in particular applicable in an armed conflict:

- the use of chemical or bacteriological weapons is prohibited (1925 Geneva Protocol);
- the rules of the law of armed conflict also apply to weapons of mass destruction.

The ICRC invites States which are not party to 1977 Protocol I to respect, in the event of armed conflict, the following articles of the Protocol, which stem from the basic principle of civilian immunity from attack:

- Article 54: protection of objects indispensable to the survival of the civilian population;
- Article 55: protection of the natural environment;
- Article 56: protection of works and installations containing dangerous forces.

III. Respect for the emblem and medical activities

The red cross and red crescent emblems must be respected in all circumstances. Medical and religious personnel, ambulances, hospitals and other medical units and means of transport shall in particular be identified by one of the emblems and respected accordingly.

IV. Dissemination of international humanitarian law

It is extremely important for the members of armed forces stationed in the Gulf to be aware of their obligations under international humanitarian law. Proper instructions must be issued to this effect. The teaching of the law to the armed forces is, moreover, an obligation expressly stipulated by the Geneva Conventions and their Additional Protocols.

V. Role of the ICRC

The ICRC, whose primary function is to protect and assist the military and civilian victims of armed conflicts, is at the disposal of the States concerned to contribute, as far as its means allow, to the implementation of humanitarian rules and to perform the tasks entrusted to it by international humanitarian law.

* * *

2. ICRC Appeal of 17 January 1991

On 17 January 1991, the ICRC issued the following statement:

“As fighting flares in the Gulf, the International Committee of the Red Cross solemnly reminds all the parties to the conflict of their commitments under the 1949 Geneva Conventions for the protection of the victims of war.

It is essential that the States involved honour those commitments in a situation where there is good reason to fear that the civilian population may suffer particular hardship. Indeed, the general context in which the hostilities are being conducted makes it extremely hazardous to provide effective protection for civilians exposed to the fighting.

*In view of the circumstances, the ICRC, in a **note verbale** which will be handed over today to the States involved, insisted that all necessary precautions be taken by those conducting the hostilities to spare civilians. It also reminded them that wounded, sick or shipwrecked members of the armed forces must be cared for and that combatants placed hors de combat must be treated humanely. Medical personnel and establishments must be respected and protected at all times.*

Moreover, the ICRC reminds the parties that the use of chemical and bacteriological weapons is prohibited under international humanitarian law and enjoins them not to have recourse to atomic weapons, the use of which is incompatible with the provisions of that law. Weapons of mass destruction having indiscriminate effects generally cause irreparable damage among the civilian population, which must be kept out of the fighting.

The ICRC confirms that it stands ready to fulfil the tasks entrusted to it by the Geneva Conventions and by the Statutes of the International Red Cross and Red Crescent Movement and reiterates that it is available to the parties as a neutral and independent intermediary. To

this end it must be given access to victims of the conflict, such as prisoners of war and civilians, entitled to protection and assistance. It may also be called upon to fulfil any other task requiring the services of a neutral intermediary or which it might propose to undertake by virtue of its right of humanitarian initiative, recognized by the community of States.

Finally, the International Committee of the Red Cross appeals to all the parties involved to make sure that the conditions are created for the conflict to be resolved at the negotiating table rather than on the battlefield” (Press release No. 1658).

3. ICRC Appeal of 1 February 1991

In a press release issued on 1 February 1991, the ICRC made the following appeal:

“The conflict now raging in the Middle East will inevitably bring widespread destruction, perhaps on a scale unprecedented in this part of the world. Millions of civilians have been caught up in the violence, without shelter or protection against occupation and bombing. Growing numbers of combatants are falling into enemy hands. Hundreds of thousands of ground troops — most of them young men — are preparing to meet in a deadly confrontation. The determination of the parties in conflict and the build-up of awesome means of destruction are a presage of irreversible devastation. When the veil of censorship is lifted, the full horror of the suffering inflicted on the peoples of the region and on combatants and their families will be revealed for all to see.

One of the most disquieting aspects of this conflict is the possibility that the law of war, which is the expression of the most basic and universal principles of humanity and of the dictates of the public conscience, might be swept aside by the political, military or propaganda demands of the moment.

The right to choose methods or means of warfare is not unlimited. Weapons having indiscriminate effects and those likely to cause disproportionate suffering and damage to the environment are prohibited.

The wounded, whether civilian or military, and prisoners must receive special consideration and protection in compliance with specific rules which the entire international community has undertaken to respect.

The International Committee of the Red Cross therefore solemnly appeals today to all belligerents, in the name of all civilian and military victims, to have due regard for humanitarian considerations. To show respect for the victims and treat them humanely, in the spirit of the Geneva Conventions, is to recognize a heritage common to all mankind and thus pave the way to reconciliation. It is also the last chance of averting a tragedy even greater than the use of force” (Press release No. 1659).

OUTLINE OF LEGAL ASPECTS OF THE CONFLICT IN THE MIDDLE EAST*

1. Definition of the conflict

The Middle East conflict is beyond any doubt an international armed conflict as defined in Article 2 common to the Geneva Conventions of 12 August 1949.

The fact that military action has been authorized by security council resolution 678 does not affect this definition or the application of the laws of armed conflict.

The fact that there has been no formal declaration of war does not affect this definition either. In this respect, it may be pointed out that the Geneva Conventions “shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them” (Article 2).

The definition of the current hostilities as an international armed conflict has not been contested by any of the belligerents.

Therefore, the laws of international armed conflict apply in the present case.

* This outline is only a provisional analysis of the legal aspects of the Middle East conflict and should not be considered as the official position of the International Committee of the Red Cross.

It was drawn up at the request of several national Red Cross and Red Crescent Societies at a meeting held on 21 January 1991 in Geneva.

2. Legal sources

The parties to the conflict are bound, *inter alia*, by the following sets of rules:

International customary law is binding on all parties; Hague Convention No. IV of 18 October 1907 concerning the laws and customs of war on land is binding on all parties, even though some of them have not acceded to it, since its customary character is universally accepted.

The Geneva Protocol of 17 June 1925 for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare has been ratified by the parties to the conflict and is therefore binding on them.

The Geneva Conventions of 12 August 1949 have been ratified by all parties to the conflict and are likewise binding on them.

Iraq, the United States, the United Kingdom and France have not ratified Additional Protocol I to the Geneva Conventions of 12 August 1949; its provisions are therefore not binding unless they codify customary rules.

3. Fundamental Rules

A) *Rules governing the conduct of hostilities*

These are essentially governed by the following principles:

- the right of the parties to choose methods or means of warfare is not unlimited;
- it is prohibited to use methods or means of warfare of a nature to cause superfluous injury or unnecessary suffering;
- the civilian population must be protected against the dangers arising from military operations.

In practice, this means that a distinction should always be made between combatants and the civilian population, so as to spare the latter.

It is prohibited to direct attacks against the civilian population or to launch indiscriminate attacks that will affect the civilian population as well as military objectives. In any attacks, including bombardments, every precaution must be taken to spare civilians.

The use of indiscriminate weapons or weapons of mass destruction is prohibited. The use of chemical and bacteriological weapons is prohibited by the Geneva Convention of 17 June 1925 and the use of nuclear weapons is incompatible with the provisions of international humanitarian law.

B) *Wounded and sick*

The wounded and the sick must be collected and cared for, regardless of their nationality. Members of medical services as well as volunteers from National Red Cross or Red Crescent Societies, whose task it is to assist the victims of the conflict, must be respected and protected. The emblem of the Red Cross or Red Crescent must be respected in all circumstances.

C) *Wounded, sick and shipwrecked*

In case of naval operations or in case of attack against naval objectives, the shipwrecked must be collected and cared for; every precaution must be taken to spare hospital ships.

D) *Prisoners of war and civilian internees*

Soldiers who surrender or are captured in any other manner must be spared. Their lives and dignity must be respected and they must be treated humanely in all circumstances. They must be protected against any acts of violence, against insults and against public curiosity. They must be transferred from combat zones and their presence cannot be used to prevent attacks on military objectives or other installations.

The same principles apply to civilian internees or detainees.

E) *Alien civilians on the territory of an adverse party*

Alien civilians on the territory of an adverse party are protected by the Fourth Geneva Convention. In case measures of control, such as internment, are taken against them, they must benefit from all the guarantees set out in the Convention.

F) *Population of occupied territories*

The populations of occupied territories are protected by the Fourth Geneva Convention (Articles 13-34 and 47-149).

NEWS FROM HEADQUARTERS

Elections

At its meeting on 5 and 6 December 1990, the Assembly of the International Committee of the Red Cross held elections with the following results:

- Mrs. Denise Bindschedler-Robert, who has reached the age limit for ICRC members, is leaving the Committee after 23 years of service. She was elected *Honorary Member* of the ICRC.
- Dr. Athos Gallino, who has also reached the age limit, is leaving the ICRC after 13 years of service. He was elected *Honorary Member*.
- For health reasons, Dr. Alain Rossier did not seek re-election to the Committee. He was elected *Honorary Member*.
- Mr. Hans Haug was re-elected *Member* of the ICRC for a third term, to end when he reaches the age limit at the end of 1991.
- Mrs. Renée Guisan was re-elected *Member* of the ICRC for a second four-year term.
- Mr. Cornelio Sommaruga was re-elected *Member* of the ICRC for a second four-year term. Mr. Sommaruga's mandate as President, which he received in 1987, will come up for renewal at the end of 1991.

Official visits to Headquarters

Between October 1990 and the end of the year, the President of the ICRC together with members of the Committee and senior staff of the institution received the following visitors:

- Prince Hans Adam II and Princess Marie of Liechtenstein, on 18 October 1990.

- General Chatichai Choonhavan, Prime Minister of the Kingdom of Thailand, on 19 October 1990.
 - Dr. Sayid Mohammed Najibullah, President of the Republic of Afghanistan, on 22 November 1990.
 - Mr. Vaclav Havel, President of the Czech and Slovak Federal Republic, on 23 November 1990.
-

MISSIONS BY THE PRESIDENT

Since October 1990, the President of the ICRC, Mr. Cornelio Sommaruga, has carried out missions to Italy, Denmark and Switzerland.

Italy

The ICRC President, accompanied by Mr. Francis Amar, deputy Delegate General for Europe and North America, and Mr. Jean-Luc Blondel, head of the Division for Principles and Relations with the Movement, took part in a meeting of National Society Presidents from the countries of the European Economic Community (EEC). The meeting was organized by the Italian Red Cross and held in Asolo, near Venice, from 8 to 11 October 1990.

The discussions focused on internal matters concerning EEC countries (civil defence, medical transports and blood transfusion) and on participants' relations with the EEC itself and with other National Societies. The participants reaffirmed their desire to contribute to the development of eastern European National Societies without, however, neglecting sister Societies in the Third World.

On 6 and 7 October, before proceeding to Asolo, the ICRC President went to Casale Monferrato, near Alessandria, to take part in a study programme organized by nursing volunteers from the Piedmont and Aosta Valley branches of the Italian Red Cross. He also gave a lecture on 15 October to a human rights seminar at the European University Institute in Florence.

Denmark

The ICRC President, accompanied by Mr. Michel Convers, head of the Operational Support Department, and Mr. Thierry Germond, Delegate General for Europe and North America, paid an official visit to Denmark from 28 to 31 October at the invitation of the Danish government and the Danish Red Cross.

The ICRC delegation had successive meetings with Mr. Bent Haakonsen, Under-Secretary of State for International Development Co-operation, Mr. Benny Kimberg, Under-Secretary of State for Foreign Affairs, and Mr. Uffe Ellemann-Jensen, Minister of Foreign Affairs. Their talks focused on Danish government support for ICRC operations, the forthcoming International Conference of the Red Cross and Red Crescent and the situation in eastern Europe and the Middle East.

Mr. Sommaruga also had a private audience with Queen Margrethe. Prince Henrik, who is Commissioner of the Danish Red Cross, and the Foreign Minister were also present. Mr. Sommaruga took this opportunity to express his appreciation for the support the ICRC receives from the Danish government and National Society.

The ICRC delegation attended the opening ceremony of the National Society's General Assembly, held in Nyborg in the presence of Queen Ingrid the Queen Mother. After the ceremony, Professor Francis Zachariae, President of the Danish Red Cross, conferred on Mr. Sommaruga the Society's highest honour. The programme of the delegation's stay in Denmark also included a visit to the research and rehabilitation centre for torture victims, where it was received by Professor Bent Sorensen, the centre's Director, and a talk given by Mr. Sommaruga to the governing body of the human rights centre in the presence of its President, former Danish Prime Minister A. Jorgensen.

