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INTERNATIONAL REVIEW

OF THE RED CROSS

Special
Cooperation
between National Societies
and the ICRC



Published four times a year by the
International Committee of the Red Cross
for the International Red Cross
and Red Crescent Movement



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The *ICRC*, which gave rise to the Movement, is an independent humanitarian institution. As a neutral intermediary in the event of armed conflict or unrest it endeavours, on its own initiative or on the basis of the Geneva Conventions, to bring protection and assistance to the victims of international and non-international armed conflict and internal disturbances and tension.

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A note from the Editor

The unity of the International Red Cross and Red Crescent Movement is perhaps best illustrated by the concerted action taken by the Movement's various components on behalf of people who need assistance. Several articles in this issue of the *Review* highlight different types of cooperation between National Societies and the ICRC. The first shows that cooperation with National Societies is essential in spheres of activity which fall within the ICRC's mandate, for instance in the conduct of humanitarian operations and the dissemination of international humanitarian law. Another article examines certain aspects of action taken during an armed conflict or in its immediate aftermath, viewed mainly from the angle of operational cooperation. These two general presentations are followed by texts focusing on specific examples, notably the assistance operation in Bosnia-Herzegovina. By publishing these articles, the *Review* wishes to contribute to a better understanding of the day-to-day cooperation between the components of the Movement.

The *Review* is also pleased to offer a number of contributions from authors with firsthand experience of some practical problems encountered by a humanitarian organization. Michel Minnig comments on the role of "neutral intermediary" that the ICRC endeavours to play in humanitarian matters; as a member of the ICRC delegation in Peru he was personally involved in the hostage crisis in Lima, and is therefore well placed to discuss the question. Another ICRC delegate, Thomas Jenatsch, describes the institution's activities in the context of Colombia's bloody internal conflict.

Other topics addressed in this issue include security as a prerequisite of humanitarian action and rules of behaviour in assistance operations.

Catherine Rey-Schirr takes us back in time with her account of ICRC activities on the Indian subcontinent during the events leading up to

partition, and the subsequent establishment of two new States, India and Pakistan, half a century ago.

Finally, there is a general presentation of a chapter of the law of armed conflict that has been somewhat neglected in publications of recent years, namely the rules of international law applicable to air warfare.

The Review

Cooperation between National Societies and the International Committee of the Red Cross: an essential and demanding partnership

by Jean-Luc Blondel

The ICRC has always maintained contacts, often close ones, with the National Red Cross and Red Crescent Societies. According to Article 3 of the Statutes of the International Red Cross and Red Crescent Movement, “the National Societies form the basic units and constitute a vital force of the Movement”. In this sense, the ICRC regards them as special partners in the conduct of its humanitarian activities, as it recently re-emphasized in its strategic study on the organization’s future, which it shared with all the National Societies in a letter dated 16 December 1997: “As a member of the International Red Cross and Red Crescent Movement — of which it is the founder — the ICRC works to ensure respect for the Fundamental Principles and cooperates *primarily* with the National Red Cross and Red Crescent Societies and their Federation” (emphasis added).

This issue of the *Review* focuses largely on *cooperation* between the National Societies and the ICRC. In this article, we shall try to clarify the reasons for and the requirements of such cooperation, dealing only indirectly with the specific topic of the ICRC’s contribution to the *development* of National Societies, to which the *Review* devoted its issue of

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Original: French

May-June 1988 and many aspects of which remain valid today. As responsibility in terms of outside support for the development of National Societies rests primarily with the International Federation of Red Cross and Red Crescent Societies — which has adopted many important decisions and published numerous documents on the subject — the ICRC, which here plays an auxiliary role, has not developed any policy of its own in the matter but seeks to follow the directives outlined by the International Federation. On the other hand, the manner in which it regards its working relations with National Societies in areas that fall within its mandate requires some clarification, and that is the aim of the considerations set out below.

Cooperation: the very basis of the Movement

When it was founded, the Movement gave priority to emergency humanitarian action and an immediate and effective response to the plight of victims of armed conflict, and later extended its terms of reference to other destructive events. Over the years, the National Societies and their Federation have developed new activities capable of dealing with different forms of suffering and threats affecting individuals and entire populations — even outside the context of conflicts and other emergency situations. The ICRC for its part has retained its “specialization” in the following two main fields, each of which has a number of significant ramifications:

- planning and conduct of impartial and independent international humanitarian operations for victims of armed conflict and violence;
- formulation, implementation and dissemination of international humanitarian law, and constructive participation in the development of legal instruments and mechanisms capable of enhancing protection of the individual and human dignity.

The Statutes of the Movement and a number of resolutions adopted by International Conferences of the Red Cross and Red Crescent and even by bodies outside the Movement emphasize the dual role that the ICRC is called upon to play. The *Agreement on the organization of the international activities of the components of the International Red Cross and Red Crescent Movement*, adopted on 26 November 1997 by the Council of Delegates in Seville, Spain, further confirmed the above tasks.

The specific responsibilities of the ICRC in no way preclude association with the National Societies, whether the latter are affected by an armed conflict requiring ICRC action or, more generally, whether they

wish to help promote greater respect for international humanitarian law or to share in activities for conflict victims. On the contrary, since its inception the ICRC has sought to ensure that, with the creation of new National Societies, provision was made for observance of the Fundamental Principles, particularly those of humanity, impartiality and independence, and for the development of activities aimed at assisting victims of armed conflict. The ICRC's desire to cooperate with the National Societies thus goes back to the very origins of the Red Cross. This is aptly illustrated by the fact that the ICRC is responsible for the recognition of National Societies and for consistently monitoring respect for the Fundamental Principles and for the emblem of the red cross or red crescent, which is the distinctive sign identifying the Movement. Although the ICRC has not always pursued that original objective with equal vigour and constancy, the latter has nevertheless gained strength and coherence over time.

The steps that the ICRC takes to protect the integrity of National Societies (for example against possible outside political interference) and to enhance respect for the Fundamental Principles are an essential component of its strategy for strengthening these Societies. They also contribute to making the Movement an essential and autonomous force for humanitarian action worldwide. In the efforts it deploys within the Movement to promote observance of the Fundamental Principles, which is also a way of demonstrating its desire to cooperate, the ICRC lays special emphasis on dialogue and persuasion, when giving advice on the drafting or implementation of National Society statutes or when commenting on the way in which a Society's statutory bodies function. Indeed, sanctions — although these cannot be ruled out in exceptional cases — are not usually the best means for the ICRC or the International Federation to help a National Society beset by difficulties; the most effective course of action in the medium or long term is to boost the Society's operational capacity and to promote its institutional development. The fact nevertheless remains that each National Society has a permanent duty to know, apply and spread awareness of the Fundamental Principles, both within its own organization and in the activities it undertakes.

Operational cooperation: a constantly developing process

Beginning with National Societies with which the ICRC conducts activities in aid of conflict victims, the overall objective of joint efforts may be defined as follows: bringing the victims the aid they need, impartially, efficiently and rapidly. The degree of association between the

ICRC and the National Society working with it will vary depending on two main factors:

- the Society's own initial capacity (prior to the conflict) and its willingness to commit resources to its development;
- the political and material constraints peculiar to any conflict situation, which may, to varying degrees, restrict the National Society's scope of action.

The ICRC's role as a neutral and independent intermediary, established in the Geneva Conventions and the Statutes of the Movement, may sometimes compel the organization to act alone in certain circumstances, and a National Society's mandate is not limited to the activities it carries out together with the ICRC. National Societies have their own specific tasks, some of which will continue in times of conflict or violence. The areas where joint action is taken are therefore those in which the ICRC and the National Societies will seek to establish and consolidate their partnership.

The spheres of operational cooperation are well known, and a simple reminder will suffice here:

- preparing and carrying out plans or activities aimed at raising awareness of international humanitarian law and the Fundamental Principles, at promoting the implementation of humanitarian law and at enhancing protection of the emblem;
- ensuring the efficient organization and operation of tracing services (to gather information on missing persons, to arrange for the exchange of messages between separated relatives and to bring dispersed family members together again);
- making preparations for a relief operation in the event of armed conflict or violence and, where necessary, conducting a joint operation in aid of the victims.

In all the above spheres, *training* is one of the keys to success, and the ICRC endeavours — if need be in cooperation with the International Federation — to increase its support for National Society staff members and volunteers. It must also step up its efforts to induce its own staff to work in a spirit of cooperation with the other components of the Movement.

In June 1997, during an ICRC seminar for all field staff (many of them from National Societies) involved in programmes conducted jointly by the

ICRC and National Societies, the pros and cons of cooperation between the Movement's components were weighed up. Among the negative experiences, we may mention:

- excessive dependence of certain National Societies on outside aid, or a programme orientation governed by the interests of the donor (the ICRC or the "participating" National Society) rather than by concern for the long-term development of the "operating" Society;
- lack of continuity among the senior staff of National Societies, or excessive fluctuations in the determination to pursue objectives fixed in cooperation with their predecessors (to some extent, this difficulty also arises with the succession of heads of ICRC delegations or some of their staff);
- launching of limited programmes of action without any orientation towards the future, for lack of a proper development plan or even a simple assessment of needs and planning of activities;
- lack of training among ICRC delegates, or reluctance of some senior staff members to intensify their working relations with National Societies;
- insufficient coordination among the various components of the Movement, including National Societies taking part in a relief or development operation.

Among the factors which have led to successful cooperation, we should emphasize in particular:

- the assessment of needs and the amount of outside aid required, as defined by the community itself (external assistance to be provided in support of an already existing activity, rather than to initiate a new one);
- priority action to strengthen the branches of a National Society (and not only its central infrastructure), and development of the capacities of volunteers through well-defined and consistent training;
- long-term commitment of the persons involved, whether the action taken begins before or after the outbreak of a conflict or in any other circumstance;
- mutual respect between the various partners and the search for synergies between the "operating" National Society, the ICRC and the "participating" National Societies, within or outside the context of a programme run by the International Federation.

The above points do not reflect all the negative and positive features of the programmes conducted by the ICRC together with National Societies, but they may provide useful guidance for future work.

As regards cooperation with “participating” National Societies, which lend practical support for ICRC operations by sending delegates, giving financial assistance or assuming responsibility for certain programmes, the search for synergies should continue on the strength of recent experience acquired in particular through “project delegations” and, albeit to a lesser extent, “bilateral projects”.

Recognizing the motive role of the International Federation in the development of National Societies, the ICRC sees its own responsibility as follows:

- to contribute actively to the harmonization of steps taken by the various players within the Movement in order to consolidate the operational capacities of National Societies;
- to provide consistent and efficient support towards the development of National Societies, through effective coordination with the International Federation — particularly in establishing regional priorities.

The provisions of the *Agreement on the organization of the international activities of the components of the International Red Cross and Red Crescent Movement* of 26 November 1997 and the spirit in which this Agreement was received and endorsed would seem to augur better consultation and new mechanisms for cooperation within the Movement. The ICRC intends to contribute actively to the process.

“To cooperate is to know how to listen”

This motto, which is that of Helvetas, the Swiss association for development cooperation, could be given a prominent place among the policies of the Movement. Indeed, dialogue is crucial in the search for common strategies and in achieving a balance between everyone’s legitimate interests. We have already referred to the concept of *partnership*, and the time has now come to define it with a greater degree of precision.

To be a partner in the simple sense of the term means that every one must play their part and feel solidarity with the other participants in a joint undertaking. This is indeed how partnership should be understood within the International Red Cross and Red Crescent Movement, where each component has its own mandate, capacities and activities. The specific

nature of the respective responsibilities, rather than constituting an obstacle to cooperation, is in fact a condition for the various components to work together successfully, because although their responsibilities are distinct their roles can — and indeed must — be complementary. Diversity is a strength. Certain tasks are so broad in scope that they naturally require joint action, while others — depending on the time and place — have to be carried out by a single organization, but all must bear witness to the fact that the Movement is a united entity. We might add that the Movement's components are united precisely because they are different, or, to quote Astrid Heiberg, President of the International Federation, that they are “separate — but inseparable”.

The dimensions of the partnership between the National Societies and the ICRC could be described in the following terms:

- achieving a balance of interests, seeking *complementarity* and pooling resources;
- being prepared to work together *on a long-term basis*, in the pursuit of mutually agreed objectives;
- placing the above commitment on a formal footing, by establishing well-defined consultation mechanisms, *agreements* and work contracts, which are the practical manifestations of joint responsibility in fulfilling the humanitarian mission;
- duly acknowledging and *emphasizing the importance of each other's role* as a partner in relations with contacts external to the Movement (other organizations, authorities) and in communication with the outside;
- *training* both staff and leaders of the respective organizations to develop a spirit of true cooperation and solidarity, marked by openness and mutual sharing.

Cooperation is a demanding process, during which mutual understanding and trust are built up — in some instances quickly and in others with difficulty. In the strategy it has developed for its own future, the ICRC wishes to draw even closer to the victims, in the belief that its presence by their side is the best way of ensuring their protection. To this end, it intends to pay more attention to the overall environment in which it operates, and to gain a clearer understanding of and thus better anticipate the reasoning of the different players with whom it must enter into contact in order to fulfil its mission. Cooperation with the National Societies is becoming one of the main thrusts of the ICRC's humanitarian strategy and

an essential factor in ensuring the efficiency and coherence of its action, which can only contribute towards a lasting consolidation of the Movement as a whole. The ICRC also plans to work with these special partners in developing consultation and exchange mechanisms aimed at facilitating joint approaches and activities and at promoting the International Red Cross and Red Crescent Movement on the international scene as a major force for impartial and independent humanitarian action.

Cooperation between the ICRC and the tracing services of the newly independent States of the former Soviet Union

by Violène Dogny

The 25th International Conference of the Red Cross stressed the importance of tracing, asking “all the National Societies to carry out to the best of their capacity the role which they are called upon to play as *components of the international network for tracing and reuniting families*”.¹

In addition to many other radical changes, the break-up of the Soviet Union into 15 separate and independent States brought with it the independence of the Red Cross and Red Crescent Societies of those States which then had to shoulder responsibility for new areas of activity, such as tracing, in order to maintain the momentum of humanitarian work that had been carried out for decades.

The Soviet Red Cross tracing service, which was based in Moscow and assisted individuals throughout the world from 1945 onwards, was transformed into the Tracing and Information Centre of the Russian Red Cross following the break-up of the USSR, and thereafter replied only to

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Original: French

¹ Paragraph 3 of the Conference's resolution (XVI) on the role of the Central Tracing Agency and the National Societies as concerns tracing and reuniting families (author's italics).

requests from persons residing in the Russian Federation. For cases involving the other 14 countries of the Commonwealth of Independent States — and indeed any other country in the world — the Russian service would from now on have to work through the tracing service of the National Red Cross or Red Crescent Society concerned. The tracing centre thus saw a gradual reduction in its workload, though it did not simply abandon the non-Russian cases with which it was dealing at the time.

The National Societies of the other newly independent States experienced the reverse, having to set up tracing services and go to tremendous effort to bring themselves up to international level, acquiring the expertise needed to meet the expectations not only of their fellow citizens but of tracing services throughout the international Red Cross and Red Crescent network.

Such tasks were something quite new for these National Societies because they had never been involved in Soviet Red Cross tracing work, in contrast to the National Societies in the Western world which work closely with their regional Red Cross branches. In the USSR, it was Moscow that contacted the local authorities or archives for the information needed to trace people or documents, for at that time it was compulsory for every individual, whether a Soviet citizen or not, to be registered in official, centralized records.

Owing to the extent of the territory covered, to the nature of the services it was able to offer and the network of contacts with whom it dealt directly — some as far away as East Germany — and to the State archives that it inherited, the Soviet Red Cross tracing service itself constituted a mini-network within the wider network of the International Red Cross and Red Crescent Movement. Today, the Russian Red Cross tracing centre remains the nexus for a steady flow of information concerning Soviet citizens. Many cases are resolved without leaving the boundaries of the former Soviet Union.

The main types of cases handled and priorities in processing them

The public in the West are not fully aware of the fact that the majority of the cases dealt with by the tracing services of the 15 National Societies of the former Soviet Union, and of those moreover of Central Europe, concern the victims of the Second World War and its aftermath. In what used to be the USSR, there is more to the word “aftermath” than elsewhere in Europe, since a wave of repression struck both returning civilians who had been deported by the Germans and soldiers returning from the front,

and that a relative abroad could mean a person's being excluded from the Party, losing his job or his home, or being sent to the *gulag*, to cite just some of the more visible penalties.

It goes without saying that the regions worst affected by the Second World War are also those whose tracing services receive the greatest number of applications from victims who, today, because of their age, require urgent action.

Finding out what happened to those who disappeared

The fate of those who disappeared during the Second World War has not been discovered in all cases. Today, access to declassified archives (from the KGB in particular) and the fact that it is now possible to trace relatives living in foreign countries have awakened hopes that for far too long had to be repressed.

For example, although the majority of the soldiers and deportees who failed to return in 1945 may be considered dead even though no graves have been found for them, some nevertheless managed to slip free of the net. Though this could have happened in only an infinitesimal number of cases, that fact has not prevented the theoretical possibility from frequently engendering the hopeful myth about the father who went to America where, of course, he now lives as a millionaire. Cases of this nature, some disguised in more subtle camouflage, also make up a good part of the requests with which the tracing service dreads having to deal.

Certificates entitling the bearer to compensation

The tracing services issue a wide variety of certificates to people who survived the Second World War. These enable them to apply for compensation in cash or in kind, usually meagre but taking on considerable importance for the recipients given the region's acute economic difficulties.

Grave-preservation certificates

These are issued for families wishing to visit the graves of relatives who died beyond national borders. The individuals concerned are usually quite elderly, so haste is required if this is to be accomplished in time. Certificates drawn up by the Red Cross and confirming that the grave has been preserved entitle the claimant to a priority visa, sometimes free of charge. These cases usually involve the graves of soldiers killed on foreign soil during the Second World War or civilians taken as forced labour to Germany or territories under German control. These two categories are

precisely those in which the age of the applicants requires their cases to be handled without delay, so that they can have their wishes fulfilled while they are still alive. The ICRC has made every effort to make the newly formed tracing services of the former Soviet Union aware of the urgency of this matter.

Forwarding Red Cross messages

Freedom of movement in the newly independent States has brought a new wave of people fleeing the more recent conflicts. Former Soviet citizens or refugees from distant war-torn countries, these people are victims of the legal vacuum inherent to emerging States. They frequently ask for help from the region's tracing services as their families have been split up and this is the only way to restore contact. The Movement's tracing network has experienced a surge in requests from such people, in particular for the Red Cross message service.

Additional functions expected from the tracing services

The Stalinist purges were also responsible for the disappearance of a large number of people and today attempts are being made to shed light on these cases. Surviving victims entitled to compensation or simply to rehabilitation call upon the tracing services, who listen more sympathetically to them than do the authorities, and provide them with guidance.

The tracing services are now involved in issuing burial certificates for civilians who died after the Second World War. This new type of certificate also entitles the bearer to a preferential visa, enabling him to visit, at reduced cost, the grave of a loved one situated in a newly independent State with which as yet no intergovernmental agreements on such matters have been signed.

Though this service is humanitarian in nature (acknowledging as it does both that families separated from their dead by borders recently grown tighter bear no responsibility for this situation and that the cost of visas is prohibitively high) this work does not fall within the traditional Red Cross mandate. Overwhelmed by a growing number of requests, some tracing services have taken steps to withdraw from this activity, with the consent of their country's Ministry of Foreign Affairs. Others are still seeking solutions satisfactory to all parties, though such a service cannot simply be abandoned unilaterally, while the consulates concerned have not yet found a suitable substitute.

Cooperation between the ICRC and the tracing services of National Societies in the countries of the former Soviet Union

At the 24th International Conference of the Red Cross (Manila 1981), the Movement realized that it had to be able to depend on a sturdy network made up of all the National Society tracing services. It therefore gave the ICRC's Central Tracing Agency a mandate to act as coordinator and technical adviser, to harmonize the working principles and methods, and to train the staff needed.

As a result, the Agency initiated a plan of action in 1993 to enable the 14 tracing services of the newly independent States, no longer covered by the tracing service in Moscow, to continue assisting both former Soviet citizens and the Movement's other tracing services.

The first phase of this programme, begun in 1993, comprised the following:

- assessment of the potential and needs of the Russian Red Cross tracing service, which had been the backbone of the network in the Soviet Union since 1945;
- assessment of the potential and needs of the tracing services being set up or still to be set up in the 14 other newly independent States;
- training.

Despite the immense size of the territory covered and the need to keep in closer contact with the tracing services having a heavy workload, the ICRC was able to conclude this initial phase in late 1995. Basic training was given gradually and lasted into 1997 owing to staff leaving and being replaced by people completely new to the system or by people who had trained another National Society.

Evaluating the Russian Red Cross tracing and information centre

The Russian Red Cross tracing and information centre must be considered the model for the newly independent States. Not only does it have the benefit of more than 50 years' experience, it also maintains the following:

- a centralized, alphabetically arranged card-index of names listing all citizens of the former Soviet Union about whom a case has been opened since 1945 (3 million individual cards);
- a card-index with the names of children — orphans, runaways or the children of victims of repression — taken into institutions throughout the USSR (4 million individual cards);

- a card-index of the names of people evacuated in 1941, largely to the republics of central Asia and Siberia, as the *Wehrmacht* advanced (4.5 million individual cards);
- an index of Soviet citizens deported to Germany as forced labour (700,000 individual cards).

Since no individuals were ever registered on the basis of their national or ethnic origin, these indexes cannot be divided up and transferred to the tracing services of the newly independent States. Moreover, in view of the costs involved and — let us not forget — the age of surviving victims of the Second World War, computerizing the indexes would probably be completed too late for the potential beneficiaries of these services. To access the archives concerned, therefore, the tracing services of other National Societies must contact the Russian Red Cross centre.

Though the Soviet archives were systematically centralized by Moscow during the Stalinist period, this was less the case from the 1960s onwards. When the Soviet Union broke up, the members of the Commonwealth of Independent States decided that all the Soviet archives would remain on the territory where they were and be accessible to all the former republics.

To enable the Russian Red Cross tracing and information centre to continue playing the key role which had fallen to it, it proved essential for the ICRC to provide financial support at a time when the National Society was facing unprecedented financial difficulties. It was even necessary to provide emergency support in order to avoid the total collapse of the tracing centre and the resignation of its experts, whose salaries in 1994 did not even meet the minimum subsistence requirement.

Evaluating the tracing services of other National Societies

Between 1993 and 1995, missions were carried out to the 14 National Societies of the newly independent States to familiarize the ICRC with their needs, potential and working environments. Factors peculiar to the region concerned were also studied in order to define the content of the courses needed.

Four one-week training seminars were then organized in Tashkent (1993), Kiev (1994), Moscow (1994) and Tbilisi (1995), bringing together representatives of the National Societies in each region.

The topics covered were wide-ranging, from administrative structures to partners available inside and outside a country's borders and on to the

means with which the work might be carried out. Management techniques — the same as those taught to tracing services throughout the Movement — and a study of particular cases peculiar to each region formed the core of the material.

None of the Russian Red Cross tracing and information centre's half century of experience has gone to waste. Indeed, if the ICRC has been able to carry out its training mandate to the full, providing tailor-made courses, it is thanks to close collaboration with the centre. Only recently established in the region, the ICRC found it difficult to grasp local realities and lacked case studies which would be of use in the specific context of the former Soviet Union. Finally, the quality of the translation into Russian of the teaching material improved as soon as it was carried out by skilled translators, used to handling professional jargon.

In order to ensure that there would be no interruption in the work being performed jointly with tracing services already operational, a second phase was simultaneously launched. It consisted of the following:

- monitoring the development of the newly created tracing services;
- financial support;
- organization of round-table meetings.

Monitoring the development of the newly created tracing services

The range of activities required for this region and the features peculiar to it are too vast for them all to be dealt with and absorbed within the course of a single one-week seminar. It is, in fact, only after basic training has been given that the actual value of the work and the need to be flexible and have a consultant available become apparent. The actual processing of cases is more complex than it appears, in particular when one considers that each little piece of paper can represent a human tragedy. Cooperation has therefore included missions to provide teaching aimed at studying and, if necessary, reorienting actual cases and checking that objectives were being met. Until 1997, each tracing service was visited annually to stimulate its development.

Publicizing the new service was likewise a concern. The public had to know both that the National Society had taken over from Moscow and what it did. Particular emphasis was therefore placed on learning the art of reporting and its use in preparing annual reports, keeping statistics, etc.

Finally, in order to consolidate essential knowledge about the service's work, the ICRC prepared a guide drafted in Russian and highly specific to the region, presenting the standard working procedures.

In 1995, the ICRC shared its appraisal of the tracing services' development with the presidents of the National Societies. They were sent a letter listing both the weak and strong points and making recommendations. As a result, it was possible to take measures to facilitate the work and assist those responsible for it.

Financial support

In view of the urgent need to ensure the survival of the tracing services, the ICRC added financial assistance to its traditional mandate to train and coordinate. Three-year partnership agreements containing a series of one-year programmes were signed in 1995. They define the operation and set out annual objectives, the means available to meet them and the respective undertakings of the ICRC and the National Societies.

Assistance adapted to the needs of each tracing service has been provided in the form of equipment, operating costs and expenditure. For example, the tracing services are equipped with computers and photocopiers, almost all provided by the ICRC. This has made it possible to remain transparent in terms of accounting vis-à-vis the ICRC's donors. However, the partnership period, originally set at three years and already coming to an end in 1998 for some tracing services, must be continued. The cost of a tracing service can be borne by a National Society only if the National Society is itself financially autonomous. The ICRC must therefore go on financing the tracing services of the former Soviet Union until other solutions are found.

Today, for example, the tracing services of Lithuania and Latvia are being financed by the British Red Cross while the ICRC remains responsible for managing the partnership programmes and agreements. The German Red Cross has also financed equipment for the tracing services of the Ukraine and the Russian Federation.

Organizing meetings

As shown above, the tracing services benefited early on from the help of Red Cross partners and some from further afield. To cement this partnership, the ICRC has since 1996 organized annual round tables to enable all the officials from the tracing services of the former Soviet Union to meet, recount their experiences and discuss common problems. Though the first round table was more like a course — with speakers from ICRC headquarters in Geneva and the tracing services of the German, American and Polish National Societies — the one held in 1997 was already taking

on the aspect of a forum, with debates and resolutions adopted by professionals able to take an active part rather than merely listen.

The fruits of cooperation

Above and beyond the training of specialists — one of the ICRC's responsibilities under its mandate — this partnership has prevented the demise of the tracing services for reasons of an essentially financial nature. Undeniably, their existence has also helped to boost the image of the National Societies which, for lack of funds, have been forced to reduce their activities though the situation in which their countries found themselves actually required the opposite. The National Society of the USSR had processed tracing requests for 50 years and it was unthinkable that this activity should be abandoned. Even the delays experienced in 1992 and 1993 owing to the transfer of responsibilities to the new Societies posed tremendous difficulties for those who had made the requests — not surprising when one considers that the benefits made possible by Red Cross certificates, though meagre in Western terms, bring significant improvements to what is a very low standard of living.

The ICRC's financial support served to strengthen the commitment of qualified employees at a time when salaries were plunging in the National Societies even more than elsewhere. That support also made it possible to provide basic equipment for offices that sorely needed it. Thus, many tracing staff have expressed the personal and professional satisfaction of being able to help people at a time when public services in general were declining.

The needs in Russia and throughout the region were enormous, and setting up and developing tracing services and training specialists to run them made sense only if there was continuity and ongoing financial support. Today, the 15 tracing services are all active and almost all stand on a sound basis. In 1998, they will continue receiving financial assistance though teaching support may be withdrawn.

In the midst of a period of learning, the tracing services have managed — with hardly any snags — to cope with a large increase in their workload. The anniversary and commemoration of the end of the Second World War (known here as “the Great Patriotic War” and hence having strong connotations as concerns its heroes and victims) revived memories of those who disappeared without trace and thus a fervour to start searching for them again. During the same period, the implementation of Soviet-German agreements led to the granting of further compensation for the

victims of Nazism. Once again, the tracing services had a role to play in advising applicants or issuing certificates to the rightful claimants.

In addition, without teaching support from the ICRC, those running the tracing services have started to train National Society branches in the field of tracing. Little by little, an internal network is being established. Some branches are now able to issue certain types of certificate, thus taking a considerable load off the shoulders of the central service.

The indirect beneficiaries should also be mentioned: foreign tracing services that have come to appreciate the performance of the region's tracing services, which provide them with high-quality information. These National Societies have been able to follow the development of the tracing services of the former Soviet Union thanks to information provided by the ICRC.

From the outset of the partnership programme, the ICRC had to teach the tracing services to work at a different pace, with new technologies, while discovering a hitherto unknown world. It did this while endeavouring to avoid putting the staff under undue pressure. The ICRC also had to adapt to working within the constraints of an environment little known to it. The benefits gained from overcoming the many obstacles will be of lasting use to all parties involved.

Cooperation: an essential means for conducting and developing the activities of the Cuban Red Cross

by Dr María de los Ángeles de Varona Hernández

The Cuban Red Cross, which was founded on 10 March 1909, was recognized by Presidential Decree No. 401 of the same year as an “aid society auxiliary to the public authorities”. For more than half a century its activities remained rather modest, focusing on health care for the most needy groups in Cuban society, for example by setting up dispensaries and offering medical and dental services at no charge or for a nominal fee.

From the 1940s it also ran life-saving and ambulance services.

In 1959, the country underwent major changes involving reorganization of the political system, government structures and the functions of ministries and other bodies. Among other things, the State assumed full responsibility for the provision of free medical care for all citizens, and Red Cross medical and dental dispensaries ceased to operate because they were no longer needed. The National Society expanded and developed its other activities, such as first aid. Indeed, with the country’s new system came public events attracting large crowds of people, mass mobilizations for agricultural work, and many other gatherings which created a need for the services of Red Cross first-aiders.

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Original: Spanish

Until 1993, the Cuban National Society's relations with the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and the National Societies were confined to friendly exchanges. The first major example of international cooperation was an emergency appeal issued through the Federation to deal with an epidemic of neurological disorders which beset the country. The response demonstrated the potential for cooperation within the International Red Cross and Red Crescent Movement, just as the response to a previous appeal launched to repair flood damage after the "storm of the century" had done earlier. There had been other appeals for cooperation and other such activities, but never before on such a large scale. The National Society had also received a number of ICRC officials who held courses on international humanitarian law, and some scholarships had been granted to allow officers of the armed forces to attend courses on international humanitarian law in San Remo.

The past five years have seen growing economic difficulties in Cuba, as the economic embargo originally imposed in 1962 on a few products has been tightened and become generalized. This has had many repercussions, not the least being the increased vulnerability of certain sectors of the population. The Cuban Red Cross, in accordance with its commitment and duties as an aid society, must seek ways of meeting the population's needs as best it can. One means of developing its activities is to request international cooperation from the Movement.

In the current circumstances, the National Society will need to develop as an institution if it is to be able to provide an appropriate and professional response to each case and to every need. Its activities are growing both in number and in scope as the population requires more kinds of assistance and is more frequently in need of help.

Cooperation, both vertical and horizontal, has played a decisive role. Without it, development, which requires advisory assistance, exchanges, training and economic support, would not have been possible.

The Cuban Red Cross has set up a structure enabling it to carry out a range of activities in various spheres, including the promotion of international humanitarian law, tracing work, relief, first-aid and rescue operations, training and special programmes. More recently, it has also stepped up its Red Cross Youth programme.

Cooperation agreement with the ICRC

The first cooperation agreement with the ICRC took effect in November 1994, with the establishment of the International Humanitarian

Law Study Centre in Havana. With the exception of salaries and the teaching staff, which are provided by the Cuban Red Cross, the Centre's activities are funded by the ICRC.

In February 1997 the ICRC and the Cuban National Society concluded a new cooperation agreement. The new accord is important for two reasons. First, it commits both parties to a common endeavour, and secondly, it expresses in concrete terms the basic aims of cooperation.

The objective of this agreement is to provide a framework for cooperation between the two parties by determining what form that cooperation will take in practice, indicating what tools and means will be used, and providing for periodical assessment of the results by both sides. It sets out specific annual programmes to help achieve the general objectives of the Cuban Red Cross in the five-year period following its signing, its ultimate aim being to respond to the humanitarian needs of the country's most vulnerable population groups.

The areas of cooperation enumerated in the text include humanitarian assistance, the promotion of international humanitarian law and communication, programmes for migrants and refugees, relief work, tracing activities, training and special programmes. These fields of activity correspond to the National Society's operational structure.

It is important that the objectives should be attainable and that it should be possible to implement them using the resources provided under the terms of project and the input of the Cuban Red Cross. It should also be possible to evaluate the results.

The Cuban Red Cross programmes covered by the agreement are as follows:

- the International Humanitarian Law Study Centre;
- seminars on international humanitarian law for legal specialists and journalists; lectures at universities;
- research competitions for legal specialists, awards for journalistic excellence for articles devoted to the Red Cross, and public awareness contests;
- photo exhibitions.

To draw up the projects, it was necessary to:

- plan the main lines of the National Society's work in the future;
- select priorities and determine which ones required outside support;

- distinguish, having regard to the various areas of responsibility within the Movement, between activities that fall within the ICRC's purview and those relating to other components;
- decide which activities or projects could be submitted. To this end, each proposed project was drawn up individually, always beginning with a presentation and analysis of the situation and a description of the objective sought.