Switzerland

At the invitation of the Swiss Federal Council, President Sommaruga went to Bellinzona on 10 January to take part in the ceremony to open celebrations of the Swiss Confederation's 700th anniversary. On the following day he attended a concert in honour of all Swiss citizens engaged in humanitarian work around the world. Mrs. Claire Frésard, an ICRC delegate, gave a talk about her experiences in the field.

OBITUARY

Tribute to Frédéric Siordet

Mr. Frédéric Siordet, former member and Vice-President of the ICRC and one of the institution's leading figures, died on 30 January 1991.

Mr. Melchior Borsinger, former ICRC Delegate General for Europe and North America and recipient of the Henry Dunant Medal, was his friend. In the following tribute to this great champion of the Red Cross, Mr. Borsinger expresses the admiration and affection shared by all at the ICRC and in the Movement as a whole who had the opportunity to appreciate Frédéric Siordet's ability, fine mind and human qualities.

* * *

Frédéric Siordet, who was a member of the ICRC from 1951 to 1979 and Vice-President of the institution for several terms during that period, passed away on 30 January 1991. His death leaves an immense void.

Though unassuming in manner, Frédéric Siordet displayed an astonishing array of talents. He was the son of a pastor, and went into law; the result was a mind firmly rooted in both the spiritual and the temporal. An enlightened humanist, great music-lover and gifted writer, his rather British sense of humour stood in contrast to his acute Continental wit and way of thinking.

He practised law for many years in Paris, where he served as legal adviser to the Swiss Legation. When the Legation left Paris in the wake of the German invasion in 1940 to follow the French government to Bordeaux and later Vichy, Frédéric Siordet remained in German-occupied Paris to look after Swiss interests in a quasi-consular capacity.

He left Paris in 1943 so that his daughters could carry on their studies in Switzerland. He was appointed an adviser to the ICRC, and he quickly became friends.

Frédéric Sordet was a delightful colleague, invariably courteous and sensitive. His great modesty concealed a profound knowledge of human nature, with its failings, its vices and virtues. His mischievous humour and kind-heartedness were a great comfort to those who knew him and worked with him during a painful and sombre period in human history.

When the war was over, he took part in the work preparatory to the revision of the 1929 Geneva Conventions, and in particular the drawing up of a new, fourth Convention for the protection of civilians in time of war. Here his experience in wartime Paris stood him in good stead.

In the early 1950s, working together with Jean Pictet, Claude Pilloud, René-Jean Wilhelm and Jean de Preux, he made a major contribution to the Commentary on the Conventions. Their task was often lightened by Frédéric Sordet's humour, for example when he wrote a "Summary of the Conventions in P". I especially remember a marvellous screech entitled "Plaintively Pondering Pilloud" which, if memory serves correctly, began: "Poor Pilloud profoundly perplexed prickly problem protection pugnacious prisoners propounds perilous proposal postpone pursuit pending Protecting Power's propositions".

Frédéric Sordet represented the ICRC in many countries and at a number of International Conferences of the Red Cross. He was also the author of the book *Inter Arma Caritas*, an outstanding analysis of ICRC activities during the Second World War.

But in addition to being an intellectual, Frédéric Sordet was also a man of action. He undertook many important missions for the ICRC, not least a journey around the world in 1945-46 during which he visited all the National Societies in Asia, Australia and Central and North America – no easy feat given conditions in the immediate aftermath of the war.

The winter of 1957 took him to India, South-East Asia and China, then to the Soviet Union and Poland. He explained to the leaders of the countries he visited the ICRC's position regarding the status of mainland China and Taiwan – a very sensitive issue at the time. Indeed, it was China under Chiang Kai-shek's Kuomintang that had signed the 1949 Geneva Conventions but it was the People's Republic under Mao Zedong that ratified them. This circumstance had seriously jeopardized the holding of the 19th International Conference of the

Red Cross in Delhi, which made Frédéric Siordet's mission all the more important.

In 1952, while ICRC Vice-President, Frédéric Siordet acted as spokesman for the ICRC's delegation to the 18th International Conference of the Red Cross in Toronto. The Conference was held while the Korean war was at its height and the National Societies and governments of the Communist countries made virulent attacks on the ICRC, accusing it, in short, of being nothing but an instrument of capitalist imperialism. Frédéric Siordet's courageous, lucid and objective defence of the ICRC before the plenary assembly of the Conference on this occasion will remain a monument to the Red Cross spirit.

Another fine example of Frédéric Siordet in action was when Georges Olivet, a young and promising ICRC delegate, was killed – in particularly tragic and diplomatically delicate circumstances – in Katanga in 1962. Frédéric Siordet, then a member of the International Committee, volunteered to go out to the Congo and bring back the delegate's mortal remains.

Frédéric Siordet was also a keen sportsman and was one of the leading members of the ICRC's skittles club. I remember well the many tennis matches and games of billiards we played together.

Frédéric Siordet's death has deprived us of an outstanding defender of humanity, whose sincerity, honesty and simplicity, coupled with a keen intellect, won over to the Red Cross cause many sceptics and even opponents; a man who inspired a whole new generation to follow in his footsteps.

Melchior Borsinger

Observer status
for the International Committee
of the Red Cross
at the United Nations

A LEGAL VIEWPOINT

by Christian Koenig*

In the early summer of 1990, the process to grant the International Committee of the Red Cross (ICRC) observer status at the United Nations was underway at UN headquarters in New York. While this initiative generally enjoyed unreserved support, there were many questions as to how it would be put into practice. These questions mainly concerned the unique role of the ICRC in international relations, and specifically its character as a particular type of non-governmental organization (NGO) that has a “functional international personality”.

Discreet involvement of the ICRC in discussions among legal experts in the UN Secretariat and at the permanent missions in New York enabled these questions to be resolved very swiftly.

On 16 October 1990, the UN General Assembly adopted by consensus resolution 45/6 (“Observer status for the International Committee of the Red Cross, in consideration of the special role and mandates conferred upon it by the Geneva Conventions of 12 August 1949”). The resolution was based on the identical text of draft resolution A/45/191 of 17 August 1990.

* Christian Koenig worked from May to July 1990 as a legal assistant at the Permanent Mission of the Federal Republic of Germany to the United Nations in New York. During that time he drew up a legal analysis on the subject of observer status for the ICRC. This analysis was used as a discussion paper in the body dealing with European political co-operation at United Nations headquarters and also served as a basis for the following article.

In its preambular paragraphs, the resolution first refers to the mandates conferred upon the ICRC by the Geneva Conventions of 12 August 1949 and its special role “in international humanitarian relations”. It goes on to express the General Assembly’s desire to promote co-operation between the United Nations and the ICRC.

In its operative paragraphs, the resolution invites the ICRC to “participate in the sessions and the work of the General Assembly in the capacity of observer”. Finally, it asks the Secretary-General to take the necessary action to implement the resolution.

The present text deals with the legal and institutional considerations that resulted in resolution 45/6 and its draft A/45/191 as well as with the various forms that observer status can take.

I. A comparison between the ICRC’s new observer status and its previous status

Until 16 October 1990, the ICRC - unlike the specialized agencies,** regional international organizations, non-member States and a number of national liberation movements – did not have observer status at the United Nations.

Like many NGOs, the ICRC has long had consultative status with the Economic and Social Council. This status is based on Article 71 of the UN Charter, which states that the Council “may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence”.

Unlike formal observer status, consultative status does not entitle the holder regularly to attend the meetings and conferences of the main UN bodies. Moreover, those having observer status enjoy technical privileges not available to the NGOs with their consultative status. This will be explored more fully in section II below.

Like other NGOs having only consultative status with the Economic and Social Council, the ICRC was previously dependent on invitations to attend individual meetings – dealing with humanitarian issues – of the main UN bodies or had to rely on member States to voice its position on matters of concern to the Red Cross Movement. Consultative status does not entitle the holder to speak on its own initiative, either in the Economic and Social Council itself or in the

** The term “specialized agencies” as used in this text refers to specialized agencies brought into relationship with the United Nations; it also includes the International Atomic Energy Agency.

other major bodies. Only in a few of the Economic and Social Council's commissions such as the Commission on Human Rights and the Committee on Non-Governmental Organizations (NGO Committee) are some NGOs regularly granted participant status by the rules of procedure and, in the latter, the right to take the initiative in requesting consultation.

Having only consultative status, the ICRC thus previously had to engage in lengthy discussions with the representatives of individual States, asking them to launch a specific humanitarian initiative or move that the ICRC be invited to take part in a certain meeting. Its lack of entitlement to permanent representation – a privilege inherent in observer status – meant that ICRC delegates in New York and Geneva had to expend considerable resources that observer status will now enable them to direct elsewhere.

To dispel misgivings about the ICRC being granted observer status, especially the fear that other less universally recognized and even controversial NGOs – particularly those concerned with human rights – might follow suit and also seek observer status, it can be pointed out that unlike that of any other NGO, the ICRC's mandate, above all under the Third and Fourth Geneva Conventions of 1949 and Additional Protocol I of 1977, has vested it with a “functional international personality” deriving from international humanitarian law (for example as a humanitarian substitute for a Protecting Power in international armed conflicts).¹ And in non-international armed conflicts, the ICRC enjoys a special right of initiative under the second paragraph of Article 3 common to the Four Geneva Conventions: it can offer its humanitarian services to the parties to the conflict without being accused of interference in a State's “internal affairs”.

¹ See A. Verdross/B. Simma, *Universelles Völkerrecht*, 3rd edition, Berlin 1984, p. 254, para. 420; D. Bindschedler-Robert, “Red Cross”, *Encyclopedia of Public International Law* 5 (1983), Bernhardt (publishers), p. 251; D.P. Forsythe, “The Red Cross as Transnational Movement”, *International Organization*, Vol. 30 (1976), p. 607 ff.; Y. Sandoz, «Le droit d'initiative du Comité international de la Croix-Rouge», *German Yearbook of International Law*, Vol. 22 (1979), p. 352 ff. Only G. Barile expresses a different opinion, in «Caractère du Comité international de la Croix-Rouge», *Rivista di diritto internazionale* 62 (1979), p. 115. He casts doubt on the international personality of the ICRC with the argument that the ICRC is not in a position to assert its own rights under international law. This reveals a misunderstanding of the modern concept of “functional international personality”, as Barile is applying an obsolete, overly narrow definition of international personality. Moreover, in denying that the ICRC has its own rights under international law, Barile disregards the international character of the many agreements concluded between the ICRC and both States and intergovernmental organizations.

In addition, the ICRC has signed many headquarters agreements with States, mostly in crisis-torn regions, enabling it to establish and maintain delegations there. In several States with which no such agreements have been concluded, the ICRC is nevertheless treated almost as an intergovernmental organization.

The ICRC also enjoys special consultative status in a number of international bodies such as the Non-Aligned Movement, the Organization of African Unity, the Organization of American States, the Council of Europe, the International Maritime Organization and the International Organization for Migration.

Another interesting indication of the ICRC's status in international relations is the fact that its budget is covered mostly by contributions from States. This in itself made it extremely unlikely that a parallel could be drawn, with a view to obtaining consultative status, between the ICRC and other NGOs in the human rights field. While the ICRC is admittedly a private Swiss institution subject to the Swiss Civil Code, for purposes of international humanitarian law it has, unlike other NGOs in the human rights field, a direct role to play in international relations by virtue of the Geneva Conventions and their Additional Protocols, the many aforesaid headquarters agreements and the special relationship it has with a number of international organizations.²

It has been argued that observer status would bring about a closer association between the ICRC and the United Nations and thus the risk that the institution's strict neutrality and discretion – a *sine qua non* for effective ICRC action, especially in non-international armed conflicts and internal disturbances – could be called into question in times of crisis. This argument can be countered as follows:

- Firstly, observer status will in no way affect the ICRC's strict policy of neutrality and discretion; the institution's confidentiality (for example when conducting visits to detainees under an agreement with a government involved in a non-international armed conflict) will remain as inviolate as ever.
- Secondly, confidential information concerning non-international armed conflicts or internal disturbances will never be divulged to third parties in or connected with the United Nations; such infor-

² See also C. Dominicé, «La personnalité juridique internationale du CICR», *Studies and essays on international humanitarian law and Red Cross principles in honour of Jean Pictet*, Geneva 1984, p. 663 ff.; P. Reuter, «La personnalité juridique internationale du Comité international de la Croix-Rouge», *ibid.*, p. 783 ff.

mation is shared only with the State that has allowed the ICRC to carry out its humanitarian mission on its territory.

- Finally, ICRC humanitarian work and UN peacekeeping operations have completely different bases in law and are conducted under different mandates. Observer status for the ICRC will in no way alter that – there is no danger of their respective mandates becoming intermingled.

II. The legal basis for consultative and observer status at the United Nations

1. Consultative status as provided for in Article 71 of the Charter and resolution 1296 (XLIV) of the Economic and Social Council

Ever since the founding of the League of Nations, NGOs have been playing a greater role in the process of codifying and implementing international law. However, the Covenant of the League of Nations itself did not provide any legal basis for such participation;³ it was not until the United Nations Charter was adopted that a statutory foundation was established for co-operation between international organizations and NGOs. On the basis of the provisions in Article 71 of the Charter, the Economic and Social Council adopted resolution 1296 (XLIV) on 23 May 1968 in which it identified three categories of NGO:

- Category I includes NGOs whose activities are covered by the purview of the Economic and Social Council itself and whose past work has shown that they are able to advance the goals of the United Nations in the economic and social spheres. To belong to category I, NGOs must also have a membership representing the major groups in the populations of a large number of countries.
- Category II concerns NGOs with special, internationally recognized functions in certain areas of the Economic and Social Council's purview. The human rights organizations registered under Category II must be international in scope and must not be confined to representing the interests of certain groups of people or to individual States.

³ Erik Suy, "The Status of Observers in International Organizations", *Recueil des cours de l'Académie de droit international* 160 (1978/II), pp. 83 ff., 102.

- Category III consists of organizations placed on a roster to be consulted should special circumstances arise. These are organizations that do not qualify for the aforesaid two categories but that the Economic and Social Council or the Secretary-General, after consulting with the Council or its NGO Committee, deems to be in a position to make a significant contribution to the work of the United Nations.⁴

In spite of its unique functional international personality, the ICRC was previously registered as an NGO in Category II and, like other organizations active in the human rights field, could take part in certain meetings of the Economic and Social Council and its subsidiary bodies on humanitarian matters after having consulted with the NGO Committee. At the invitation of the Economic and Social Council (under Rules 83 and 84 of the Council's Rules of Procedure) NGOs in Categories I and II may make statements to the Council on subjects in their field of interest. If an NGO from Categories I or II itself applies for consultation by the Council or one of its subsidiary bodies, Rule 83 requires it to submit its request to the Secretary-General not later than five days after the adoption of the Council's agenda. The Council then decides whether to accept the NGO's application. Only the Rules of Procedure (Rule 75) of the Council's "functional commissions" (such as the Commission on Human Rights) contain provisions enabling NGOs from Categories I and II to take part on a permanent basis as observers in public meetings of those commissions and their subsidiary bodies.

Until now, the ICRC's consultative status did not allow it to take direct part in meetings of the United Nations, other main bodies such as the General Assembly or the Security Council. When, for example, the General Assembly or Security Council met in special session to discuss the escalation of violence in the Israeli-occupied territories, the ICRC – the very organization whose strictly impartial and neutral activities have enabled it to acquire considerable humanitarian experience in caring for the victims of the Israeli-Palestinian conflict – was regularly excluded from participation in the meetings.

⁴ See ECOSOC resolution 1296 (XLIV) of 23 May 1968, paras. 16-19; ECOSOC Doc. E/1989/INF/11 of 24 October 1989 contains a list of the NGOs currently registered in the three categories.

2. Observer status as a basis for regular presence

Erik Suy feels that the most important feature of observer status is that it allows unlimited access to virtually all United Nations fora⁵ without first having to go through the involved process described above for NGOs with consultative status, a process which in any case provides access only to the Economic and Social Council. Unlimited access to UN meetings and to the UN's communications facilities affords much greater influence in the decision-making processes than mere consultative status, even though observers have no vote.

While NGOs in Categories I and II must apply to the Secretary-General or the NGO Committee for a special invitation to take part in meetings of the Economic and Social Council (and can take the initiative of requesting consultations only vis-à-vis the NGO Committee)⁶, observers have constant and direct access to many of the main fora in the UN system. However, the degree of access depends on the nature and functions of the individual observer:

- a) among observers, States that are members of the United Nations but not of particular fora have in principle the most extensive right of participation in all meetings, with the exception of the those of the Security Council, whose prior invitation is required (Article 32 of the Charter).
- b) States not members of the United Nations, for example Switzerland, North and South Korea and the Holy See, each have a permanent observer delegation to the UN. Such observer States have a right to be present in practically all UN bodies, subsidiary bodies and conferences. In practice, they are usually not granted the right to address plenary meetings of the General Assembly. However, they can take active part in the discussions of the General Assembly's main Committees.⁷ The important thing is that the General Assembly's Rules of Procedure are applied with flexibility in these matters. Regarding the Security Council, Article 32 of the Charter contains the very clear rule that "any State which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the

⁵ E. Suy *loc. cit.*, p. 103.

⁶ R.G. Sybesma-Knol, *The Status of Observers in the UN*, Vrije Universiteit Brussel, Brussels, 1981, p. 302.

⁷ *ibid.*, p. 72.

dispute". In accordance with Rule 72, para. 1, of its Rules of Procedure, the Economic and Social Council has, on some occasions, invited observer States to make statements to the Council on matters of particular concern to them.⁸ Non-member States are also regularly invited, out of respect for the principle of universality, to take part on an equal footing with other participants in special conferences held under the aegis of the General Assembly or the Economic and Social Council.

- c) National liberation movements in Africa and the Palestine Liberation Organization (PLO) enjoy ongoing privileges in their legal status at the United Nations: as "States *in statu nascendi*" they are considered to be in a separate new category of subjects of international law;⁹ the usual criterion of control of a defined territory is not applied. In this connection it is interesting to note the well-established co-operation between the United Nations and regional organizations such as the Organization of African Unity (OAU) and the League of Arab States in granting observer status to national liberation movements. The General Assembly has adopted several resolutions relating to this co-operation: resolution 3280 (XXIX) of 10 December 1974 on "Co-operation between the United Nations and the Organization of African Unity;" resolution 35/167 of 15 December 1980; and resolution 37/104 of 16 December 1982 on "Observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States".¹⁰

In keeping with UN practice, the PLO also has been granted the observer's privilege of circulating documents between member States on matters relating to the Palestinian issue. In resolution 3237 (XXIX), the General Assembly invited the PLO to "participate in the sessions and the work of the General Assembly ... (and) of all international conferences convened under the auspices of the General Assembly in the capacity of observer". In the same resolution, it was further recommended that the PLO be entitled to "participate as an observer in the sessions and the work of all international conferences convened under the auspices of

⁸ *ibid.*, p. 75.

⁹ K. Ginther, «Die völkerrechtliche Stellung nationaler Befreiungsbewegungen im südlichen Afrika», *Österreichische Zeitschrift für öffentliches Recht und Völkerrecht*, 32 (1982), p. 144.

¹⁰ See C. Koenig, *Der nationale Befreiungskrieg im modernen humanitären Völkerrecht*, Frankfurt/Bern/New York/Paris 1988, p. 82.

other organs of the United Nations”.¹¹ The Economic and Social Council has complied with this rather insistently worded recommendation in that Rule 73 of its Rules of Procedure now stipulates that “The Council may invite any national liberation movement recognized by or in accordance with resolutions of the General Assembly to participate, without the right to vote, in its deliberations on any matter of particular concern to that movement”. A similar provision is contained in Rule 70 of the Rules of Procedure for the Council’s functional commissions (e.g. the Human Rights Commission).

- d) Regional international organizations, such as the Organization of African Unity and the Organization of American States, and specialized agencies such as the World Health Organization and the International Atomic Energy Agency, have permanent observer status in those of the main UN bodies that deal with their field of work. The Charter itself contains several provisions governing relations between the United Nations and both regional international organizations (“regional arrangements”) and specialized agencies. Article 52 approves “the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security”. Article 57 stipulates that “the various specialized agencies, established by intergovernmental agreement and having wide international responsibilities as defined in their basic instruments, in economic, social, cultural, educational, health and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63”.

Under Article 63 of the Charter, the Economic and Social Council and specialized agencies may enter into agreements which define “the terms on which the agency concerned shall be brought into relationship with the United Nations”. Such agreements are subject to approval by the General Assembly.

Rule 75 of the Economic and Social Council’s Rules of Procedure and Rule 71 of the Rules of Procedure for its functional commissions stipulate that, once these agreements have been concluded, the specialized agencies are entitled

“(a) to be represented at meetings of the Council, its committees and sessional bodies; and

¹¹ See the Secretary-General’s guidelines on observer status for national liberation movements in the *UN Juridical Yearbook* 1975, p. 166.

- (b) to participate, without the right to vote, through their representatives, in deliberations with respect to items of concern to them and to submit proposals regarding such items, which may be put to the vote at the request of any member of the Council or of the Committee or sessional body concerned”.

In addition, Article 70 of the Charter provides the Economic and Social Council and the specialized agencies with the possibility of attending each other’s meetings at all times: “The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the Commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies“. Under Article 91 of the Charter, the Trusteeship Council also has the possibility, on the basis of Rule 13 of its Rules of Procedure, of inviting representatives of the specialized agencies to take part in its meetings much as the Economic and Social Council does under Article 63 of the Charter.

As for meetings of the Security Council, neither the Charter nor the Security Council’s own Rules of Procedure expressly provide for regular participation by the specialized agencies, though Rule 39 does state that the Security Council may invite members of the Secretariat, organizations and even individuals “whom it considers competent for the purpose, to supply it with information or to give other assistance in examining matters within its competence”. On the other hand, the Security Council has on several occasions taken a very controversial decision, in a manner for which there is no express provision in the Rules of Procedure, to allow the PLO access to its deliberations and grant its representative the right to address it. Participation in Security Council meetings by representatives of the specialized agencies has a firmer institutional basis under Rule 39. In several cases, there are already provisions in agreements (concluded in accordance with Article 63) between the United Nations and the specialized agencies allowing for access to the Security Council. For example, Article VII (2) of the relationship agreement between the United Nations and the International Atomic Energy Agency (IAEA) states that the Agency’s Director-General may take part in Security Council meetings to supply information on matters within the IAEA’s competence.¹²

¹² See E. Suy *loc. cit.*, p. 110.

III. Different ways in which observer status can be achieved and the various forms it can take

This review of the various categories of observers has shown that the extent of access and participation depends on the nature and functions of the observer.

With regard to the specialized agencies, the Charter itself and especially the rules of procedure of the main UN bodies contain provisions that, together with the agreements between the Economic and Social Council and the above-mentioned agencies concluded under Article 63 of the Charter, can be interpreted with flexibility (for example, the possibility for the IAEA to take part in Security Council meetings).

The ICRC is not, of course, an intergovernmental organization like those described in Article 57 of the Charter. It has a distinctive duality: while a private association subject to the Swiss Civil Code, it is simultaneously – and this is something unique in the law of international organizations – vested with a “functional personality” in the area of international humanitarian law.¹³ Yet the rules governing observer status for the specialized agencies cannot be applied to the ICRC as they stand, because the International Committee’s rigorous policy of confidentiality in its work precludes any granting of access on a reciprocal basis such as that provided for between the Economic and Social Council and the specialized agencies under Article 70 of the Charter.

The special role and expertise of the ICRC in undertaking humanitarian action in armed conflicts and many types of internal disturbances require a special kind of observer status. It is therefore conceivable that an agreement could be concluded between the ICRC and the United Nations taking into account the particular consultation needs existing between the two organizations. The situation bears a distinct resemblance to that which prompted the provision, in Article 63 of the Charter, for agreements to be concluded between the Economic and Social Council and the specialized agencies. Just as Article VII (2) of the agreement with the IAEA allows the Agency’s Director-General to take part in meetings of the Security Council dealing with nuclear matters, the ICRC should be allowed to take direct part in meetings of the Security Council dealing with situations in which international humanitarian law is of specific relevance (for example the situation in the territories occupied by Israel).

¹³ See footnotes 1 and 2.