At this point we can briefly assess the impact of these projects through the end of 1997.

The International Humanitarian Law Study Centre

The International Humanitarian Law Study Centre is a long-term enterprise which has produced excellent results. In just three years, more than 900 graduates have passed through the centre, including about 800 senior officers of Cuba's armed and internal security forces. With the development and use of modern teaching methods contributed to the project by the ICRC, and thanks to its skilled instructors trained at the San Remo courses, the Centre is already in a position to make its facilities available to anyone interested in the subject from the region or anywhere in the world, to promote the essential task of disseminating international humanitarian law.

As for dissemination among specific target groups, in this case legal specialists and journalists, the objective is to make them familiar with the subject matter and encourage them to work to develop and spread knowledge of the law.

Among the most notable achievements in this regard was the submission by Cuban legal specialists of 26 research papers, all of excellent quality, which cover subjects relating to the historical development of international humanitarian law and more topical issues. Three of these works won prizes thanks to project funding from the ICRC.

The contests which were organized to raise public awareness of international humanitarian law, the Movement's principles and the work of the Red Cross generated a great deal of interest. For most people, this was the first time they had ever heard of humanitarian law. For others, the competition provided a reminder and an incentive to continue their study of the law and to further broaden their knowledge of the subject.

University lectures underlined the relevance of humanitarian law and the need and duty to know its provisions. Young people took an interest

in the subject, and professors gave humanitarian law the importance and attention which is its due. This had a marked impact on the academic world: beginning with the 1997-98 academic year, international humanitarian law was incorporated in the university syllabus for students of public international law.

The image of the National Society as an institution was also enhanced with the mounting of four photo exhibitions and a permanent exhibit which used pictures to show the public the activities the Red Cross conducts for the benefit of the community. This cooperation project provided funding for the purchase of photographic materials and for the presentation of the photos. Advertising these days is an indispensable means of communication, but it is one that was inaccessible to us for lack of funds.

In 1997 cooperation in other fields made it possible to purchase a number of typewriters and office supplies for some of the provincial Red Cross branches, enabling them to continue their basic everyday work. Support was also provided for the repair and maintenance of four vehicles used by our National Society.

Lastly, we were able to build up stocks of emergency medical supplies, food and hygiene products for the refugees and migrants who land on Cuban shores when their boats capsize or run aground. Statistics show that in the five years before the project request was drawn up there were 114 such arrivals; the Cuban Red Cross ran camps which housed over 16,000 Haitians.

Work in all these fields has produced satisfactory results, an achievement which would not have been possible without the assistance offered under cooperation projects.

This article would not be complete if we did not mention that cooperation should not be only vertical, that is, between the ICRC and the National Societies, but also horizontal, that is, among the National Societies themselves.

The potential of the latter should be tapped precisely through cooperation with the ICRC. At some of our regional meetings, National Society representatives have raised the possibility of exchanges and advisory support; in some cases such assistance has been provided with cooperation from the ICRC, and with good results. We warmly welcome this practice, which has, for instance, led to the use of manuals and documentation produced by a given National Society as a common resource for part of the region. We also believe that it is an incentive for the development of

institutional capacity, as this kind of cooperation allows for feedback and exchanges of experience.

Certain regions and National Societies can offer their cooperation through the funding of projects; other, less affluent ones have to respond to the pressing needs of their own communities and are in need of such cooperation. Some National Societies may be able to cooperate by making available highly qualified personnel.

Cooperation: an essential means

The very universality of our Movement makes cooperation indispensable. We ourselves have benefited from it through project funding from both the ICRC and the International Federation of Red Cross and Red Crescent Societies. Other National Societies can offer their assistance as well, according to their possibilities and in response to our requirements, which, in this difficult period for our country, are increasing daily.

Thanks to this support, we at the Cuban Red Cross have been able to maintain and develop our work for the most vulnerable, tending to their most urgent needs. Cooperation has played a decisive role in this success.

Operational cooperation between the International Committee of the Red Cross and the Nigerian Red Cross Society

by **Ofor Nwobodo**

The Nigerian Red Cross Society has its roots in the year 1917, when the country was still under British rule. In that year the British Red Cross for the first time organized a fund-raising event in Lagos. There followed the formation of what was then known as the Nigeria Central Branch of the British Red Cross Society, with headquarters in Lagos. The branch had divisions in the then three regions of the country — Eastern, Northern and Western — with headquarters respectively in Enugu, Kaduna and Ibadan. Once Nigeria achieved independence, on 1 October 1960, the Nigerian Red Cross Society was born through an act of parliament (“The Nigerian Red Cross Society Act of 1960”). Today, the Society has a branch in each of the country’s 36 states as well as in Abuja, in the Federal Capital Territory.

Under the Society’s statutes, the Central Council is the highest deliberative body and is chaired by the National President. The branch in each state has four representatives on the Central Council, which meets once a year. The Council has an Executive Committee made up of elected national officers, advisers and branch representatives. It meets quarterly and is also chaired by the National President. Likewise, each branch elects its own Executive Committee, which is expected to meet at least ten times

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a year. The branches themselves are composed of operational divisions, each with units of trained volunteers. The numerical strength (active members) of the Nigerian Society is currently over 400,000, more than 60% of whom are young people.

The Society's activities include both the traditional first-aid training and services that have been broadened and classified as the "community-based health programme" under the International Federation's new community-health approach. Members are also active in emergency-relief preparedness and disaster-relief operations, assistance for refugees, anti-HIV/AIDS programmes, ambulance services, welfare services such as homes for motherless and abandoned babies, blood-donation programmes, charity visits to hospitals, prisons and homes for the handicapped, programmes to promote knowledge of Red Cross ideals, principles and international humanitarian law and, finally, tracing and youth-development activities.

Establishment of an ICRC regional delegation

In 1986 the ICRC set up a regional delegation in Lagos. This created a new dimension — extensive practical cooperation — in the operations of the Nigerian Red Cross Society. If we look at the results of that cooperation since 1986, we can see that establishing the delegation in Nigeria was an act of great humanitarian foresight. The initiative certainly falls under the ICRC's mandate, i.e. that "the ICRC may take any humanitarian initiative which comes within its role as a specifically neutral and independent institution and intermediary, and may consider any question requiring examination."¹ It has proved very positive in that it has facilitated the attainment of numerous humanitarian goals in Africa's most populated country,² goals that represented a convergence of views between the Nigerian Red Cross and the ICRC.

The presence of an ICRC delegation has, as it were, provided the Nigerian Red Cross with both a mirror and a compass. It has been for us a most cherished partnership in a period in which the Society has found it extremely difficult to cope with its enormous humanitarian obligations,

¹ Article 5(3) of the Statutes of the International Red Cross and Red Crescent Movement (1986).

² According to *World Population Projections to 2050*, a UN publication, "the population of Nigeria has reached 115 million and will climb to about 191 million in the year 2015, a 66% increase in 18 years."

a period in which it has had no other outside assistance. Nigeria is a country that has, since a few years after independence in 1960, faced a series of man-made and natural disasters. These disasters include the nation-wide political crisis that in 1967 led to a civil war (the Biafra War), which lasted until 1970. There have also been very serious communal and religious riots in different parts of the country and natural disasters including drought, floods and epidemics.

The needs of the Nigerian Red Cross

In the 70s and 80s, when Nigeria's economy was quite buoyant, the Society enjoyed remarkable support from the government, at both the federal and state levels, as well as from the public at large. The economic recession and the continued devaluation of the Nigerian currency, however, had a very regrettable effect on the Society's resources. Both government and public support for the Society's work has declined markedly and in some cases completely disappeared. And as funding has diminished, the needs have grown.

During this period there was a lack of support from abroad, which could be attributed to a near-total lack of understanding by the outside world of the true situation in Nigeria from a humanitarian point of view, a situation that demands the services of the Nigerian Red Cross. Ironically too, a large proportion of the country's own population at all levels of education viewed the Red Cross most erroneously as a foreign-oriented organization whose function is to channel relief from the developed world to Africa. They therefore saw no reason to support the National Society. The unprecedented Red Cross operation in Nigeria during the "Biafra war" helped engender this erroneous impression. In the minds of many, the Red Cross — and thus public support for it — were necessary only in times of armed conflict. Informing Nigerians about the activities of the Society, in both peace and war, was a major task for the Society. But the dissemination materials needed to carry it out were not available. Nor were the means of reaching the entire country. It was during this period that the ICRC established its regional delegation in Lagos. The ICRC's initial agenda focused on dissemination and bringing about ratification of the Additional Protocols by the government of the Federal Republic of Nigeria. These areas were also of utmost importance to the National Society and therefore became the first areas of cooperation between the two Red Cross organizations. Remarkable results were attained within the first two years.

These results included dissemination workshops for officials and members of the National Society, the media, the armed forces and the police, as well as ratification of the Additional Protocols in 1988.

Spreading knowledge of international humanitarian law

Joint dissemination work between the Nigerian Red Cross and the ICRC constituted the first international humanitarian law programme in which the Society had been involved since its founding. It was also the first collaborative programme between the two since the end of the "Biafra War" relief operations. The programme was aimed at raising awareness of the Society's principles and humanitarian services. It also helped erase the misconception in some Muslim communities that there was a link between the Society's emblem and the Christian religion. A good illustration of this positive development is a statement by the editor of a daily newspaper who took part in one of the dissemination workshops organized in 1988 for media executives in Kano, a predominantly Muslim city: "Before this workshop, I had always seen the Red Cross Society as a religious organization and never used its press releases. Today, I know that the Society is a purely non-religious and non-discriminatory humanitarian organization whose membership is open to all." He went on to suggest that measures should be taken to guard against the indiscriminate use of the red cross emblem by members of the public and some government agencies. He appealed to his media colleagues to give wide publicity to the work of the Red Cross and to its exclusive right (along with the medical units of the armed forces) to use the emblem. Interestingly enough, it was this same editor who made a strong case for the continued use of the red cross emblem when a non-participating journalist covering the closing ceremony of the workshop suggested that it be changed to what he called "a more acceptable emblem".

Joint dissemination activities have continued growing over the years. The programme has been made a regular feature in a number of leading military institutions, including the National War College, the Command and Staff College, the Nigeria Defence Academy and the School of Strategic Studies. In the last four years, the National War College has annually held a one-day workshop on international humanitarian law organized by the ICRC and with the participation of the National Society. The programme usually provides a forum for both dissemination and cross fertilization of ideas on the roles of the various components of the Red Cross and Red Crescent Movement in connection with peace and with armed conflict. There is usually a specific case study of real armed conflict or

a peace-keeping situation in which Nigerian armed forces are involved. At the dissemination seminar held in February 1998, for example, the case study was the ECOMOG peace-keeping operation in Sierra Leone.

In view of the acute need in Nigeria to implement the provisions of the four Geneva Conventions, which state that “the High Contracting Parties [have an obligation] to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed forces, the medical personnel and the chaplains”,³ the ICRC and the Nigerian Red Cross embraced the Chinese proverb that it is better to “teach a man how to fish rather than simply to give him a fish”. To this end, a three-day workshop on the teaching of international humanitarian law was organized in February 1997 at the Command and Staff College for military training officers beginning with the rank of Colonel in the army and its equivalent in the airforce and navy. Intended to ensure the continuity of dissemination in key military institutions, it proved a most rewarding exercise.

Incorporating international humanitarian law in the programmes of Nigerian universities has also been a goal shared by the Nigerian Red Cross and the ICRC. Contact has been maintained with the administrations of a number of universities and in 1997 a two-day workshop on the subject was organized by the ICRC in Abuja, the country’s capital. The workshop was attended by selected lecturers from the law faculties of different universities and representatives of the National Universities Commission and the federal Ministry of Education. The workshop concluded with recommendations aimed at facilitating the teaching of international humanitarian law at Nigerian universities.

Implementing international humanitarian law

The Geneva Conventions are sometimes viewed as mere documents. In reality, they are far more. The fundamental principle of the treaty is *pacta sunt servanda*, i.e. that “every treaty in force is binding upon the parties to it and must be performed by them in good faith.”⁴ The Geneva

³ Articles 47, 48, 127 and 144 respectively.

⁴ T.O. Eliah, *New Horizons in International Law*, Sijthoff & Noordhoff, New York, 1980, p. 43.

Conventions are, therefore, meant to be strictly observed and respected by the States party to them. Cooperation between the ICRC and the Nigerian Red Cross has therefore focused on measures to enhance the implementation of that law in Nigeria. To this end, the two organizations worked in conjunction with the Nigerian Institute of International Affairs to organize a national workshop on the implementation of international humanitarian law in Nigeria, in Lagos in 1996. It was attended by top government officials and representatives of the armed forces, the police, academia, United Nations agencies, diplomatic missions and national non-governmental organizations. A number of recommendations were made by the participants and forwarded to the relevant government authorities. They included the establishment of a commission or other national body to promote implementation of international humanitarian law in Nigeria. This recommendation is being followed up jointly by the ICRC and the Nigerian Red Cross.

Dissemination for the general public

In Nigeria, one exciting and effective means of reaching the young and “still young” is theatre art. Local units of the Nigerian Red Cross use this medium to put a number of messages across to the local populace. One good example is public health campaigns, and this was done by the Kano state branch during the 1996 meningitis epidemic, with volunteers using a drama production to drive home the causes and preventive measures available against the disease.

The positive impact of the play prompted the ICRC delegation and the National Society to consider more closely the possibility of drama as a means of dissemination, with special focus on tolerance among the youths. Nurturing a spirit of tolerance among young people in a country with over 250 different ethnic groups was seen as a good way to promote peace, which the Red Cross stands for at all times. Putting this noble idea into effect was something greatly desired by the Nigerian Red Cross but the Society lacked the necessary resources. In line with Frédéric de Mulinen’s insight in *The Law of War and the Armed Forces* that “traditions, motivations, the origins of the law regulating relations between peoples, nations and states, whether in time of peace or in time of war, differ from place to place”, the ICRC also embraced the idea. The regional delegation therefore agreed to take part in the project, which began with a series of preparatory meetings that gave rise in May 1997 to the “Red Cross Theatre Project — Nigeria” and a play entitled *Askari*, which was performed in 30 different venues in 20 of Nigeria’s 36 states between May and

July 1997. The play was seen by over 30,000 people including state military administrators, top government officials and young people, who were the main target audience and who have continued to embrace the Red Cross message of tolerance.

One of the most remarkable aspects of the "ASKARI project" was the oneness of the Red Cross conveyed by it over the thousands of kilometres covered during its nation-wide tour. What the public saw and admired was one Red Cross advocating peace through tolerance. No one distinguished between the different components of the Movement, no one took more credit than anyone else. It was cooperation in its most beautiful colour. It was an act of one indivisible family. It was the Askari Red Cross Project, 1997.

Communication

Given the great importance of effective communication, more especially in times of disaster, the ICRC and the Nigerian Red Cross maintain a joint communication system within the country. Under this arrangement, 12 HF radio sets were installed by the ICRC in 12 Branches covering all five of the Society's operational zones. Though the radio sets were installed and are being maintained by the ICRC, ownership remains with the National Society. Both organizations have equal access to the equipment. In a way, the branch offices housing the sets serve as outstations for both the National Society and the ICRC. To the outside world, the radio network is simply that of the Red Cross. Branches without radio sets receive monthly financial support from the ICRC to enable them to purchase the services of the nearest radio equipment. It is worth mentioning that the Nigerian Red Cross Society is the only non-governmental organization with a radio network in Nigeria.

Relief operations

Bringing relief to disaster victims has been one of the greatest challenges to face the Nigerian Red Cross Society. As noted above, Nigeria has frequently been subjected to one form or another of natural or man-made disaster. No year has ever passed without two or more large-scale catastrophes occurring somewhere in the country. These situations have always been critical for the Nigerian Red Cross Society in the sense that over the years it has experienced severe financial constraints and lack of support from sister National Societies generally referred to

as Participating National Societies. One nevertheless notes with immense delight that this changed dramatically in 1996 with the meningitis outbreaks in a number of northern States: the International Federation and the National Societies of countries such as Germany, Sweden, Norway, Switzerland and Great Britain responded most helpfully. The International Federation now has a delegation in Lagos.

Whatever the situation, whatever the degree of human suffering and the need for humanitarian action, the National Society has repeatedly been the major — often the only — source of relief to thousands of disaster victims in all parts of the country.

No doubt the uninformed might wonder how the National Society has been coping with the challenges posed by disasters over the past decade. The answer lies in ICRC cooperation. The most remarkable aspect of that cooperation has been the fact that it has continued to grow from year to year in one form or another. In the area of relief services, ICRC assistance has been second to none. It has proved an invaluable humanitarian partner in all times of need whether in time of peace or armed conflict.

A case in point was the Bakassi Peninsula boundary dispute between Nigeria and the Cameroon, in connection with which the ICRC and the Nigerian Red Cross joined efforts. As it was an international conflict, the ICRC's mandate automatically gave that organization a role to play while for the National Society the situation constituted a natural call to duty to care for those displaced by the hostilities. As noted by Frédéric de Mulinen, "only a hundred years ago fighting took place exclusively between soldiers and did not affect civilians apart from the very few who had the misfortune to be near a battlefield. But since then, and especially since the Second World War, civilian casualties have increasingly outnumbered military".⁵

De Mulinen's words certainly applied to the Bakassi Peninsula, where thousands of displaced civilians accounted for the majority of the victims. The Nigerian Red Cross surveyed the situation but was handicapped by its lack of relief supplies. It presented its problem to the ICRC and the regional delegation promptly furnished it with the needed materials, which it distributed on the Bakassi Peninsula itself, along the Cross River and in Akwa Ibom states, while the ICRC pursued the issue of prisoners of war. Tracing work was carried out jointly. It is worth mentioning that the

⁵ Frédéric de Mulinen, *The Law of War and the Armed Forces*, Henry Dunant Institute, Geneva, 1992, p. 18.

Nigerian Red Cross was the first humanitarian organization to provide relief services to the victims of the Bakassi Peninsula conflict on the Nigerian side. This was possibly due to the ICRC's support.

It should be noted that all victims, whether of natural or man-made disasters, have always been accorded equal consideration under ICRC cooperation with the Nigerian Red Cross, the ICRC's sole yardstick being the human suffering confronting the National Society and the capacity of the local branch or the headquarters to relieve that suffering. The spirit of cooperation knows no "exclusion cause", only the alleviation of human suffering. To a very high degree, this spirit has made the different components of the Red Cross and Red Crescent Movement one humanitarian entity in the eyes of Nigerians.

Transport

In the 1970s, when the nation's economy was buoyant, most branches had new or road-worthy ambulances and other emergency relief vehicles. With the downward economic trend and the resulting negative impact on the Society's finances, it became extremely difficult to maintain those vehicles and they became unroadworthy. In the late 1980s, four branches were able to obtain new or used ambulances from their state governments and from private business. The breakdown of most of the operational vehicles in the 1990s and the resulting immobility did much to hinder the Society's emergency services. Reaching remote rural areas became very difficult and the Society's ambulance services ceased almost totally.

With ICRC support, however, there was a very positive change in the second half of the 1990s. New vehicles were very expensive and in any case a high number were needed to cover the entire country. The Society therefore preferred to seek ICRC support for the repair of its older emergency vehicles both in the branches and at national headquarters. The ICRC responded positively and in the last three years has repaired 28 old vehicles and transferred to the Society four of its own vehicles. It also purchased two used ambulances which were passed on to branches in disaster-prone areas.

With ICRC cooperation, rapid response became the norm in almost all branches. Special emergency squads were set up and equipped with ICRC support. Among the volunteers there was a high level of enthusiasm and commitment to the humanitarian ideals of the Society. It has, indeed, been a dramatic shift from near dormancy to nation-wide humanitarian

operations. This most welcome development is, however, due solely to the Red Cross spirit of cooperation shown by the ICRC delegation.

Emergency preparedness

Inter-communal clashes, which now seem to have become common occurrences in Nigeria, have always been a depressing source of suffering for the thousands of Nigerians usually displaced by such events and forced to turn to the Nigerian Red Cross for help. In the last ten years, such clashes have occurred in Kano, Zango Kataf in Kaduna State, Wukari in Taraba State, Aguleri/Unuleri in Anambra State, Warri in Delta State and Ife/Modadkeke in Osun State. Whenever the National Society is faced with these incidents, the ICRC stands reliably at its side. Once the Society has surveyed the affected area, the ICRC provides the needed relief items and acts to facilitate transportation.

In the area of disaster preparedness, the ICRC also supports the Nigerian Red Cross in terms of training. And in 1997 it transferred to the Society a warehouse that it had built some years before at the Lagos state branch premises. The warehouse now brings in rent payments to the National Society from the ICRC, which still uses it.

As noted above, the ICRC's major consideration at all times in its assistance to the National Society is "visible human needs", i.e., those requiring humanitarian action. We draw no excessively sharp distinction in Nigeria between the respective mandates of the various components of the Movement. For example, the ICRC supported the Nigerian National Society during the 1996 anti-meningitis operation in a number of northern states. Though this was a health crisis that would normally fall under the mandate of the International Federation and the National Society, the ICRC in Lagos facilitated the operation in the remote rural areas by securing the loan of two vehicles from Peugeot in Kaduna for use by Society volunteers.

Institutional development — cooperation among all components of the movement

In 1994 the ICRC and the International Federation joined the Nigerian Red Cross Society in its desire for a joint evaluation of its structure and operations by independent auditors. The Movement's two international institutions provided financial and staff support for the process. It remained up to the Society to decide whether to accept and implement the

recommendations resulting from the joint evaluation exercise. There was no outside interference. The ICRC ensured funding to enable the Society to hold the meetings needed to consider the recommendations, which are now being implemented. Over 95% of the recommendations aimed at improving the efficiency and effectiveness of the Society's operations were adopted by the Central Council in 1995.

Ideas are easy but implementation often less so. In fact it is always difficult, and the Nigerian Red Cross is no exception to the rule. It is encouraging therefore that both the ICRC and the International Federation are standing shoulder to shoulder with the Society during this difficult implementation period. ICRC support includes sponsorship of annual seminars for senior members of staff at the national and branch levels, and payment of the full salaries of three members of managerial staff at national headquarters: the dissemination/information officer, the national training and emergency preparedness officer and the assistant director (public support). The ICRC also supplements the salaries of a further four senior members of headquarters staff. To optimize governance, the ICRC has in the last four years been financially supporting the Nigerian Red Cross Society for the holding of its annual general meetings. This makes it possible for all branches of the Society to be adequately represented at the meeting, which is the Society's highest policy-making forum.

In addition to its immense financial support, the ICRC provided the Society's national headquarters with modern office equipment including two computer/telex sets, dissemination aids such as television and video sets, a video camera and a projector. It has also placed its own facilities (fax machine, telephone, fuel from its reserves during periods of fuel scarcity, vehicles, etc.) at the Society's disposal. It should also be mentioned that the head of the regional delegation has always considered it part of his duty to raise the National Society's profile before the international community, in particular vis-à-vis the diplomatic missions in Nigeria. He has seized every opportunity to draw their attention to both the humanitarian services and needs of the Society.

The International Federation for its part has worked relentlessly to achieve the goals set under a three-year development plan adopted by the Nigerian Red Cross in 1997. For the first time in the Society's history, it is benefiting from a tripartite project sponsored by the Federation and the National Societies and governments of the United Kingdom, Sweden, Canada and the United States. This is a most welcome development.

Conclusion: cooperation is a must

The nucleus of the cooperation between the ICRC and the Nigerian Red Cross is the trust and team spirit that has always prevailed between the two. Evaluation has likewise always been a joint exercise between the two organizations, which regard themselves as equal partners in progress.

Whatever progress and innovation that has been achieved under ICRC/NRCS cooperation has been due to a number of factors. Physical proximity is one of those factors as the two share the same administrative premises, the ICRC having moved its office from a private rented house to the National Society headquarters, thereby freeing funds that had been going for rent and redirecting them to the Society's coffers, a major source of income for the Nigerian Red Cross.

Another major factor has been leadership by the ICRC delegation. This leadership has been grounded in objectivity rather than sentiment. It is a leadership that nevertheless treats the partners as equals, a leadership that, while never patronizing, seeks to reward initiative, transparency and accountability, and to act as a compass in times of confusion or need.

It should also be noted that the open-door policy of the Nigerian Red Cross Society — which it has maintained throughout — has been a crucial factor. There is no doubt that self-help is always the best approach, though succeeding in the search for self-sufficiency is never an easy task. However, one must start somewhere, and the Nigerian Red Cross is much better off for the ICRC's support.

Another important factor in fruitful cooperation is the practice of occasionally organizing a joint press briefing on the Society's activities. This helps clear up the usual confusion on the media's part as to the mandates of various components of the Movement.

There is no question that, while it is possible for each of them to go it alone, the humanitarian goals of the different components of the International Red Cross and Red Crescent Movement can best be attained through transparent cooperation, the binding force between the weak and the strong within the Movement. It is a practical remedy for the weak and should be considered as indispensable in all the Movement's activities.

Cooperation breeds understanding, trust, efficiency, effectiveness and true development in all human endeavour. For the International Red Cross and Red Crescent Movement, cooperation at all levels is unquestionably a must.

Operational cooperation between participating National Societies and the International Committee of the Red Cross

by **Andreas Lendorff** and **Andreas Lindner**

“Closely associating the National Societies with ICRC’s operational activities (either via seconded staff contributions, or through project delegations or bilateral projects), on the one hand to increase the Movement’s operational capacity in the face of growing needs, and on the other to respond to the National Societies’ desire to intensify their international activities and make them better known.”

This is an extract from a document containing the reflections and suggestions that the ICRC submitted in March 1995 to the Policy and Planning Advisory Commission set up by the Council of Delegates. The document, entitled “The future of the International Red Cross and Red Crescent Movement”, highlights the commitment made by the ICRC in recent years to continue and even intensify its cooperation with *participating National Societies (PNS)*. This commitment has led to many different types of cooperation with such Societies. *Delegated ICRC projects* and *bilateral projects in areas under ICRC coordination*, known as the “new” forms of cooperation between participating National Societies and the ICRC, constitute the most recent development in this process.

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This article is based on an unpublished ICRC document dated May 1997 and entitled “Review of delegated ICRC projects and participating National Society (PNS) bilateral projects carried out in areas under ICRC coordination — Final Report”.

The ICRC's undertaking was firmly reiterated in the new "Agreement on the organization of the international activities of the components of the International Red Cross and Red Crescent Movement", adopted by the Council of Delegates in Seville, Spain, in December 1997.¹ Increased operational cooperation with other components of the Movement is also one of the cornerstones of the in-depth debate that the ICRC recently conducted on its role and activities in the years to come.²

Evolution of cooperation between participating National Societies and the ICRC

The early stages

The years that followed the end of the Second World War saw varying degrees of National Society participation in ICRC coordinated programmes. If we look back on the period up to the late sixties, the National Societies were assigned a fairly active role, while the ICRC was viewed more as an overall coordinating body, with relatively few staff of its own directly involved in the management of field operations.

From the time of the Middle East, Cyprus and Bangladesh crises in the early seventies, the ICRC began to change its operational approach. Nonetheless, the participation of National Societies in ICRC programmes continued, mainly in the form of financial and material aid and, increasingly, through the secondment of specialized staff. The latter form of support reached a peak in the early eighties, when hundreds of delegates — medical personnel, nutritionists, sanitation engineers, relief administrators and logistics experts — were sent to Thailand and Cambodia.

These "traditional" forms of National Society support were increasingly used within the context of the large-scale assistance programmes launched by the ICRC in the eighties, when several thousand specialists recruited by National Societies worked alongside ICRC delegates in the Horn of Africa, Angola, Mozambique, on both sides of the Afghan border, and in Eastern Europe.

¹ Published in *IRRC*, No. 322, March 1998, pp. 159-176.

² See "The ICRC looks to the future", *ibid.*, p. 126.

However, the eighties were also marked by the growing number of non-governmental organizations (NGOs) operating in the same conflict areas. It was to be expected that these newcomers to the humanitarian scene would seek financial backing, especially at the national level, from the very same donors as the National Societies. As a result, participating National Societies had more difficulty raising funds to provide support for the ICRC. The problem was compounded by the fact that the ICRC's operational procedures did not offer any real incentive for participating National Societies to seek funding for this kind of traditional support, which gave them relatively little visibility compared with the many NGOs that were more directly involved in the field and could more easily "show the flag", so to speak, in war-affected areas. The need for visibility grew as tragedies calling for humanitarian action received greater media coverage.

The ICRC became increasingly aware of the necessity for National Societies to acquire a higher profile in the field and began to examine ways of entrusting a more active role to its traditional partners. Most of the debate on the subject was conducted jointly with participating National Societies. One particularly interesting forum was the "Dialogue with the Nordic Societies", which held its final round of discussions in November 1987. Following that process, the ICRC Executive Board decided that, among other measures to enhance the PNS/ICRC relationship, new forms of operational cooperation could be introduced and that the ICRC could in future assign clearly defined areas of its operations to participating National Societies. These would primarily include activities such as the management of a blood bank, a hospital or a prosthetic/orthotic workshop. The ICRC would retain responsibility for the overall coordination of any operation.

Delegated projects

The rules and principles governing this new form of cooperation were drawn up over the winter of 1988/89. Initial reference to the concept as "subcontracting" caused a certain amount of confusion, especially since the term was already being used for a type of cooperation within the programmes run by the International Federation of Red Cross and Red Crescent Societies. It was therefore decided to refer to such cooperation as "project delegation", for which the following precise definition was drawn up: "A delegated project falls within the objectives and budget of the ICRC, which means that the ICRC would be obliged to carry out the project if no participating National Society were prepared to do so. It comes under the overall operational coordi-

nation of the ICRC, which also assumes specific responsibility for security matters and contacts with the media and the authorities.” It was further agreed that the contract for such a project would usually consist of an agreement with two enclosures, namely the project description plus budget and the standard principles, terms and conditions governing PNS/ICRC cooperation.

The above principles define the respective responsibilities of the ICRC and the Society involved. It is understood that the ICRC shall retain, at the political level, ultimate responsibility for all decision-making, security matters and representations pertaining to the overall International Red Cross operation under which the project is carried out. The terms and conditions for the implementation of a delegated project are jointly defined in conformity with the ICRC’s current operational policies. PNS personnel involved in such projects are subject to contractual obligations similar to those applicable in the case of staff secondment and sign the pledge of confidentiality required of all ICRC staff. These principles, terms and conditions also contain clear guidelines as to the use of the emblem as a protective device, contacts with the media and financial burden-sharing.

At the time this new form of cooperation was established, it was foreseen that delegated projects should be defined within the context of the “relief-to-development continuum” — in other words, that they should cover activities to be pursued beyond the phase of direct ICRC action in aid of conflict victims. It should also be noted that one of the original objectives in introducing project delegation was that the greater visibility gained by participating National Societies should enable them to increase their fund-raising capacity. It was planned that the cost of a delegated project would be borne entirely by the participating National Society itself, and it was hoped that that increased fund-raising potential would lead to additional financial support from the Society for the ICRC’s activities in the country concerned.

The first contract for a delegated project, signed on 19 October 1989 between the ICRC and the Danish Red Cross, fulfilled all the conditions described above. The cattle vaccination programme in southern Sudan was financed entirely by that Society and covered an activity that would continue into the post-conflict phase. No conclusive evaluation of the project could be carried out, however, as after many months of fairly successful cooperation, the entire ICRC operation, including cattle vaccination, came to a halt. Political constraints and security considerations compelled the ICRC temporarily to suspend its operation in

southern Sudan. When, after many months, both parties were still unable to pursue their programmes, they agreed officially to terminate this first project delegation contract.

Bilateral projects

In 1991 a second new form of cooperation was set up for activities conducted by a participating National Society which lay outside the ICRC's objectives aimed at meeting emergency needs and which tended to respond to requirements of a more socio-economic nature. The need for this type of project became particularly evident within the context of the ICRC's programmes in the Middle East and Eastern Europe. Described as a "PNS bilateral programme carried out in an area under ICRC coordination", this form of cooperation was defined as follows: "A bilateral programme carried out by a PNS in an area under ICRC coordination falls outside the objectives and budget of the ICRC, which means that the ICRC would not carry out the project if there were no PNS interested in doing so. As for project delegation, it comes under the overall operational coordination of the ICRC, which also assumes specific responsibility for security matters and contacts with the media and the authorities."

On 17 December 1991 the first contract for a bilateral project was signed between the Netherlands Red Cross and the ICRC. As with delegated projects, this contract also consisted of an agreement with two enclosures — the project description plus budget and the standard principles, terms and conditions governing such PNS/ICRC cooperation. Although very similar to project delegation, this second form of cooperation covers different needs and places different levels of responsibility on each of the two contractual partners, that is, the participating National Society and the ICRC. At the political level, the ICRC still retains the ultimate responsibility for all decision-making and matters pertaining to security. There is, however, less ICRC involvement during the planning stages and proportionally lower burden-sharing when it comes to the actual management of the project and the provision of the logistical support required.

At first only a few contracts were signed for either type of project. In the months up to the end of 1992, a total of five projects had been implemented — one in Sudan and four in the Middle East. During the same period, however, attempts were also made to try out other forms of cooperative project.