A cautious analogy with Article 63 (this provision is not directly applicable as the ICRC is not an intergovernmental organization) could serve as the basis for a corresponding agreement between the ICRC and the Council, to be approved by the General Assembly. The rules of procedure of the main UN bodies would then have to be amended to accommodate the special terms for ICRC participation. In the meantime, however, another solution has been found. On 16 October 1990, the General Assembly adopted a resolution granting the ICRC observer status and calling on the Secretary-General to take the action necessary to implement this decision.

As the UN's main decision-maker, the General Assembly would have been able to go further and 'recommend' that the ICRC be admitted as an observer to the other bodies.¹⁴ Those bodies would have been obliged to comply with such a recommendation by amending their own rules of procedure. However, each one of the main bodies must itself decide the terms for admittance to and participation in its meetings.

IV. Summary

In many respects, observer status for the ICRC will place the practical co-operation that already existed between the institution and the United Nations on a stronger legal basis. It will also spare the ICRC the considerable drain on its resources that was necessary, when it had only consultative status, to bring its pragmatic *inter arma caritas* proposals before the United Nations.

Christian Koenig

Christian Koenig was born on 5 March 1961 in Münster, Westphalia. After studying law at the Universities of Berlin and Mainz, Mr. Koenig completed a two-month traineeship at the ICRC's Legal Division in 1985. He then went on to further studies, including public international law at the London School of Economics and graduate work at the University of Marburg where in 1988 he completed his doctoral thesis entitled *Wars of national liberation and modern international humanitarian law*. He is now at the University of Marburg qualifying as a professor (*Habilitation*). His publications to date deal mainly with current problems of public international law and European law.

¹⁴ See E. Suy *loc. cit.*, p. 156.

SWEDISH RED CROSS

The Red Cross School of Nursing

Practical training in primary health care at refugee centres

For several years the Swedish Red Cross School of Nursing has been taking active steps to internationalize the general health and medical care courses run under its health and medical care training programme.

In 1987 Taylor and Ås drew up a programme of proposals entitled "The Internationalization of Training". This material is designed to give guidelines and ideas on the subject, and includes recommendations for literature which may be of use in the teaching of theory. The material may also be used effectively in practical training.

A project is being run at the school with the aim of charting the students' views on the internationalization of their training.

For several years a number of students at the school have been given the opportunity to undergo periods of practical training abroad. The experience they have gained has also been documented in an ongoing project.

Lectures on international issues are arranged for students and staff as part of the school's general activities. There is an international activity group whose work includes fund-raising for a number of countries and producing information on conditions in those countries.

Another aspect is a joint teacher-student project aimed at integrating the basic principles of the Red Cross into training courses.

These are some examples of the measures taken to improve both students' and teachers' knowledge of international issues, internationalization being one of the school's stated objectives.

Some students are given practical experience of work in refugee centres. These one-week periods form part of the students' practical training in primary health care. The first placements in refugee centres were made in the spring term of 1989, and since then four to six students from each class have taken part in the programme. All but one of these traineeships are in

Red Cross refugee centres, the exception being a position in a refugee centre run under the auspices of the Swedish Immigration Board.

Practical training objectives

The objectives for practical training in primary health care follow those set out in the training plan for health and medical care and the curriculum approved by the Stockholm County Council Education Committee for the care sector.

Added to these are the programme's own goals, namely that the students shall, during their practical training at refugee centres:

- become familiar with the objectives for, and organization of, the work;
- analyse the way in which the work corresponds to the principles of the Red Cross;
- acquire more profound first-hand knowledge about the conditions in which refugees live in Sweden;
- develop the ability to empathize with people from other cultures, thereby bringing greater understanding to their contacts with them.

The nurse and/or senior student nurse at the centre's medical office act as instructors. This means that the main task of each student is to follow the instructor in her work.

The students are required to write reports analysing the problem areas or circumstances they encounter in the course of their practical training.

Students' reports

Of a total of 19 reports submitted to date, eight deal with the organization of health and medical care at the refugee centres, five with the refugees' reactions, three with the refugee centres' child care programmes and two with refugees' encounters with Swedish society. One tells the story of a refugee and her family.

The organization of health and medical care at refugee centres

Some of these reports contain descriptions of work at the health and medical care offices, while others contain a detailed account of a typical

day's work. The reports may also describe the organization and objectives of the refugee centres.

Several of the reports contain descriptions of the psychosomatic problems which affect many of the immigrants. The staff situation and the workload are also highlighted. One report points to the risk that the heavy workload may result in the staff becoming "burnt out". The shortage of interpreters is also emphasized. Another aspect covered is the different views of ill-health held in different cultures, and important steps which should be taken, for example in the form of medication.

Refugee reactions and staff attitudes

Five of the 19 reports focus on the reactions of the refugees and the attitude of the staff.

The descriptions centre largely on crises experienced by the refugees. One student says that she had encountered these problems in the field of psychiatry but had been unable to properly understand and interpret the patients' reactions. Her contact with refugees in the centres had clarified the picture and given her a better insight into their problems.

One report is an analysis of staff attitudes and the importance of maintaining a therapeutic approach. "There is a risk that an over-intimate relationship, or love affair, will compromise the staff's impartiality", writes this student in her report.

Another report analyses the attitudes of interpreters, while yet others underscore the importance of giving the staff proper guidance.

Child care activities

Three reports focus on child care activities at the refugee centres. They concentrate largely on describing the objectives of this programme and the activities involved. Although the impression given is generally favourable, several students note that teenagers are often "left out".

Specific problems relating to children are highlighted. Some children, for example, have been given far too little information on what happened to their families, and show signs of insecurity:

Language difficulties do not appear to arise here as they do among the adults.

Refugees' encounters with Swedish culture

A couple of the reports deal with this problem in particular. What can be done to make this cultural encounter easier? In this context it is important that both sides, Swedes and refugees, are well-informed.

These reports also mention the shortage of interpreters.

A refugee's story

One report describes the experiences of a woman and her family, who had been deported after spending about 18 months at a refugee centre. The student who wrote the report had been in contact with the family through an interpreter and in other ways, and had acquired detailed knowledge of its circumstances. The report gives some indication of the difficulties involved in really penetrating other cultures.

The report also contains a number of questions and reflections on Sweden's refugee policy.

A recurring theme in all the reports is the students' opinion that the experience gained provided them with knowledge and insight which will be of considerable use to them in practising their profession.

What have the students learned?

One student writes:

“During this week of practical training I have seen a refugee centre from the inside and I would not have missed it for anything. It has meant more to me than I can express in writing”.

The students' experiences may be summarized as follows:

- they were given information about, and important experience of, work at refugee centres on a general level;
- they gained personal experience of cultural differences and “cultural clashes”;
- they became involved in the plight of the people they met, and also saw the risk of becoming “burnt out” in this type of work;

- they reflected upon, and questioned, official ways of dealing with refugee matters.

Taken in aggregate, this experience appears to be highly relevant for them in their future careers.

Els Marie Andrée Sunderlöf,
Nursing Instructor
Ingrid Sandin,
Research and Development Instructor
The Red Cross School of Nursing

STATUTORY MEETINGS OF THE MOVEMENT

(Geneva, 16-24 October 1990)

The Gulf crisis and its humanitarian implications dominated the work of the Standing Commission of the Red Cross and Red Crescent and that of the Executive Council of the League of Red Cross and Red Crescent Societies, which met respectively in Geneva on 22 October and on 23 and 24 October 1990.

- **Standing Commission of the Red Cross and Red Crescent**

When it met on 22 October under the chairmanship of Dr. Ahmed Abu-Goura, the Commission issued the following press release:

“The Standing Commission of the Red Cross and Red Crescent, trustee of the International Conference of the Red Cross and Red Crescent, at its meeting in Geneva on October 22nd, 1990, expressed its deep concern about the consequences, in humanitarian terms, of the recent events in Kuwait, the massive deployment of military forces in the Gulf area and the possibility of the Middle East being drawn into an armed conflict that would cause innumerable victims among combatants and the civilian population. The Commission deplored the current difficulties encountered by the International Committee of the Red Cross (ICRC) in fulfilling its humanitarian mandate, which have left countless numbers of people without protection, and that disputes about the legal classifications of conflicts too often hinder the implementation of international humanitarian law.”

Therefore, in conformity with Resolution I of the Twenty-fifth International Conference of the Red Cross (Geneva, 1986), the Commission solemnly appeals to the Parties involved to respect all their obligations under international humanitarian law so as to enable the ICRC to carry out its humanitarian activities.

The Standing Commission also appeals to all Parties concerned to do their utmost to find a peaceful solution to the present crisis, in accordance with public international law."

During this meeting, the Standing Commission was informed by Mr. Rezsó Sztuchlik, President of the Executive Committee of the Hungarian Red Cross and the Society's Secretary General, about the initial preparatory work for the 26th International Conference of the Red Cross and Red Crescent which will take place in Budapest from 29 November to 6 December 1991. It also examined draft agendas and programmes for the Conference.

● Executive Council of the League

The 26th session of the Executive Council took place on 23 and 24 October under the chairmanship of Mr. Mario Villarroel Lander, President of the League. The ICRC took part in this meeting as an observer, together with representatives of the Iraqi, Kuwait and Saudi Red Crescent Societies.

The Executive Council extensively discussed the Gulf crisis and its humanitarian implications before adopting the following decision:

THE SITUATION IN THE GULF

The Executive Council,

having heard the report of the Secretary General and the interventions of the National Societies of Kuwait and Iraq and of other National Societies, commends the action already taken,

noting with concern that international relief and protection operations have been obstructed, *urging* the League and the ICRC to 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,

having taken note of the urgency of the situation in the Gulf region and the immediate need to relieve human suffering,

recognizing and *supporting* the appeal of the Kuwait Red Crescent Society for the implementation of international humanitarian law in order to alleviate the human suffering in Kuwait,

noting the understanding reached between the League and ICRC with regard to the request from the Iraqi Red Crescent for a donation of medications for vulnerable groups amongst the civilian population,

requests the League President and Secretary General and appeals to the ICRC to agree to any additional interim measures to be taken forthwith by either or both of the two institutions to provide assistance to those in need,

appeals to all National Societies, especially those in the region, to collaborate with the League, the ICRC and each other to facilitate the humanitarian objectives of the Movement,

further *encourages* the League President and Secretary General to take any necessary measures to respond to the needs of the victims in this matter in accordance with the Fundamental Principles, the Statutes of the Movement and the Agreement between the ICRC and the League of October 1989.

* * *

The Executive Council also approved the "Principles and Rules for Red Cross and Red Crescent Development Co-operation" and the rules for the operation of the Development Fund, the establishment of which was agreed by the General Assembly at its meeting in October 1989. This Fund has a capital base of Sw. fr. 1 million to aid certain National Societies in their efforts to become more operational and more efficient.

Amongst the other major topics discussed during the meeting was the question of the League's possible status as observer at the UN, the transition programme for the South African Red Cross, the International Decade for Natural Disaster Reduction and "Women in Red Cross/Red Crescent development".

The Council took note of reports on the work of the Commission on the Red Cross, Red Crescent and Peace (including the "World Campaign for the Protection of Victims of War"), an interim report on the Seville World Fair (1992) and accounts of the activities of the four constitutional Commissions (Youth, Disaster Relief, Development, and Health and Community Services) which met beforehand on 18 and 19 October.

SEMINAR FOR ASIAN JOURNALISTS

(Kuala-Lumpur, Malaysia, 14-15 November 1990)

A seminar entitled "Focus on the media and the ICRC" was held in Kuala Lumpur on 14 and 15 November for 19 journalists from seven Asian countries (India, Indonesia, Hong Kong, Malaysia, Philippines, Thailand and Viet Nam). The seminar was also attended by a number of ICRC representatives, including the heads of the Communication Department and the Press Division in Geneva, the Deputy Delegate General for Asia, the regional delegates based in Jakarta and Hong Kong and the head of the ICRC delegation in the Philippines.

The meeting was organized by the ICRC Communication Department, in co-operation with the Malaysian Red Crescent Society. Its purpose was to inform the participants about the ICRC and its goals and above all to strengthen ties with journalists from countries where the ICRC is working, with a view to creating a support network within the Asian media.

The two-day seminar started with a general presentation on the ICRC and international humanitarian law and then dealt with topics of direct relevance to journalists, such as the ICRC's information policy and how it is affected by the institution's rule of discretion, which the media often fail to understand; the ICRC's relations with the local press versus the international media; how information on humanitarian activities is sometimes used for political purposes; and the relationship between humanitarian law and human rights.