Other types of project

Prior to the outbreak of the Gulf war, several National Societies agreed to an ICRC proposal to prepare what were called "camp modules for displaced people and/or refugees". The idea was that one, or several Societies together, would provide the necessary relief/medical supplies, operational material, logistical means and human resources and run camp facilities capable of accommodating up to 30,000 people. As a result, the ICRC was subsequently in the fortunate position of being able to take speedy and effective action when hundreds of thousands of Kurds began to flee into the countries surrounding Iraq. Although the way of operating was somewhat similar to that adopted for delegated projects, the legal framework was not established in the same manner, and this mode of cooperation, set up to deal with that very specific context, was subsequently discontinued.

Other forms of bilateral cooperation have been arranged in the past, such as the prosthetic/orthotic projects taken over by National Societies in various countries, following the closure of the ICRC's medical programmes, but, again, they were based on different contractual agreements.

The experience gained from these various types of cooperation finally started coming together in the course of 1993, and a definite move towards working through project delegation and bilateral projects began that year. By 1994, a real breakthrough occurred with these new forms of operational cooperation between participating National Societies and the ICRC. Meanwhile, "traditional" PNS support for the ICRC continued on a more or less equal level over those years. The assistance provided in terms of cash, kind and personnel remained very important to the ICRC and was still the preferred mode of cooperation for some of those Societies.

Need for evaluation: the 1996 review

From the time the contract for the first delegated project was signed in 1989 up to May 1996, a total of 108 projects were under discussion, of which 64 have actually been implemented — most of them launched in the former Yugoslavia and the African Great Lakes region over the past three years. In the light of the positive and negative experience gained, it seemed appropriate to carry out an initial evaluation of the policy and working practices regarding these projects. This was also the wish expressed by the National Societies that attended the

bi-annual PNS information meeting held in Glion, Switzerland, in January 1996.

Objectives

The objectives of the review were, first, to examine the process of initiating, planning, implementing and monitoring these projects from all perspectives and to analyse the information gathered in a consistent and thorough manner. The second objective was to use that information as a basis for future management of the projects so as to be able to deal with some of the day-to-day difficulties experienced in the field and at headquarters. The final aim of the review was to give both PNS and ICRC decision-makers a better vision of prospects for future cooperation of this kind. The review did not, however, examine the traditional forms of National Society support, i.e., direct financing, material aid and staff secondment, nor did it analyse similar collaborative arrangements concluded by Societies within the framework of programmes coordinated by the International Federation.

Methodology and time frame

Two months after the January 1996 information meeting, a working group was set up by the ICRC External Resources Department to carry out the review. The group included people from a wide variety of backgrounds working in various ICRC departments and also comprised some staff members from participating National Societies seconded to the ICRC at that time. The full group met until the next PNS information meeting, held in the Swiss city of Lausanne in October 1996, and after that a core drafting group worked on writing and compiling the final report.

General background information on both delegated and bilateral projects and details on the individual projects proposed and implemented up to May 1996 were compiled from files at ICRC headquarters. Additional information about some of the projects was later obtained from ICRC and PNS staff directly involved in the projects carried out in Rwanda and the former Yugoslavia. The data were used to produce a list of all delegated and bilateral projects up to that date and to provide further information on those projects.

A total of 138 interviews were carried out with a cross-section of key personnel at the ICRC in Geneva and the headquarters of 11 participating National Societies and with ICRC and PNS delegates working in the field on delegated or bilateral projects in Rwanda and the former

Yugoslavia. As the interviews were conducted by a number of different people, the most consistent approach was to use a questionnaire. Group discussions with ICRC and PNS staff were carried out in each delegation and sub-delegation visited. The narrative data obtained from the questionnaires and the group discussions served to give an overview of the experiences and perceptions of people who had been or were currently involved with the projects. The statistical results of the interviews were analysed with the EPI-info computer programme.

*Main findings, conclusions and recommendations of the Final Report*³

Both delegated and bilateral projects were generally viewed as an interesting and mostly positive experience by those directly involved in them. It was considered that in areas where such projects formed part of an operation, they enhanced the capacity of the Red Cross to respond to a broader variety of needs and that in many cases participating National Societies added valuable professional expertise and cross-cultural experience through their skilled staff.

The few sceptical views expressed were based either on specific negative experiences or on a lack of direct involvement in projects. Some doubts were also raised as to the ability of the ICRC to make the necessary managerial and operational changes and the willingness of participating National Societies to become fully integrated in the hierarchy and discipline of an ICRC delegation.

The Final Report revealed four main weaknesses:

1. Lack of coherence between the definitions of delegated and bilateral projects in theory and actual practice in the field

While both definitions were clear in theory, the projects themselves were often implemented on the basis of expediency, while management decisions were prompted by reasons of convenience rather than policy, thereby blurring the differences between the two types of project. There were projects clearly outside the ICRC's objectives that should have been, by definition, bilateral projects but were defined as delegated projects. This often happened because of an erroneous assumption on the ICRC's part that a bilateral project might not be feasible in a conflict

³ "Review of delegated ICRC projects and participating National Society (PNS) bilateral projects carried out in areas under ICRC coordination — Final Report", May 1997, unpublished ICRC document.

area with a volatile security situation, whereas the favourable experience in Bosnia-Herzegovina had given proof to the contrary. Conversely, there were projects very close to the ICRC's core activities that were given the status of bilateral programmes although their management was much more similar to that of delegated projects.

To ensure a more coherent approach, one of the Final Report's basic recommendations was that the ICRC should always clearly define its own operational role and objectives in a given operational context before taking an informed decision on the types of project to suggest to interested participating National Societies.

2. Poorly defined management procedures

The interviews revealed a fairly widespread lack of knowledge on how delegated and bilateral projects were actually supposed to function, on who should initiate the project proposals, and on how delegated projects should be implemented and completed.

To remedy the problem, a "User's Manual for Delegated Projects" was drafted and introduced in the field from August 1997. Since then all ICRC delegations and sub-delegations with delegated projects in their areas of operation, the headquarters of the participating National Societies concerned and most of the project managers have received copies of the Manual. Its wide distribution has largely helped to bring ICRC and PNS players to the same level of knowledge and expectation when it comes to project delegation. The Manual, which is based on "best practice experiences", is still a working draft. The final version will be produced this year, once all ICRC and PNS staff involved have sent in their comments.

Another conclusion of the Final Report was that project delegation should be added to the curriculum of ICRC training for field delegates. Since 1997 the two-week training course for heads of delegation/sub-delegation and coordinators has included half a day reserved exclusively for briefing on the handling of delegated projects. The main purpose is to see that leading ICRC field staff are better prepared to achieve unity and cohesion within their delegations. Special emphasis is placed on addressing the difficult question that the management of delegated projects, in which responsibilities are different from those to which the ICRC is accustomed, does not automatically fit into the ICRC's hierarchical management structure. ICRC and PNS staff have to be made aware of the situation and of the absolute need for flexibility and understanding on both sides. The ICRC has to find a way of

accommodating PNS projects and their staff without losing control of the overall operation, while at the same time preserving the identity of participating National Societies. To walk this thin line is probably the biggest challenge facing ICRC heads of delegation and sub-delegation who deal with delegated projects.

3. Problem of coordination between the field and ICRC and PNS headquarters

The Final Report came to the conclusion that the additional workload created by delegated and bilateral projects, particularly at ICRC headquarters, was too heavy. One of the principal reasons was that responsibility for project management was not yet clearly allocated, which led to a duplication of efforts and poor coordination. Often PNS desk officers and project managers as well as ICRC field staff did not know who to deal with in Geneva when issues pertaining to delegated projects had to be resolved. This was mainly because many departments have a role to play in the project management process: the External Resources Department as the ICRC liaison unit with participating National Societies, the Operations Department as the unit responsible for policy matters and the main contact for field delegations, but also the technical units (mainly relief and health), the Finance and Administration Department, the Human Resources Department and the Division for Policy and Cooperation within the Movement whose delegates very often serve as coordinators for PNS projects in the field. The Final Report recommended the appointment of a project facilitator or even a facilitation unit at ICRC headquarters to follow the process from beginning to end.

The role of focal point for delegated projects was entrusted to the ICRC's External Resources Department, which now has a coordinator whose main task is to organize the process of offering projects to participating National Societies and to make sure that all questions about delegated projects raised by partner National Societies and the ICRC's field delegations are answered as quickly as possible. In the Human Resources Department a person has been appointed to deal exclusively with staff involved in delegated projects, which has also proved to be very useful.

4. Project delegation not sufficiently geared to real needs

As regards the process of initiating delegated projects the Final Report underlined that very often the trigger was interest on the part of participating National Societies. Such interest was expressed during

field visits or via Geneva and/or because the Societies in question had funds available for the purpose. The result was sometimes a more or less artificially created, excessively donor-driven, project — even difficult to define as a delegated or a bilateral project. Moreover, with this way of proceeding the ICRC always found itself in a reactive position. To make better use of all the advantages that cooperation with participating National Societies offered for field operations (expertise, personnel, funds, and so forth) and to direct those Societies towards real needs, the ICRC had to adopt a more pro-active approach. As stated by many interviewees, the idea and the original proposal for a delegated project should preferably come from the ICRC's field delegations.

In 1996 all delegations were asked for the first time to think about potential delegated projects — based on real needs — already during the annual budget meetings. The result proved rather disappointing, as no more than nine projects were put forward — only four of which were actual proposals that could be submitted to interested Societies. In 1997, following completion of the Final Report, it was made quite clear that delegations should start by determining the ICRC's objectives for the coming year, and then use those objectives as a basis for identifying projects suitable for submission to participating National Societies. This time the feedback was much more encouraging, with 26 delegated project and two bilateral project proposals forwarded to Geneva (see below for details on implementation).

Initiating delegated projects through the ICRC's general planning process seems to have emerged as the prevailing trend since 1997. But the approach that consists in launching delegated projects on an ad hoc basis later in the year, whenever a need for action arises and the ICRC delegation involved feels that a project is suitable for submission to interested Societies, will also be maintained. The ICRC does not want to rule out projects initiated by participating National Societies themselves. According to the definition given above, however, this should in most cases lead to bilateral projects, which do not form part of the ICRC's objectives.

New forms of cooperation between participating National Societies and the ICRC: developments in 1997 and 1998

The ICRC's cooperation with National Red Cross Societies in the areas of project delegation and bilateral projects has undergone an impressive increase over the past two years. Whereas from 1989 to May

1996 a total of 64 delegated and bilateral projects had been implemented, by 31 March 1998 the number had risen to 105, including 58 delegated and 47 bilateral projects, of which 23 delegated and 12 bilateral projects are currently under way.

The overall figures for the past two years are as follows:

	Delegated projects	Bilateral projects	Total
1996	30	22	52
1997	28	26	54
Ongoing at 31.3.1998	23	12	35

There are two main reasons for this very favourable development.

(a) On the part of the National Societies there is a growing interest in this form of cooperation with the ICRC — though it does vary from one Society to another. The spectrum of participating National Societies has broadened as well. While the Final Report listed 14 such Societies in May 1996 (eleven European Societies, plus the American, Canadian and Australian Red Cross Societies), since then newcomers like the Japanese, Spanish and Finnish National Societies have joined in — partly on their own initiative and partly at the prompting of the ICRC.

(b) At the ICRC the number of advocates for cooperation with participating National Societies has been growing slowly but steadily, as reflected in the higher number of project proposals forwarded from the field to headquarters and also in the extension of this form of cooperation to operational zones that have been rather reluctant towards project delegation in the past.

This growth process has been actively supported by a more systematic and efficient procedure for offering projects to National Societies, developed by the ICRC External Resources Department. In 1997 the Department began drawing up an inventory of all potential projects received from the field. The 28 proposals that emerged from the budget meetings that year were discussed in Geneva by the relevant departments. Of the 28 project proposals sent in by the field:

- seven were considered not suitable as delegated or as bilateral projects,
- two had to be cancelled owing to a change in circumstances in the field,
- six were at a very early stage of conception and will be considered later in 1998,
- 13 were well drafted and ready for submission to interested National Societies.

It should be mentioned that the consultation process between Operations and the External Resources Department also involves dealing with the occasionally sensitive issue of which Societies cannot be considered for projects in a given operational context because of their nationality.

Alongside these ICRC in-house preparations, the External Resources Department requested all major participating National Societies to inform it of their geographical interests regarding project delegations for 1998.

At the beginning of November 1997 all preparatory steps had been completed to start the actual process of offering projects to prospective Societies. The list of available ICRC project proposals was matched with the list of geographical interests expressed by participating National Societies. The projects were offered on that basis, and for the first time a certain competitive approach was adopted. The same project proposal was submitted to two, three or even four Societies, which were asked to reply by early December as to their funding and personnel possibilities and what date they could envisage for launching the project. It was made clear that in most cases the ICRC would give preference to the "best offer" (i.e., where funds had been secured, experienced staff was available and an early starting date could be envisaged). It should be mentioned that exceptions may be made to this rule, mainly to give a chance to newcomers among participating National Societies which have not yet gained experience in terms of field cooperation with the ICRC and mostly also need more time to raise the necessary funds. The process was conducted in full transparency, and all the Societies were informed of who their "competitors" were, to give them the opportunity to establish direct contact with each other and discuss who might be in a better position to implement a given project.

On the basis of the replies received, by early December the External Resources Department was already able to decide on the official allocation of projects for 1998. In many cases the decision was easy because there was only one Society interested or one that offered such clear advantages that the decision was evident from the outset. In a few instances, however, a choice had to be made between equally strong contenders. The basis for the decision then became concern to maintain a worldwide balance between the various participating National Societies. In one case a seemingly better offer was not taken up because the ICRC wished to broaden the range of Societies involved in this kind of cooperation.

At the end of March 1998, four out of 13 projects had already started, agreement had been reached on starting dates for two more, for another the final decision by the interested Society was still pending, for two the surveys were under way, for one a survey was scheduled and for another the funding had just been granted. The remaining two had to be cancelled owing to a change in circumstances in the field.

Lessons to be learned and prospects for the future

Initiating project proposals as early as possible, i.e., during the ICRC's budget meetings, offers several advantages to both sides.

It gives participating National Societies the possibility of approaching donors and searching for experienced personnel at an earlier stage than in the past and facilitates the operational and financial planning process for them.

For the ICRC the greatest advantage obviously lies in the speedier and better coordinated implementation process described above. Unlike in the past when there were often long delays before a delegated project actually got off the ground, in 1998 the projects are at an unprecedentedly advanced stage, making this form of cooperation with participating National Societies more reliable for the ICRC than in former years. The whole process of identifying the right Society for a given project has also been accelerated by the tendering procedure leading to final allocation. Another positive aspect for the ICRC is that funds from participating National Societies are channelled to a greater extent into the core activities of an operation — that is, into projects that are absolutely needed rather than those that would be merely “nice to have”.

A few other matters need to be thought through again and improved in the future. Whereas in the past project delegation was very often the option chosen for new activities, an increasing number of ongoing ICRC activities have recently been selected for implementation as delegated projects. While this tallies entirely with the philosophy of project delegation, it does require even better coordination in order not to disrupt work that is already under way. As a few recent examples have shown, the Human Resources Department needs to be involved early on in the planning process so that the replacement of an ICRC delegate with a PNS project manager can be properly coordinated. This calls for a high degree of flexibility on both sides, as was the case in one instance where a National Society agreed to do no more than fund a delegated project

for a period of time, and to send in its own project manager only once the ICRC delegate in charge had completed his assignment.

Another problem is to ensure a continuing flow of information on projects from the field to headquarters before participating National Society teams finally arrive in the areas of operation. There is still a fairly long time lapse of several months between the forwarding of a project proposal from the field and the arrival of the PNS team. During this period circumstances in the field may change, with possibly far-reaching consequences for the project itself. The field therefore needs to keep ICRC headquarters up to date on developments to avoid any unfortunate surprises for incoming participating National Society staff. ICRC headquarters must in turn inform the delegations of all the phases of the project allocation process.

A new trend is that participating National Societies want to start projects without being able to commit themselves to covering the entire budget. A Society will begin a project with its own funds — which is of interest to the ICRC because it guarantees a quick start — and apply simultaneously for funds from its government or other donors for the continuation of the project. This has on several occasions proved very efficient as a means of getting a project off the ground and guaranteeing its continued financing. On the other hand, what happens if the donor later on refuses to provide the funds and the Society is unable to finance the whole project with its own resources? According to the definition of project delegation, the ICRC then has to take over. But should a project contract be signed if the participating National Society cannot cover the full budget from the outset? There is no general rule in this regard, and decisions can be taken only on a case-by-case basis. Societies have to be aware, however, that discontinuance in the middle of a project may create enormous operational and funding difficulties for the ICRC.

While in some regions delegated and bilateral projects already form an integral part of ICRC operations, the concept as such is not yet systematically integrated into the ICRC's overall operational thinking and planning. The support given to the concept still differs from one ICRC operational zone to another, and from one delegation to another. The weakest point on the ICRC's side seems to be that, although a general policy decision has been taken in favour of closer cooperation with participating National Societies, implementation still depends to a large extent on the attitudes of the people in charge. These are naturally conditioned by personal experience, which introduces a certain element of unpredictability for the Societies.

Moreover, there is still a certain lack of understanding among a few decision-makers at the ICRC that delegated projects may also include an element of transition to a more development-oriented approach, meaning that a participating National Society might take its project a step further than the ICRC, on the basis of its mandate, is prepared to go.

A few ICRC delegations still have a tendency to streamline the handling of delegated projects and their managers to an extent that may seriously jeopardize the individuality of participating National Societies and the sense of project ownership they should feel. On the other hand, some Societies tend to see their projects as an isolated undertaking to which the ICRC's customary working procedures and rules do not fully apply. Finding the middle line between these two positions by showing a high degree of flexibility on both sides is the real challenge for ICRC delegations and National Society project staff. The strengthening of operational cooperation between the ICRC and participating National Societies is the only way to ensure that the concept of delegated and bilateral projects will truly work in practice.

Both types of project can pave the way towards a more creative response to the challenges in today's humanitarian environment. By associating the respective local Red Cross or Red Crescent Societies in the undertaking, such projects will at the same time enhance the Societies' capacity to accomplish their traditional tasks for the victims of war and violence. If the ICRC and National Societies choose to continue with these forms of cooperation, delegated and bilateral projects could become an effective means of achieving a more comprehensive approach to solving problems of a humanitarian nature, while also launching into new forms of activity in the cycle from pre-conflict to active conflict, and possibly deadlocked conflict situations, through to the post-conflict phase and the gradual move towards stable peace. However, these new forms of cooperation should in no way adversely affect the National Societies' traditional support for the ICRC, such as the direct financing of ICRC programmes, donations in kind of relief and medical supplies, and the secondment of experienced specialist staff.

Cooperation between the International Committee of the Red Cross and National Societies in Bosnia-Herzegovina: broadening the Red Cross response

by **Pierre Krähenbühl**

The break-up of Yugoslavia and the war in Bosnia-Herzegovina represented the first major conflict on European soil since the end of the Second World War. It confronted politicians, military planners, journalists and aid workers alike with daunting challenges that often posed acute dilemmas. In many ways, the war threw into question the international community's ability to respond to the issues at hand and meet the needs encountered. The International Red Cross and Red Crescent Movement was not spared this challenge.

Present since the very outbreak of violence, the ICRC endeavoured to alleviate the impact of widespread population displacement, targeting of civilians and blatant disrespect for essential norms of humanity. For delegates in the field, the struggle to gain access to places of detention or to make successful representations to political and military authorities in behalf of ethnic and religious minorities was, more often than not, excruciating.

The scale of the human suffering resulted in a need for assistance programmes to accompany the ICRC's protection activities. ICRC

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supplies kept medical facilities throughout Bosnia-Herzegovina operational. Relief distributions, carried out in partnership with local Red Cross organizations, sought to help isolated and exposed families get through the most critical phases of the war. Local water boards and numerous communities benefited from emergency water and sanitation projects.

Since the signing of the General Framework Agreement on Peace in Bosnia and Herzegovina (better known as the Dayton agreement) in December 1995,¹ the ICRC has focused on helping the different communities to address some of the lasting consequences of the conflict. The search for missing persons is seen as a crucial aspect of the reconciliation process. Dealing with the threat of landmines constitutes another important task in the immediate post-conflict environment. And the ICRC is helping to keep a number of components of the medical and social safety net operational in the present transition phase.

Both during the war and in its aftermath, National Societies operating in partnership with the ICRC have made a very significant contribution to the ICRC's work. This article will take concrete examples from Bosnia-Herzegovina to illustrate the types of partnership that have been developed. It will look at the frameworks devised for the different forms of cooperation and the philosophy underlying the process. It will assess some of their successes and failings and cite options for the future. Finally, it will advocate a holistic definition of cooperation between Participating National Societies and the ICRC, and argue that this form of cooperation makes it possible to broaden the Red Cross response and represents an important investment in the Movement.

Operational partnerships

The 1990s saw a combined search by many National Societies for a higher operational profile in emergency situations and by the ICRC for a more structured and productive integration of the National Societies into its operations. This was achieved above all in a number of African settings and in the former Yugoslavia.

In the Bosnian context, the forms of cooperation and the number of projects grew between 1993 and 1997 to an unprecedented number and level of sophistication. Over that period, for example, some 35 delegated

¹ See the provisions relevant for ICRC's activities in the former Yugoslavia: *IRRC*, No. 311, March-April 1996, pp. 243-245.

or bilateral projects — with an average investment of 1 million Deutschmarks — were implemented. By mid-1997, Bosnia-Herzegovina accounted for over half of these programmes in ICRC operations world-wide. There were different reasons for this. First of all, the conflict in Bosnia-Herzegovina — erupting as it had in the heart of Europe — generated widespread interest and pressure from Western National Societies in particular to become involved in the humanitarian operations on the ground. Secondly, there was gradual recognition that the scale of the needs encountered required new, creative responses.

The first such project was the partial rehabilitation of the gas network in Sarajevo, which the Netherlands Red Cross Society began in 1993. Thereafter and through to the end of the war, delegated and bilateral projects met needs for medical care, clean water, sanitation and relief. Programmes ranged from large donations of hospital equipment to repairs of water-supply systems and on to community kitchens. Additional forms of interaction included relief convoys — often organized by local or regional branches of a given National Society — and staff secondments to the ICRC. In some cases, Participating National Societies established full-fledged coordination offices for their various projects within the premises of ICRC offices.

In the days that followed the signing of the Dayton peace agreement, there was a further increase in the number of projects and a redefinition of priorities. The ICRC increasingly sought partnerships for programmes that would be part of the medical and social safety net. These included the rehabilitation of medical and social welfare facilities. Several examples will be studied below.²

² Particular emphasis is placed on our experience between July 1995 and December 1997, i.e. the final months of the war and the first two years after the signing of the peace agreement. Changes in the programmes and the concept underlying them are therefore to be seen in a context of transition from one of the most acute phases of the conflict to the immediate post-war environment.

It is worth mentioning that these developments took place prior to the adoption of the *Agreement on the organization of the international activities of the components of the International Red Cross and Red Crescent Movement* (Seville, 26 November 1997 — reprinted in *IRRC*, No. 322, March 1998, pp.159-176). By early 1997, the delegations of the ICRC and the Federation were operating on the basis of a strengthened partnership in the fields of assistance and institution-building. Both components were working with National Societies in the framework of bilateral or delegated projects.

Lasting needs and the resulting position of the International Red Cross and Red Crescent Movement

Community kitchens

In 1994 the decision was taken by the ICRC and the German Red Cross Society to initiate a community-kitchen programme in Sarajevo, which saw the establishment of local Red-Cross-managed facilities throughout the city to provide elderly persons, widows and orphans in particular with a daily hot meal. The number of beneficiaries at the time reached some 10,000. Just as the Dayton agreement was being negotiated in November 1995, discussions between the ICRC and the Austrian Red Cross led to the launch of a similar project, which eventually fed 23,000 persons daily in the greater Banja Luka area. Finally, as of January 1996, the German Red Cross project was expanded to include a further 10,000 persons in the areas between Pale and Trebinje in eastern Bosnia-Herzegovina. In all cases, the respective local Red Cross organizations played a significant planning and executing role.

Implementing a community-kitchen network in an emergency environment was not in itself a novelty though it raised some interesting questions in the case of Bosnia-Herzegovina. First of all, there was the issue of needs that had persisted between a phase of acute emergency and one of recovery/reconstruction. The country was emerging traumatized from a war halted only by a massive and unprecedented international military deployment (60,000 troops under the command of the North Atlantic Treaty Organization) and struggling to define its future and that of its constituent communities. It was engaged in a complex effort to set up common political, economic and financial institutions and both local authorities and international donor organizations were developing strategies for reconstruction. Yet the vast sums of money being injected into the process were failing to have effects on individual lives in the short term. In the meantime, a significant gap was becoming apparent between the effects of structural programmes and the specific needs of entire sectors of society, in particular the most vulnerable groups. The conviction grew that a "humanitarian safety net" had to be maintained. The local institutions in the sectors concerned — not the ICRC or the Participating National Societies — would constitute this net.

The dialogue between the ICRC, the National Societies involved and the local Red Cross partners produced the view that a continuation of the community-kitchen programmes contributed to that safety net. The local Red Cross organizations found themselves very much on the humanitarian

front line and feared that a closure of the kitchens would deprive them of one means to meet needs within their own communities. Maintaining the kitchens was perceived by some as a test of the principle of independence. Since some donors questioned the relevance of public kitchens in a post-emergency environment they advocated a shift towards reconstruction and promoted programmes to strengthen sustainability and build local capabilities. Towards the end of 1996, the Participating National Societies were facing growing difficulties in securing continued funding for these bilateral projects and were at one point notified by donors that the number of beneficiaries would have to be reduced to one third of the figures mentioned above.

While recognizing the legitimacy of and need for framework-reconstruction programmes, the ICRC and its National Society partners upheld the importance of parallel humanitarian support initiatives. They also made the following observations. Firstly, Bosnia-Herzegovina was undergoing a two-fold transition — not only from war to post-war but also from a planned to a private market economy. Secondly, it was a situation in which there was virtually no tradition of civil society and local non-governmental organizations. The present and future role of the local Red Cross was therefore decisive. Irrespective of how badly weakened the local Red Cross organizations had emerged from the conflict, they remained a reference point for people within their communities. In discussions with donors, the point was made that projects geared to the local Red Cross organizations or carried out in conjunction with them constituted a promising means of building local capacity. Combining ICRC activities, National Society projects and the International Federation of Red Cross and Red Crescent Societies' institutional development work would contribute to sustainability.

In the latter part of 1997, the number of community-kitchen beneficiaries dropped slightly. On the other hand, it became clear that several thousands of people would continue for months or years to rely on assistance of the type provided by the kitchen programmes in the same way as many homeless people and other social outcasts do in towns throughout Europe. In Bosnia-Herzegovina, however, the people concerned had lost everything to the war. The local Red Cross organizations insisted that it was their role to support these people in need. The ICRC / National Society projects helped them to do so.

Rehabilitating medical and social welfare facilities

Throughout the war, supporting medical facilities on all sides was one of the ICRC's main concerns, and was carried out to a large extent with

the backing of National Societies. Saving the lives of the wounded required both experienced staff in the hospitals and the regular provision of supplies. The broader network of social welfare institutions (orphanages, homes for the elderly, etc.) received support on an ad hoc basis in their endeavour, under appalling conditions, to take care of their charges. In the aftermath of the conflict, the health-care sector underwent extensive reform. In conjunction with the World Health Organization, the respective ministries prepared a health plan for the year 2000. On the ground, however, salaries were arriving late, if at all, and no internal or external solution was emerging that would have allowed the ICRC to rapidly phase out its deliveries of surgical and other supplies. The conditions placed by the international community on economic aid and the resulting imbalance of assistance between the country's constituent entities exacerbated the gap described above.

Field delegates began drawing attention to the needs faced by the medical and social welfare institutions in different regions. As pointed out above, ICRC staff had been in contact with and supported many such facilities during the war. Several of their directors had, against all odds, managed to protect patients belonging to targeted ethnic communities against persecution and expulsion. These institutions did not, however, appear anywhere near the top of reconstruction lists despite being an intrinsic part of the humanitarian safety net required in the transition period. Though the ICRC felt that such rehabilitation schemes should not be part of its objectives as such — in particular in a post-conflict environment — it was decided that proposals could be submitted as bilateral projects to interested National Societies. It drew up a framework for this approach, which was based on initial assessments made by ICRC medical staff. These included visits to orphanages, homes for the elderly and for the physically and mentally handicapped (including people wounded and traumatized by the war) to set priorities. They also involved discussions with the Ministries of Health and Social Affairs to ascertain which institutions would be kept in the future health-care system and which would be abandoned. The local Red Cross organizations, while taking no operational part in the actual rehabilitation schemes, were closely involved in the determination of priority institutions.

This allowed the ICRC to submit a number of projects to National Societies. The projects proposed included renovation or expansion of premises, repair of facilities, environmental rehabilitation, staff training and support, and help in establishing links with similar institutions abroad. The interested National Society was required to carry out an additional

assessment to define the scope, budget and technical specifics of each project. In the case of Republika Srpska,³ for example, a package of four priority institutions was submitted.

At the time of writing, the first phase of rehabilitation had been completed for all four of them by the Norwegian, Italian, Japanese and Spanish National Societies. Thought was then given to additional rehabilitation as well as staff training for these institutions. These promising results led to an increase in project proposals.⁴

Integrating National Society staff, expertise and funds made it possible to broaden the Red Cross response to an area previously considered beyond the ICRC's traditional purview. The fact that a systematic effort was made from the beginning to identify priorities and involve Participating National Societies was welcomed by authorities and National Societies alike. Obtaining support for further rehabilitation and for staff training will represent an important test for the approach chosen. Given the large number of organizations taking part in the broader reconstruction effort in Bosnia-Herzegovina, donors have at times been uncertain as to whether the funding requests submitted by a given National Society should be granted. The fact that the Participating National Societies have been able to set their rehabilitation projects within a framework of priorities covering needs in a specific sector has been considered positive.

Mine awareness

The fighting in Bosnia-Herzegovina ended on 15 December 1995, yet virtually every single day since then someone has been injured or killed by mines or unexploded ordnance planted or abandoned by combatants. Landmines have had, and continue to have, a serious impact on the security of the resident population, on that of internally displaced persons and even more so on returning refugees. They represent a significant obstacle to more rapid economic recovery and have been one of the main causes of injury for the foreign troops deployed under the banner of the "peace implementation and stabilization forces".

³ According to the Dayton peace agreement, Bosnia-Herzegovina comprises two entities: the Federation of Bosnia and Herzegovina and Republika Srpska. As a result of operational decisions taken during the conflict, the ICRC had separate delegations in each of these entities until 15 January 1997. Since then there has been one delegation, based in Sarajevo.

⁴ Throughout Bosnia-Herzegovina, ten such projects have been completed since the end of the war.

Over the years, the ICRC has developed great expertise around the world in treating mine injuries and manufacturing artificial limbs. By the second half of 1995, a number of delegates based in Bosnia-Herzegovina were stressing that this was no longer enough and that a comprehensive mine-awareness programme was required, with the emphasis on preventing accidents from occurring in the first place. This view initially failed to find a consensus within the ICRC itself. Mine awareness was considered too technical a subject — if not outright dangerous — and was seen as requiring expertise of a type not available within the ICRC.

If the expertise was not available within the ICRC, the project's advocates argued, it might be time to consider looking for it outside — the need was manifest and the Red Cross had a real opportunity to make a difference in an area closely related to both limb-fitting and the international advocacy campaign to ban the use of landmines. Here the resourcefulness of the National Society network was amply demonstrated. The British Red Cross has since the beginning of the programme helped identify and financed the post of mine-awareness project coordinator based in Sarajevo.

This project currently has four central components: a media-oriented campaign to draw attention to the threat of mines; development of school curriculums, in close conjunction with the Ministries of Education in both entities, to help children confront the mine danger; establishment of a mechanism to gather data about mine-related incidents throughout the country; training of local Red Cross mine-awareness instructors — 120 so far — who are becoming resource persons in their municipalities on various aspects of the mine issue.

The programme is presently one of the ICRC dissemination service's main projects. It is neither delegated nor bilateral but nevertheless an example of how effective interaction between a National Society and the ICRC can have a positive effect on the Red Cross operation in general. Authorities in both entities have adopted the school curriculums and the data-bank on mine incidents has become a reference tool in Bosnia-Herzegovina for both local and international organizations. The mine-awareness programme has become a platform for interaction with relevant ministries and agencies alike.

As with assistance for medical and social institutions, far-reaching partnership between the ICRC, the local Red Cross and a participating National Society as well as the integration of external expertise have made

it possible in this case to broaden the Red Cross response and to define the position of both the ICRC and the Movement as a whole on an important issue.

Recognition of the National Society

Local Red Cross organizations and activists were the ICRC's main partners during the war where assistance work and tracing were concerned. In the immediate aftermath of the conflict, they have continued to play a key role in the search for missing persons and in supporting the many people marginalized by unemployment and other problems associated with slow economic recovery. While the Federation has focused on development strategies for the local Red Cross organizations, the ICRC has sought to continue its supporting role in strengthening their ability to meet the needs in their communities. In addition to these operational undertakings, the ICRC and the Federation have devised a framework to bring about recognition of a National Red Cross Society in Bosnia-Herzegovina.

September 1997 brought new momentum to the process, partly thanks to the role played by the participating National Societies. While it is the ICRC that formally recognizes a National Society and the Federation that admits it as a member, Bosnia-Herzegovina has shown the impact that the presence and operational involvement of other National Societies can have. Indeed, visits by National Society desk officers, heads of international departments, secretaries-general and presidents have been a regular occurrence. Visiting their staff members in the field, they have regularly taken up ICRC and Federation requests to hold meetings with the Red Cross leadership in both Bosnia-Herzegovina entities. The intention of these encounters has not been for the participating National Societies to actually take part in negotiations in the recognition process but rather to use their experience and influence within the Movement to back that process. Their presence has also been useful in putting across, from a National Society perspective, some of the more difficult messages regarding structure of the future National Society, conditions for recognition, respect for the Fundamental Principles, etc..

This impact on the recognition process would not have been possible without broad-based integration of Participating National Societies into the ICRC operation both during the war and in the immediate post-war period, and the perception of solidarity that this has created within the local Red Cross organizations.

Cooperation as a state of mind

On the basis of the examples given above, a number of points emerge that deserve to be highlighted.

Firstly, the ICRC often perceives cooperation with Participating National Societies only in terms of bilateral or delegated projects. This situates the partnership first and foremost at a technical level. But it is high time for the ICRC to consider cooperation from a broader perspective. Cooperation should become a *state of mind*, as natural an endeavour as, say, protection or war surgery. In spite of progress in that direction, there is no widespread agreement on this within the organization. Resolute steps should be taken to overcome this imperfection in the institutional framework.

Secondly, attempts have been made to address this concern in Bosnia-Herzegovina. Among the most important tenets of the philosophy chosen was that, when declaring its intention to assume leadership of the Movement, in certain respects in certain areas at certain times, the ICRC considers this role as a *responsibility*, not a privilege. Ensuring consistency requires a readiness to make time available, to have precise knowledge of the priorities in the field, to research issues for National Society colleagues and also to be prepared to present them with a policy framework that they should respect. The experience in Bosnia-Herzegovina has shown that National Societies are very willing to accept an international operation conducted by the ICRC if they can identify a consistent range of concepts underlying that operation and if they feel that an attempt is being made to include them effectively. To that extent, the ICRC has sought to take a proactive approach towards the participating National Societies.

Thirdly, a well-structured and all-embracing partnership with National Societies is beneficial in many different ways. As already pointed out, it enables the ICRC to broaden the Red Cross response to specific or evolving needs, to acquire expertise that it does not possess itself and to develop a sense of solidarity with local Red Cross organizations, which have in the case of Bosnia-Herzegovina proved responsive to a truly internationalized endeavour. For the Participating National Societies, this approach is valuable for three main reasons: it allows them to draw on the ICRC's experience of the situation; it enables them to obtain ICRC support for action at the political level when required and, finally, being integrated into the broader ICRC operation affords certain National Societies greater independence and room for manoeuvre. It enables them to draw donor attention to the needs identified in the field.

Fourthly, the projects carried out in Bosnia-Herzegovina have highlighted the ICRC's responsibility for and ability to invest in the Movement. A narrow interpretation of the concept of partnership has often limited such collaboration to strong National Societies, i.e. those that have traditionally had the means to participate in field operations. The attempt was made in the Bosnian context to integrate a larger and more diverse number of National Societies. Several Societies (the Spanish and the Japanese, for example) thus engaged in their first bilateral or delegated projects with the ICRC. Such experiences have in turn helped strengthen the international departments of the Participating National Societies.

It must be pointed out, however, that this aspect of the cooperation philosophy has been insufficiently developed, particularly if one considers that Bosnia-Herzegovina has become an East-West meeting point. From embassies to non-governmental organizations to journalists, there are people from a variety of civilizations, cultures and religions present in the country today. This should have inspired the ICRC much earlier, within the framework of a broad-based cooperation policy, to organize systematic contact with representatives of, for instance, Red Crescent Societies that have operated and continue to operate there. A significant conceptual and strategic flaw exists in failing to appreciate the importance of integrating organizations such as the Turkish, Egyptian and Iranian Red Crescent Societies and other National Societies into the operational framework there. Beginning in 1995, the ICRC delegation in Sarajevo sought dialogue with their representatives. All sides showed interest in dialogue and some in operational partnerships. Actual cooperation, however, remains at an embryonic stage. The groundwork still needs to be laid and this ought to be one of the ICRC's objectives.

Finally, there is a conviction that a strong partnership with a variety of National Societies in the field forms the basis for relations of a less defensive nature between the ICRC and Federation delegations. The more positively and effectively the Participating National Societies become part of an ICRC operation, the more they will feel at ease in supporting an open dialogue between institutions.

A necessary search for consistency

In a domain in which clear-cut institutional frameworks and operating procedures have yet to be consolidated, there is a tendency at the ICRC to emphasize the perceived shortcomings of these partnerships, possibly with a view to discrediting this form of interaction. This is misguided in

that it fails to recognize that the process of cooperation itself is well underway. Focus is therefore better placed on achieving the greatest possible consistency. In that respect, the case of Bosnia-Herzegovina points up the following matters of concern.

Firstly, as mentioned above, the approaches chosen in the field suffered to an extent from the lack of a policy framework (the state of mind) for partnerships with National Societies. In its absence, too great a margin of manoeuvre was left to heads of delegations and too much depended on their personal interpretation of what this interaction was supposed to achieve. This confronted the participating National Societies with conflicting ICRC messages or, if one looks at it from a different angle, allowed them to advocate different approaches in different areas. While perhaps appealing in the short term, such a trend will eventually have negative repercussions both for the ICRC and the National Societies: it will be detrimental to operational effectiveness and predictability, as well as to dialogue with local partners and donors.

Secondly, further efforts will have to be made to give participating National Societies the means to resist government pressures and the temptation to ensure visibility at all costs. During the war, for example, National Societies were mostly interested in operating in the Federation of Bosnia and Herzegovina, which was seen as more attractive to donors than proposals for projects in the Serb Republic. There were instances after the signing of the Dayton peace agreement when some Western governments were keen to see their National Societies engage in projects that were in line with political objectives they considered crucial. These objectives, however, did not automatically correspond to the humanitarian priorities identified in the field.

This nurtured the perception in ICRC circles of a lack of independence on the part of some National Societies in terms of funding and of project identification. If one takes a far-reaching view, however, this is no reason for shying away from cooperation. On the contrary, it imposes on the ICRC a responsibility to provide better assessments and devise more effective frameworks and tools that enable the participating National Societies to defend the specificity of the Red Cross vis-à-vis their governments.

Thirdly, there is concern about the insufficient number of projects — both during the war and immediately afterward — focusing on the local Red Cross. Most partnership programs have been in the medical, water-and-sanitation and relief sectors. Few of them have been centred on the local Red Cross organizations themselves. Participating National

Societies ought to be in a position to better defend the interests of operating National Societies. To date, for instance, in spite of meetings on the issue between the National Societies concerned, the Federation and the ICRC, no common policy has been adopted regarding subjects such as incentive payments for local Red Cross volunteers or professionals. Every programme in the country currently has its own policy. All parties involved share responsibility for this inconsistency.

A look ahead

Events in Bosnia-Herzegovina have left few people indifferent. Some are indignant at the fact that it has been the centre of so much attention and interest. They observe that the number of National Society programmes has less to do with a developing state of mind than the fact that it was a conflict in *Europe*. It cannot be denied that this was at least partly the case. However, it is also true that the people who voice such views are often those with a general reluctance to engage in cooperation. Those, on the other hand, who have advocated a broad-based approach to the ICRC/National Society partnerships are convinced that they cannot be limited to Bosnia-Herzegovina. Rather, that situation should be viewed as a learning opportunity. The lessons can be adapted to other situations.

Among those lessons is the demonstration that partnership can be expanded from the current core of bilateral and delegated projects to a wider framework, as described above. There is also a recognition that the necessary *state of mind* has not yet been consolidated. The ICRC in general and the average field delegate in particular still tend to adopt a defensive or reactive attitude towards Participating National Societies and other components of the Movement. As one ICRC cooperation delegate has observed, mistrust towards our Red Cross partners too often makes well-intended actions on our part look like mere institutional manoeuvring. This has often caused the ICRC to miss benefits that it might otherwise have enjoyed.

In addition, a growing number of the conflicts in connection with which the ICRC operates today shift back and forth between acute and low-intensity phases. The chronic nature of a number of these has had an effect on operation decision-making. Whether in connection with long-term civil wars, stalled conflicts or immediate post-conflict environments, the Red Cross is often one of few organizations present in a consistent manner over a long period. If one adds to this the growing ambition and experience of various participating National Societies, there

is likely to be an ever-increasing coexistence in the field between the various components of the Movement. Central to this article is the view that this development must be seen as an opportunity, not a threat. Bosnia-Herzegovina has shown that it is part of, and could become a response to, some of the challenges being faced by the ICRC in the ever-shifting pattern of emergencies.

A broad-based and far-reaching cooperation policy will allow the ICRC to meet the competition in the field of humanitarian endeavour. The ICRC's specificity is often described as stemming from the mandate it has been given by the community of States. It would not be surprising if, in today's changing world, the international Red Cross and Red Crescent network evolved into the ICRC's greatest asset yet. In that respect, cooperation between the ICRC and National Societies in Bosnia-Herzegovina should be seen as a stepping-stone towards the future.

British Red Cross cooperation with the International Committee of the Red Cross: delegated water project in Bosnia-Herzegovina

by **Teresa Hanley and John Mitchell**

Cooperation between the International Committee of the Red Cross and the British Red Cross has traditionally been limited to the National Society providing cash, delegates and contributions in kind for ICRC programmes. At most, actual Society involvement in ICRC operations has extended to earmarking contributions for a particular country or programme; the Society has not been involved in planning, implementing or reviewing ICRC work. However, it has consistently contributed at least 25% of its budget for international activities to the ICRC and provided it with field delegates. The proportion is growing and, over the past three years, British Red Cross contributions to the ICRC have increased to over 50% of its international budget, more than £15 million in 1996. In addition, the Society currently provides 12% of the ICRC's delegates.

Perhaps the most notable shift regarding cooperation between the ICRC and National Societies is the increasing tendency for the ICRC to delegate some of its operational responsibility to National Societies to run parts of its programmes. In a delegated project, a National Society directly manages and implements most aspects of a project but remains under the umbrella of the ICRC. Usually, the ICRC selects the programme involved and undertakes initial assessment and planning. The National Society will then take over the funding and management of the project under overall

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ICRC supervision. The British Red Cross carried out one of the earliest such projects by taking operational responsibility for a vehicle workshop in Afghanistan. In 1995, it implemented a delegated water and sanitation project in Bosnia. This second experience is outlined below.

Delegated water project in Bosnia

Bihac district in north-west Bosnia was under siege, isolated from the rest of the former Yugoslavia for three years until 1995. All the basic utilities (electricity, gas and water) were badly disrupted. Water systems were particularly affected owing to the lack of maintenance and spare parts.

The ICRC identified the need to provide materials, equipment and some technical assistance to municipal water boards in Bihac for repair of water systems. The operational management of this six-month project was delegated to the British Red Cross.

This was a relatively new form of cooperation between the two organizations. Roles and responsibilities were divided between them as follows.

The ICRC provided

- logistical support (warehousing, storage, transport and radio maintenance);
- responsibility for security of the British delegates;
- office accommodation, equipment, insurance;
- access to areas to which the National Society would not be able to go;
- assistance in dealings with customs, regional and national authorities;
- help in identifying and planning the work to be carried out;
- technical advice and supervision;
- ongoing information regarding the political and military situation;
- hand-over arrangements if the project had to be closed unexpectedly.

The British Red Cross provided

- money and supplies;
- delegates;

- project management (detailed assessment, planning, monitoring and evaluation).

An assessment of the project found that the ICRC as well as the direct beneficiaries gained from it. In particular, it increased Red Cross visibility in the area, which may have helped in negotiations for access to prisoners and full implementation of the Red Cross mandate. In addition, the involvement of the British Red Cross at this stage meant that there could be some continuity if the political situation were to stabilize, enabling the ICRC to withdraw and the focus of work to be placed on rebuilding the capacity of the local Red Cross organization.

The British Red Cross found that it gained in a number of ways through this form of cooperation. Mutual understanding of each other's working conditions, constraints and procedures grew considerably. Relationships became closer between National Society staff in the field and in London on one side, and ICRC staff in the field and in Geneva. Also, job satisfaction increased for National Society staff through direct involvement in the implementation and management of the projects.

However, whilst the British Society was very supportive of such cooperation, constraints were encountered and issues emerged. For example, administrative and management procedures need to be very clear and the various roles and responsibilities must be precisely set out. The ICRC has now drawn up a manual of working guidelines and procedures. The project calls for detailed planning but also flexibility as an unstable situation requires the ability to change direction quickly. Trust and confidence in the other organization is vital as both are staking their reputation on the performance of the other. Decision-making can be slow, especially when outside funding is needed and another stage of appraisal, this time by institutional/governmental donors, is added.

However, despite some initial problems in dealing with these constraints and obstacles, it was agreed by those involved from both the ICRC and the British Red Cross that this close cooperation resulted in greater trust and greater understanding of the other, which can only foster a close and fruitful working relationship for the future.

Conclusion

There is much support for close cooperation with the ICRC as a general principle. There seems to be a real desire on both sides to work

more closely and an increasing perception that National Societies such as ours offer skills and experience useful for the running of development programmes in unstable situations. Nevertheless, in practice real challenges remain. The British Red Cross has found that a great deal of time is needed to work out clear procedures regarding roles and responsibilities and dealings with the authorities. Only such procedures can ensure good working relations and avoid wasting time on unnecessary misunderstandings in the future. Where time has not been devoted to working these out, even more time has been taken up in the resulting search for information and in talking through misunderstandings and negotiating roles. To an extent, closer cooperation means that each organization inevitably concedes a degree of autonomy, but with the common goal of building a more effective world-wide organization, whose component parts work together and complement each other.

The ICRC's activities on the Indian subcontinent following partition (1947-1949)

by Catherine Rey-Schirr

Introduction

Partition and the strife in Punjab

In 1945, at the end of the Second World War, the British government clearly stated its intention of granting independence to India.

The conflict between the British and the Indian nationalists receded into the background, while the increasing antagonism between Hindus and Muslims came to the fore. The Hindus, centred round the Congress Party led by Jawaharlal Nehru, wanted to maintain the unity of India by establishing a government made up of representatives of the two communities. The Muslims, under the banner of the Muslim League and its President, Mohammed Ali Jinnah, demanded the creation of a separate Muslim State, Pakistan. The problem was further complicated by the fact that the approximately 300 million Hindus, 6 million Sikhs and 100 million Muslims in British India were not living in geographically distinct regions, especially in Punjab and Bengal, where the population was mixed.

In 1946, bloody clashes broke out between Hindus and Muslims in Bengal and in the province of Bihar. Although they were isolated, they threatened to spread to the entire subcontinent.

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Original: French

Caught between two apparently irreconcilable positions, the British government accelerated the independence process. In February 1947, Lord Mountbatten was appointed Viceroy of India. After some weeks of discussions with the leaders of the Congress Party and the Muslim League, Lord Mountbatten concluded that it was impossible to maintain an independent and unified Indian State. Faced by the threat of a civil and religious war, he believed that the solution was to reach agreement on a plan for partition, which the leaders of the two parties approved on 2 June 1947. The British plan was published the following morning and officially adopted by the Congress Party and the Muslim League in the first fortnight of June. Congress finally accepted the partition of India, while the League reconciled itself to the partition of Punjab and Bengal.

On 18 July 1947, the British Parliament passed the Indian Independence Bill, creating two independent States: India, made up of provinces with a Hindu majority, and Pakistan, with those having a Muslim majority, both States being given the status of dominions within the British Commonwealth. The provinces of Punjab and Bengal were also to be divided between the two future States.

The process was complete, and independence was proclaimed on 15 August 1947.

In the months that followed, the north of the subcontinent — especially Punjab, where the tragedy had already started before independence — was racked by extremely violent clashes. The new border cutting Punjab in two left 5 million Sikhs and Hindus on the Pakistani side and 5 million Muslims on the Indian side. It caused real carnage and an unprecedented exodus. On both sides of the border the majority populations slaughtered their minority neighbours. Millions of terrified people fled in trainloads, in wagons or on foot. The refugee convoys suffered terrible attacks. Thousands, even tens of thousands, of young girls, women and children were abducted. Hundreds of thousands perished,¹ while the number of refugees reached 10 million in a few months, confronting the new governments of India and Pakistan with huge problems in terms of aid and rehabilitation.²

¹ Estimates vary from 225,000 to 2 million.

² During the emergency phase, the two governments were given assistance by a number of local aid agencies, including the Indian and Pakistan Red Cross Societies, the St. John Ambulance Association, the All-India Women's Conference and the Friends Service Unit. In India, a coordinating body, the United Council for Relief and Welfare, with Lady Mountbatten as its President, was set up, comprising most voluntary organizations and government representatives. No large-scale aid operation was, however, undertaken at the international level.

From the end of 1947, refugees from Kashmir³ arrived to swell the numbers even further, and later, in 1950, one million people were to change their places of residence in Bengal.

In the final analysis, the partition caused population movements affecting about 17 million people.

Kashmir

Another matter to be settled as part of the independence process was the status of the approximately 600 princely States which existed alongside the provinces administered directly by New Delhi and enjoyed internal independence under British rule. On 15 August 1947, strongly encouraged by Lord Mountbatten, who wanted them to abandon any claim to independence, almost all these new States opted to join either India or Pakistan, depending on their geographical location and the composition of their population.

Of the three States which had not yet taken a decision, two — Kashmir and Hyderabad — were to experience problems.

In Kashmir, a Hindu prince or maharajah governed a population of 4 million, three-quarters of them Muslims. Throughout the summer of 1947 he procrastinated, hoping to be granted special status.

With news of the killings in Punjab, however, the strife spread to Jammu, a region in southern Kashmir with a preponderantly Hindu population, where Muslims were massacred. In August, a rebellion among peasants and Muslim soldiers in the maharajah's army broke out in the district of Punch; it was here that the "Azad Kashmir" ("Free Kashmir") liberation movement, which was to be supported by Pakistan, started. Tension continued to rise until the invasion of Kashmir on 22 October 1947 by Pathan warriors of the North-West Frontier Province who had come to the aid of their co-religionists. There followed destruction, massacres, pillage, rape and kidnappings, on a massive scale.

With the invaders threatening the capital Srinagar, the maharajah fled to Jammu and asked for Indian troops to be sent as reinforcements. Lord Mountbatten, now Governor-General of independent India, agreed, provided the maharajah signed a letter of accession to India. This was done on 26 October 1947, subject to ratification by the people once peace and

³ See *Kashmir* below.

order had been restored in Kashmir. Indian forces went into action in Srinagar on 27 October, clearing most of the Kashmir valley.

Fighting continued throughout 1948, causing the deaths of many civilians and further large-scale population movements. Two million people — half the population of Kashmir — fled to the mountains, where many died of hunger and exhaustion as they tried to cross the snow-covered passes. There were two flows: Muslims travelling to the south-west and crossing the Pakistani border to end up along the Lahore-Attock trunk road or further south in eastern Punjab; in the opposite direction, Hindus and Sikhs fleeing to the east and south-east of the State of Jammu and Kashmir, with only a few of them seeking refuge elsewhere in India.

In January 1948, the dispute was brought before the United Nations Security Council by the two parties, with India and Pakistan accusing each other of invading and illegally occupying Kashmir. A United Nations Commission for India and Pakistan (UNCIP) was set up to investigate the facts and mediate between the two parties. In August 1948, UNCIP proposed a solution consisting of a cease-fire and armistice. The cease-fire took effect on 1 January 1949 and was ratified by a bilateral agreement on the establishment of a demarcation line, signed by India and Pakistan in Karachi on 27 July. India now controlled two-thirds of Kashmir - most of the province of Jammu and the Kashmir valley, the most fertile region, in the south, and the southern part of Baltistan and Ladakh in the east. Pakistan controlled a narrow strip running from west of the city of Jammu to Muzaffarabad — “Azad Kashmir” proper — and extended its administration to the mountainous areas of the north and north-east, i.e., the territory of Gilgit and Baltistan.

The cease-fire imposed under the supervision of the United Nations was to lead to a *de facto* partition of Kashmir.

Hyderabad

Although it had a large Hindu majority, the State of Hyderabad in the heart of the Indian peninsula was governed by a Muslim prince or *nizam*. Like the maharajah of Kashmir, he refused to choose between India and Pakistan, hoping to remain independent. Peasant revolts, fanned by the communists, broke out. The Indian government, fearing that the strife would spread to other areas in India, invaded Hyderabad on 13 September 1948, overcame the *nizam*'s forces in four days and incorporated the State in the Indian Union.

The ICRC and the Kashmir conflict

When fighting broke out in Punjab, the ICRC, which had closed down the delegation that it had maintained in British India since the Second World War, had no local representative. When its attention was drawn to the terrible plight of the refugees,⁴ it decided, in late 1947, to send Dr Otto Wenger on a fact-finding mission. As a former delegate in British India from 1943 to 1947, where he had carried out many visits to camps for Italian and German prisoners of war and civilian internees, Dr Wenger was already familiar with the subcontinent.

Dr Wenger's first mission

On his departure from Geneva in December 1947, Dr Wenger's instructions were to establish contacts with the new governments and Red Cross Societies in India and Pakistan,⁵ to ascertain the exact needs of the victims, and to make proposals for further action.⁶

Anxious to support the Indian and Pakistan Red Cross Societies, the ICRC planned, with their agreement, to launch an appeal to all National Red Cross and Red Crescent Societies to send aid to the refugees.⁷ Nobody apparently foresaw that the Kashmir conflict would take up all the ICRC

⁴ Letters to the ICRC dated 29 August and 29 and 30 September 1947 from its delegation in London (ICRC archives, file G 3/3b). Record of a conversation on 31 October 1947 between the ICRC and Mr M. Ahmad, First Secretary of the Pakistani High Commission in London (ICRC archives, file G 85). Record of a conversation on 12 December 1947 between the ICRC and Dr P.M. Krul, India's representative to WHO (ICRC archives, file G 3/37 c).

⁵ The Indian Red Cross Society had in fact already existed as an independent National Society since 28 February 1929, the date of its recognition by the ICRC, as a result of the new situation created for Red Cross Societies in the dominions by the 1926 Statute of the British Empire. However, only after India gained its independence in 1947 were managerial positions, hitherto held by Britons, handed over to Indians.

The Pakistan Red Cross was founded immediately after the creation of the Pakistani State and recognized by the ICRC on 21 July 1948. In 1974 it changed its emblem and adopted the name "Pakistan Red Crescent Society" pursuant to a decision of the Pakistani authorities, which also adopted the red crescent as the emblem of the army's medical service. The Pakistani government then notified all States party to the Geneva Conventions of that decision.

The two National Societies provided aid to the victims of the strife which followed partition.

⁶ Internal instructions to Dr Otto Wenger of 19 December 1947 (ICRC archives, file G 3/37c).

⁷ Letters of 17 December 1947 from the ICRC to Lord Mountbatten and Mr M.A. Jinnah, Governors-General of India and Pakistan respectively (ICRC archives, file G 85).

delegate's time almost immediately upon his arrival. Indeed, as soon as he reached New Delhi, Dr Wenger was asked to act as a neutral intermediary to enable several thousand non-Muslim civilians (Hindus and Sikhs) trapped in "Azad Kashmir" to be evacuated.⁸ In order to ascertain the situation on the spot and to make the necessary contacts, Dr Wenger made several trips between New Delhi, the State of Jammu and Kashmir, "Azad Kashmir" and Pakistan. These trips took place in arduous conditions: firstly, the region is very mountainous and experiences snowfalls, making some places accessible only by mule or on foot; secondly, Dr Wenger was exposed to the threat of attack by the Indian air force.⁹

By the end of February Dr Wenger's efforts had achieved the following results:¹⁰

- The immediate dispatch of aid, by the Pakistan Red Cross, and of medical personnel, by the Christian Relief Association, to the Alibeg camp. The ICRC delegate had visited this camp, situated in "Azad Kashmir" near the border with Pakistan. It housed 1,600 non-Muslims living in appalling conditions.
- Pakistan's agreement to arrange for the evacuation through its territory of all non-Muslims trapped in "Azad Kashmir" who wished to go to India, and its commitment to supply the camps experiencing the most difficult conditions with provisions in the meantime.
- The consent of "Azad Kashmir" to the departure of non-Muslims who wished to leave.

This agreement covered about 5,000 civilians, some free and some interned, 2,500 of whom were in Muzaffarabad, 1,600 in Alibeg, 125 in Gobindpar and 700-800 in Bagh.

Dr Wenger took advantage of his contacts with the various parties to draw their attention to the application of the Geneva Conventions.¹¹ He

⁸ Letter No. 2 of 11 February 1948 from Dr Wenger (ICRC archives, file G 3/37c).

⁹ *Ibid.*

¹⁰ Letter No. 6 of 27 February 1948 from Dr Wenger (ICRC archives, file G 3/37c).

¹¹ At the time, these were the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field and the Geneva Convention relative to the Treatment of Prisoners of War, both of 27 July 1929. As the successor States to the Indian Empire, India and Pakistan remained bound by the two Conventions, which were ratified by the United Kingdom on 23 June 1931. In addition, Pakistan expressly became party to both treaties on 2 February 1948.

discussed the matter with the leaders of “Azad Kashmir”, to whom he explained the basic ideas and principles of the Conventions. They stated their readiness to give effect to the Conventions provided the other side did the same. After some hesitation — India did not accept that there was a state of war with Kashmir — the Indian government too declared its determination to act in accordance with the spirit of the Conventions and to implement the relevant provisions. Regarding the treatment of prisoners of war, however, it pointed out that citizens of the State of Jammu and Kashmir and of India who had committed offences before being captured would be liable to prosecution in accordance with the laws in force. According to Dr Wenger, this reservation was aimed at persons who joined the forces of “Azad Kashmir” and were considered to be rebels by India in view of the fact that Jammu and Kashmir had become part of the Indian Union.¹²

These declarations, which were confirmed in writing,¹³ resulted in the establishment of information bureaux, the submission of lists of prisoners of war and permission for the ICRC to visit them.¹⁴ An arrangement was worked out for the exchange of correspondence between prisoners and their families and the dispatch of relief parcels. It involved the Indian and Pakistan Red Cross Societies, with which Dr Wenger maintained regular contacts.¹⁵

During his mission, the ICRC delegate made the first visits to prisoners. In “Azad Kashmir” he went to the Muzaffarabad prison, where he saw 34 prisoners of war from the forces of the State of Jammu and Kashmir, three Indian prisoners of war and about 30 political detainees;¹⁶ in the State of Jammu and Kashmir, he visited the Jammu prison, where about 30 prisoners of war of the “Azad Kashmir” forces were being held;¹⁷

¹² Letter No. 46 of 25 May 1948 from Dr Wenger and its annex IV: letter of 19 May 1948 from the Indian Minister of Defence to Dr Wenger (ICRC archives, file G 3/37c).

¹³ *Ibid.*, and letter of 16 June 1948 from the President of “Azad Kashmir” to Dr Wenger (ICRC archives, file CR 186/655).

¹⁴ Letter No. 8 of 11 March 1948 from Dr Wenger (ICRC archives, file G 3/37c).

¹⁵ Letter No. 38 of 25 April 1948 from Dr Wenger and its annex: letter of 24 April 1948 from Dr Wenger to Sardar Bahadur Balwant Singh Puri, Secretary-General of the Indian Red Cross Society (ICRC archives, file G 3/37c).

¹⁶ Letters No. 8 of 11 March 1948 and No. 60 of 8 June 1948 from Dr Wenger (ICRC archives, file G 3/37c).

¹⁷ Letter No. 33 of 24 April 1948 from Dr Wenger (ICRC archives, file G 3/37c).

lastly, with the support of the Pakistani government, he was able to fly to Gilgit in northern Kashmir, where about 50 Indian soldiers were imprisoned.¹⁸

On learning that many wounded combatants of the “Azad Kashmir” forces were not being cared for adequately because of a shortage of medical supplies and trained personnel, Dr Wenger raised the matter with the “Azad Kashmir” authorities, and also with the Pakistan Red Cross and authorities. As a result of his approaches, the Pakistani government authorized the Western Punjab branch of the Pakistan Red Cross to send two medical units to “Azad Kashmir”;¹⁹ one was set up at Mirpur, the other at Palandri.

At the request of the Pakistan Red Cross, the ICRC delegate undertook to notify the Indian government of the presence of the two units.²⁰ Subsequently, three further hospitals were set up in “Azad Kashmir” by the Pakistan Red Cross, which — in the absence of the ICRC delegate²¹ — notified the Indian government of their establishment through the Indian Red Cross Society.

As had happened in Punjab, thousands of women and children had been abducted by both sides in Kashmir, especially at the beginning of the war. Although an agreement was signed by India and Pakistan aimed at locating the victims of kidnappings in their respective territories, such efforts were making little progress in the case of Kashmir because of its disputed status. Here, too, Dr Wenger’s mediation was sought. It resulted in the establishment of a procedure under which the parties undertook to intensify searches, to place women and children who had been traced in camps in India and Pakistan pending their repatriation, to draw up and exchange lists in order to locate and contact their families of origin, and to allow adult women to decide freely whether or not to rejoin their relatives.²² It was also stipulated that the camps could be visited by

¹⁸ Letter No. 45 of 20 May 1948 and telegram of 19 June 1948 from Dr Wenger to the ICRC (ICRC archives, file G 3/37c).

¹⁹ Letter No. 14 of 12 March 1948 from Dr Wenger to the ICRC (ICRC archives, file G 3/37c).

²⁰ Letter No. 23 of 9 April 1948 from Dr Wenger to the ICRC and its eight annexes (ICRC archives, file G 3/37c).

²¹ There was no ICRC delegate in the country from the end of June to November 1948, i.e., from the time of Dr Wenger’s return to Geneva until the arrival of the second mission.

²² Letters No. 19 of 11 March 1948, No. 20 of 19 March 1948 and No. 57 of 6 June 1948 from Dr Wenger (ICRC archives, file G 3/37c).

representatives of the opposing government and that the ICRC should provide assistance if necessary.

With most of his time taken up by his work as a neutral intermediary in the Kashmir conflict, Dr Wenger was not able to devote as much attention to the general problem of refugees as he would have wished. Nevertheless, he visited several camps in Pakistan and India, in particular in the State of Jammu and Kashmir, brought the most pressing problems to the notice of the authorities and Red Cross Societies, and gave them the benefit of his advice in organizing the camps. Lastly, he gathered all the information needed to launch an appeal and sent it to the ICRC. His conclusions were as follows:

1. "Although the most urgent matters are in the hands of the two governments, the refugee problem in India and Pakistan remains so enormous that it goes beyond the possibilities of the Committee and a general Red Cross relief operation (...)."

2. "In Kashmir, the distress is even greater, although it affects fewer people. It is a consequence of the hostilities, whereas in India and Pakistan it resulted from an unorganized mass exchange of populations. Should the Committee wish to undertake a relief operation, possibly in cooperation with the League,²³ it should concentrate its best efforts on Kashmir; in launching an appeal we could at the same time specify which items India and Pakistan need most (...)."²⁴

Dr Wenger, who had originally set out on a two-month fact-finding mission, finally went back to Switzerland at the end of June 1948.

Continuation of the operation

On returning to Geneva, Dr Wenger recommended that the ICRC should pursue its operation in Kashmir, for which he had prepared the ground and which was directly within its competence as a neutral intermediary whose intervention was recognized as necessary, particularly in

²³ Today the International Federation of Red Cross and Red Crescent Societies.

²⁴ Dr Wenger's final report of 5 August 1948 (ICRC archives, file G 3/37c — ICRC translation).

time of war, civil war or internal strife.²⁵ He went back to the subcontinent on 17 November 1948 to await the arrival of Dr Roland Marti, one month later, and of Nicolas Burkhardt, in early January 1949, both of whom he introduced to the various authorities before ending his assignment.

Dr Marti — as head of mission, based in New Delhi and assigned to India and to Jammu and Kashmir — and Mr Burkhardt — as a delegate based in Lahore and assigned to Kashmir and the territory of “Azad Kashmir” — were to remain in the field until June and October 1949 respectively.

Protection of hospitals

In October 1948, at a time when there was no delegate on the spot, the ICRC had received vigorous protests from the Pakistan Red Cross concerning the Indian air force’s bombing of two of its hospitals, one in Kotli and the other in Bagh, in “Azad Kashmir”, both of which were duly marked with the red cross emblem. Patients had been killed, and there had been large-scale damage. Pursuant to its policy regarding the forwarding of protests concerning alleged violations of the Geneva Conventions,²⁶ the ICRC had conveyed the Pakistan Red Cross’ protests to the Indian Red Cross Society, requesting it to ask the Indian government to investigate the matter and, if necessary, to take all possible measures to prevent a recurrence of such incidents.²⁷ The Indian government stated that under no circumstances could its pilots have deliberately attacked the two medical facilities, and deduced that the marking of the hospitals, or even their location, must have been inadequate.²⁸

²⁵ Under Article 7, para. 2, of the 1928 Statutes of the International Red Cross then in force.

²⁶ This policy had just been confirmed by Resolution XXII of the XVIIth International Red Cross Conference:

“The XVIIth International Red Cross Conference, *considers* that the International Committee of the Red Cross should continue to transmit protests it may receive concerning alleged violations of the Conventions, *emphasizes* the duty of national Societies to forward these protests to their Governments, *recommends* that national Societies do all in their power to ensure that their Governments make a thorough investigation, the results of which shall be communicated without delay to the International Committee of the Red Cross”. *Report*, Stockholm, August 1948.