Discussions also centred on the protection of journalists on dangerous missions — a topic of particular relevance in countries such as the Philippines — and what the ICRC can do in this connection.

Following a presentation by the Malaysian Red Crescent on its activities in behalf of Vietnamese boat people, there was an extensive debate on this problem of major concern to all the countries in the region.

The seminar was a resounding success, thanks to the high standard of the attendance and the quality and intensity of the discussions. All the participants expressed the wish to support the ICRC's efforts in their respective fields of activity at the national level and to maintain the links established with the institution.

This seminar was the last of a series held since 1986 in Africa, Latin America, the Caribbean, Europe and the Middle East. The meetings were financed by special funds made available to the ICRC Communication Department by the Aga Khan Foundation for a training programme involving both ICRC headquarters staff and the media in countries where the ICRC is working.

Fifteenth Round Table of the International Institute of Humanitarian Law

(San Remo, 4 - 8 September 1990)

The fifteenth Round Table on current issues of international humanitarian law, organized by the International Institute of Humanitarian Law, took place in San Remo from 4 to 8 September 1990. The meeting was held under the auspices of the ICRC, the Office of the United Nations High Commissioner for Refugees, the United Nations Centre for Human Rights, the International Organization for Migration and the League of Red Cross and Red Crescent Societies. It was attended by about 150 participants, including academics, representatives of some 15 National Red Cross and Red Crescent Societies and members of diplomatic missions and non-governmental organizations (NGOs).

The ICRC was represented by Mr. C. Caratsch, Vice-President, Mr. P. Bernasconi, member of the Committee, Ms. S. Graven, Mr. Y. Sandoz, Mr. R. Kosirnik, Mr. M. Veuthey, Mr. T. Germond, Mr. J. Meurant and Mr. A. Bouvier.

The Round Table was, as is customary, divided into three parts: the Round Table itself, which spent two days on the theme "Ensuring observance of international humanitarian law", the Red Cross and Red Crescent Symposium (one day), and one day devoted to refugee matters.

At the opening meeting of the Round Table a short ceremony was held to mark the Institute's twentieth anniversary. Its President, Professor J. Patmgoc, took the opportunity to recall the highlights of those first twenty years.¹ A plaque was also awarded to the ICRC to express the gratitude of the Institute and the town of San Remo.

¹ See article by Prof. Patmgoc in *IRRC* No. 278, September - October 1990, pp. 450-455.

ROUND TABLE
(4 and 5 September)

The Round Table, under the chairmanship of Professor Patrnoic, examined four specific means of improving respect for international humanitarian law (IHL):

- (a) *the obligation to ensure respect for IHL set forth in Article 1 common to the four 1949 Geneva Conventions;*
- (b) *the potential role of the Fact-Finding Commission provided for in Article 90, Protocol I;*
- (c) *the role of the United Nations;*
- (d) *the possibility of setting up a system of periodic reports on the application of IHL.*

Mr. René Kosirnik, Head of the ICRC Legal Division and Rapporteur General of the Round Table, reviewed the main issues on the Round Table's agenda in an introductory report. In particular, he questioned whether the mechanisms for the application of IHL were realistic and effective, or whether they were too numerous and too complicated, incomplete or misused because inappropriate.

Mr. Kosirnik also listed the different measures of implementation provided for in IHL (preventive measures, mechanisms to monitor proper application for the rules and means of repressing breaches) and looked at their respective effectiveness.

He concluded by reiterating the reasons which had prompted the organizers of the Round Table to suggest that the participants discuss the four specific means of implementation mentioned above.

Very substantial reports were then presented in plenary session. Professor Paolo Benvenuti, Chairman of the IHL Commission of the Italian Red Cross, examined the function, scope and limits of the obligation for third parties to ensure respect for IHL, set out in Article 1 common to the four 1949 Geneva Conventions.

Captain Ashley Roach, US Navy, discussed the potential role of the Fact-Finding Commission provided for in Article 90 of Protocol I. The Commission should start functioning soon, since the minimum number of States which have recognized its competence has been reached.

The role of the United Nations in the application and monitoring of respect for IHL was dealt with by Mr. Roy S. Lee, from the UN Office of Legal Affairs.

The last speaker, Dr. Bensalah G. Ramcharan from the UN Office for Research and the Collection of Information, looked into the usefulness of a system of periodic reports on the application of IHL, similar to the reports issued on the application of human rights instruments.

The participants then split up into two working groups to discuss these topics. A summary of their discussions, presented by the Rapporteur General at the Round Table's final session, is given below.²

I. Function, scope and limits of the obligation of third States to ensure respect for IHL (Article 1 common to the four Geneva Conventions)

1. Scope of Article 1

Although the participants in the 1949 Diplomatic Conference did not intend the phrase “ensure respect for” to engage the responsibility of third States, it had now become clear that Article 1 created both a right and an obligation for third States to ensure respect for IHL. This was the view taken by the majority of participants in the working group, who pointed out that the adoption of the expression “ensure respect for” related to the actual implementation of IHL, especially as concerned breaches of its provisions, and also covered the taking of preventive measures. On the other hand, the group was not unanimous that the obligation of third States also applied in non-international armed conflicts and in “mixed conflicts”, in spite of the obvious link between Articles 1 and 3 of the four Geneva Conventions and the relevant articles of the Conventions and the Additional Protocols.

2. Methods and means available to third States

The participants felt that, although States acknowledged their obligation to ensure respect for IHL, they had strongly divergent views on the means of fulfilling that obligation. The main difficulty in practice seemed to be defining the measures to be taken. Various speakers attempted to define the minimum and maximum measures to be taken by third States to ensure respect for IHL.

² This summary of the proceedings, which was read out at the last plenary meeting of the Round Table, was drawn up by Mrs. E. Ianeva of the Bulgarian Red Cross (sections I and II) and Ms. S. Graven of the ICRC (sections III and IV).

It was generally agreed that it was impossible to lay down a general rule on *minimum* measures, since any measure depended on the position adopted by the State concerned and of course on its political, material and other capacities.

The *maximum* measure was considered to be the use of force. Due consideration must naturally be given to the provisions prohibiting reprisals.

The participants went on to consider the types of measure that could be taken: collective or individual, preventive or in response to breaches of IHL, etc. It was up to third States to decide for themselves what course to follow.

II. Role of the United Nations

The Round Table stressed the importance of the role of the United Nations (UN) in implementing IHL. United Nations action could take the following forms:

- *stating that IHL was applicable in a given situation;*
- *sending fact-finding missions or publishing reports on actual application of IHL by the parties to conflicts;*
- *denouncing violations, in resolutions or appeals by the General Assembly or the Security Council;*
- *using the Secretary-General's good offices to encourage practical measures of implementation, including ICRC activities;*
- *reminding governments of their obligations under IHL;*
- *launching appeals for the ratification of the 1977 Additional Protocols.*

Moreover, the promotion and development of IHL could be encouraged by its inclusion in the UN programme for the Decade of International Law (1990-1999).

The participants felt that the implementation of IHL was certainly enhanced when the UN, the States party to the Geneva Conventions and the ICRC worked in co-operation and co-ordinated their efforts. In this context, the proposal to grant the ICRC observer status at the UN was welcomed and considered a very favourable development. A study of the links between IHL and human rights mechanisms of implementation should be undertaken.

It was proposed that the United Nations and the ICRC should combine their efforts with respect to the repatriation of prisoners of war and the protection of children, including child soldiers, in time of armed conflict.

In response to a question as to whether the UN could become party to the Geneva Conventions and their Additional Protocols, a representative of the UN Secretariat explained the pragmatic approach currently used to solve the problem: the UN Secretary-General's office sent a letter to every government providing troops for UN peace-keeping forces, asking it to abide by the 1949 Geneva Conventions and their Additional Protocols; Governments had then to reply in writing to the Secretary-General confirming their commitment to doing so.

III. International Fact-Finding Commission

1. Setting up the Commission

Some of the participants wondered whether it would not be preferable to wait until far more than 20 States had made the declaration provided for in Article 90 of Additional Protocol I before setting up the Commission.

Most of those present felt, however, that the Commission should be set up as soon as possible; they saw the Commission as the first step towards establishing international jurisdiction. A diplomat from Switzerland, the depositary State of the Conventions and the Protocols, explained the procedure whereby the representatives of the 20 signatory States would be convened to elect the Commission's 15 members. That procedure was as follows: about four months beforehand, the Swiss Government would invite each of the 20 States which had accepted the Commission's competence to nominate a candidate. Those States might, however, first wish to have informal consultations about the candidates. Such consultations could take about three months. The Swiss Government would therefore be able to send the list of candidates to the 20 States about one month before the meeting.

2. Composition of the Commission

Several participants emphasized that the Commission's composition had to be geographically and professionally equitable. As concerned the geographic criterion, different legal systems should be represented on the Commission.

With regard to professional qualifications, the participants felt that the Commission should comprise legal specialists, some with court experience, diplomatic experts, physicians and perhaps some military experts.

3. Competence

The participants drew attention to the fact that the Commission could deal only with grave breaches and serious violations of IHL. It was, moreover, important to draw a clear line between its two levels of competence:

(a) *Grave breaches or violations attributable to an individual*

In this case it was up to States, through their penal law, to mete out punishment. If the State did not prosecute the individual guilty of a serious breach of IHL, it was failing to meet its legal obligation to repress violations of IHL and the matter could then pass into the hands of the Commission.

(b) *Grave breaches resulting from deliberate State practice*

In such a case the Commission had authority to intervene directly.

4. Procedure

Most of the participants felt that the Commission should have powers of investigation. Paragraph 4 (a) of Article 90 specified, moreover, that the Commission could invite the parties to provide evidence and seek other appropriate evidence. This did not prevent the Commission from having recourse, when necessary, to conciliation and good offices.

5. Relations with the ICRC

The participants expressed the opinion that consultations on the respective working methods of the ICRC and the Commission would make it possible to define their respective approaches more clearly and to guarantee the necessary complementarity. It was therefore vital that the Commission, once set up, contact the ICRC.

IV. Usefulness of a system of periodic reports on the applications of IHL

One of the participants emphasized the importance of the role played by International Conferences of the Red Cross and Red Crescent in presenting and examining reports on the implementation of IHL.

He raised the question of whether the ICRC should continue to play a central role in reporting or whether a new, *ad hoc* body should be set up. A clear distinction between the mandate of such a reporting body and the ICRC's own mandate would be vital. The participants agreed that the legal bases of a system of periodic reports should be looked into. There were four possible solutions:

- (a) *introducing ad hoc provisions into the Conventions and the Protocols;*
- (b) *convening the High Contracting Parties for a meeting to adopt specific rules;*
- (c) *amending the Movement's Statutes;*
- (d) *adopting a resolution at an International Conference of the Red Cross and Red Crescent.*

The content of such reports had to be carefully defined and might comprise information on national measures of implementation, on dissemination activities, or on the practical problems encountered in the application of IHL, which would be an indirect means of giving information on any violations.

In the ensuing discussion certain practical difficulties in the drafting of reports and the financial and administrative problems involved in a reporting system were raised.

It was stressed that the ICRC's opinion should be considered before setting up an *ad hoc* reporting body.

In conclusion, the Chairman summed up by saying that he thought he detected some optimism among the participants about the effects of a system of periodic reports in spite of the practical difficulties involved, which were not to be underestimated.

RED CROSS AND RED CRESCENT SYMPOSIUM (6 September)

The general theme of the Symposium was "National Law and Policy as a Factor in the Development of National Red Cross and Red

Crescent Societies". This topic was introduced by Mr. Pär Stenbäck, Secretary General of the League, who dealt with the National Societies' need for continuous development, and was then discussed by two working groups.

The first working group, chaired by Dr. Mouloud Belaouane, President of the Algerian Red Crescent and a League Vice-President, examined the following subject: "How can governmental action influence the Red Cross/Red Crescent response to humanitarian challenges?"

Mr. Luc de Wever, legal adviser to the Belgian Red Cross (Flemish community), presented a report on the commitments of States in support of National Societies. In this connection he reviewed the various international legal texts which stressed such commitments — from the first Geneva Convention of 1864 up to the Statutes of the International Red Cross and Red Crescent Movement.