²⁷ Telegrams of 22 October, 28 October and 2 November 1948 from the ICRC to the Indian Red Cross Society (ICRC archives, file G 85).

²⁸ Letter of 9 November 1948 from the Indian Red Cross Society to the ICRC and its annex (ICRC archives, file G 85).

This issue was one of the first to be taken up by Dr Wenger with the competent authorities and National Societies when he returned to India and Pakistan. His involvement, and subsequently that of his colleagues, made it possible to smooth out the difficulties, in particular by improving the marking of hospitals.²⁹

Prisoners of war

From the time of their arrival, the ICRC delegates made regular visits to the principal internment sites.

On the Indian side, these were, firstly, the Yol camp in India, which when first visited on 17 and 18 January 1949 housed 75 prisoners of war belonging to the Pakistani army and the "Azad Kashmir" forces as well as some civilians,³⁰ and secondly the so-called "POW Cage" and the Central Jail, both in Jammu, with about 30 and 20 prisoners respectively. Ten visits in all were conducted to those places between January and late August 1949; in addition, visits were made to the Srinagar military hospital and the New Delhi 26 General Hospital, where wounded and sick prisoners were being cared for.

On the Pakistani and "Azad Kashmir" side, about 630 prisoners were housed in the Attock Fort Neutral Internment Camp in Pakistan. They were mainly combatants of the State of Jammu and Kashmir forces, with a few men from the Indian army and some civilians. These prisoners had earlier been interned in Muzaraffabad, Palandri, Alibeg, Skardu and Gilgit; they had all been transferred to Attock between October and November 1948, at the request of the "Azad Kashmir" authorities, so that they would be treated in accordance with the Geneva Convention. Dr Wenger had already seen some of the prisoners during his first assignment in spring 1948.³¹ Between December 1948 and August 1949 the ICRC delegates made six visits to the camp in Attock. In April 1949, they had also travelled to Chilas in Gilgit district and in May to Skardu in Baltistan, visiting 54 and four Indian prisoners of war respectively.

²⁹ Telegram of 4 December 1948 from Dr Wenger to the ICRC and letter No. 1 of 23 December 1948 from Dr Marti (ICRC archives, files G 3/37c and G 3/37).

³⁰ *Report on the visit to Yol POW Camp (India), made on 17-18 January 1949* (ICRC archives, Camps Service, RR 1407).

³¹ *Report on the visit to Attock Fort Neutral Internment Camp (Pakistan), made on 3 December 1948* (ICRC archives, Camps Service, RR 1407).

To cover the distance between the town of Gilgit and Chilas — where he absolutely wanted to go because he felt that the military authorities in Rawalpindi had little idea of the prisoners' circumstances — Nicolas Burckhardt did not hesitate to undertake a journey of about 10 days on horseback. Some extracts from Burckhardt's description of his journey to Chilas will illustrate the travel conditions which the delegates sometimes had to endure:

“Weather conditions even affect journeys on horseback here (...). An hour after the rain started rocks and avalanches of sand began to fall, carrying off the most exposed parts of the road. (...) Even eddies of wind are enough in some particularly dangerous spots to set off rockfalls. From time to time you can seek protection behind large rocks, between which you have to gallop at top speed. In the saddle this can be rather fun, as you are quite mobile, but the mules carrying your luggage are more exposed to the dangers with their huge loads.”³²

These visits to prisoners of war were the subject of reports covering the different aspects of detention conditions, which were sent on a regular basis to the governments of India and Pakistan. On each visit the delegates brought the prisoners relief supplies provided by the Indian and Pakistan Red Cross Societies, and inquired after their wishes. They noted a progressive improvement in conditions, which they soon considered satisfactory.³³

From the outset, the ICRC delegates asked for the seriously wounded and sick to be repatriated, in accordance with Article 68 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War, and obtained satisfaction on this point: between February and June 1949, about 40 wounded and sick prisoners were repatriated on either side in four operations. The delegates were present at the first of these; the remainder took place without them, but they were kept regularly informed.³⁴

The delegates also recommended the repatriation of the civilians interned in prisoner-of-war camps. Some operations took place in indi-

³² Note No. 1032 of 22 April 1949 from N. Burckhardt (ICRC archives, file G 17/167/66 — ICRC translation).

³³ Summary of Dr Marti's account of his mission to India, annex to the Delegations Commission's report of 27 July 1949 (ICRC archives).

³⁴ Note No. 1018 of 8 March 1949 from N. Burckhardt, and letters of 18 March, 11 April and 26 June 1949 from Dr Marti (ICRC archives, files G 3/37e and G 17/66/66).

vidual cases, at times in the presence of the delegates and sometimes without them.

The question of the repatriation of all prisoners of war was being dealt with directly by the governments of India and Pakistan as part of the negotiations initiated under the auspices of UNCIP. The 1929 Geneva Convention relative to the Treatment of Prisoners of War in fact states, in its Article 75: "When belligerents conclude an armistice convention, they shall normally cause to be included therein provisions concerning the repatriation of prisoners of war (...)". However, guided by the draft of a new Geneva Convention relative to the Treatment of Prisoners of War, under which "[p]risoners of war shall be released and repatriated without delay after the cessation of active hostilities,"³⁵ and taking advantage of the cease-fire which had entered into force on 1 January 1949, the delegates offered their good offices in the hope of speeding up the conclusion of an agreement on the subject.

India wanted the immediate repatriation of all prisoners of war on either side. Pakistan stated its willingness to have an immediate exchange, but "one-for-one", which would leave about 500 prisoners in its hands; it would also agree to return all prisoners before an armistice was signed, on condition, however, that the Indian government agreed to release all Pathan combatants, all members of the "Azad Kashmir" forces and all political detainees held in civilian prisons in the State of Jammu and Kashmir and in India. This was because Pakistan and "Azad Kashmir" believed that the captured combatants were not all in prisoner-of-war camps. For its part, India declared that it had searched for all military prisoners and refused a "one-for-one" exchange.³⁶

To break the deadlock, the ICRC delegates urged India and the State of Jammu and Kashmir to find the greatest possible number of Pathan and Kashmiri prisoners of war from "Azad Kashmir"; they even took an active part in the search by visiting prisons. They also tried to dissuade Pakistan from linking the repatriation of prisoners of war to that of political detainees.³⁷ About 50 new prisoners were discovered by the Indian army, but this was not enough to set things moving, and no general repatriation operation was organized before the delegates left.

³⁵ Article 118 of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949.

³⁶ Note No. 1039 of 4 May 1949 from N. Burckhardt (ICRC archives, file G 17/66/66).

³⁷ Letter of 17 May 1949 from Dr Marti (ICRC archives, file G 17/66/66).

On leaving the subcontinent at the end of summer 1949, the delegates made the following assessment of the situation.

Both in India and in Pakistan, prisoners of war — except for those in Gilgit district — were housed in a single camp, at Yol and Attock respectively, making it easier to monitor their conditions of detention. Considering the local context, these had reached a high level. All prisoners were visited at regular intervals by officers of their own nationality, who were authorized to bring them supplies.³⁸ Repatriations for health reasons continued, on the spontaneous proposal of the detaining powers, which showed generosity regarding the criteria to be applied.³⁹ The only question that remained unresolved was that of the repatriation of all prisoners.

General repatriation was finally to take place on 25 May 1950 at Atari, between Lahore and Amritsar, when 691 prisoners were exchanged for 153 Pakistanis following an agreement reached between the two Prime Ministers, Jawaharlal Nehru of India and Liaquat Ali Khan of Pakistan,⁴⁰ during talks preceding the Minority Agreement.⁴¹

Political detainees

At the request of the authorities of the State of Jammu and Kashmir and “Azad Kashmir”, which provided them with lists of their respective partisans in enemy hands,⁴² the ICRC delegates took action to facilitate the exchange of a number of political prisoners. A few dozen were repatriated, in the presence of the delegates, in two operations which took place in Sialkot, a border town near Jammu, on 15 January and 25 February 1949.

Subsequently, “Azad Kashmir” submitted further lists of several dozen persons presumed held for political reasons in the State of Jammu and

³⁸ Article 86 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War provided for this possibility in its last paragraph, under which “[b]elligerents may mutually agree to allow persons of the prisoners’ own nationality to participate in the tours of inspection”. It was nevertheless exceptional for this kind of visit to take place.

³⁹ Note No. 1092 of 4 September 1949 from N. Burckhardt (ICRC archives, file G 3/37e).

⁴⁰ Report No. 1 of 25 May 1950 by Dr Marti (ICRC archives, file G 3/37f).

⁴¹ For more details on this Agreement, signed on 8 April 1950 in New Delhi following the disturbances which had broken out in Bengal, see *Revue internationale de la Croix-Rouge (RICR)*, Supplement (in English), Vol. III, No. 6, June 1950, which contains the text on pp. 106-111.

⁴² Letter No. 9 of 2 January 1949 from Dr Marti (ICRC archives, file G 17/66/66).

Kashmir, requesting their return. Jammu and Kashmir rebuffed the approach, declaring that it had no more political detainees in its prisons and that the only persons still awaiting trial were criminals guilty of attacks who, in its view, could not be considered as political prisoners. Jammu and Kashmir also accused "Azad Kashmir" of holding a large number of political detainees, a charge which "Azad Kashmir" denied.

Taking note of the situation, the delegates felt that they could do no more on this issue, which was not covered by any convention and which was being dealt with in the negotiations taking place under the auspices of UNCIP.⁴³

Abducted women and children

On 21 January 1949, the delegates supervised, in Sialkot, the return to India of 140 women and children from the Dathyal camp in Pakistan, while 256 women and children from the Ustad Ka Mohalla camp in Jammu were transferred in the other direction to Pakistan, together with 167 Muslim refugees, also from Jammu.⁴⁴

However, Pakistan accused the Jammu and Kashmir authorities of keeping women and children in Jammu, while Jammu and Kashmir accused "Azad Kashmir" of not actively carrying out searches in its territory. Rumours also circulated about conditions in the camps at Amritsar, on one side, and Lahore, on the other, to which the women and children traced by India and Pakistan respectively were sent while their relatives were being located.⁴⁵

At the request of the Indian authorities, who wanted the ICRC's cooperation to speed up the settlement of these various problems, and with the agreement of the Pakistani authorities, the delegates visited the following camps in April and May: Amritsar (60 women and children at the time of the first visit, 151 during the second), Lahore (60 women and children, and 124 non-Muslim refugees evacuated from the Alibeg and Palandri camps who had expressed the wish to be transferred to territory under Indian control), and Jammu (180 women and children).

⁴³ Letter of 17 May 1949 from Dr Marti and Report of 10 November 1949 by N. Burckhardt on the situation in India and Pakistan (ICRC archives, files G 17/66/66 and G 3/37e).

⁴⁴ Note No. 28 of 3 February 1949 from N. Burckhardt (ICRC archives, file G 3/37e).

⁴⁵ Letters of 17 and 18 May 1949 from Dr Marti (ICRC archives, file G 17/66/66).

At the Jammu camp, the delegates obtained and forwarded to Pakistan a full list of the women and children living in the camp. They were given an assurance that the persons concerned would be handed over to Pakistan as soon as their relatives were found.

The delegates also appealed for an active search to be conducted to find the women and children abducted in "Azad Kashmir" and for those who had already been traced and placed in camps to be repatriated as soon as possible.⁴⁶ No further operation took place before their departure, however. At the end of 1949, the ICRC was informed that the 180 non-Muslim refugees waiting in Lahore had finally been able to go to India.⁴⁷

Refugees and groups of vulnerable individuals

As mentioned earlier, the hostilities in Kashmir set off new waves of hundreds of thousands of refugees, whose numbers had risen to two million by late 1948. On the basis of information provided by Dr Wenger at the end of his first assignment, the ICRC and the League of Red Cross Societies had issued a joint appeal to all National Societies on 30 October 1948 for aid to refugees in India and Pakistan, especially those in Kashmir.⁴⁸ A few Societies had already sent relief supplies directly to the Indian and Pakistan Red Cross Societies, but the deliveries had remained paltry in relation to the magnitude of the needs. Without the means to provide material aid to the refugees, the delegates focused first on the most vulnerable groups of individuals, considering that their role as neutral intermediaries could be of help to them.

In mid-February 1949, Nicolas Burckhardt visited the Alibeg camp in "Azad Kashmir", which had just been returned to administration by the Pakistani authorities and which at the time housed 1,200 non-Muslim refugees.⁴⁹ One month later, he journeyed to the "*thesil*" of Kotli in the district of Mirpur:⁵⁰ in autumn 1948, a total of 50,000 people had fled as

⁴⁶ Letters of 18 and 26 May 1949 from Dr Marti (ICRC archives, file G 17/66/66).

⁴⁷ Letter of 23 December 1949 from Mr. V. Sahay, Indian Secretary for Kashmir Affairs (ICRC archives, file G 81/Ev).

⁴⁸ Joint circular letter of the ICRC and the League of Red Cross Societies of 30 October 1948 to National Red Cross, Red Crescent and Red Lion and Sun Societies (ICRC archives, file SG 7/66).

⁴⁹ Note No. 1014 of 23 February 1949 from N. Burckhardt (ICRC archives, file G 3/37e).

⁵⁰ Districts were divided into several "*thesils*", or subdistricts.

the Indian troops advanced and had become trapped in the north of the district, separated from Pakistan by a range of mountains more than 2,000 metres high, the only practicable link having been cut by the Indian army. Goods could reach the area only if carried by porters or pack mules over a snow-covered mountain pass. The aid therefore had to be air-dropped by the Pakistani army. The delegate described the situation as follows:

“These tracks (...) link small terraces on the mountainside (...). The scene as a whole appears like a garden in a fairytale setting. As soon as you approach the dwellings, however, you see this crowd of undernourished refugees dressed in rags, often very apathetic. When you come to one of the rare larger settlements, which had several thousand inhabitants before the conflict, (...) you see that everything is in ruins. Looting and bombing from the air have done a thorough job (...).”

And further on:

“We were able to make contact with the military and civil authorities in the various villages in the thesil. We saw a great many refugees on the road, going down to the valley in search of food, which only the strongest men can carry, groups of refugees in the villages hoping to obtain food rations, and sick people and their families in medical dispensaries (...). We were able to see the lamentable state of undernourishment of these people. They cannot be compared to the refugees whom we saw in the camps in Alibeg (...). Oedemas resulting from hunger are common in the children (...). The only road suitable for vehicles, which passes through the Indian lines, (...) should be opened to let a few relief convoys through.”⁵¹

The delegates interceded with the Indian and Pakistani authorities in order to reach an agreement to open the road to such convoys. The problem was finally solved in the succeeding weeks by Pakistan building a road to Kotli so that convoys could avoid using the one controlled by India.

In May 1949 Dr Marti flew by military aircraft from Rawalpindi to Skardu, a small town in Baltistan on the Indus, between the impressive mountain ranges of Karakorum and the Deosai Mountains (Himalayas). This area had been the scene of bloody clashes since the beginning of 1948, when the Indian garrison in Skardu had been defeated by “Azad

⁵¹ Note No. 1023 of 18 March 1949 from N. Burckhardt and its annex (ICRC archives, file G 3/37e — ICRC translation).

Kashmir” and Pakistani troops. Prisoners of war were sent to Gilgit and Chilas, but some 180 non-Muslim civilians were interned in Skardu, where, cut off from the rest of the world for the winter of 1948-1949, they had had to be supplied, like the garrison and the civilian population, by an airlift carried out by the Pakistani air force.

The internees were divided into two groups: a group of 90 Sikh women and children whose husbands and fathers had been killed in the fighting, and a group of 90 Hindu men, women and children. It was especially the first group for which Dr Marti, in his own words, felt profound pity:

“True, their material existence has been guaranteed, but we are faced with widows and orphans who are truly lost in this part of the world. Like a herd of cattle, these women and kids dressed in brown crouched huddled together around me. The women were crying softly, and you could somehow perceive an infinite pain in it all (...). The Army had planned to repatriate them by road from Skardu to Kargil (...), which lies above the Indus and is in Indian hands. However, we became convinced that that road, or rather that track along the side of the rock, was much too dangerous for women and children, and the entire group should be allowed to fly out to Rawalpindi or Peshawar.”⁵²

The delegates endeavoured to obtain agreement for both groups of people, whose names had been given to them, to be repatriated to India, or at least transferred to Pakistan before the coming winter. This evacuation, of which the ICRC was to be kept informed, took place after the delegates’ departure, at the end of 1949.⁵³

However, the ICRC considered it its duty, as a neutral organization with a mission on the spot, to carry out a full and detailed survey of the needs of the Kashmiri refugees, in order to bring their plight to the world’s attention and to be able to provide full information to potential donors. It therefore asked its delegates to undertake an in-depth study of the overall problem.⁵⁴

⁵² Letter of 28 May 1949 from Dr Marti (ICRC archives, file G 3/37d - ICRC translation).

⁵³ Letter of 26 October 1949 from General Gracey, Commander-in-Chief of the Pakistani army, to Dr Marti, and letter of 23 December 1949 from Mr V. Sahay, Indian Secretary for Kashmiri Affairs, to N. Burckhardt (ICRC archives, files G 3/37d and G 81/Ev).

⁵⁴ Note No. 81 of 17 May 1949 to the ICRC delegation in New Delhi (ICRC archives, file G 17/66/66).

Dr Marti and Nicolas Burckhardt devoted the month of June 1949 to this survey. Dividing the work, they travelled over practically all the areas housing refugees and displaced persons, made contact with the competent authorities at all levels and consistently visited all the camps, districts and *thesils*.⁵⁵

The investigation gave rise to a 90-page report,⁵⁶ illustrated by maps and photographs and covering every aspect of the refugees' situation. It showed that, following the cease-fire that had entered into force on 1 January 1949, several hundred thousand refugees had returned to their homes and resumed their normal activities, but about one million still remained homeless, living in camps or with friends or setting themselves up in small communities to which the governments had great difficulty delivering basic supplies. The displaced people who went home were often as destitute as the refugees, since all they found were ruins and devastated fields.

After describing the geographical layout of Kashmir, its road links and the problems in terms of food, clothing, hygiene and medical care resulting from the hostilities, the document set out the various categories of refugee and their requirements region by region, showing that in general those in the worst situation and with the greatest needs were people outside the camps under the control of the Indian and Pakistani authorities. It drew up an order of priority for the populations requiring relief and listed the supplies needed in every sphere.

The ICRC sent this report to the governments and Red Cross Societies of India and Pakistan. It also shared it with the UNCIP secretariat in Geneva and the Secretary-General of the United Nations in Lake Success.⁵⁷ Lastly, an extract was published in the February 1950 Supplement to the *Revue internationale de la Croix-Rouge*.⁵⁸ The ICRC hoped that this

⁵⁵ Letters of 11 and 26 June 1949 from Dr Marti (ICRC archives, files G 17/167 and G 17/66).

⁵⁶ Report on refugees in Kashmir, 1949, drawn up by Dr Marti (ICRC archives, file G 68/167).

⁵⁷ On this subject, see the exchange of correspondence in November 1949 between the ICRC and Mr Colban, Principal Secretary of UNCIP in Geneva, and the letter of 14 November 1949 from the President of the ICRC to the UN Secretary-General in Lake Success (ICRC archives, file G 85). It should be noted that both Dr Wenger and Dr Marti had already had an opportunity of providing information on the humanitarian situation of the refugees to UNCIP in New Delhi.

⁵⁸ "The ICRC in India and Pakistan: The Kashmiri refugees", *RICR*, Supplement, Vol. III, No. 2, February 1950, pp. 38-42.

would encourage the international community, in particular the United Nations, to mobilize in favour of these refugees, as it had done for Palestinian refugees at the end of 1948.⁵⁹ But its hopes were not to be fulfilled: no international relief operation was launched under UN auspices.

For its part, the ICRC decided to send medical supplies, through the respective Red Cross Societies, to the Indian and Pakistani authorities responsible for medical services in the camps. Surgical, X-ray and laboratory equipment worth 90,000 Swiss francs were dispatched in 1950.⁶⁰

The ICRC and the events in Hyderabad

On 17 September 1948, following the entry of Indian forces into the State of Hyderabad, the ICRC conveyed to the governments of India and Hyderabad an offer of services “in all cases where a neutral intermediary based on the stipulations of the Red Cross Conventions [was] required”, proposing to arrange for “the exchange of lists of captured army personnel, the visiting of places of internment by the Committee’s delegates and the exchange of news”.⁶¹ It also planned the possibility of sending a delegate to the scene,⁶² but on 19 September India declined its offer, arguing that the hostilities had come to an end.⁶³

In late October the Pakistan Red Cross asked the ICRC to take action in aid of the *Razakars*,⁶⁴ a volunteer corps that had fought alongside the regular armed forces of the State of Hyderabad. While the latter had been disarmed and freed, thousands of *Razakars*, who were denied prisoner-

⁵⁹ Note No. 81 of 17 May 1949 from the ICRC to its delegation in New Delhi (ICRC archives, file G 17/66/66). On the question of assistance to Palestinian refugees and the agreement between the UN and the ICRC on this issue, see “The International Committee in Palestine”, *RICR*, Supplement, Vol. II, No. 1, January 1949, pp. 53-60.

⁶⁰ Summary report on the work of the ICRC (1 July 1947-31 December 1951 - French only), 1952, p. 63.

⁶¹ Telegrams of 17 September 1948 from the President of the ICRC to the Prime Ministers of India and Hyderabad (ICRC archives, file G 85). “Events in Hyderabad: An appeal by the International Committee to the Parties in conflict”, *RICR*, Supplement, First Year, No. 9, September 1948, p. 153.

⁶² Report on the ICRC Bureau’s meeting of 15 September 1948 (ICRC archives).

⁶³ Radiogram of 19 September 1948 from the Indian Ministry of Foreign Affairs to the President of the ICRC (ICRC archives, file G 85).

⁶⁴ Letter of 29 October 1948 from the Pakistan Red Cross to the ICRC (ICRC archives, file G 17/166).

of-war status by India, were being kept in detention. The matter was also brought before the ICRC by the State of Hyderabad's former Minister of Foreign Affairs and delegate to the United Nations. On being informed of this, Dr Marti immediately initiated talks with the Indian authorities in New Delhi to enable these former combatants to be treated as prisoners of war and to obtain the right to visit them.

Despite numerous representations⁶⁵ extending over a period of several months — some of them made by the ICRC President himself to Pandit Nehru, particularly during the latter's visit to Switzerland in May 1949, and subsequently confirmed in writing⁶⁶ — the ICRC's overtures were rebuffed.⁶⁷ This was because India considered that the conflict was at an end and that those interned were ordinary detainees who had been handed over to the civil authorities and were awaiting trial for criminal offences committed before the entry of Indian troops into Hyderabad. They could therefore not be regarded as prisoners of war.

The opinion of the ICRC was that the *Razakars* could be considered as regular combatants — regarded either as members of a militia or as part of the population of a country which spontaneously took up arms when the enemy approached. As the Legal Commission of the ICRC pointed out, they had been captured as combatants by Indian troops, who had subsequently handed them over to the civil authorities. They should therefore be accorded the treatment of prisoners of war and should keep that status until a verdict was handed down, even if legal proceedings were instituted against them for offences committed before the intervention of Indian troops.⁶⁸

The issue of the *Razakars* arose just as the drafts of new Geneva Conventions drawn up by the ICRC were being submitted to the Diplomatic Conference convened to adopt them in 1949.⁶⁹ The draft review of the Convention relative to the Treatment of Prisoners of War clearly

⁶⁵ Note of 22 November 1949 from E. de Bondeli on the problem of the *Razakars* in Hyderabad (ICRC archives, file G 17/166).

⁶⁶ Telegram of 29 July 1949 from Paul Ruegger, President of the ICRC, to Pandit Jawaharlal Nehru, Prime Minister of India (ICRC archives, file G 85).

⁶⁷ Letter in reply to the above of 30 July 1949 from the Prime Minister of India to the President of the ICRC (ICRC archives, file G 17/166).

⁶⁸ Note from the Legal Commission to the International Committee of the Red Cross of 3 February 1950 (ICRC archives, file G 17/166).

⁶⁹ Diplomatic Conference convened by Switzerland in Geneva from 21 April to 12 August 1949.

stipulated that the four conditions to be fulfilled by militias and volunteers corps if they were to be accorded prisoner-of-war status applied to those not forming part of regular armed forces.⁷⁰ It also stated that prisoners of war prosecuted for acts committed before their capture would retain the benefits of the Convention even if they were convicted.⁷¹

During his conversation with the President of the ICRC, Pandit Nehru had, however, given an assurance that India would be magnanimous and that after investigation *Razakars* prosecuted for lesser offences would be released. Following a last approach⁷² inquiring about the fate of the *Razakars*, the ICRC was informed that, of the approximately 17,000 persons arrested, 128 were still being held, of whom 71 were being tried and 57 were under investigation.⁷³

Conclusion

In October 1949, the ICRC decided, following the advice of its delegates, to close down its mission in India and Pakistan. The delegates believed that the remaining problems of a humanitarian nature no longer required a permanent ICRC presence - unless a large-scale relief operation could be undertaken for the refugees, which the ICRC was unable to implement with its resources alone.⁷⁴

Whereas the Kashmir conflict was at its height when Dr Wenger arrived, the situation was quite different after the cease-fire and the start

⁷⁰ These four conditions, set out in the future Article 4, para. 2, of the Third Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949, were:

- a) that of being commanded by a person responsible for his subordinates;
- b) that of having a fixed distinctive sign recognizable at a distance;
- c) that of carrying arms openly;
- d) that of conducting their operations in accordance with the laws and customs of war."

⁷¹ This draft article, which became Article 85 of the Third Geneva Convention of 1949, read as follows:

"Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention."

⁷² Letter of 23 March 1950 from N. Burckhardt to Mr Vellodi, Governor of Hyderabad (ICRC archives, file G 17/166).

⁷³ Letter of 24 April 1950 from the Indian Ministry of Foreign Affairs (ICRC archives, file G 17/166).

⁷⁴ In June 1950, the ICRC nevertheless launched an operation to assist refugees in Bengal, at the request of the Indian and Pakistani governments, which helped to finance it.

of political negotiations under UN auspices. The hostilities had ended, and India and Pakistan had direct relations enabling them to resolve issues of mutual interest among themselves. Action on the part of a neutral intermediary no longer appeared necessary, and the reason why the delegates had continued to mediate between the parties was that they thus hoped to speed up the settlement of a number of problems of a humanitarian nature. They now saw, however, that those problems — the repatriation of all prisoners of war, the exchange of political prisoners, the repatriation of abducted women and children, the transfer of groups of civilians — tended to form an overall issue that was becoming increasingly difficult to divide into separate components and the solution to which, it seemed, depended on the progress of political negotiations.⁷⁵

As for the *Razakars* of Hyderabad, the ICRC could do nothing for them.

How, then, should we assess the results of the ICRC's activities on the Indian subcontinent?

At the time, Dr Wenger's mission was considered beneficial by both India and Pakistan,⁷⁶ which wanted it to continue. In his role as a neutral intermediary, the ICRC delegate succeeded in building relations of confidence, at the highest level, with all the parties to the conflict in Kashmir. He ensured the implementation of the main provisions of the Geneva Conventions concerning wounded and sick military personnel, the protection of hospitals and the treatment of prisoners of war. He also facilitated the conclusion of arrangements to protect, assist and transfer civilian minority groups and to trace and repatriate abducted women and children, despite the absence of protection for such persons under the Conventions. His successors, Dr Marti and Nicolas Burckhardt, continued his work, checking on the treatment afforded to prisoners by making regular visits to detention facilities, seeking out the most vulnerable civilians — interned members of minority groups, abducted women and children, trapped refugees — and drawing the attention of the authorities to their living conditions. Lastly, they drew up as complete and accurate a report as possible on the situation of refugees in Kashmir. Despite their modest resources, the delegates spared no effort to try and improve the plight of these victims.

⁷⁵ Letters of 17 and 26 May and 3 and 19 June 1949 from Dr Marti (ICRC archives, files G 17/66/66, G 3/37d, G 81/Ev. and G 17/66/167), and letters of 1 and 16 August 1949 from N. Burckhardt (ICRC archives, file G 3/37e).

⁷⁶ Radiogram of 6 March 1948 from Lady Mountbatten, cable of 12 May 1948 from the Pakistan Red Cross, and letter of 25 June 1948 from E. de Haller, delegate of the Swiss Federal Council for international relief work (ICRC archives, file G 3/37c).

Another question that might be asked is why the ICRC did not take action sooner and deploy greater resources during the strife which shook the subcontinent.

The answer is that the organization was going through a difficult period: it was being criticized, both within the Red Cross Movement and by some States, for failing to do everything possible to help the Jews and Soviet prisoners of war, victims of the Nazi regime, during the Second World War. In a devastated and destitute Europe, engaged primarily in healing its wounds, the ICRC remained deeply involved in the aftermath of the war, at a time when it was also facing serious financial problems; indeed, the situation was so critical that at the beginning of 1946 the organization envisaged the immediate liquidation of most of its services and delegations. In the end, it was not compelled to take such drastic measures thanks to funds advanced by the Swiss government, but its financial situation remained highly precarious until the end of 1949, leading to a massive reduction in staff. In those circumstances, the ICRC was hesitant to commit itself to any new operations without any guarantee of obtaining the necessary funds.⁷⁷

This was also the time when the ICRC was gradually scaling down its relief activities for civilian populations, except where it was the only organization able to take action and where its role as a neutral intermediary was needed. This approach also applied to refugees, who strictly speaking did not come within its mandate and, above all, for whom it did not have any funds of its own.⁷⁸

⁷⁷ The Indian and Pakistan Red Cross Societies in fact contributed to the financing of the ICRC's activities.

⁷⁸ At the time, the ICRC had neither its own funds nor rollover funds which it could have used for emergency relief operations. The modest capital that it had built up after the First World War was virtually exhausted on the eve of the Second; during World War II donations and contributions from governments, National Red Cross Societies and other institutions interested in its activities, and collections from the Swiss people, enabled it to cover its expenses.

It should also be pointed out that until the end of the Second World War contributions from National Societies and governments were strictly voluntary — and thus uncertain. The ICRC had to wait until the XVIIth International Red Cross Conference in 1948 for a scale to be established for contributions by National Societies, which were urged to abide by it, and until 1949 for the Diplomatic Conference for the review of the Geneva Conventions to recognize the need to ensure that the organization received regular financial support. Moreover, it took time for those commitments to translate into reality.

Lastly, up to the end of World War II, the ICRC's relief activities had mainly involved requesting, transporting and distributing supplies provided on trust by donors. It was not yet customary for the organization to carry out large-scale aid operations using its own resources or those raised as a result of general appeals.

In this context, the ICRC — which had closed its delegation in British India in February 1947 — probably did not fully anticipate the scale of the tragedy that was about to occur on the subcontinent. On the eve of independence, its main concerns were the reorganization and formation of new National Societies in India and Pakistan, and the need to spread awareness of the Red Cross and of its principles and ideals in that part of the world.⁷⁹ It also seems to have been insufficiently informed of events. In the discussions preceding the dispatch of Dr Wenger to the region, no mention was ever made of the Kashmir conflict. All that was discussed was the massive exodus of refugees, by which the ICRC felt it had been caught unawares: it found that, for lack of financial and other resources, its means were derisory in the face of the magnitude of their needs.

As a former ICRC staff member later put it, there was something at once insane and magnificent about launching an operation in such circumstances.

⁷⁹ Records of the ICRC Bureau's meetings of 10 July and 7 August 1947 (ICRC archives).

The Lima hostage crisis

Some comments on the ICRC's role as a "neutral intermediary"

by Michel Minnig

On 17 December 1996, the delegate of the International Committee of the Red Cross was one of the 600 guests at a reception hosted by the Japanese ambassador in Lima. When the commando unit of the Túpac Amaru Revolutionary Movement (*Movimiento Revolucionario Túpac Amaru — MRTA*) carried out its spectacular hostage-taking operation and the ICRC delegate made himself known to the commando unit, wondering whether in so doing he was acting as an intermediary was hardly at the forefront of his mind: he was content to take action because the situation so demanded and because the physical integrity of hundreds of people was under threat. I was that delegate. In doing what I did at that moment, I was merely repeating the humanitarian act performed by hundreds of ICRC delegates throughout the world, that of Henry Dunant at Solferino and of many others elsewhere — that is, helping the victims of violence. This is what being a neutral intermediary is all about: placing oneself voluntarily in the midst of a confrontation and lending a helping hand. In that sense, the term "intermediary" is perfectly suited for defining the action of the ICRC *per se* and its humanitarian base. Within the organization, the term means something more specific, as distinguished from protection and assistance, and designates a function which involves serving as a messenger between conflicting parties, for humanitarian reasons

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Original: French

and in the absence of any other intermediary. This is where a certain amount of confusion and a number of difficulties arise, some inherent in the very role of intermediary and others arising from the circumstances themselves.

During 126 days of the Lima hostage crisis, which lasted from 17 December 1996 to 22 April 1997, the ICRC conducted its protection and assistance activities while fulfilling its role of neutral intermediary at the same time. The crisis will serve as a background for examining various aspects of this role and the challenges that it poses for the organization.

Neutral intermediary: a source of confusion but also a clear mandate

The variety of names used to designate the role of neutral intermediary — mediator, guarantor, negotiator — is in itself indicative of the fact that, in a crisis situation, it is difficult to define the concept in practical terms.

“Mediador oficioso”

It would have been paradoxical if the ICRC, having taken action on the very night when the hostages were taken, in particular in facilitating the release of some 250 people, had the next day refused to assume the role that the government entrusted to it — a role which the government unilaterally defined as that of *mediador oficioso*, or unofficial mediator. At that time it was urgent for the ICRC, on the one hand, to take steps to provide relief and protection for the people still inside the residence, which was in the hands of the MRTA commando unit, and, on the other, to work towards the release of other hostages and continue its efforts to ensure that in the immediate future the crisis did not escalate into armed confrontation. From the government's point of view, choosing the ICRC was to confirm the role which the organization had assumed spontaneously and successfully on 17 December, and also to secure the cooperation of an apolitical entity that would hence be unlikely to compete with it in this extremely delicate situation. If the title *mediador oficioso* given to the head of delegation went beyond the scope of competence which the ICRC wished to be given in this crisis, in effect there was no real misunderstanding between the government and the organization regarding the role which the latter intended to play and the limits that it imposed on itself from the outset as an intermediary (that is, to serve as a link between the parties but not actually seek to resolve the crisis).

Guarantor

The term “guarantor” was used for the first time towards the middle of January 1997, when the government envisaged the possibility of entering into formal talks with the MRTA. Within the minds of the Peruvian authorities, the guarantor was not to be a mediator in the true sense, but rather an observer who would take part in the discussions between the parties and, in the event of an agreement, would ensure that any decisions taken were properly implemented. Owing to the position the ICRC had occupied since the beginning of the crisis, the organization’s status evolved almost naturally from that of *mediador* to that of guarantor — a role which the ICRC was to share with the Bishop of Ayacucho, who had become increasingly involved in the crisis since entering the residence on Christmas Day, in his words “for strictly pastoral reasons”. Here again, it would have been difficult for the ICRC to turn down the government’s invitation. Indeed, although the organization had gradually handed over its role of “messenger” to the Church and its representative, it had nevertheless been one of the entities which had initiated dialogue, and refusing to be involved in the discussions would have been counter-productive. However, at this stage, even more than when it first acted as a neutral intermediary, the ICRC was at pains to dispel any ambiguity as to what it understood its role to be. In a communiqué, it specified that it was prepared to facilitate the establishment of a structure for dialogue but that its participation would be limited exclusively to questions of a humanitarian nature. This is what it did, stipulating the practical terms according to which the dialogue would develop, providing a location marked by the protective emblem of the red cross and making logistical facilities and means of transport available. It abstained from any involvement in the actual negotiation process, however, other than to deal with humanitarian issues. After nearly two months of careful preparation, the negotiations finally began. They were conducted as a series of 10 official rounds under the auspices of a commission which comprised the guarantors and an observer, and, in addition to the Church and the ICRC, also included Canada and Japan. The precautions taken and the prudence shown by the ICRC were entirely necessary, the more so since, as time went by and the deadlock persisted, the members of this commission, and the Bishop of Ayacucho in particular, increasingly took on the role of mediators.

Negotiator

For the general public, little interested in the subtle differences between neutral intermediary, guarantor and mediator, the ICRC was often considered as the negotiator, or one of the negotiators, in this situation,

owing to the role it had played from the very beginning of the hostage crisis, and also because of its daily presence both at the residence and at the “negotiating house”, above which the colours of the ICRC flew. Furthermore, this title of “negotiator” also testified to the public’s respect and admiration for the ICRC’s work. Over time, people were better able to understand the purpose of humanitarian action and appreciate its limitations.

Finally, for the ICRC, the most difficult challenge lay not so much in defining its course of action — that is, encouraging dialogue between the parties without going into the underlying causes of their differences — as keeping strictly to this course in an environment marked by chaos, constant changes and misunderstandings.

Neutral intermediary and the political sphere

The ICRC views its role as an intermediary and link between conflicting parties as exclusively humanitarian, i.e., totally apolitical by definition. However, here even more than in the fields of protection and assistance, the ICRC finds itself in a highly politicized environment. Indeed, its delegates are not only faced with the humanitarian consequences of a situation of conflict or violence, but also with its causes, so making the demands associated with the exercise of neutrality all the greater.

Although in the hostage crisis, as in other situations, the ICRC’s neutrality was the means — “the humanitarian weapon”, as the delegates in Lima would say — which enabled the organization to step in as soon as the residence was captured and subsequently to defend its access to the hostages for 126 days, this same principle of neutrality was also a weapon which some turned against the ICRC and the action it took.

“How can you stay neutral between good and evil?” was the question posed by some members of the Peruvian Congress and the media who saw the ICRC’s stance as a lack of judgement or, worse still, cowardice. Gradually, certain people even went as far as wondering whether this lack of judgement was not, after all, some fiendish plot and whether, under the guise of neutrality, the ICRC was not quite simply seeking to excuse the inexcusable, that is, the terrorist act of the MRTA commando unit. Nothing could change their minds: neither the ICRC’s statements, which quite clearly repeated that the taking of hostages was a flagrant violation of humanitarian law, nor the massive support of the Peruvian people who remained adamant throughout the crisis, nor the pertinent arguments of those who had stood up to defend the ICRC’s action. A few days before

the violent conclusion of the crisis, this distrust was to culminate in the expulsion of the head of delegation's deputy, on the pretext that he had failed in the duties entrusted to him. Thus, by exercising and unambiguously reaffirming the neutrality that was supposed to place it above partisan struggles, the ICRC paradoxically found itself caught in the cross-fire between the people supporting the steps it took and the people who denigrated them. It had no choice but to continue to uphold its position in favour of a lack of bias.

And yet this was certainly not the only paradox facing the delegates, one of the most serious being the politicization of humanitarian action. Indeed, from the very first days of the crisis, the government suspended one of the ICRC's traditional activities in Peru, namely its visits to security detainees. Although the official reason given as a justification for restricting the ICRC's humanitarian work in this way was security, this excuse only thinly disguised the fact that the essential aim was to exert pressure on the hostage takers. This placed the ICRC *de facto* in a position in which it could not fully exercise its neutrality, in other words work in aid of all the victims. What was worse, the ICRC's repeated efforts to resume its visits to security detainees were seen by some as blatant support for the MRTA cause. Here again, it was extremely difficult to explain how the political interests of the MRTA commando unit — which was also calling for the resumption of the ICRC visits — differed from the organization's humanitarian concerns.

Similarly, as the crisis took hold, members of the MRTA came to the point of viewing the ICRC's constant defence of the hostages' interests from the humanitarian standpoint with a certain degree of suspicion, given that the ICRC could not carry out the same work in behalf of security detainees.

The question might be asked whether the ICRC should not have played a more active role in resolving the issue, precisely because of this overlapping of the humanitarian and political spheres — since humanitarian action was at the centre of a political debate with hostages on one side and security detainees on the other.

These are fair questions, but a more active involvement on the part of the ICRC would doubtless have increased the confusion that so frequently arises between political and humanitarian concerns, with the risk of it being attributed responsibility for certain political decisions. The military conclusion of the crisis — with 17 people dead, i.e., one hostage, two soldiers and the 14 members of the commando unit — has demonstrated that, although humanitarian action can be helpful in matters of a political nature, ultimately it has to disassociate itself from them.

Neutral intermediary, protection and assistance

By a trick of fate, owing to its reputation and its know-how the ICRC was able to play an important role in this crisis: not only as a neutral intermediary, but also in its traditional spheres of activity, that is, protection and assistance. Of the some 600 hostages initially taken, 549 were to be released under the auspices of the ICRC, and for the remaining 72 the organization worked unstintingly to ensure that they benefited from the protection afforded by international humanitarian law. The ICRC also launched a vital operation to give the hostages both material and moral support, providing them with food, water, sanitation and laundry facilities, lighting, reading materials and means of recreation in general. Mention should also be made of the medical attention the hostages received and the arrangements made to enable them to stay in touch with their families, with more than 9,000 family messages exchanged in four months.

Although it is usual for the ICRC to carry out several humanitarian activities at once in the different areas in which it works, it is quite rare for it to carry out the majority of them — including the role of neutral intermediary — in a single operation. The ICRC welcomes this when it happens, because the victims are the ones to benefit, especially when it is considered that the role of neutral intermediary backs up protection and assistance work and vice versa.

On the other hand, such a situation clearly also leads to a certain amount of interdependence between the ICRC's different spheres of action. To be sure, the ICRC should at all times remain free to relinquish its role of neutral intermediary when the conditions required for it to intervene are no longer fulfilled. But if it decides to do so while being simultaneously involved in protection and assistance work, such a decision may have an adverse impact on the rest of its operation. Thus, in Lima, abandoning the role of intermediary would certainly have made the conduct of its other activities on behalf of the hostages more precarious, as the ICRC would then have been deprived of its voice and its audience for promoting its role and defending its work. Perhaps even more seriously, the independence of the organization would have been restricted since, in its absence as an intermediary, others might have come forward to interfere in matters of a purely humanitarian nature. Likewise, if the ICRC had been forced to suspend its material and moral support for the hostages, its credibility as a neutral intermediary would have suffered since, at a blow, it would have lost one of the reasons for its existence, that is, to serve in the direct interest of the victims. It would, of course, be presumptuous to try and apply a mathematical rule to this relation of interdepen-

dence between the ICRC's different activities, but on the other hand it would obviously be easier for the organization to relinquish its role of neutral intermediary in a context in which it was not carrying out other humanitarian activities. This was not the case with the situation in Lima.

Neutral intermediary: obtaining security guarantees and assurances not to resort to force

Obviously, ensuring the safety of ICRC staff was one of the constant concerns of the head of delegation, as indeed of the organization as a whole, especially since, on that very same day, everyone had been devastated by the tragic news from Novye Atagi in the southern Caucasus, where six ICRC delegates had just been assassinated. In Lima, numerous negotiations would have to be conducted before the ICRC could persuade the parties involved to accept its point of view regarding security matters. Its activities had to be temporarily suspended four times before it managed to define a clear space for humanitarian action and establish a number of rules that enabled its delegates to carry out their humanitarian duties with a minimum amount of risk.

An even more complex issue was that of the guarantees which the ICRC demanded from the parties that they would not resort to force, as a condition for its agreeing to act as a neutral intermediary. The situation during the first few hours of the crisis provides a telling example: in this context of potential confrontation, it was extremely difficult for the ICRC to obtain, before it decided to take action, a commitment from the parties that they would not resort to force. And to secure that commitment was the very reason why it stepped in in the first place — apart from obtaining the release of a number of hostages. It was a matter of moving from a confrontational situation to an environment in which dialogue could take place and hence to a context in which force would not be used. The reverse would simply have been putting the cart before the horse.

It is certainly not in the nature of an ICRC delegate's job to take ill-considered risks and, as soon as the uncertainty of those first hours had passed and the different parties had made contact, one of the ICRC's first requests was that a cease-fire should be established as a prerequisite for it to take action on humanitarian grounds. However, it would have been naive to assume that in deciding on such a cease-fire the parties would be committing themselves not to use force and to seek a peaceful settlement to the crisis. Only much later, at the summit meeting between the heads of State of Peru and Japan in Toronto on 1 February 1997, was the

principle of negotiation — and hence of not resorting to force — clearly expressed for the first time, provided that the hostages' safety would not be endangered. Before this position was adopted, and even though the ICRC had received assurances concerning the safety of its staff while they were actually inside the residence, the search for a peaceful solution was but one of the options envisaged.

The principle of not resorting to force was officially endorsed with the setting up of a structure for dialogue, which led to ten series of negotiations and one series of informal meetings. Paradoxically, it was at this point that the military option was applied, to the surprise of everyone concerned, not least that of the guarantors.

It was understood that military action would be taken only once the dialogue commission had relinquished its task, or after one of the parties had renounced its undertaking to seek a peaceful outcome. But here again, although that conclusion appeared fairly obvious in theory, the situation was far less simple in practice: on the one hand, because the commission was not in possession of all the elements which would have justified its withdrawal and, on the other, because such a withdrawal would have been interpreted as the signal for military action, with the attendant dangers for the hostages' lives. The government's decision to remain silent was based on one simple principle: surprise was of capital importance for the success of the operation.

Although, in the first phase of the crisis, it was virtually impossible to obtain a commitment that force would not be used, the solemn affirmation of this principle subsequently had no absolute value.

Neutral intermediary: taking the initiative, sole mediator on the scene

Generally speaking, the ICRC will intervene as a neutral intermediary only at the request of the parties involved in a crisis situation. In Lima, however, the dramatic turn of events when the hostages were taken and the presence of the ICRC head of delegation on the embassy premises prompted the organization to act on its own initiative and to offer its services, in keeping with Article 3 common to the four Geneva Conventions of 1949.

The ICRC usually relinquishes the role of neutral intermediary when other people or organizations can take its place. But in the Lima crisis it continued to assume this task in cooperation with the other "guarantors",

while maintaining its independence and within the limits of its humanitarian mandate, because it considered that it was its duty to do so in the interests of the hostages.

Neutral intermediary and policy

The crisis in Lima was not the first time the ICRC intervened in a hostage-taking situation. The organization had already been faced with other crises of this nature, for example in Colombia in 1980, in circumstances very similar to those in Peru. A number of guiding principles, subsequently incorporated in what is known as ICRC "policy", were born of these events experienced in the field and the analyses made of them afterwards. If the policy regarding the taking of hostages is compared with the practical steps taken by the ICRC in Lima, particularly within the context of its role as neutral intermediary, it is striking to see how closely the policy line converged with the measures actually implemented in the field.

The Lima experience gave proof of the relevance of that policy and of how fittingly it applied to the reality of the situation. However, although it is right to talk of convergence between policy and action, it would be wrong to equate one with the other. So much the better, since this would divest action of its dynamic character, on which policy has to draw if it is not to lose its relevance to reality.

This leads us to raise a few basic questions and offer a few thoughts on the implications of the ICRC's current policy for the future.

As concerns the initiative it took and its decision to act, the ICRC in Lima doubtless went beyond the policy line, as it did in its determination to continue performing its role as an intermediary despite the intervention of other parties. This no doubt helped to save human lives, facilitated the release of many of the hostages and contributed to creating the conditions necessary for initiating dialogue. It was unquestionably a success from the humanitarian point of view even though, eventually, it was the military solution that actually ended the crisis.

As regards the parties' undertaking not to resort to force during the entire period in which the ICRC was serving as an intermediary, the situation did not fulfil all the requirements of ICRC policy. However, the question arises whether strict application of the policy line in that regard would have been entirely realistic, in view of the contradictions thrown up by the situation. On the other hand, an absolutely crucial requirement

is that parties to a crisis undertake fully to respect the physical integrity of ICRC delegates as they go about their work.

It would also be desirable for ICRC policy to take greater account of the interdependence between assistance/protection activities and tasks associated with the role of neutral intermediary, as was the case in Lima. The danger in analysing the two separately is to arrive at conclusions that are too cut-and-dry and selective, and would therefore be detrimental to ICRC action as a whole.

Aside from the practical aspects associated with the role of intermediary, a number of questions arise regarding the function itself, the first being that of its definition. It was observed in Lima, as elsewhere, that few people outside those directly involved can clearly define the term "intermediary". At best, it is equated with the ICRC's activities as a whole. Starting from the axiom that what is clearly understood can also be clearly expressed, should this task not be taken for what it is, namely a service of "good offices", as is meant under international law? That is to say, friendly action on the part of an intermediary who, either spontaneously or at the request of the parties involved, seeks to bring them together so that they can enter into negotiations or adopt any other means of peaceful settlement that can lead to a normalization of their relations. This should in no way exempt the ICRC from specifying what such a service is — and, above all, what it is not — for the term "good offices" is not devoid of ambiguity. But it does at least have the advantage of providing an initial linguistic clarification of the function itself.

Once the instrument has been properly defined, an even more fundamental question arises, and that is how it should be used. Here again, we should look at the matter objectively in the hope of dispelling other ambiguities or uncertainties. As difficult and sensitive as they are, should good offices not become another of the hallmarks of the ICRC, in the same way as protection and assistance, when the situation so demands or at the request of the parties involved? Do the ICRC's credibility, its knowledge of crisis situations and its expertise not mark it out for such a role, equally well as — and perhaps better than — others?

As a final comment, surely friendly action taken by an intermediary seeking to bring the parties involved closer together (according to the definition of good offices), irrespective of the results it may achieve, is the ultimate act one can perform on behalf of the victims. The ultimate act in which the humanitarian endeavour goes as far as it possibly can, to the point where it borders on the political sphere, while affirming more strongly than ever how different it is from the latter.

In Colombia a forgotten conflict rages on. Largely ignored by the international media, the armed struggle in this South American country will soon be entering its fifth decade. The ICRC has greatly strengthened its presence in Colombia in recent years, and now the delegation in Bogotá is its largest in Latin America.

This article seeks to outline the current challenges facing the ICRC in Colombia. What are the possibilities offered by its mandate and the limits to what it can do? Has the organization achieved any tangible results? Specific cases are used to illustrate where, how and under what conditions the ICRC can act as a mediator to help alleviate or solve problems of a humanitarian nature. This is a personal contribution and a critical analysis by an ICRC delegate who has been working on Colombia's Atlantic coast since February 1996.

The ICRC as a humanitarian mediator in the Colombian conflict

Possibilities and limits

by **Thomas Jenatsch**

*Lo más grave de todo es que hemos aprendido
a vivir con la violencia.*

Gabriel García Márquez

The dramatic episode of the 70 soldiers: their capture and release

Cartagena de Chairá, 15 June 1997: the five Russian helicopters churned up clouds of dust as they deposited their precious cargo —

Thomas Jenatsch is an ICRC delegate. At the time of writing this article, he was on assignment in Colombia.

.Original: German

70 soldiers of the government army who had been defeated and captured by the guerrillas nine-and-a-half months earlier. The spectacular landing in the jungle hideout gave them their first taste of freedom and marked the end of an episode in the war which had humiliated the military high command and kept the whole country in suspense. Hence the rejoicing was all the greater as the 70 soldiers, who had been presumed dead, were finally reunited with their mothers in an emotional scene, and the whole of Colombia briefly savoured the sweet illusion that peace was just around the corner. In front of international observers and countless journalists, the guerrilla commanders completed the handover of the soldiers to the ICRC with a moving ceremony. Then the soldiers boarded the helicopters again. Accompanied by an ICRC delegate and a member of the National Reconciliation Commission, they were flown to the army base at nearby Larandia, where the military leadership gave them an official reception with a brass band and laid on a buffet meal.

Transferring the 70 soldiers from guerrilla captivity into the hands of the army marked the climax of what was probably the most important humanitarian operation in Colombia involving the ICRC. The Geneva-based organization provided on-the-spot communication links and infrastructure support, accompanied the helicopters to the jungle locations for picking up the soldiers and provided initial medical assistance. It also made transport and accommodation arrangements for the soldiers' families and, in conjunction with the Colombian Red Cross and the National Reconciliation Commission, coordinated a vast operation in which nothing — apart from the weather — was left to chance. Relief and satisfaction were written on the face of head of delegation Pierre Gassmann on the evening of 15 June, as he took off his muddy boots, lit his pipe and relived the events of the day on television.

The soldiers' release in Cartagena de Chairá followed a tough nine-and-a-half month quest to achieve a rapprochement between government and guerrillas in which the ICRC was involved from the outset. Let us go back to the beginning. On 2 September 1996, three days after the guerrilla attack on the Las Delicias military base in the Amazon basin, the ICRC received confirmation by radio that 60 soldiers had survived the attack by the Colombian Armed Revolutionary Forces (*Fuerzas Armadas Revolucionarias de Colombia — FARC*). In their first radio communication the guerrillas described the 60 soldiers as “prisoners of war”, a term which immediately provoked controversy. Under international law, prisoner-of-war status is granted only in international wars, not in internal conflicts. The FARC also promised to respect the rights of the captured government soldiers, as required by international

humanitarian law. They called on the government to form a commission, composed of national and international figures, to whom the soldiers would be handed over in the presence of the ICRC. The temporary withdrawal of the army from a “security zone” of approximately 45,000 square kilometres was a further condition.

By forwarding the radio communication, the ICRC found itself playing a pivotal role right from the start, practically without any initiative on its part. In the weeks that followed, the delegation forwarded radio and fax messages between the government and the guerrillas almost every day. The exchange soon turned into a war of communiqués, in which the two sides accused each other of seeking to delay the handover for political reasons.

Because of the army leadership’s categorical refusal to demilitarize a “security zone”, the Colombian government’s hands were tied in the negotiations. As the weeks passed without any result, the government came under growing pressure from the public and from the soldiers’ families. It finally asked the ICRC to negotiate the handover of the soldiers in its own right. The ICRC could not agree to this, however, as the humanitarian problem had long since turned into a political tug-of-war. Instead of mediating on the government’s behalf, the delegation invited the parties to Geneva in order to negotiate an agreement on neutral ground. The proposal met with cautious approval in Bogotá, but was rejected by the guerrillas, who insisted on the demilitarization of a “security zone” and the formation of a “handover commission” as preconditions for direct negotiations with the government.

In addition to holding talks with the Bogotá government and FARC representatives in Mexico, the delegates sought direct contact with the southern faction of the rebel army, which was holding the soldiers. On the Caguán river, one of the main arteries through the guerrilla-controlled southern territories, the ICRC organized medical assistance for the civilian population, with “river brigades” bringing aid to many small villages. But the delegates’ hopes of gaining access to the rebels and the 60 captured soldiers were dashed. With hindsight, it would have been virtually impossible for logistical reasons as well to arrange a visit to the soldiers in the jungle, as the FARC had divided them into small groups and dispersed them over a vast area.

After months of deadlock there was finally a glimmer of a solution in May. The government negotiator had managed, with the help of Monseñor Castro, the bishop of Caguán, to establish contact with the rebel leaders. And suddenly things started moving very quickly. On

20 May President Samper proclaimed the demilitarization of the security zone demanded by the guerrillas. The next day, head of delegation Pierre Gassmann, negotiator José Noé Rios and representatives of the National Reconciliation Commission, composed of prominent clerics and political leaders, were invited to a working breakfast with the President. It was decided to divide up the work: Noé Rios was to remove the final political obstacles, the National Reconciliation Commission was to set up the “handover commission” with the international observers, and the ICRC was to take care of all logistical requirements (transportation by helicopter, on-the-spot infrastructures, security, etc.).

The handover was scheduled to take place on 15 June in Cartagena de Chairá, a small market town in the sparsely populated Caguán region. The government put five Russian transport helicopters plus their crews at the disposal of the ICRC. The operation was complicated because, in addition to the 60 soldiers scattered over southern Colombia, 10 marines captured by the FARC in January were to be picked up from the north. The FARC demanded that the helicopters carrying the soldiers should also take an armed guerrilla escort to the collection point. It was therefore impossible for the delegation to let the helicopters fly under the red cross emblem. In order to ensure maximum security nevertheless, the President rapidly passed a decree guaranteeing the helicopters absolute immunity over Colombian territory — with or without the red cross emblem. Thanks to ideal flying conditions and the ability of all parties to improvise, the operation finally went like clockwork, and the soldiers were handed over to the army leadership as planned on 15 June.

To sum up, the ICRC’s contribution towards resolving this problem can be divided into three phases. In the weeks immediately following the capture of the soldiers, the delegation acted as a communication link between the government and the guerrillas. In the longer second phase, the delegates attempted to gain direct access to the soldiers for humanitarian purposes. The removal of the political obstacles marked the start of the third phase, in which the ICRC could concentrate on the actual handover, lending its services as a mediator and providing logistical expertise to help ensure that the process went smoothly.

Wanted: neutral intermediaries!

In Cartagena de Chairá the ICRC proved to be a reliable and neutral intermediary regarding humanitarian issues in an armed conflict. It silenced those who had voiced serious doubts over its impartiality in

the wake of the violent episode that had led to the liberation of the hostages in Lima. The ICRC and the international observers were warmly applauded by the Colombian media for their role in the soldiers' release. Many commentators added soberly that the Colombian people alone could no longer control the civil war that had been tearing their country apart for close to forty years. The general tone of the media has been echoed by leading Colombian sociologists such as Juan Gabriel Tokatlian and Alfredo Molano. Many intellectuals believe that, in view of the internal stalemate, only collective pressure from foreign governments and international institutions can curb the runaway conflict or at least make it slightly less horrific. A similar view is held by the National Reconciliation Commission, which has close links with the Church. In a policy paper it asserts that, to achieve peace in Colombia, it is essential that civil society prevail on international organizations to pave the way for dialogue, set up mediation mechanisms and monitor observance of agreements.

With the longest-running armed conflict in Latin America, the greatest number of abductions and the highest murder rate in the world, Colombia seems irredeemably trapped in a complex web of violence. At a loss what to do, it has turned to the international institutions, hoping that if the latter were more in evidence, the long cycle of violence might come to an end or things might at least change for the better. And the appeal made outside the country has already been answered in part. On 1 April 1997 the United Nations High Commissioner for Human Rights opened an office in Bogotá for an initial period of 18 months. A team of six experts regularly publishes reports and position papers on the human rights situation in the country. The ICRC too has strengthened its presence in Colombia. Its delegation now has 44 delegates and 110 Colombian employees, divided between headquarters in Bogotá and 11 local offices.

The ICRC began its work in Colombia in 1969 with prison visits, and in 1980 a permanent delegation was established in Bogotá. The actual fieldwork, however, did not begin until 1991, when local offices were opened in Bucaramanga and Villavicencio. With the most recent expansion in 1996 and 1997, the delegation virtually doubled its staff, and its budget for 1998 will be 13 million US dollars. Working conditions are good, since Colombia has remained politically and economically one of the most stable countries in Latin America, in spite of the conflict. Unlike in other theatres of war, the ICRC is unconditionally accepted by the population and respected by all parties to the conflict. The red cross on a white background is a powerful symbol in Catholic

Colombia: the emblem is not simply the reversal of the Swiss flag, but also represents basic Christian values and the ultimate source of hope. Even the adjective “international” is significant: the Colombians utter the word reverently, generally equating it with a sound reputation and virtual omnipotence. The high degree of credibility gained from operations to assist victims of conflict is without doubt the ICRC’s trump card. The Colombians’ high — or even too high — expectations of the ICRC contrast with the predominantly negative image they have of their own institutions, reputed more for their oratory than for their actions.

Through its work all over the country, the ICRC has an intimate knowledge of the conflict. Can it diminish the horror of this war? What are the possibilities offered by its mandate and, conversely, the limits to what it can do? Has it achieved any tangible results? The following section aims to illustrate the ICRC’s role as a mediator in the conflict and to describe its action in Colombia.

Who is behind the violence and the conflict in Colombia?

The ICRC is operating in an extremely complex environment. The situation cannot be described as a single conflict; it involves a tangled web of players and forms of violence, which includes petty and organized crime, with the cocaine mafia and groups of blackmailers; contract killings (*sicariato*); political conflicts involving the army, police, paramilitaries and guerrillas; incidents connected with legally recognized private rural security forces (CONVIVIR); and “social cleansing” to eliminate beggars, thieves and other marginal elements.

The question that inevitably arises is what social issues created such a potential for violence. The grossly unequal distribution of wealth is certainly one potent factor, but this still fails to explain why the degree of violence is so much greater in Colombia than, for example, in Brazil or Bolivia, where there are comparable social disparities. Peculiar to the situation in Colombia is the explosive mixture of social, political, cultural and historical factors of violence, which have spiralled out of control. Violence is deeply ingrained in the collective memory as a result of the countless civil wars and uprisings that have marked the history of Colombia since independence. The macho cult of confrontation inherited from the Spaniards and the lack of a culture of consensus, coupled with the unresolved issue of the distribution of wealth, form the socio-cultural basis of violence in Colombia. The democratic system, which should have created a balance, is to a large extent a failure.

It suffers from a series of widespread evils, such as vote-buying, favouritism and institutionalized corruption, which seriously undermine the legitimacy and effectiveness of the political class. In view of the State's inability to resolve social conflicts through institutional channels, it is hardly surprising that the latent tension erupts in either spontaneous or organized forms of violence. Virtual impunity for violent crime merely fans the flames: there is no deterrent for violence and the failure of the State legal apparatus encourages people to take the law into their own hands. Every unexpiated murder leaves a trail of resentment and cries out to be avenged.

The cocaine trade also contributes to the spiral of violence. Attempts at repression by the State and internal disputes over distribution in this illegal but lucrative business have led to the formation of powerful private armies, which eliminate anything that might be bad for business. The drug trade indirectly fuels the violence through its enormous corrupting influence, which further undermines the fragile State institutions and accentuates social injustice.

Finally, violence is kindled by the political conflict. The fact that the conflict has been dragging on for years and the large number of victims among the civilian population have exhausted society's capacity for outrage and have left people fatally resigned. Violence seems to be accepted as a normal everyday phenomenon in Colombia.

The ICRC delegation is focusing its efforts on the humanitarian problems caused by the political conflict. As the latter accounts for just 15% of the total number of victims of violence, it may appear to be a marginal phenomenon. But the statistics are deceptive, because they fail to highlight the connection between political violence and ordinary criminal activity. The political conflict in many ways acts as a spur to petty criminal violence. First, many people fleeing the violence in rural areas end up in the slums on the edge of the big cities, where, unemployed and without social support, they often turn to crime out of sheer necessity. Second, the armed conflict has boosted weapons imports, caused an ever-increasing section of the population to take up arms and trivialized the use of guns. Third, the re-integration of battle-weary guerrillas, soldiers or paramilitaries into civilian life is extremely difficult. Anyone who has earned his living with a gun is hardly likely to go back to working the land with a machete instead. Many *reinsertados* commit individual crimes or join one of the armed groups. So if account is taken of all the acts of violence which are carried out as a reaction to or under cover of political violence, or with its backing or using it

as a pretext, the figures for violence arising from the political conflict are much higher than first appears. Many experts therefore regard the long-drawn-out civil war as the main cause of violence in Colombia, because it has undermined State institutions, wrecked society's capacity for integration, and armed and radicalized individuals.

The roots of the war go back to the period of *violencia* of the late 1940s and 1950s. The bloody internal feud between conservatives and liberals ended in the mid-1950s with a political compromise. But the liberal self-defence groups with a strong peasant following did not disarm completely and, turning to socio-revolutionary ideology, founded the Colombian Armed Revolutionary Forces (*FARC*) in 1964. Influenced by the Cuban revolution, further armed opposition groups sprang up in the mid-1960s, including the National Liberation Army (*Ejército de Liberación Nacional - ELN*). Peace initiatives taken by the Colombian government in the 1980s met with only partial success; some groups, including the "19 April Movement" (*M-19*), laid down their weapons and formed a democratic party. However, anyone who had expected the guerrillas to become extinct with the end of the Cold War was disappointed. This epoch-making event hardly affected the armed opposition groups: having their own financial resources, they were able to exist without foreign aid. Since the end of the 1980s the guerrillas have almost doubled their military strength, with a force of nearly 15,000 men today. Ultimately the growth of the guerrillas can be put down to the failure of the democratic left. Instead of being integrated into the democratic system, left-wing parties such as the *Unión Patriótica* were persecuted by the traditional power elite. Even widespread poverty, mass unemployment in rural areas and the mountainous terrain of Colombia all work to the advantage of the guerrillas, and the government forces are hard pressed to cope with their lightning strikes.

In order to curb the rise of the guerrillas, the traditional landowner class, now with their backs to the wall, formed bands of armed mercenaries. These illegal "paramilitaries" have dealt severe blows to the guerrillas' social base, often in conjunction with the army or at least with its connivance. Various local groups have recently combined to form larger, supra-regional groups known as *autodefensas campesinas* (rural self-defence groups). They are attempting to shed the image of death squads under external control and pass themselves off as independent political-military organizations with their own command structures. The *autodefensas* pillory social injustice, corruption and the ineffectiveness of the political class as the real cause of the war. Surprisingly, their rhetoric hardly differs in this respect from that of the guerrillas, their

arch-enemies. Both organizations have similar styles of warfare, in that they avoid direct confrontation as far as possible and inflict violence on civilians who are suspected of collaborating with the enemy. For this reason people speak of a *guerra sucia* (dirty war) in Colombia.

In this civil war there is no clear territorial divide between the opposing camps. It is a patchwork of many different small-scale conflicts with strong regional roots. Political motives often fade into the background. Private interests and grudges, on the other hand, have become the main driving force behind the violence. It has been said that Colombia may be on the way to becoming a feudal State, in which anyone can form his own army. Private armies of this kind are funded by an ingenious system of taxation. Both the guerrilla organizations and the *autodefensas* charge “protection fees” in the areas they control. The majority of the population therefore regard them as parasites conducting a war at society’s expense which most people are weary of and consider pointless. On top of this, most of the victims are civilians. Usually their only escape is to flee to neighbouring villages or to the big cities, where they languish in the slums. In the last ten years, the violence in this conflict has uprooted about a million people from their homes.

How and where can the ICRC act as mediator?

As shown by this brief description of the many forms of conflict in Colombia, there is no shortage of situations where humanitarian action is needed. In close cooperation with the Colombian Red Cross, the ICRC is running a programme to assist conflict victims. The displaced receive food and other essential items, people under threat are helped to leave the danger zone, and civilians injured in the fighting are given medical care. The emphasis, however, is on non-material assistance, such as prison visits, dissemination of international humanitarian law¹ and representations on behalf of conflict victims. The next section will take a closer look at the ICRC’s role as a mediator between the opposing factions.