He went on to describe a series of measures which States must undertake in peacetime to help National Societies fulfil their humanitarian mission with regard to disseminating international humanitarian law, training qualified personnel, making preparations for relief activities in the event of armed conflict, and reuniting families.

On the subject of "How can national legislation and policy contribute to the National Societies' integrity?", Ms. Sophie Graven, a lawyer working at the ICRC Division for Principles and Relations with the Movement, spoke of the duties of States in relation to the independence of National Societies and the role of the International Red Cross and Red Crescent institutions in that regard. She then examined the relationships between respect for the Fundamental Principles — that of independence in particular — and the development of National Societies. Ms. Graven concluded by stressing that strengthening the operational capacity of National Societies through solidarity was bound to increase recognition of and respect for the Principles, both by the National Society concerned and by its country's authorities.

The second working group, chaired by Mr. Lloyd A. Doring, President of the Sierra Leone Red Cross Society, concerned itself with the theme "National development/emergency plans and the Red Cross/Red Crescent". It was introduced under two sub-headings: "A role of the Red Cross/Red Crescent in national development programmes?" which was presented by Mrs. N.T. Mapetla, Secretary General of the Lesotho Red Cross, and "A role of the Red Cross/Red Crescent in national emergency plans?" by Dr. G. Rueda Montaña, Head of the Americas Department at the League, presented by Mr. Mohamed Chande of the League Secretariat.

Discussions within the two working groups centred on the legal status of the National Societies and more especially on the relationship between their status and that of NGOs. Some participants maintained that National Societies, as auxiliaries to the public authorities and duly recognized by their respective governments, could be considered as NGOs. Others felt that National Societies were non-governmental organizations in legal terms; however, their actual standing was less important than their ability to provide the community with efficient and competitive services. This was an essential prerequisite for gaining government support and public recognition.

As one government representative said, the main criterion determining State support for humanitarian organizations — whether NGOs or otherwise — is the quality of the service they offer.

Discussions also focused on the relationship between the independence of National Societies and their position as auxiliaries to the public authorities, and on the need to convince governments that it is in their interest to be able to rely on a Society which is independent and prepared for any disaster both in time of war and in peacetime.

Other issues tackled were misuse of the emblem and the preparedness of National Societies for conflict situations.

During the plenary session chaired by Mr. C. Caratsch, the Secretary General of the League said in his capacity as general rapporteur that the legal status of the National Societies required examination so as to endow them with a more clearly defined identity on the national level, in view of the proliferation of humanitarian agencies. In conclusion, it was agreed that the status of National Societies was a means and not an end in itself and that the ICRC and the League must continue their efforts to develop the National Societies.

REFUGEE DAY (7 September)

The theme for this day was “Refugees — a continuing challenge for humanity: for a realistic approach in asylum policy”, with Mr. Michel Moussalli, Director of International Protection at the UNHCR, in the chair. The subject was discussed by a panel of experts which included Mr. Nino Adinolfi, Deputy Secretary-General of the Council of Europe, Professor Ionel Closca of the Romanian Humanitarian Law Association, Lord Ennals, President of Global Co-operation for a Better World (London), Ms. Erika Feller, legal adviser to the UNHCR, Mr. Ivor Jackson, consultant to the UNHCR; Mr. Gilbert Jaeger from

the Belgian Committee for Aid to Refugees, Mr. Peter Nobel, Ombudsman for matters of racial discrimination in Sweden, Mr. Yves Sandoz, Director of the ICRC Department of Principles, Law and Relations with the Movement, and Professor Enrique Syquia from the Philippine Red Cross.

The discussions revolved around the relevance today of the definition of the term “refugee” set out in the 1951 Convention and the 1967 Protocol, the question of displaced persons and the need for constant co-operation between academic institutions, intergovernmental agencies, NGOs and governments in dealing with problems related to refugees and the policy of asylum.

At the end of the session, the participants adopted the following conclusions:

CONCLUSIONS

1. The continuing complexity of the refugee problem calls for urgent practical action on the part of governments and concerned intergovernmental and non-governmental organizations. Such action should be directed towards:

(a) attenuating the causes of refugee movements through economic and social development assistance, aimed at creating in countries of origin a better political climate and promoting the maintenance of human rights standards;

(b) the provision of appropriate solutions for refugees in their regions of origin in order to reduce the pressure of transcontinental movements;

(c) creating in countries of origin conditions favourable to the solution of voluntary repatriation.

2. Solutions should not at present be primarily sought in the conceptual area by seeking to modify or adapt recognized protection principles. Such an approach would involve a serious danger of eroding established protection standards and principles, as has been the case in recent years.

3. It is noted with satisfaction that the importance of practical — as distinct from conceptual — solutions is now receiving increasing recognition on the part of governments. Results will, however, probably only become apparent in the medium or longer terms. In the meantime it is of utmost importance that recognized protection standards and principles be fully respected.

4. The complexity of the current refugee problem is compounded by the fact that it is connected with more general issues involving the movement of populations, e.g. for migration purposes. A sustained effort on the part of governments is required to deal with each type of population movement — including migration — outside the refugee context. This will facilitate a

purely humanitarian approach to refugee problems without regard to extraneous migration factors.

5. A sustained effort should also be made to secure accessions to the 1951 Convention and the 1967 Protocol by countries of first asylum confronted with large-scale refugee problems which are not yet parties to these instruments. Such accession would be an important factor in strengthening international burden-sharing in regard to asylum and would thus also contribute to the better observance of protection principles.

6. There is an essential need for governments to ensure that asylum practices are fully adequate to guarantee that no person is returned to a country where he or she may be exposed to persecution or serious danger. In particular, every person seeking asylum should be granted temporary admission in order to enable his or her claim to be duly considered. It is important that governments give their full support to the UNHCR in its efforts to promote such correct asylum practices and to enable it by every means to accomplish its full mandate, including all types of durable solutions.

7. The introduction by various governments of visa requirements for certain nationalities and the imposition of sanctions on airline companies for carrying improperly documented passengers were noted. While governments were entitled to adopt measures of this kind in the exercise of State sovereignty, the indiscriminate application of such measures was a matter of serious concern in so far as it could prevent potential asylum seekers from addressing themselves to the competent authorities in order to request asylum.

8. An appropriate application of the refugee concept defined in the 1951 Convention and the 1967 Protocol would probably be adequate to deal with the majority of today's refugee situations. A broader refugee concept like that contained in Article I (2) of the 1969 OAU Refugee Convention and in paragraph 3 of the 1984 Cartagena Declaration on Refugees nevertheless provides an important tool to States and to the UNHCR in those cases where the applicability of the 1951 Convention and the 1967 Protocol is not clearly established.

9. The situation of internally displaced persons is in many ways similar to that of persons obliged to leave their country of origin as refugees. The question of internally displaced persons should therefore be the subject of further detailed study on the initiative of the International Institute of Humanitarian Law (San Remo), with a view to formulating appropriate principles for international action leading to adequate solutions.

10. In the majority of countries there is still insufficient realization in public opinion that the refugee problem is one calling for special concern. Sustained efforts should be undertaken to promote — by appropriate information — a better knowledge and understanding of the refugee problem in the context of wider efforts to combat racism and xenophobia.

11. Finally, there is an essential need for an ongoing dialogue between academic institutions, intergovernmental agencies, non-governmental agencies and governments with regard to asylum and refugee problems. Such a dialogue should be aimed at promoting an awareness on the part of governments at the highest level that fundamental solutions to the refugee problem can be obtained only through a large-scale concerted effort in the field of economic and social development, leading to political stability and full respect for individual and collective human rights in countries — or potential countries — of origin of refugee flows.

* * *

At the final plenary session on 8 September the participants adopted the conclusions and approved the work of the Round Table, the Symposium and Refugee Day.

The IIHL prize for the promotion, dissemination and teaching of international humanitarian law was then awarded to Mr. Pedro Ramón Varela Aparicio, of the Salvadorean Red Cross. Mr. Varela is in charge of dissemination in his National Society and is also its acting public relations officer; he has distinguished himself for almost twenty years by his tireless work to promote the cause of the Red Cross and spread knowledge of its principles and ideals. He has conducted dissemination programmes for various target groups (particularly first-aiders), and his resolute commitment to ensuring that the parties to the conflict respect basic humanitarian rules has often put his own life at risk.

He has always been ready to help a succession of ICRC delegates in their work, offering wise advice and showing a remarkable insight into human relations.

This Fifteenth Round Table provided an opportunity to celebrate the twentieth anniversary of the International Institute of Humanitarian Law. A concert was given by the San Remo Symphony Orchestra with the participation of Barbara Hendricks, soprano, and Justus Frantz, pianist. The two artistes, both of whom are UNHCR Goodwill Ambassadors, were awarded honorary membership of the IIHL.

First International Conference on Burns and Fire Disasters

(Palermo, Sicily, 25-28 September 1990)

The First International Conference on Burns and Fire Disasters was held in Palermo, Sicily, from 25 to 28 September 1990. It was organized by the Mediterranean Burns Club and the Burn Centre and Plastic Surgery Department of the Palermo Civic Hospital, with the co-operation of several Italian ministries, international governmental organizations (WHO, the Council of Europe and the Commission of the European Communities), non-governmental organizations and specialized associations. The Conference was attended by some 200 delegates from all over the world representing the bodies mentioned above, civil defence units, fire brigades and specialized hospitals. They included specialists in the medical, paramedical, safety, logistic and training aspects of disaster management. ICRC and Italian Red Cross representatives also took part in the meeting.

The aim of this Conference was to gather information, consider the results and lessons drawn from the various types of experience acquired by the participants and compare research work and studies carried out on the theoretical aspects of disaster management in general and more specifically on the medical, paramedical, logistic and administrative components of burn treatment and fire disaster management. Participants were also invited to discuss preventive and safety measures, training programmes and information and communication problems in this type of disaster situation.

The opening ceremony took place at Parliament House on 25 September, in the presence of the Italian Minister for Civil Defence, Mr. Vito Lattanzio. Speakers included representatives of the regional authorities and the City of Palermo, the President of the Mediterranean Burns Club, Dr. S.W.A. Gunn, the Head of the Burn Centre and Plastic Surgery Department of the Palermo Civic Hospital, Professor M. Masellis, and the Head of the EC Commission's Civil Defence Service, Dr. Fulvio Paolini.

The work of the Conference was divided among four Commissions, which covered the following topics:

- Fire disasters;
- Preparedness for primary burns emergencies;
- Fire disaster management and related clinical problems;
- Information and communication: the role of national and international organizations.

These four main topics were introduced by some 90 different presentations. Each series of presentations on a given theme was followed by a round table of experts whose task was to summarize and draw conclusions from the subjects discussed and to put forward recommendations.

These conclusions and recommendations were presented at the last plenary session, in the form of reports that reaffirmed and specified a number of principles and rules for disaster management, prevention and training, which are also endorsed by the various components of the Red Cross and Red Crescent Movement.

The Conference laid particular emphasis on the need for each country's public authorities to adopt a *multidisciplinary approach* in *planning* rescue operations in the event of disaster and to *co-ordinate* the work of the security services, civil defence units and fire brigades, Red Cross and Red Crescent teams, and the voluntary agencies involved.

The participants also stressed the importance of ensuring that communities became *self-sufficient* in coping with the emergency phase of a disaster and the vital need for *volunteers* properly trained in disaster preparedness and rescue activities.

As regards *prevention*, the participants felt it would be useful for each country to draw up a "map" of potential risks based on assessments of previous disasters, so as to improve and strengthen the services required to cope with emergency situations.

The Conference also considered it necessary to improve the provisions made for emergency treatment of burn victims and their speedy transfer to hospital, and the technical and psychological preparedness of rescue teams and professional and volunteer staff involved in rescue operations, with special emphasis on psychological assistance to the victims. It recommended that emphasis be laid on the *training* of medical staff to deal with the aftermath of disasters (simulation exercises, constant updating of technical knowledge, further training courses, etc.) and that first-aid and health education courses be

extended to specific sectors of the population, particularly school-children.

The Conference's proceedings and conclusions showed an awareness that disaster management is becoming a *science*, which is not yet fully mastered and will doubtless prove to be a major challenge in the years to come.

The Conference was a signal success, thanks to the high standard of the attendance, the quality of the discussions and the excellent organization of its proceedings. It also enabled the participants to gain a better understanding of the ICRC's mandate and of the special nature of its relief and medical activities in times of armed conflict.

New Parties to the Additional Protocols to the Geneva Conventions

CANADA RATIFIES THE PROTOCOLS

On 20 November 1990 Canada ratified the Protocols additional to the Geneva Conventions of 12 August 1949 relative 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 was accompanied by reservations, statements of understanding and a declaration regarding the International Fact-Finding Commission. These texts are given below:

Protocol I

Protocol relating to the Protection of Victims of International Armed Conflicts

RESERVATIONS

Article 11 - Protection of persons

(Medical procedures)

The Government of Canada does not intend to be bound by the prohibitions contained in Article 11, sub-paragraph 2 (c), with respect to Canadian nationals or other persons ordinarily resident in Canada who may be interned, detained or otherwise deprived of liberty as a result of a situation referred to in Article 1, so long as the removal of tissue or organs for transplantation is in accordance with Canadian laws and applicable to the population gener-

ally and the operation is carried out in accordance with normal Canadian medical practices, standards and ethics.

Article 39 - Emblems of nationality

(Enemy uniforms)

The Government of Canada does not intend to be bound by the prohibitions contained in paragraph 2 of Article 39 to make use of military emblems, insignia or uniforms of adverse parties in order to shield, favour, protect or impede military operations.

STATEMENTS OF UNDERSTANDING

(Conventional weapons)

It is the understanding of the Government of Canada that the rules introduced by Protocol I were intended to apply exclusively to conventional weapons. In particular, the rules so introduced do not have any effect on and do not regulate or prohibit the use of nuclear weapons.

Article 38 - Recognized emblems

(Protective emblems)

It is the understanding of the Government of Canada that, in relation to Article 38, in situations where the Medical Service of the armed forces of a party to an armed conflict is identified by another emblem than the emblems referred to in Article 38 of the First Geneva Convention of August 12, 1949, that other emblem, when notified, should be respected by the adverse party as a protective emblem in the conflict, under analogous conditions to those imposed by the Geneva Conventions of 1949 and the Additional Protocols of 1977 for the use of emblems referred to in Article 38 of the First Geneva Convention and Protocol I. In such situations, misuse of such an emblem should be considered as misuse of emblems referred to in Article 38 of the First Geneva Convention and Protocol I.

Articles 41, 56, 57, 58, 78 and 86

(Meaning of "feasible")

It is the understanding of the Government of Canada that in relation to Articles 41, 56, 57, 58, 78 and 86 the word "feasible" means that which is

practicable or practically possible, taking into account all circumstances ruling at the time, including humanitarian and military considerations.

Article 44 - Combatants and prisoners of war

(Combatant status)

It is understanding of the Government of Canada that:

- a. the situation described in the second sentence of paragraph 3 of Article 44 can exist only in occupied territory or in armed conflicts covered by paragraph 4 of Article 1; and
- b. the word “deployment” in paragraph 3 of Article 44 includes any movement towards a place from which an attack is to be launched.

Part IV, Section I -

General protection against effects of hostilities

(Standard for decision-making)

It is the understanding of the Government of Canada that, in relation to Articles 48, 51 to 60 inclusive, 62 and 67, military commanders and others responsible for planning, deciding upon or executing attacks have to reach decisions on the basis of their assessment of the information reasonably available to them at the relevant time and that such decisions cannot be judged on the basis of information which has subsequently come to light.

Article 52 - General protection of civilian objects

(Military objectives)

It is the understanding of the Government of Canada in relation to Article 52 that:

- a. a specific area of land may be a military objective if, because of its location or other reasons specified in the Article as to what constitutes a military objective, its total or partial destruction, capture or neutralization in the circumstances governing at the time offers a definite military advantage; and
- b. the first sentence of paragraph 2 of the Article is not intended to, nor does it, deal with the question of incidental or collateral damage resulting from an attack directed against a military objective.

Article 53 - Protection of cultural objects and of places of workshop

(Cultural objects)

It is the understanding of the Government of Canada in relation to Article 53 that:

- a. such protection as is afforded by the Article will be lost during such time as the protected property is used for military purposes; and
- b. the prohibitions contained in sub-paragraphs (a) and (b) of this Article can only be waived when military necessity imperatively requires such a waiver.

Articles 51, sub-paragraph 5 (b), 52, paragraph 2, and 57, clause 2 (a) (iii)

(Military advantage)

It is the understanding of the Government of Canada in relation to sub-paragraph 5 (b) of Article 51, paragraph 2 of Article 52, and clause 2 (a) (iii) of Article 57 that the military advantage anticipated from an attack is intended to refer to the advantage anticipated from the attack considered as a whole and not from isolated or particular parts of the attack.

Article 62 - General protection

(Protection of civil defence personnel)

It is the understanding of the Government of Canada that nothing in Article 62 will prevent Canada from using assigned civil defence personnel or volunteer civil defence workers in Canada in accordance with nationally established priorities regardless of the military situation.

Article 96 - Treaty relations upon entry into force of this Protocol, paragraph 3

(Declaration by national liberation movement)

It is the understanding of the Government of Canada that the making of a unilateral declaration does not, in itself, validate the credentials of the person or persons making such declaration and that States are entitled to satisfy themselves as to whether in fact the makers of such declaration constitute an authority referred to in Article 96. In this respect, the fact that such authority has or has not been recognized as such by an appropriate regional inter-governmental organization is relevant.

DECLARATION

Article 90 - International Fact-Finding Commission

The Government of Canada 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 Commission to enquire, as authorized by Article 90 of Protocol I, into allegations by such other Party that it has been the victim of violations amounting to a grave breach or other serious violation of the Geneva Conventions of 1949 or of Protocol I.

Protocol II

Protocol relating to the Protection of Victims of Non-International Armed Conflicts

STATEMENT OF UNDERSTANDING

The Government of Canada understands that the undefined terms used in Additional Protocol II which are defined in Additional Protocol I shall, so far as relevant, be construed in the same sense as those definitions.

The understandings expressed by the Government of Canada with respect to Additional Protocol I shall, as far as relevant, be applicable to the comparable terms and provisions contained in Additional Protocol II.

Canada is the **twentieth State** to make the declaration accepting the competence of the International Fact-Finding Commission. This means that the conditions are now fulfilled for Switzerland, the depositary State, to proceed with the establishment of the Commission.

In accordance with their provisions, the Protocols will come into force for Canada on 20 May 1991.

Canada is the **98th State** to become party to Protocol I and the **88th** to Protocol II.

THE REPUBLIC OF PARAGUAY ACCEDES TO THE PROTOCOLS

On 30 November 1990 the Republic of Paraguay acceded to 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.

In accordance with their provisions, the Protocols will come into force for the Republic of Paraguay on 30 May 1991.

This ratification brings to **99** the number of States party to Protocol I and to **89** those party to Protocol II.

States party to the Protocols of 8 June 1977

as at 31 December 1990

Below we give the lists, drawn up in chronological order as at 31 December 1990, 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	Int. Commission***
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

** When acceding to Protocol II, France sent a communication concerning Protocol I.

*** By a declaration of 17 July 1990.

**** On 27 March 1987.

1987					
67	61	Iceland	10 April	R	Reservation; Int. Commission Declarations; Int. Commission Reservation
68	62	The Netherlands	26 June	R	
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	Declarations; Int. Commission
73	66	New Zealand	8 February	R	
74		Dem. People's Rep. of Korea	9 March	A	Protocol I only Protocol I only; Declaration
75		Qatar	5 April	A	
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	Reservations; Int. Commission Declarations; Int. Commission Reservations; Int. Commission Declarations; Int. Commission Declaration; Int. Commission
80	71	Mali	8 February	A	
81		Greece	31 March	R	
82	72	Hungary	12 April	R	
83	73	Malta	17 April	A	
84	74	Spain	21 April	R	
85	75	Peru	14 July	R	
86	76	Liechtenstein	10 August	R	
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	
92	82	The Bielorussian Soviet Socialist Rep.	23 October	R	
1990					
93	83	Ukraine	25 January	R	Declaration; Int. Commission
94	84	Czechoslovakia	14 February	R	
95	85	Barbados	19 February	A	

96	86	Yemen (Arab Rep.)	17 April	R	
97	87	Romania	21 June	R	
98	88	Canada	27 September	R	Reservations; Declarations; Int. Commission
99	89	Paraguay	30 November	A	

On 31 December 1990, 99 States were parties to Protocol I and 89 to Protocol II.

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

BOOKS AND REVIEWS

CHILDREN IN WAR

"Mankind owes to the Child the best that it has to give."

On show until 1 April 1991 at the International Red Cross and Red Crescent Museum is a travelling exhibition, entitled "Children in War", of about 100 photographs collected and selected by the Museum's Director, Laurent Marti, and its Curator, Jean-Pierre Gaume. The exhibition, which was organized with the support of UNICEF, also includes archive film footage and has attracted widespread attention since it opened on 11 September 1990.

These stark photographs of children caught up in war show them in all sorts of appalling situations: wounded, sick, paralysed, suffering from burns, legless — or as pathetic, emaciated figures with enormous eyes and bloated bellies. They cower in trenches, crouch in holes, or flee by any means possible from situations beyond their understanding.

They are seen wandering alone among ruins or trudging along in columns of refugees; one is wearing an oversized helmet and another is dwarfed by a trailing overcoat. They are regarded with suspicion, searched, interned and imprisoned. We see one waiting by his dying mother, another leading a line of blind people.

The mute appeal of their hopeless, blank or bitter and resolute faces speaks more forcefully than the captions to the photos. As those who mounted the exhibition put it: "These images enable us to sense at a glance a situation that words often fail to describe. These reflections of the dark side of reality are intended to arouse emotion, in order to restore reason and hope".

A book based on the exhibition is now available. It was prepared thanks to a special grant from the ICRC and published to coincide with the World Summit for Children, held on 29 and 30 September 1990 at the United Nations in New York.

The first part of the book reproduces the photographs selected for the exhibition. The second part contains all the most important texts relating to children that have been adopted by the international community from 1900 to the present. The reader can follow the successive stages in the codification of children's rights from the Declaration on the Rights of the Child, whose liberal provisions were adopted by the League of Nations in 1924, up to the 1989 United Nations Convention on the Rights of the Child. For the first time in the history of international law, the 1989 Convention embodies children's rights in the form of a treaty which will be binding on all States that ratify it. The third part of the book contains a selection of texts and commentaries published by the International Red

Cross and Red Crescent Movement between 1980 and 1990 on the question of children in armed conflicts and emergency situations. These texts cover a range of issues, including the age of combatants, the participation of children in hostilities and the legal protection they need in today's conflicts.

Finally, the fourth part of the book is a collection of comments inspired by outstanding events in the history of protection of children in the course of this century. Apart from their anecdotal interest, these texts bring out the evolution of the problems and of the responses prompted by different situations and changing attitudes. Three major periods may be discerned. From 1918 to 1924, following the First World War that left so many children starving and homeless, the countries of Europe, among others, created the International Union for Child Welfare (IUCW). From 1945 to 1959, in the wake of the Second World War, the United Nations Children's Fund (UNICEF) and many other non-governmental organizations sought to generate international solidarity on the institutional level to meet the needs of children, particularly the medical and social needs which are so great in developing countries. Finally, since the end of the 1970s, and especially since the International Year of the Child in 1979, the international community has been developing a worldwide strategy to gain recognition for the place and rights of children on an equal footing with adults in society.

As Laurent Marti and Jean-Pierre Gaume state in the introduction to the book: "From the 1924 Declaration to the 1989 Convention, the international community has progressed from general, altruistic principles to rules of law, in order to establish a universal standard for dealing with the situations faced by children, particularly in wartime. By tracing this historical progression, this book serves as a veritable anthology of the way the 20th century has perceived and experienced the place of children in human societies". It is also a useful reference work and will be valuable for purposes of dissemination.*

Let us hope that leading world figures will never forget the assertion in the 1924 Declaration that "Mankind owes to the Child the best that it has to give"; and that they will promote the humanitarian and ethical values which uphold the dignity of children and protect them where they are most vulnerable.

At this time of international upheaval, let them think on the children of the Middle East!

Jacques Meurant

* *L'enfant dans la guerre*, (Children in war), published by the International Red Cross and Red Crescent Museum, Geneva, 140 pages, 105 illustrations, format 21 × 21 cm, ISBN: 2-88336-002-2. Price: 20 Swiss francs plus postage. Address orders to: International Red Cross and Red Crescent Museum, 17 Avenue de la Paix, or International Committee of the Red Cross (COM/EDOC), 19 Avenue de la Paix, 1202 Geneva, Switzerland.