Under the Geneva Conventions, the ICRC has a mandate to spread knowledge of international humanitarian law among the parties to the

¹ On dissemination work in Colombia, see Roland Bigler, “Disseminating international humanitarian law in Colombia”, *JRRC*, No. 319, July-August 1997, pp. 421-432.

conflict and to monitor respect for that law. It therefore not only distributes emergency aid but also draws attention to the limits on means and methods of warfare which are enshrined in international law. Hence the ICRC can offer its services in humanitarian emergencies. This includes assuming the role of neutral intermediary, with the aim of bridging the communication gap, drawing the parties closer to each other, proposing non-violent alternatives for settling conflicts and dispelling misunderstandings. The task of humanitarian facilitator and mediator is a crucial part of a delegate's work in the field. Let us take three examples:

— *Displaced persons*: During 1996 about 180,000 Colombians fled the hostilities.² Most displaced persons move to another region or department, only a small minority can afford to go abroad. Particularly at risk are villages situated between the fronts or in regions where the balance of power shifts between the parties. What really triggers the exodus in each case are murders, massacres and threats against civilians. The ICRC cannot stop the population taking flight, but it can do a lot to help the displaced return home, thereby contributing at least temporarily towards easing the situation. The delegates strive to obtain guarantees from the relevant groups for the safety of the returnees. It is usually a laborious process: as the leaders operate underground, they are often hard to locate and have little interest in solving problems of a humanitarian nature. Their promises are not always sincere and are treated with mistrust by the displaced. In order to come across as serious mediators, the delegates need to have a sound knowledge of the social background to the conflict, plenty of stamina and a fine sense of diplomacy. Above all, they have to gain the confidence of the parties involved and work hard to explain what the ICRC is and what it tries to achieve.

In Bajo Grande, a village on the Atlantic coast, an entire year passed between the flight of the inhabitants and their collective return. In a process plagued by setbacks, the ICRC finally obtained an undertaking from the adversaries — guerrillas and paramilitaries — to observe a number of ground rules and to refrain from military operations near the village in future. A key role in the resettlement was played by the parish priest and the *personero*³. Encouraged by the ICRC's efforts at

² The figures are taken from a UNICEF study, quoted in *El Tiempo*, Bogotá, 14 March 1997. According to the study, some 900,000 Colombians have fled the violence since 1985.

³ Every Colombian village community has a *personero*, a lawyer with functions comparable to those of an ombudsman, who supervises the administration, receives civil complaints from the population and forwards them to the relevant authorities.

mediation, they plucked up the courage to break the local authorities' fearful silence and to muster public support for those who wished to return home. Tangible backing from the State in the form of reconstruction aid, together with safety guarantees from the parties concerned and the ICRC's permanent presence in the region, created a climate of détente which enabled 150 families to return to their village. The Bajo Grande case is a classic example of the fact that ICRC action is effective only when delegates can count on local support. Networking between the ICRC and civil institutions is therefore of crucial importance. The latter include the Colombian Red Cross, which cooperates closely with the delegates in giving humanitarian assistance to the displaced.

— *Threats to and abductions of civilians*: every year the ICRC delegation receives thousands of visits and phone calls from people who wish to report a threat from a party to the conflict or even the abduction of a family member. As it is not always clear who is behind such acts, delegates must seek to establish a dialogue with the parties in conflict in order to check the facts, obtain safety guarantees and protest against breaches of the law. Spectacular successes are rare, but thanks to its contacts with all sides the ICRC can act as a sort of referee by drawing attention to excesses, presenting the situation from the victims' point of view and gaining certain humanitarian concessions. When the factions involved consent to visits to abducted persons, release captives, provide information on the whereabouts of a missing person or hand over mortal remains, such actions are often more realistically construed as signs of goodwill towards the ICRC than as conscious steps to respect humanitarian obligations. For the victims, on the other hand, such gestures can be an absolute lifeline.

As regards abductions of civilians, the ICRC strives to ensure that at least some of the victims' fundamental rights are respected: personal safety, humane treatment, medical care, written correspondence with the family. Where conditions permit, ICRC delegates hold talks without witnesses with the persons abducted. Visits from delegates are intended primarily to give the victims psychological support, by enabling them to speak freely with someone from the outside, to receive Red Cross messages from their relatives or to send such messages themselves. In many cases delegates are involved in the release, bringing the abducted person safely out of the danger area and taking him back home. It should be stressed that under no circumstances does the ICRC bargain with the kidnappers. The ICRC must not become an accomplice to a deed which is contrary to international law.

— *Unrest in prisons*: Since 1969 ICRC delegates have been conducting prison visits and have been seeking to improve conditions for the detainees. Persons held in connection with political events are registered for their own safety and subsequent changes in their circumstances are monitored by the ICRC, which is well acquainted with the conditions through visiting all regional and national prisons at least once every six months. Its knowledge and experience are particularly important if unrest occurs in a prison, as is often the case in Colombia. In such situations delegates are often brought in as mediators. Their presence is usually requested by both sides: the detainees regard the ICRC as a guarantor for a non-violent solution to the conflict; the authorities expect that, with ICRC delegates present, the situation will soon be restored to normal. Indeed, there have been many cases where delegates were quick to arrive on the scene, thereby preventing the tension from escalating, and were able to offer their services to negotiate a peaceful solution to the problem.

What does it take for mediation in humanitarian matters to be successful? The following criteria are worth mentioning:

1. Mediation by the ICRC has a good chance of success where the crisis is limited in both time and space, and the players are clearly identifiable. If, on the other hand, the conflict is influenced by supra-regional centres of power, if it is a long-standing crisis or if it is impossible clearly to establish who are those responsible, then the mediator's task is tremendously difficult.
2. Timing is a decisive factor when it comes to successful mediation. If the ICRC is on the spot immediately after a crisis breaks out, its capacity to influence the outcome is infinitely greater than when it becomes involved at a later stage in the process. Being present from the outset makes it easier for the ICRC to win the confidence of the parties and lay down some ground rules. The release of the 70 soldiers was a case in point: the ICRC's success was the culmination of nine-and-a-half months of constant mediation, in which the delegation was involved right from the start.
3. Successful mediation requires perseverance and a sound knowledge of the situation. A reasonable amount of pragmatism and flexibility are also important. As mediators in a conflict, delegates leave behind the rarefied atmosphere of treaties and a theoretical approach and become a part of the crisis scenario themselves, albeit in an

independent and neutral position. Reaching a consensus in an often tense and rapidly changing situation is frequently a matter of plain common sense.

4. The ICRC can rarely solve humanitarian problems on its own. It remains one player among others in a complicated scenario involving a variety of main and supporting roles. Apart from the parties to the conflict, there are the civil authorities, the Church, various private institutions and the media: civil society, in other words. Without its support the ICRC can do little. It gains such backing primarily through systematic dialogue and efforts to spread information, while also taking account of the attempts to initiate a public debate, which it seeks to nurture as far as possible. Gabriel García Márquez himself underlined the crucial importance of education and information work in Colombia: “The history of Colombia is a series of violent episodes. The violence in Colombia dates back so far and goes so deep that it is only by completely changing the way we educate our children that we can achieve something: legal and administrative measures alone will never be enough.”⁴
5. Mediation is a long and complex process which poses a challenge to ICRC delegates, who like to work independently and get things done at breakneck speed. Cooperation with institutions in Colombia is seldom easy, because of differences in working resources, methods and motivation, and it demands a great deal of time and energy. But the ICRC’s work goes deeper if it involves civil authorities and private institutions in the search for solutions to humanitarian issues. Joint ICRC/Colombian Red Cross projects for raising awareness of international humanitarian law and assisting people displaced by the violence are examples of such cooperation.

Can the ICRC “humanize” the effects of the conflict?

Finally, the question is whether the success of the ICRC’s humanitarian work in individual cases at regional level has a favourable impact on the course of the conflict in Colombia. Can the presence of the ICRC make the civil war less horrific?

At first the answer would appear to be “no”. In the last few years the political conflict has spread considerably, with a corresponding

⁴ ICRC translation

increase in violations of international humanitarian law, and the number of civilians killed or displaced has risen. Progress in the humanitarian field has been hampered by the continuing erosion of the social fabric caused by the civil war. The dividing line between political conflict and criminal activity has become blurred. The violence has long since gained a momentum of its own, making political control difficult. For many unemployed young people it has now become an alternative source of income.

In practice ICRC action encounters many obstacles which limit progress on humanitarian issues. Through years of persistent activity and presence in the major conflict zones, however, the organization has still been able to give a boost to the country in a number of spheres, three of which deserve particular mention:

— *Bringing discussion about human rights and international humanitarian law into the open:* Until a few years ago, merely talking about human rights was still dangerous in Colombia. International humanitarian law had subversive connotations, and any reference to it was virtually stifled by the political and military leadership. Through their systematic efforts to inform all those concerned, ICRC delegates have helped to dispel such prejudice. Public debate on international humanitarian law is now much freer and arouses keen interest at all levels of society. A symptom of this climate of détente was Colombia's ratification of Protocol II additional to the Geneva Conventions in August 1995. The provisions of international humanitarian law increasingly form part of the instruction given to adherents of armed groups. The fact remains, however, that a particular party will often claim its rights under international law vis-à-vis the opposition but will rarely acknowledge its own obligations.

— *Bolstering of civil society:* The ICRC has become an important source of moral support especially for civilians living in remote regions, who can do little to protect themselves against armed groups. Not that it always has to seek the role of mediator or make long speeches on international humanitarian law: just listening and sincerely trying to understand a region's problems is often balm on a gaping wound, making the victims feel that they have not been completely forgotten by the rest of the world. Although the delegates themselves can do very little to meet the victims' material needs, they can use their wide range of contacts to help bridge the gap between the victims and State institutions. When the delegation is able to mobilize public resources for

those in need and involve the State in humanitarian action, the ICRC not only combats the symptoms of the conflict but also strengthens the fabric of civil society.

Decades of *violencia* have severely hampered the development of civil society. Both the illegal armed groups and the army feel obliged to demonstrate their legitimacy again and again in a conflict which most Colombians consider senseless. Here the dividing line between civilian population and armed groups is intentionally blurred. With individual civilians being branded as enemies, blacklisted and killed, it is understandable that people are afraid to protest against acts of violence, denounce social abuses and side with conflict victims. Through their regular presence in conflict zones ICRC delegates help to ease the population's often exaggerated fears. As their immunity is respected by all sides, they are able to condemn violence against civilians, and their presence in many situations serves as a protective shield. Representatives of the authorities, *personeros*, human rights groups and the media feel encouraged, with the delegates there, to break the silence, take initiatives, organize seminars or pay attention to the plight of the displaced.

— *Contributing to a culture of consensus*: By acting as a neutral intermediary, the ICRC has managed to solve many problems of a humanitarian nature. Its successes include defusing the tension before the eventual release of the 70 soldiers, negotiating to restore calm after prison unrest and resettling displaced persons. Such activities are discussed in the street, commented on by the media and form the starting point for ever-recurring discussions about the conflict and the possibility of peace. Thus, a few days after the handover of the soldiers, the Colombian government announced a fresh peace initiative, appointed a special envoy for exploratory talks with the armed opposition and gave the go-ahead for regional peace forums and partial agreements aimed at “humanizing” the conflict. Through its mediation work in Colombia the ICRC is promoting underdeveloped values such as consensus thinking and tolerance. Every peaceful solution to a conflict is a victory for consensus over confrontation. Successes in mediation clearly demonstrate that it is possible to break out of the spiral of violence.

In Colombia the ICRC faces a dual challenge. It is confronted not only with an armed conflict but also with a culture of violence which claims more than 25,000 lives each year. The short term offers no prospect of a solution to what will soon be a forty-year conflict, and the ICRC has accepted that it faces many years of work ahead. Therefore

it cannot be content merely to instruct armed groups in international humanitarian law and to provide conflict victims with material and moral support. As the largest international organization working in Colombia, the ICRC also has to shoulder responsibility for civil society. Apart from ensuring emergency management of humanitarian crises, ICRC delegates can provide a longer-term stimulus if they extend their information work to include civil decision-making bodies, coordinate their activity with private and State institutions, and venture to bring the question of the social roots of violence into the open. This is anything but a surrender of the ICRC's independence and neutrality; rather, it is a matter of using these principles to support constructive initiatives for the development of Colombian society.

The impact of humanitarian aid on conflict development

by **Pierre Perrin**

The proliferation of crises around the world has led to a sharp increase in the scale of humanitarian aid required to meet the vital needs of the people affected by them for food, water, medical care and shelter. Humanitarian organizations can either meet those needs directly or support local services engaged in the same work. In most cases, both approaches are used.

Preconceived ideas — for example that humanitarian aid always prolongs conflict — must be shunned if the way humanitarian aid influences the development of conflicts is to be judged fairly. If we are to evaluate that aid accurately, its effect on victims (its primary purpose) and on the conflict itself both need to be analysed. By combining these two factors, it is possible to make an objective assessment and draw conclusions for future work.

The consequences of conflict from a humanitarian point of view

Malnutrition, illness, wounds, torture, harassment of specific groups within the population, disappearances, extra-judicial executions and the forcible displacement of people are all found in many armed conflicts. Aside from their direct effects on the individuals concerned, the consequences of these tragedies for local systems must also be considered: the

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destruction of crops and places of cultural importance, the breakdown of economic infrastructure and of health-care facilities such as hospitals, etc., etc.



The direct impact of armed conflict on people and on the systems essential to their survival is highly visible but it should not be forgotten that the priority for the warring parties is their military operations, not the smooth operation of economic and social structures. The result is a gradual deterioration of these structures, even in situations where they are not directly targeted by the combatants.

The impact of armed conflict on people and systems vital to their survival can take different forms, as the following examples illustrate:

- When Rwandan refugees fled into former Zaire, the mortality rate rose sharply, to as much as 10 times what is regarded as the threshold of extreme emergency.¹

¹ UNHCR, Center for Disease Control, *Crude mortality rates, selected refugee and displaced populations, 1992-1994*. The extreme emergency threshold is two deaths per 10,000 people per day.

- Large-scale displacement invariably causes a dramatic increase in malnutrition rates. In children under the age of five, this can reach 20% (Rwandan refugees in Zaire, 1994) or even 50% (Somalia, 1992).
- During the five years of conflict in Sierra Leone, almost 40% of the country's population were forced to flee their homes. Hundreds of thousands of people left for Guinea and Liberia, but most sought refuge in camps within Sierra Leone itself, and by the end of 1995 over one million people were living in camps in Freetown, Bo, Kenema, Segbwema and Daru.²
- Somalia 1991: "The economic and social structure has ceased to exist. There is no electricity, communications have broken down and schools are closed. Everything that was vital to the country has been destroyed. Insecurity, conflicts between clans and even within factions — there are a variety of causes for this disastrous situation."³
- The destruction of the water supply system in the city of Sarajevo had disastrous consequences for the population. Part of the city had no running water for a year and a half. There were a few places where the inhabitants had to go and get the water they needed, at the risk of being ambushed by snipers.⁴
- The number of Mozambicans killed during the conflict in that country is estimated at 100,000. Over five million people were displaced and 1.7 million people had to seek refuge in neighbouring countries. Two million people no longer had any access to health care. In some areas, half the health-care facilities were destroyed. Three million farmers, finally, were prevented by the conflict from farming.⁵

The aim of humanitarian aid is to assist the victims of armed conflict, without discrimination, in coping with these problems.

The role of humanitarian aid

Aid for victims of conflict remains the primary responsibility of the warring parties. The need for outside help arises when the parties to a conflict are unable or unwilling to shoulder that responsibility.

² Source: ICRC (unpublished).

³ ICRC Bulletin, October 1991.

⁴ Source: ICRC (unpublished).

⁵ Michael Cranna (Ed.), *The true cost of conflict*, 1994.

Any successful aid strategy will have different goals. For example, aid is primarily intended to prevent the disastrous consequences mentioned above by stepping in before the health of the victims of conflict deteriorates. This requires prompt action either to assist the affected population groups directly or to prevent the deterioration of health care, agricultural or other local systems. This enables those systems to cope with the situation and thereby to prevent people's health from deteriorating. But aid should also be designed to prevent the growth of dependence on outside assistance. For example, food distribution remains a valid option when the situation calls for it, but it often goes hand in hand with action to help the beneficiaries regain their self-sufficiency quickly. This strategy can have various forms. Steps may be taken to increase food production and develop distribution channels, while protection work can help restore access to food. In some cases specific action is needed to assist individuals suffering from acute malnutrition. The overall strategy is usually a combination of various measures taken at different stages in the food-production and distribution process.

Humanitarian aid frequently also takes other forms as well.

- In Afghanistan, the ICRC assists five hospitals, the aim being to improve the quality of surgical treatment for war casualties and to provide regular supplies of medicines and medical/surgical items.⁶
- To prevent water contamination in Albania — which is more likely in the summer months and poses a threat to public health — the ICRC gave 52 tonnes of chlorine last year to the authorities responsible for water quality.⁷
- “The United Nations maintained the embargo on Iraq, which had been in force since 1990. (...) Iraqi water installations continued to deteriorate for lack of spare parts, equipment and qualified personnel. Throughout Iraq, including the three northern governorates, the ICRC kept up its efforts to lessen the effects of this deterioration on public health by rehabilitating water supply and treatment facilities which had been identified, in cooperation with the Iraqi water authorities, as priority sites.”⁸

⁶ Source: ICRC (unpublished).

⁷ *ICRC News*, No. 32, 21 August 1997.

⁸ ICRC, *1996 Annual Report*, p. 246.

- In Brazzaville, ICRC delegates worked on both sides of the front lines to supply drinking water to displaced people, support medical facilities and evacuate to Kinshasa any wounded people who could not be treated on the spot.
- “Regular contact was maintained at all levels with the relevant Rwandan authorities in order to remind them that they themselves bore the main responsibility for ensuring that the conditions of detention were acceptable. At the same time, the ICRC continued the large-scale assistance programme launched in 1994 to enable the detainees in those prisons to survive. The programme undoubtedly had an effect: by late 1995, the prison mortality rate had dropped to approximately that of the rest of the population (...).”⁹
- In Somalia in 1992, several different kinds of assistance were provided by the ICRC, including food relief (120,000 tonnes), a veterinary programme, an agricultural programme and one in support of medical facilities.

Humanitarian action can thus take very different forms:

- a limited, one-time operation;
- complex, long-term rehabilitation programmes;
- relief operations for people whose lives are directly threatened;
- operations combining immediate relief work and medium-term rehabilitation;
- operations for the purpose of preventing violations of humanitarian and human rights law.

Over the last five years, there has been a marked trend in humanitarian aid towards preventing or, at the very least, alleviating the worst effects of armed conflict. Direct and massive relief operations naturally remain necessary in certain situations, but there has also been a stepping-up of work to support local services essential to people’s survival. The inclusion of humanitarian aid in more long-term projects thus makes it possible to restore self-sufficiency.

This comprehensive approach — which takes into account people’s need for assistance and protection, combines short- and medium-term

⁹ ICRC, *1996 Annual Report*, pp. 57-59.

strategies and seeks to prevent the worst human consequences of armed conflict — has many positive effects. It helps to save lives, relieve suffering, improve health, maintain health-care systems, place the victims' economy back on a sound footing and also restore people's dignity.

Nevertheless, humanitarian aid can in the following ways also have a negative effect on the victims and on local systems:

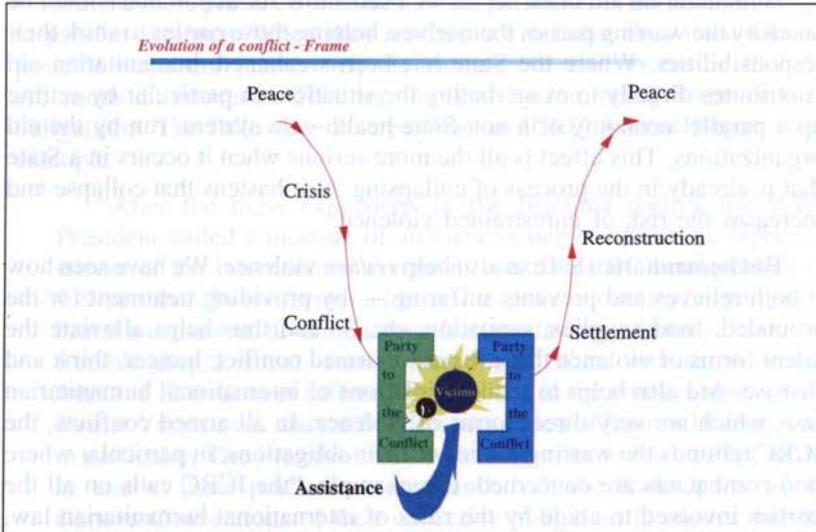
- Aid can discourage those who come to rely on it over the long term from overcoming the crisis by their own means.
- Poorly managed operations can do more harm than good. Up to the early 1980s, for example, the uncontrolled distribution of powdered milk to large population groups caused more health problems than it solved.
- Aid has the effect of attracting people to it, and they then tend to become concentrated in distribution centres. This leads to overcrowded camps, which have their own specific health and security problems.
- Aid can lead to significant alterations in the lifestyles of its beneficiaries, for example by encouraging a trend towards profit-oriented agricultural production as people's basic food needs are being met by the relief provided. When the aid comes to an end, people find themselves facing food shortages.
- Aid can prompt national political leaders to transfer resources from the socio-economic programmes to which they had been allocated to uses that the leaders regard as more important (buying arms, for example).
- Humanitarian aid may be interpreted as support for the political systems in place when it is supplied directly to those systems' leaders who, at best, distribute it in their own name or, at worst, misappropriate it for their own benefit.

Humanitarian aid is thus essential to save lives, relieve suffering and restore dignity, but it also has negative effects on the victims of conflicts and their local systems.

It is important to understand this in order to reply rationally to the question "What impact does humanitarian aid have on the development of armed conflict?"

Very briefly, we can trace the theoretical development of an armed conflict using a curve that passes through a series of different stages: stable situation (peace), crisis, armed conflict, conflict settlement, reconstruction

and, finally, return to a stable situation. In between are many intermediary stages peculiar to the development of each individual conflict. Our aim here is not to study this development but rather to establish a framework within which we can study the extent to which humanitarian aid influences the dynamic of armed conflict.



Humanitarian aid is usually furnished at the heart of conflicts. To analyse its impact on how these develop, we can take two parameters: the level of violence and the duration of conflict.

The effect of humanitarian aid on violence in conflicts

Humanitarian aid can help *increase* violence in conflicts. If diverted, these resources can be used to buy arms and thereby aggravate the conflict. The beneficiaries of aid (be they the general civilian population or detainees) may become the target of armed groups trying to get their hands on relief supplies. Such victimization take different forms:

- pressure on or harassment of the aid's beneficiaries to relinquish part of the aid they have received;
- the forcible enlistment of young men, or even the displacement of entire population groups, by armed groups when food distribution prompts large groups to assemble;

- large groups of civilians taken hostage so they can be used as “bait” for humanitarian aid, which is then misappropriated by armed groups;
- direct attacks on the people receiving aid (looting, murder);
- attacks on humanitarian warehouses and convoys.

Humanitarian aid often serves as a substitute for action that should be taken by the warring parties themselves, helping those parties to shirk their responsibilities. Where the State has been weakened, humanitarian aid contributes directly to exacerbating the situation, in particular by setting up a parallel economy or a non-State health-care system, run by the aid organizations. This effect is all the more serious when it occurs in a State that is already in the process of collapsing, as it hastens that collapse and increases the risk of unrestrained violence.

But humanitarian aid can also help *reduce* violence. We have seen how it both relieves and prevents suffering — by providing treatment for the wounded, food supplies, sanitation, etc. — and thus helps alleviate the silent forms of violence that are part of armed conflict: hunger, thirst and disease. Aid also helps to reduce violations of international humanitarian law, which are very direct forms of violence. In all armed conflicts, the ICRC reminds the warring parties of their obligations, in particular where non-combatants are concerned. For example, “the ICRC calls on all the parties involved to abide by the rules of international humanitarian law, and in particular to make a clear distinction between civilians and combatants and to respect persons who are not or are no longer taking part in the hostilities.”¹⁰ An appeal such as this is the first stage in the ICRC’s work, aimed at actually preventing violations of international humanitarian law (so-called primary prevention). Prevention work will be all the more effective if the ICRC is present on an ongoing basis, as is the case with aid operations. This presence constitutes a mode of protection for the victims, and thus helps lessen violence in conflicts. The following excerpt from a weekly bulletin of ICRC-related news, serves as an illustration:

“After territories previously controlled by Fikret Abdic were taken over by Bosnian troops from Bihac on 7 August last, more than 20,000 Muslims fled Velika Kladusa heading for Vojnic in Croatia. They are clustered along seven kilometres of road and are surviving thanks to an ICRC emergency operation. Despite the aid provided by

¹⁰ *Republic of Congo: the ICRC urges respect for humanitarian rules*, Press release 97/18 of 12 June 1997.

ICRC delegates in terms of medical care, food and hygiene, these people are living in very precarious conditions. They have for example only fifty houses in which to seek shelter. For more than a fortnight the ICRC, which fears for the safety of these people, has had two delegates constantly present among them.”¹¹

But the mere presence of humanitarian personnel is not always enough to prevent violence. When they witness lawlessness, they must take all possible steps not just to help its victims but also to ensure that the violations do not recur. This may be done by reminding States of their obligations. The following excerpt from an ICRC Annual Report is an example.

“After the mass expulsions in the Bijeljina region, the ICRC President called a meeting of all Geneva-based diplomatic representatives of the international community at the ICRC headquarters on 7 September. In his formal address, he spoke out strongly against the brutal harassment, discrimination, hostage-taking, arbitrary detention, forcible displacement, forced labour and other, sometimes worse, forms of ill-treatment suffered by civilians in the conflict areas of the former Yugoslavia, and the Muslim population of Bosnia-Herzegovina in particular. The President called on the parties to the conflict to put an end to these practices and reminded all the States party to the Geneva Conventions of their collective obligation to ensure that the provisions of international humanitarian law were respected in all circumstances.”¹²

The ICRC also takes practical steps to assist the victims of conflict. For example:

- “In 1996, the ICRC: (...)
- continued to approach UNITA¹³ for information about the fate and whereabouts of the 78 detainees last visited by the ICRC in 1994;
- informed the political leaders concerned of over 150 allegations of arrest or disappearance that had been brought to its attention by families.”¹⁴

¹¹ *ICRC News*, No. 34, 23 August 1995.

¹² ICRC, *1994 Annual Report*, p. 149.

¹³ UNITA: National Union for the Total Independence of Angola.

¹⁴ ICRC, *1996 Annual Report*, p. 76.

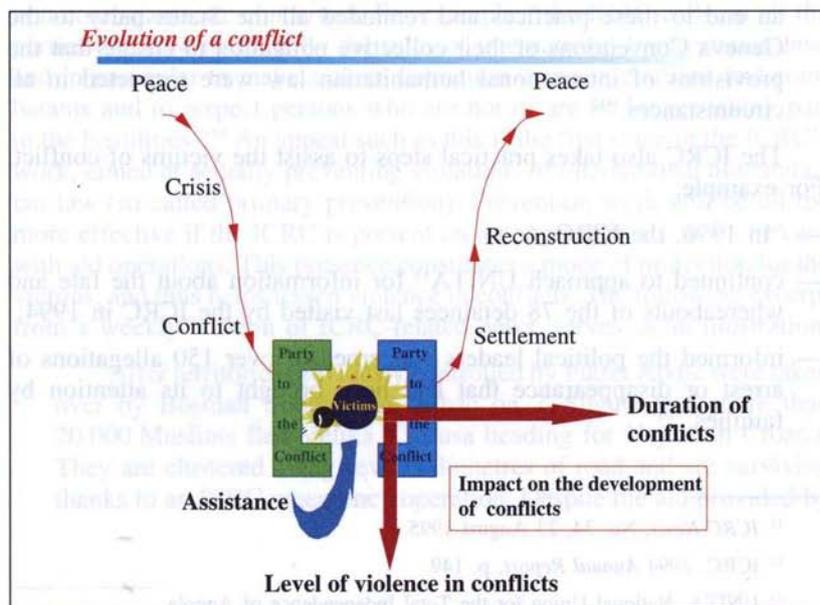
Assistance and protection are closely linked. Although it is difficult to define the overall impact of the former on the latter, there is no doubt that the very act of furnishing assistance contributes directly to the beneficiaries' protection and that it thereby helps reduce violence.

What effect does aid have on the duration of armed conflicts?

Arms purchases made possible by diverting aid tend to make conflicts drag on even longer. Another factor to be considered is the role of aid as a 'fig-leaf', a substitute for political action to resolve conflict. Those seeking to help the victims are caught in a trap: aid does help lower the level of violence — its fundamental role — but in the eyes of the political world that very fact minimizes the need to settle conflict, and thus actually prolongs it.

Conversely, aid can help shorten conflict, as the presence of the humanitarian personnel providing it tends to encourage a resumption of dialogue between the belligerents and to influence negotiations aimed at bringing about a cessation of hostilities.

Humanitarian aid thus influences the dynamics of conflict by acting on both its duration and the level of violence.



It is therefore possible to improve humanitarian aid strategies.

Which humanitarian aid strategy to choose?

There are several possible strategies for humanitarian aid:

1. The extreme strategy — stopping all forms of aid so as to prevent its undesirable effects would have disastrous consequences for the victims of conflict: no more food, no more medical care, no more humanitarian presence. This is clearly not acceptable.

2. Some have proposed that humanitarian aid should be supplied on condition that the humanitarian rules are respected by the parties to the conflict. With this approach, the people in need are twice wronged as it amounts to stopping humanitarian aid to them because their rights are being violated. “The linkage between aid and human rights”, writes Katerina Tomasevski, “is dominantly punitive, in that people whose government is violating their rights are likely to get additionally victimized by the withdrawal of aid.”¹⁵

3. Sharing the aid equally between the parties to the conflict amounts to basing humanitarian aid on political considerations, and no longer on the victims’ needs, with the result that humanitarian aid’s impartiality is called into question: “The principle of impartiality lays down two clear rules of conduct: (a) there must be no discrimination in distributing the aid given by the Movement (either in peacetime or in time of conflict or disturbances); and (b) relief must be proportionate to need — the greater the need, the greater the relief.”¹⁶ By the same token, giving humanitarian aid to the parties in order to gain access to the victims is tantamount to rewarding those who, by initially refusing access to the victims, violate international humanitarian law.

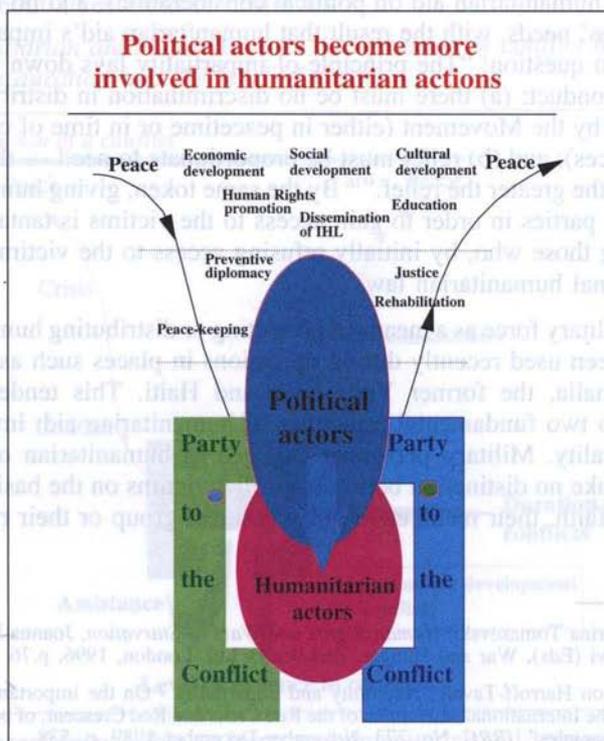
4. Military force as a means of protecting or distributing humanitarian aid has been used recently during operations in places such as northern Iraq, Somalia, the former Yugoslavia and Haiti. This tendency runs counter to two fundamental principles of humanitarian aid: impartiality and neutrality. Military personnel engaged in humanitarian operations should make no distinction between conflict victims on the basis of their religious faith, their membership of a political group or their race. That

¹⁵ Katerina Tomasevski, *Human Rights and Wars of Starvation*, Joanna Macrae and Anthony Zwi (Eds), War and Hunger, Zed Books Ltd, London, 1996, p.76.

¹⁶ Marion Harroff-Tavel: “Neutrality and impartiality - On the importance and difficulty, for the International Movement of the Red Cross and Red Crescent, of being guided by these principles”, *IRRC*, No. 273, November-December 1989, p. 538.

said, simply to assume that the military does would be to accuse it on the basis of assumption, not fact.