ARMS CONTROL AT SEA*

Seven tenths of the Earth's surface are covered by water. The sea, with the boundless possibilities it offers for communications and military manoeuvres, is of vital importance in any regional or global conflict.

It is therefore surprising that for several decades sea warfare received scant attention on the part of experts; moreover, it has hardly ever been included on the agenda of the various bodies dealing with disarmament and arms control.

As a result of specific events such as the South Atlantic conflict in 1982 and more recently the Gulf crisis, the situation has changed, and experts are now showing renewed interest in the issue of sea warfare. Rear Admiral Hill's book is an excellent example of this new trend.

The goal set by this former senior British naval officer and member of the British Ministry of Defence Central Staff was indeed an ambitious one: the book first of all serves as a reminder of the efforts made so far in the field of arms control and identifies areas where progress might be achieved. The latter part of the book examines the past, current and future role of arms control in improving international security.

The author begins by explaining the basic differences between two parallel approaches, namely *disarmament* and *arms control*. Rear Admiral Hill favours the second approach – a more realistic one in his opinion – and lists its main objectives, which are to reduce the likelihood of conflict, limit the damage caused by war, cut defence expenditure and, last but not least, improve mutual security.

In the second chapter, Rear Admiral Hill gives a very clear description of the objectives of maritime power, particularly in economic and military terms.

The next chapter contains a useful and detailed review of the main maritime arms control measures adopted between 1800 and 1939. Although most of them are now outdated (such as the USA/UK treaty limiting the number of warships allowed to be stationed on the Great Lakes), Rear Admiral Hill's analysis is extremely interesting in that it shows that almost all the arms control measures we are attempting to introduce today, such as the creation of demilitarized zones, restrictions on the use of certain methods of warfare and prohibitions of certain types of weapons, were already applied in the 19th century.

The author then goes on to study the agreements reached in the post-1945 period, all of which he considers have been marked by two new and decisive factors: the emergence of the superpowers and the development of nuclear weapons.

* *Arms Control at Sea*, by Rear Admiral J.R. Hill, Routledge, London and New York, 1989, 229 pp.

The following chapters contain a most interesting review of the policies of military engagement adopted by the major maritime powers and an analysis of the potential role of various means of warfare, such as nuclear weapons, conventional armaments and submarines.

In each case, the author examines the (very few) arms control treaties pertaining to these different methods of warfare and possible developments in this regard, never hesitating to express an opinion on their appropriateness or feasibility.

The author here puts forward some fairly unconventional views, going so far as to affirm that certain arms control procedures in force or currently being negotiated might in fact turn out to have globally *destabilizing* effects.

Generally speaking, the author appears extremely sceptical about arms control measures at sea. (He himself remarks rather wryly that some might feel his book should have been called "*No Arms Control at Sea*")

The last chapter is the least convincing part of the book, perhaps because the ideas it propounds are less fully developed. Rear Admiral Hill puts forward a few suggestions for improving mutual security, which is indeed the ultimate objective of arms control. He rejects abrupt changes and drastic measures and instead favours the adoption of uni- or multilateral confidence-building measures.

Arms Control at Sea provides a wealth of clear and accurate information, especially regarding the historical background, and an extensive critical examination of the issues at stake. It will doubtless prove most useful to all experts on the subject.

Antoine Bouvier

HUMANITÄRES VÖLKERRECHT INFORMATIONSSCHRIFTEN

*A new German-language periodical
on humanitarian law*

The *Review* is happy to introduce its readers to *Humanitäres Völkerrecht, Informationsschriften*, a new periodical entirely devoted to international law and to the Red Cross that will be of particular interest to German-speaking readers. It is published jointly by the German Red Cross and by the Institut für Friedenssicherungsrecht und Humanitäres Völkerrecht (IFHV), University

of the Ruhr, Bochum, Germany, and is edited by Horst Fischer, Doctor of laws.*

It is the duty of all States party to the Geneva Conventions to make the provisions of international law widely known. To promote such knowledge, the German Red Cross and the IFHV have pooled their experience and efforts to bring out a "product" that manifestly meets that requirement. This co-operation between a National Red Cross Society and a university Institute has made an original contribution to promoting knowledge of international humanitarian law.

The policy of the new magazine is to provide a wide variety of information in each issue. This is not confined to legal matters, for its columns are open to discussion of problems besetting the International Red Cross and Red Crescent Movement. In particular, it is proposed to publish scholarly articles on the fundamentals of humanitarian law, thus making it better known and perhaps even contributing to its development. Other texts give concrete examples of its application taken from actual practice of humanitarian law or "Red Cross law". Reports of conferences and seminars on subjects connected with humanitarian law and the Red Cross will keep readers well informed, and a glossary explaining terms and legal concepts will add to their knowledge or refresh their memories. Each number contains book reviews and information on future conferences, seminars and other similar events. This programme is intended not only for experts in international humanitarian law, but also and above all for anyone who is in any way interested in humanitarian activities.

A quick look at the issues that have so far appeared shows that the publishers have kept their word. The first number (October 1988) exactly reflects their intentions. It contains highly interesting leading articles and a wealth of information on international humanitarian law and International Red Cross activities. The four issues published in 1989 and the two published in 1990 (which are with us as we write this article) successfully continue this policy.

There is no space in this short article for an exhaustive description of the issues that have so far appeared. We shall perforce have to confine ourselves to a few selected features.

- The first article of the inaugural issue is by one of the editors of the magazine, Professor *Knut Ipsen*, Director of the IFHV who also has special responsibilities for dissemination in the German Red Cross. He describes with admirable clarity the legal problems posed by the protection of civilian hospitals in time of war and their marking with the protective emblem. His able exposition reveals the full significance of the hard-won relevant provisions of the Fourth Geneva Convention, and so enables governmental authorities to act in accordance with those regulations.

* *Humanitäres Völkerrecht, Informationsschriften*, published by the General Secretariat of the German Red Cross, Bonn, and the Institut für Friedenssicherungsrecht und Humanitäres Völkerrecht, University of the Ruhr, Bochum.

Daniel Meynen's article on dissemination points out that the resolution on this subject adopted in 1977 at the Twenty-third International Conference of the Red Cross in Bucharest was the first to allude to the principles of the Red Cross as well as mentioning the *Geneva Conventions*; a subsequent resolution adopted at the Twenty-fifth Conference in Geneva included the dissemination of *international humanitarian law and the principles and ideals of the Movement in the service of peace*. He says that these changes were certainly important, but that nothing was really added to the previous resolutions on dissemination, which he examines, by introducing a mention of the principles and ideals of the Red Cross and a reference to their aim of promoting peace; the 1977 resolution merely spelled out what was already plain. National Societies should therefore regard dissemination of humanitarian law and dissemination of Red Cross principles as equally important.

This issue of the magazine also contains a legal appreciation of the Iranian Airbus incident in the Gulf war and the destruction of a Libyan civilian aircraft by the Israeli air force in 1973, an analysis of Article 90 of Protocol I (on the International Fact-Finding Commission), and many other articles that cannot fail to interest legal experts and Red Cross "disseminators" alike.

- No. 1/1989 of this publication opens with an article by *Christian Koenig* based on his doctoral thesis (see the notice in the *Review* of March-April 1989, No. 269, p. 165). He points out that international humanitarian law deals inadequately with the various possible forms of occupation of territory by foreign forces. He is particularly interested in the new possibilities opened up by Article 1, para. 4, of Protocol I (on wars of national liberation). *Stephan Witteler* gives an excellent description of the United Nations Convention on the Prohibition of Certain Conventional Weapons, adopted in 1980 but since then largely forgotten. His article will doubtless revive interest in that treaty, which was certainly of humanitarian value. Many other articles make this issue of the magazine a first-class source of information.

- No. 2/1989 opens with a well researched article by *Ove Bring*, which points out the appalling effects (in many cases, certain blindness) of lasers if used as weapons, and appeals for their international regulation. Two articles deal with the law applicable to prisoners of war. *Hartmut Schneider* writes on the subject of the prisoners of war held by Iran and Iraq, and concludes that the obligation to repatriate prisoners of war at the end of hostilities should take precedence over anything else; and *Rainald Maass* considers the legal status of those forgotten participants in the Gulf conflict, the Egyptian prisoners of war in Iranian hands. There are also interesting articles on The Hague Conference of 1899, the Luanda trials of mercenaries and the 1977 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques.

- No. 3/1989 contains an excellent article by Professor *Karl Josef Partsch* on the means available for scrutiny of the application of international humanitarian law. He points out the strengths and weaknesses of the institutions set

up for this purpose – the Protecting Power and the International Fact-Finding Commission (see Protocol I, Article 90). His estimate of their efficacy is depressing, but he shows very clearly how difficult it is to ascertain whether the parties to an international conflict are respecting their humanitarian obligations.

In an article on chemical weapons in relation to international law, Professor *Alfred Rubin* examines the political forces justifying their prohibition. *Knut Ipsen* writes on how the Red Cross ethic can help to prevent war – not only by its humanitarian activities which themselves make for peace, but also, he urges, by greater effort on the part of the Movement to ensure respect for *Friedenssicherungsrecht*, the provisions of international law that help to maintain peace. Other articles in this issue include one by *Dieter Walz* and *Burkhard Willerding* on turning the provisions of Protocol I into instructions easily understandable by all members of armed forces.

- No. 4/1989 contains an article by *Frits Kalshoven* on the state of the question of reprisals, in which his expert appraisal answers some controversial questions. *Michael Both* points out the importance of national measures providing for the application of international humanitarian law, and articles by *Dieter Riesenberger* and *Daniel Meynen* shed light on the role of the Red Cross in efforts to seek peace.

- No. 1/1990 contains an article by *Volker Kröning* which will be of interest to all persons concerned by the changes that have taken place in Europe since the autumn of 1989. It concludes by examining Germany's future role and ends with an appeal for an effective policy for security without recourse to weapons. *Wolff H. von Heinegg's* excellent article on the obligation of removing the civilian population and civilian objects from the vicinity of military objectives (Protocol I, Article 58) uses a practical case to show the strong and weak points of this new provision.

There are also articles by *Burkhard Willerding* on the law of neutrality, *Horst Fischer* and *Georg Bock* on the duty of belligerents to repatriate prisoners of war, and *Christiane Sticher* on the Convention on genocide.

- No. 2/1990 does not entirely confine itself to international humanitarian law, for Professor *Igor Blishchenko* gives an interesting account of some of the difficulties attending international protection of human rights; coming from a Soviet author this article is of particular value. *Hans-Joachim Heintze* too deals with a subject connected with human rights, that is, the protection of groups by international law. *Christiane Sticher*, in a penetrating analysis of a highly topical question, the status of General Noriega who is being held by the American authorities, concludes that he has prisoner-of-war status and may be prosecuted for acts committed before the conflict. *Horst Fischer's* summary of the controversial Lieutenant Astiz affair is useful and factual. *Daniel Meynen* turns his long experience of disseminating humanitarian law to good account in describing the problems and special difficulties involved.

Other contributions deal with The Hague regulations of 1907 and the rules applicable to reservations concerning treaties.

For lack of space this short summary cannot acknowledge the merits of many other contributions, but it does show the value of the new publication. *Informationsschriften* is an extremely useful working document for every German-speaking reader at all interested in international humanitarian law.

Hans-Peter Gasser

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA (Socialist People's Republic of) — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Cruz Vermelha de Angola, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, 3, Gusshausstrasse, Postfach 39, A-1041, *Vienne 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, Dhaka-1217, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRASIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa*, Ontario K1G 4J5.
- CAPE-VERDE (Republic of) — Cruz Vermelha de Cabo Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Prata*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N' Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA (People's Republic of) — Red Cross Society of China, 53, Ganmien Hutong, *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO (People's Republic of the) — Croix-Rouge congolaise, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Croix-Rouge de Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Calzada 51 Vedado, Ciudad Habana, *Habana 4*.
- THE CZECH AND SLOVAK FEDERAL REPUBLIC — Czechoslovak Red Cross, Thunovská 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjölds Allé 28, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Société du Croissant-Rouge de Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
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- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyeongyang*.
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- USA — American Red Cross, 17th and D. Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
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- VIET NAM (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
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