Combined military and humanitarian action is limited, however, to particular situations, of humanitarian concern certainly, but also of political interest. A humanitarian organization's impartiality should be judged as well by its ability to cope with the problems being faced by the victims, including those of 'forgotten conflicts'. It is undoubtedly the loss of neutrality that presents the greatest risk in the case of military-cum-humanitarian action. While impartiality is practised directly vis-à-vis the victims, neutrality is shown vis-à-vis the parties to the conflict. The principle of neutrality is founded on the obligation to take no part in the hostilities, nor in the disputes underlying them. The decision to use military methods to impose humanitarian aid is thus not one to be taken lightly as it entails sacrificing one's neutrality; or it means at least that this principle will lose much of its meaning for the parties to the conflict. More generally, this lack of clarity regarding the principle of neutrality has repercussions for all those involved in humanitarian work, which it



complicates. "Certainly, enforcing the delivery of humanitarian aid is likely to turn the parties to a conflict against the aid agencies and potentially delay political settlement."¹⁷

5. It remains to study ways of improving operational strategies for humanitarian aid. During the last ten years, a good deal of progress has been made with this. Examples of this progress may be grouped under three headings:

- *A more rigorous analysis of the victims' needs, taking into account the socio-economic and cultural context.* This has made it possible to develop strategies based on strengthened compensating mechanisms and support for the economic microsystems and health-care systems already in place, an approach that has made it possible to restrict direct aid, in particular food distribution, to the absolute minimum. And these direct operations go hand in hand with work to rebuild local capacity. Humanitarian aid is thus better targeted and its volume reduced to the minimum necessary to meet urgent needs. The ICRC has implemented this type of strategy particularly in its operations in Somalia and Sudan. It is an approach that also can be linked with development work. Clearly, this strategy depends on access to the victims and respect for their rights.
- *Respect for the rules of international humanitarian law.* Humanitarian aid is required when local services find it impossible to meet the victims' needs. This inability may result from their own failure to deal with the situation, or from a decision by the authorities to block access to the victims. Implementing the rules of humanitarian law (torture forbidden, respect for the dignity of the individual, no hostage-taking, etc.) ensures that the victims will be protected. It also safeguards items essential to their survival (prohibition of famine as a means of warfare, ban on destroying drinking-water facilities and irrigation systems, ban on attacking hospitals and other medical facilities). Failure to comply with these rules brings about a growing imbalance between the ever greater needs of the victims as a direct result of the war (wounds, forced displacement) and the ever shrinking ability of local services — often destroyed by the hostilities — to meet those needs. Respect for international humanitarian law thus constitutes a form of primary health protection.¹⁸

¹⁷ "Military support for humanitarian aid operations", in IISS, *Strategic Comments*, No. 2, 22 February 1995.

¹⁸ Pierre Perrin, "*The Law is an Asset*", The Health Exchange, December 1996.

Sadly, as many recent examples show, that law is not always respected. To improve its implementation, the ICRC endeavours to spread knowledge of its rules as widely as possible among members of parties to conflict. It also engages in intense diplomatic activity vis-à-vis all States so that, when faced with violations of humanitarian law, they will be aware of their collective responsibility to ensure implementation of the law, in particular in seeing to it that its violators are punished. An example is the following statement to the UN General Assembly:

“(...) The establishment by the Security Council of *ad hoc* international tribunals to prosecute violations of international humanitarian law committed in the former Yugoslavia and in Rwanda is a clear breakthrough. The creation of these tribunals gives some hope of putting an end to the reign of impunity in both internal and international conflicts; the ICRC interprets this as a sign of the international community’s refusal to tolerate barbarity.”¹⁹

The media have a role to play in reporting not only violations of human rights but also the successes of humanitarian aid.

A comprehensive approach to humanitarian aid makes it possible to minimize its negative effects while guaranteeing an appropriate response to the victims’ needs.

Conclusion

Humanitarian aid remains essential to helping the victims of armed conflict survive. It can influence the conflict itself — in particular its length and level of violence — either for better or for worse. To lessen the negative effects of humanitarian aid, each situation needs to be analysed in detail, with due account taken of the socio-economic and cultural context, in order to provide a response specifically tailored to the needs while minimizing the undesirable effects of the aid. Such analysis requires access to the victims, and the best strategy for obtaining this consistently lies in respecting the fundamental principles of the Red Cross and Red Crescent, in particular impartiality and neutrality. The relationship between humanitarian aid and respect for the rules of international humanitarian law is fundamental to ensuring that those in need have access to

¹⁹ Speech by the ICRC on 28 October 1996, United National General Assembly, 51st session, 1996.

treatment, food, water, their customary means of production and, if necessary, humanitarian aid. In the event of humanitarian law being violated, everything possible must be done to have the violations stopped immediately and to punish the perpetrators.

Security in ICRC field operations

by **Philippe Dind**

In any discussion about security, the primary consideration must be the need to preserve the neutrality, independence and impartiality of humanitarian action. This is the essential precondition for the ICRC's ability to protect and assist the victims of conflict. Sooner or later, any humanitarian activity which runs counter to these fundamental principles either incurs the mistrust of the people it intends to assist or becomes completely paralysed.

In the course of the last 20 years there have been many major changes both in the nature of conflicts and in the ICRC itself. The number of ICRC expatriate staff working in the field and the number of operations conducted by the organization have increased tenfold, and the number of locally hired staff has risen in about the same proportion. Statistically, therefore, the probability of a security incident occurring is greater now than in the past. Moreover, the ICRC's *modus operandi* has also evolved. As ICRC delegates' activities take them closer to the fighting than before, their working conditions have become more hazardous.

The conflict environment too has changed considerably. For example, it has become a platitude to remark that the chain of command among combatants has weakened to the point where it is often difficult to distinguish between the armed forces and gangs of bandits. All these factors

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Original: French

combined make it extremely difficult for the ICRC to adhere to its traditional working methods. The number of people that have to be contacted to ensure that an operation runs smoothly has risen sharply, without this having any favourable effect on security — quite the contrary.

These developments have prompted the ICRC to focus even greater attention on matters relating to the safety of its field activities. What follows is an outline of the organization's general approach to security.

The first tenet of the ICRC's security policy is that, for delegates, danger is not the exception. It is often part of their working environment and thus should always be taken into account in operational decisions.

The second tenet is that although security has its technical aspects, it is above all a political issue. No security rule and no protective measures can replace the establishment of a network of contacts among all the parties to a conflict so as to convince them of the ICRC's neutrality, impartiality and independence. For if those in charge of fighting troops see the organization as biased, it will be a potential target. On the other hand, neutrality — and above all the combatants' perception of that neutrality, a perception which stems from the organization's independence and impartiality — is the best guarantee for the warring parties that the ICRC does not constitute a threat.

Security rules must be understood and applied with both these tenets in mind. Compliance with the rules brings the risk down to an acceptable level, but does not eliminate it altogether. Danger is inherent in the working conditions of ICRC staff. Eliminating it completely would mean withdrawing all personnel from their working environment. From this it follows that:

- even when ICRC staff are operating in situations fraught with danger, they must never act rashly or try to intervene in the fighting; daring or reckless behaviour very rarely has a lasting and positive humanitarian impact;
- the danger inherent in the working environment of ICRC staff must in no way diminish their sense of responsibility for their decisions, regardless of the level at which such decisions are taken.

For these reasons every security incident must be analysed and, if necessary, an internal inquiry is carried out to determine whether the conduct of the delegates concerned played any role in the course of events. However, in view of the hazardous working conditions which have been accepted by the ICRC, in such inquiries care should be taken not to condemn or blame specific individuals too hastily.

The ICRC's response to danger

The risks involved in fulfilling the ICRC's mandate vary according to the theatre of operations. The notion of security in the field covers both conflict situations and banditry or crime. At times it can be difficult to distinguish clearly between the two. What can be said, however, is that criminal acts are increasing both in frequency and in gravity.

Defining risk

Risk consists of two elements:

- the danger or threat itself, which can take different forms (theft, kidnapping, shelling, etc.) and vary in terms of the gravity of its consequences (human, operational or material);
- the probability of the dangerous event actually taking place.

As a rule, security measures are aimed at:

- preventing serious incidents by eliminating the possibility of their occurrence (the idea here is to remove potential targets, for example by avoiding cash transfers, making sure that expatriates stay out of no-go areas, or prohibiting travel by road where there may be land-mines);
- reducing risk by means of deterrents such as perimeter protection, guards and bomb shelters, or by means of preventive measures that promote respect for the ICRC's activities, staff and property (negotiations with the warring parties, use of the emblem, notification systems, etc.);
- limiting the consequences of an incident if it nevertheless occurs (medical evacuations, insurance, etc.).

Regardless of the measures taken, in the field a certain degree of risk remains inevitable, and expatriate staff have to learn to live with it. Recognizing this fact should not be interpreted as a lack of resolve to ensure their security, quite to the contrary: the fact that only a residual element remains means that everything possible has been done to minimize the risk.

Some levels of risk are considered acceptable only if they are justified by the humanitarian impact of the operation. A balance must always be struck between the risk an action entails and its anticipated effect. This rule applies as much as to an operation covering an entire country as to

an expatriate's day-to-day activities. It is important to assess the effects of operational activities in terms of quality rather than quantity, and regularly to ask the question whether the impact of a planned activity is worth the risk it involves. If the answer is "no", postponement or suspension of the operation should be considered. Moreover, it should be borne in mind that impact should be measured not only in terms of immediate benefits (food distributions, for example) but also with a view to the long term (surveys, etc.). Furthermore, no risks should be taken for the sake of maintaining a presence or for reasons of competition.

Voluntary service

The ICRC's expatriate and locally hired staff are employed on the basis of their clearly expressed willingness to accept an inevitable degree of risk. The organization therefore expects all staff to be willing to work in any theatre of operations.

There may be cases, however, in which expatriates have very definite reasons for refusing certain postings. The ICRC will accept such reservations relating to a particular place or time provided they are an exception; otherwise the whole principle of the staff member's continued employment may be called into question. If it is to remain effective, the ICRC must be able to count on the willingness of all its personnel to go anywhere and do any type of work. In principle, no especially dangerous postings or periods are reserved for "volunteers". Delegates are employed to work anywhere in the world.

The level of risk associated with a given operation must be the same for all concerned, both expatriate and locally hired staff. In particular, a national employee is never entrusted with a mission regarded as too dangerous for a delegate unless his or her nationality, ethnic origin or language constitutes a security factor. Conversely, an expatriate rather than a national employee will be assigned to carry out a mission if his or her status as a foreigner is a security factor. Moreover, account will always be taken of the fact that delegation employees may be subject to political pressures to which expatriates are immune, that any confidential information they carry with them may put them at greater risk, and that, unlike expatriates, they cannot usually be evacuated.

The responsibility of superiors

The cornerstone of security management at the ICRC is that everyone in the operational hierarchy assumes full responsibility for the matter, from the Director of Operations who, in the framework of the Executive

Board, has the authority to launch ICRC operations in a new conflict zone to the field delegate who decides whether to go ahead with travel plans or to abandon them if unforeseen dangers arise.

In this context the heads of delegation play a central role. Specifically, they are responsible for:

- ensuring the coherence of the security measures taken, notably by making sure that the ICRC is accepted at the political and operational levels;
- anticipating hazards by gathering and circulating information;
- drawing up security regulations and ensuring they are complied with;
- counteracting the tendency to become accustomed to danger, taking action when an incident does occur and being ready to listen to their staff;
- preparing emergency and/or evacuation procedures;
- giving training.

Although heads of delegation may delegate the day-to-day management of security-related tasks, they always bear ultimate responsibility for the matter.

Training for all

The best way of improving security is to give special priority to training, with a view to creating permanent awareness of risks, ensuring the consistency of security measures, and imparting the technical knowledge and the skills required for each individual to assume his or her responsibilities in this respect.

Training should be:

- given to expatriate and local staff alike;
- geared to the context and the specific risks facing each individual;
- adapted to each person's actual tasks and duties;
- given at headquarters and in the delegations.

General courses are held for newly recruited expatriate staff, on matters such as how to get through a checkpoint or obtain information about the security situation, and for senior operational staff, who learn how to draw up security regulations and what to do in the event of an incident.

Tailor-made courses are held for specialized staff. For example, administrators are taught how to arrange for the transfer of funds, builders how to construct shelters and protect buildings against intruders, dispatchers how to organize relief convoys, etc.

In short, the ultimate goal of training is to improve security arrangements, while drawing each individual's attention to the limits of the ICRC's mandate so as to prevent staff from taking risks that would overstep those limits (intervening in fighting or being present on front lines).

The seven pillars of security

The ICRC's security policy for field operations relies on the seven "pillars" described below. The first few of these are virtually exclusive to the ICRC, while the last are adopted by all organizations or multinational corporations to protect expatriate staff. The order of importance assigned to each of them will vary according to the type of threat encountered. In particular, the choice of active or passive protective measures (No. 7) will clearly depend entirely on the local situation.

1. Acceptance of the ICRC

The concept of acceptance is of paramount importance to the ICRC. To be able to operate, the organization has to make sure it is accepted by the parties to the conflict. Such acceptance is thus entirely linked to the mandate conferred on the ICRC by the States party to the Geneva Conventions, its role as a neutral intermediary and its status as an impartial and independent humanitarian organization. The ICRC has no means of exerting pressure to impose its activities. Persuasion and influence are its only weapons. Viewed from this angle, vulnerability paradoxically offers a form of protection.

Thus it is through understanding of the ICRC's activities and its role, in particular as a neutral intermediary, that the warring parties come to accept its presence and its working procedures. The means used to achieve this aim are negotiation, projection of a consistent image, and efforts to spread knowledge of international humanitarian law and the Fundamental Red Cross/Red Crescent Principles. These activities have to be conducted at all levels; indeed, the disintegration of social structures and the emergence of warlords and organized crime make it indispensable for the ICRC to be accepted by all groups wielding any power (and not only the authorities of a constitutional State).

In many, but not all, situations, two other means are used to strengthen acceptance: promotion of ICRC activities by making them as visible as possible; and broadcasting information to a wide range of audiences via the local media. These means are used only if they actually contribute to improving security.

Another factor that enhances security is acceptance by expatriates of the culture in which they are working. If they learn to understand the local system of values and customs they can act in a manner consistent with their environment. This understanding is essential if they are to be able to adjust to different situations and to the way in which a particular society functions, without having to become part of it. All expatriates have a duty to spend the time needed to familiarize themselves with the political, social and cultural features of the country to which they have been assigned, notably by reading. Inappropriate behaviour may insidiously put the ICRC in a difficult position. Lastly, understanding how the armed groups operating in the ICRC's environment function and the way they think is vital in order to adjust security measures to the prevailing dangers.

2. Identification

The second pillar is a logical consequence of the first: once its special role has been accepted, the ICRC must be identifiable. Identification relies mainly on the red cross emblem. To distinguish itself from other "humanitarian" players who use or misuse the emblem, the ICRC uses a logo consisting of a red cross surrounded by two concentric black circles between which appear the words "Comité international Genève". Vehicles operating in sensitive situations fly the ICRC flag, which attracts special attention; however, care must be taken not to overuse this means of protection.

To supplement visual identification, buildings used by the ICRC and staff movements in the field are notified to all parties to the conflict. As modern methods of warfare make it possible to destroy a target long before visual contact has been established, notification is sometimes the only effective method of protection. This is particularly important when aircraft are used; here notification is an essential precaution in addition to the compulsory filing of a flight plan.

Lastly, special technical means such as flashing blue lights and radar transponders may be used to identify hospital ships or medical aircraft.¹

¹ See *Regulations concerning identification*, Annex I to Protocol I additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts.

3. *Information*

In any high-risk situation, information is a fundamental element of security. Reliable information makes it possible to anticipate events and to react in an appropriate manner as situations develop or when dangers arise during field trips. Information should therefore flow in all directions — from senior staff downwards and vice versa, and between ICRC colleagues and outside contacts.

All field personnel, whether expatriates or field officers, must acquire the conditioned reflex of collecting and passing on as much information as possible on security matters, whether relating to the past or the present situation or to developing trends. All security incidents must be reported orally or in writing, depending on their importance, so that the delegation can take steps to avoid any similar events in the future or to anticipate more serious ones. Special attention must be paid to any signs that the situation is deteriorating, and care must be taken not to become accustomed to such signs, so as not to unconsciously raise one's threshold of tolerance of danger.

Information on any security incidents must reach the senior staff in charge of the delegation, who will report to headquarters with their comments, their analysis of the situation, and a description of the consequences and of any measures taken by the delegation.

Headquarters for its part passes on to the field any information brought to its attention which could affect security, such as developments in the political situation, possible reactions to any negotiations that might be in progress, information obtained from other humanitarian organizations, changes in the military situation, and the roles played by neighbouring countries or others further afield and by the major international organizations.

The head of delegation is responsible for circulating information of a general nature and organizing exchanges within the delegation, including locally hired staff, who are not only entitled to be kept abreast of developments but are also a very important source of local news and reports on changes in the overall climate.

As regards the exchange of information between the ICRC and other organizations and entities, it is essential to adopt an attitude that is as open as possible. Indeed, if there is one area in which the ICRC wants to learn as much as it can, not only to safeguard its own staff but also to prevent incidents that might affect other organizations, and thus to engage in a very liberal exchange of information, it is the area of security. Nonethe-

less, care is taken not to overstep the limits of confidentiality, for example by never seeking to obtain or pass on information of a military nature.

4. The security regulations drawn up by individual delegations

Each delegation has its own security rules which prescribe proper behaviour. They are drawn up under the authority of the head of delegation and are therefore specific to the country concerned. Where necessary, sub-delegations also have to draft security rules applicable to the local situation. On their arrival in the field all staff are briefed about security and sign a statement accepting the rules. The head of delegation is responsible for ensuring compliance with the rules; breaches will incur penalties which may go as far as dismissal from the ICRC, depending on the gravity of the case. The rules should lay down only the basic precautions and leave some room for manoeuvre. They are in no way a substitute for the responsibility every individual must assume towards himself and those affected by his or her decisions.

The rules must be as concise yet as comprehensive as possible. Indeed, it is vital that they should cover all relevant subjects while stating only the essentials, so as to ensure that they do not lose their full impact. Security rules are constantly updated in line with the situation and deal with both preventive measures and appropriate reactions in the event of a security incident.

5. Personality

The safety of the ICRC's field activities depends to a large extent on the personal attributes of its staff, the most important of which are solidarity and a sense of responsibility.

In dangerous or threatening situations or in other difficult circumstances, the security of several individuals may depend on one person's reactions and attitude. Both of these are determined not only by that person's character and level of physical and psychological resistance but also, and above all, by his or her sense of responsibility. Furthermore, what is needed is not so much a remarkably well-balanced personality but an awareness of one's own limits, the capacity to remain calm and clear-headed, and acceptance of any weak points that might be revealed in the course of the mission. In this respect, to discover in the heat of action that one is not cut out for the job and to give it up is evidence of courage and a sense of responsibility.

Another way of showing a sense of responsibility is to maintain a healthy lifestyle in the delegation. Although some weakening of one's

resistance to danger is natural, everyone must combat fatigue and nervous tension and preserve his or her physical and psychological well-being by eating properly and getting enough sleep and time off, rather than resorting to alcohol and medicines. The use of narcotic drugs and other illegal substances is totally prohibited.

If, in spite of efforts to keep to a healthy routine, a staff member experiences fear, despair or premonitions of death, or, at the other end of the scale, a sense of euphoria and invulnerability, it is important to recognize these feelings and to talk about them openly with colleagues or the head of delegation. In the face of danger, these reactions may be normal and can play a useful role in alerting us to and regulating stress. If they are acknowledged and discussed, they soon dissipate. If they are ignored and suppressed, they lead to the taking of unnecessary risks.

In this connection, solidarity is of fundamental importance. As everyone's resistance varies according to the circumstances and individual perceptions and sensitivities, staff must support each other in the delegations and during field operations. Talking over one's concerns and emotions is always the best way of maintaining a sense of perspective.

6. Telecommunications

Telecommunications play an important part in security by facilitating the transmission of information and notifications, the monitoring of and checking movements in the field, giving warning of a deterioration in the situation, or dealing with any crisis that may arise.

The facilities made available are geared to the specific situation, in terms of both quality and quantity:

- modern, reliable equipment, which can be operated independently of the local infrastructure and is serviced by the ICRC;
- a network appropriate to the geographical situation, with ICRC staff on site to set up and develop the telecommunications system as required;
- round-the-clock radio monitoring, if circumstances require;
- training of the users, facilitated by the greatest possible level of standardization.

7. Passive and active protective measures

Protective measures, whether passive or active, are taken only in situations where there is no other way of ensuring security. Sadly, such situations are on the increase. They fall into two main categories:

(a) When there is a risk of indiscriminate attacks against the civilian population, the ICRC is no longer protected by its special status. For preventive purposes, delegations will opt for premises that are not in an exposed position and that have passive protective facilities, mainly bomb shelters. Individual protective measures such as bullet-proof vests are not normally used, for two reasons: the ICRC does not accept that its staff might be potential targets, and it does not want them to take greater risks because they feel protected.

Whatever the protective measures taken, they are always as discreet as possible and must never be of military appearance.

(b) In situations where crime and banditry are rife, ICRC expatriate staff are in the same position as any other foreigner living in the country. In this kind of context the emblem offers no protection. Vulnerability becomes a risk factor and delegations must make sure they are hard targets by adopting protective measures such as physical barriers, alarm systems, guards, etc.

Active protective measures include armed escorts, which are used only in very exceptional circumstances and with the approval of headquarters.²

Conclusion

The effectiveness of security regulations may be likened to the strength of a chain, which is as strong as its weakest link.

Thus security in the field depends on coherence between all seven factors described above. Heads of delegation are responsible for ensuring their proper application by each and every staff member.

² In accordance with Resolution 9 (Armed protection of humanitarian assistance) of the Council of Delegates (Geneva, 1995), *IRRC*, No. 310, January-February 1996, pp. 150-151.

The Law of Air Warfare

by Javier Guisández Gómez

Hostile aerial action

Under aerospace doctrine an *aerial action* is a set of *aerial sorties* of the same nature which take place simultaneously in pursuit of a common aim. In other words, an action of this type would attain the objective pursued if it involved two or more aircraft engaging in any of a range of operations, namely *attacks, reconnaissance, transportation and special aerial missions*.

The possible situations in which aerial actions may take place range from peacetime to warfare, including all the intermediate stages. It may therefore be said that when aerial action is described as *hostile*, it is because it is actually carrying out or intended to carry out acts that have a single common characteristic, that is, *violence*.

In this context, violence must be understood as acts which are committed without the consent of the affected group or country and which therefore constitute a violation of the rights or the status of other communities or nations. It is important to clarify this point, as otherwise hostile

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Original: Spanish

aerial action would cover only aerial attack missions, while those involving transportation or reconnaissance and special missions, and also electronic warfare, in-flight refuelling and so on, would not be classified as hostile action.

A brief history

Since 7 December 1903 in Dayton, Ohio, when Orville Wright successfully carried out a 52-second flight over a distance of 260 metres at an altitude of three metres, mankind has tried to make optimum use of airspace as a medium, and of aircraft as instruments.

As in other types of industry, it is war-related uses that have really given the impetus for the development of aviation in terms of quality, although initial designs¹ were intended for peaceful purposes, mainly air transport. Indeed, in 1910 someone as well-qualified as Field Marshal Foch declared that flying was a fascinating sport but not of the slightest interest to the armed forces.

When Lt Gavotti bombed the Ain Zara oasis from the air during the Italo-Turkish war of 1911-12, he initiated what would become a decisive factor in the Balkan war of 1912-13, in that aviation was to play a significant role in the combined aerial and ground fighting.²

Already at the beginning of World War I, Lt Watteau and Sgt Breguet contributed to the French victory in the Battle of the Marne by informing the ground command of German troop movements in the first successful *aerial reconnaissance* operation. Shortly thereafter, Sgt Frantz and his mechanic Quenault, using a machine gun mounted on their Voisin aircraft, scored what could be considered as the first victory for *aerial fire*.³

Before all this, hot-air balloons had been flown for the first time, for peaceful ends, by the brothers Joseph and Etienne Montgolfier in 1783, and were first used on a belligerent mission during the Franco-Prussian War of 1870-71 for the purpose of *airborne reconnaissance*.

This overview of airborne actions and the corresponding dates leads to several conclusions.

¹ *Enciclopedia de aviación y astronáutica*, Ediciones Garriga, 1972, Vol. I, p. 1078.

² Charles Rousseau, *Le droit des conflits armés*, Editions Pedone, Paris, 1983, p. 356.

³ *Enciclopedia de aviación y astronáutica*, *op. cit.*, p. 1079.

- Belligerent missions were rarely carried out using airships or the first fixed-wing planes.
- Belligerent aerial missions were not decisive, nor were they planned as independent actions. Ignorance of their effectiveness was such that the sailors on the British cruiser *Rodney* boasted how a 2,000-pound German bomb had no more than dented their deck, not realizing in their euphoria that this was because of a faulty fuse.⁴
- No aerial action was ever accepted unless it was part of a land or aeronaval operation.

The beginnings of regulation

It is therefore not surprising that in the early days what might be described as air warfare was not subject to any specific legal regulations. This came only some years later, in 1899, when the First Hague Peace Conference adopted three Conventions and three Declarations, the first of which prohibited the launching of projectiles and explosives from balloons or by other similar new means. Although at the time this ban was perceived as somewhat restrictive and was accepted with reservations and only as a temporary measure, it can readily be understood at present. Indeed, international humanitarian law cannot be conceived of without due regard for the concept of *discrimination*: distinguishing between civilians and combatants, between military objectives and other types of installations, between cultural property and their surroundings, between medical or religious personnel and others, and between medical facilities and means of transport and the rest.

Obviously, this prohibition was justified by the inaccuracy of such methods in striking their objectives, which meant a high probability of collateral damage.⁵

The restriction was temporary, lasting only five years, from 4 September 1900 to 4 September 1905. It was intended to fill what was perceived as a loophole at the time, but its promoters did not lose sight

⁴ Arthur Travers Harris, *Ofensiva de bombardeo*, Editorial Aérea, Madrid, 1947, p. 71.

⁵ Targets were reached exclusively by visual or optical means and weapons were launched by the use of gravity, with no form of propulsion, and were directly affected by weather conditions.

of the fact that aeronautics was an area that was developing exponentially. This rapid development subsequently hindered the ratification by the international community of a body of rules that would have imposed definitive restrictions on States.

It is worth drawing attention to Article 29 of the Regulations annexed to Convention II adopted by that same Peace Conference. The last paragraph of the article clarified the definition of a spy, excluding from that category individuals sent in balloons to deliver dispatches and generally to maintain communication between the various parts of an army or a territory.

The rules of aerial action

The evolution of aerial warfare and the hostile acts it entails have traditionally been marked by certain characteristics, of which — without claiming to be exhaustive — the following are the most important:

- the relative *newness* of flying, in that aircraft are hardly a century old and airborne weapons date back no more than 80 years;
- the rapid technological advances made, which have led to what are now known as fourth-generation weapons;
- the importance of airborne weaponry in terms of *international trade*: owing to the high cost of the hardware and the speed with which it becomes outdated, airborne matériel accounts for an estimated 90% of the total weapons market;⁶
- the *dual-purpose* nature of aircraft, which can be used just as profitably for both civilian and military purposes.

These factors have affected and continue to influence the codification, development and acceptance of legal rules in this area.

In view of the paucity of laws relating to this specific field,⁷ a number of measures have been taken, though with varying degrees of the international support that is essential for their subsequent implementation. We shall now go on to consider some doctrinal approaches.

⁶ *Informe sobre el comercio exterior de material de defensa y de doble uso (1991/94)*, Ministry of Trade and Tourism, Madrid, 1995, p. X.

⁷ Juan Gonzalo Martínez Micó, *La neutralidad en la guerra aérea: Derechos y deberes de beligerantes y neutrales*, Rufino García Blanco, Madrid, 1982, p. 33.

Total absence of treaty law

The absence of positive law, in this case treaty law, certainly does not mean complete freedom in the use of means and methods, tactics and technology. Natural law on the one hand, customary law on the other, and the rules concerning air-to-ground attacks contained in 1977 Protocol I additional to the 1949 Geneva Conventions impose restrictions in this regard.

It is worth recalling that during the Gulf war, although such key nations as the United States, Iraq, Iran, Israel, the United Kingdom and France had not ratified the 1977 Protocols, the degree of compliance with the law of war throughout the operations could be described as acceptable.

Subordination of the law of air warfare to the law of ground warfare

This is perhaps the result of two rulings handed down by the Greco-German arbitration tribunal (1927-30), which condemned Germany for the aerial bombardment of the neutral cities of Salonica and Bucharest in 1916, invoking Hague Convention II of 1899 respecting the laws and customs of war on land. The tribunal considered that Article 25, prohibiting “bombardment of towns (...) which are not defended”, and Article 26, requiring “the commander of an attacking force, before commencing a bombardment (...) to warn the authorities”, applied.

This constituted the first application of a general legal principle whereby two weapons that produce similar effects should be evaluated in a similar fashion, and gave rise to the idea of “the analogy between land and aerial bombardment”.⁸

Equivalence of the law governing air warfare to the law of war at sea

This theory stems from the similarities between airspace and the sea, and from the fact that in many countries the air force is seen as necessary for extending naval power over land, beyond the confines of the coastal strip. The concept prevailed throughout the discussion, formulation and drafting of the rules of air warfare by the Commission of Jurists at The Hague in 1922-1923.⁹

⁸ Rousseau, *op cit.*, p. 360.

⁹ The participating countries were the United States, the United Kingdom, France, Italy and Japan. The Netherlands was subsequently invited to take part.

Equivalence of the law governing air warfare to the law of war on land and at sea

This is the theory that has perhaps been found least acceptable. On the one hand, it gives rise to a series of postulates that would be totally irrelevant to regulations governing air warfare; this would be the case for all the issues specific to land or naval warfare. On the other hand, it leaves major, often insuperable, lacunae in regard to all matters, situations and circumstances that relate exclusively to aerial operations.

Conditional application of the law of war on land and the law of war at sea to air warfare

This would depend on the air force's sphere of activity. In other words, the rules of war on land would apply to air warfare when it was being waged over land or in support of ground forces, and the rules of war at sea would apply when the air force was fighting over the sea or in support of the navy. Although this theory met with more success than the preceding one, having been espoused by Germany during the Second World War, it cannot be considered as comprehensive in that the air force is regarded exclusively as a support force unable to carry out independent actions and operations.

Drawing up a specific doctrine for air warfare

It can be said that the foundation stone of this doctrine was laid by the Institute of International Law in its Madrid Resolution of 22 April 1911,¹⁰ which declared that air warfare was legal provided it met certain conditions, one of these being that it must not constitute a greater threat to persons and property than war on land or war at sea.¹¹

On 11 November 1920, the International Committee of the Red Cross (ICRC) drew attention to the need for specific regulations, and as a result the Washington Conference of 1922 entrusted a Commission of Jurists in The Hague with the drafting of the *Rules of Air Warfare*.¹²

¹⁰ José Luis Fernández Flores, *Conferencia sobre derecho de la guerra aérea*, Centro de Estudios de Derecho Internacional Humanitaria, Madrid, 1911.

¹¹ Lassa Oppenheim, *Tratado de derecho internacional público*, Bosch, 1967, Tome II, Vol. I, II, p. 65.

¹² Dietrich Schindler, Jiri Toman, *The laws of armed conflicts*, 3rd. ed., Martinus Nijhoff Publishers/Henry Dunant Institute, Dordrecht/Geneva, 1988, pp. 207-217.

The application of comparative law in the study of air warfare

This approach, which is the one used in the present study, is a consequence of the limited success of the aforementioned Rules of Air Warfare. Despite having been drawn up by eminent jurists, they were not ratified even by the States which were represented on the Commission.

In any event, it should be pointed out that most of the rules were already part of customary law when they were drafted, and others acquired customary status by virtue of the wide respect they gained in subsequent years. Yet others were included in Additional Protocol I.¹³

The parameters of air warfare

By this is meant the set of elements which are indispensable to the planning and execution of aerial operations and with which the commanding officer, in the decisions he makes, answers the basic questions that may be asked by his General Staff or his men. In other words, the parameters should answer questions such as the following: What is air warfare? What may be used in air warfare? Who is qualified to conduct it? How do hostile aerial operations proceed? Where or from where can they be conducted?

We shall now attempt a schematic analysis of the parameters of air warfare on the basis of comparative law, so as to determine the requirements that each one must meet if it is to be incorporated into the law of war and into international humanitarian law.

What is air warfare?

In principle, it could be said that air warfare is a set of offensive and defensive aerial operations carried out using the air force with the intention of imposing one's will on the adversary by achieving a sufficient degree of aerial superiority. On the other hand, when the court of Montpellier had to define air warfare in September 1945, it did so indirectly, limiting itself to an enumeration of the specific hardware involved, namely, balloons, dirigibles, aeroplanes, seaplanes and helicopters.¹⁴

¹³ José Luis Fernández Flores, *Del derecho de la guerra*, Ediciones Ejército, 1982, p. 543.

¹⁴ Rousseau, *op cit.*, p. 355.

Without embarking on a discussion of the legality or otherwise of a given war — an issue dealt with in *jus ad bellum*, which includes declarations such as the San Francisco Charter prohibiting “the threat or the use of force” in international relations¹⁵ — we can say that air warfare is waged using certain specific means and methods.

In any event, if those means (weapons) and methods (tactics) are legal, it may be supposed that the result of their use, namely aerial warfare, is also legal. It should be stressed that legality must cover both elements, since if one of them¹⁶ — either weapons or tactics — is not in line with the law, any airborne operation based on them is without legal foundation.

What may be used in air warfare?

The weapons that may be used are governed by the principle of limitation and military necessity laid down in international humanitarian law, which imposes certain constraints on the choice of means of warfare and stipulates that their use must be necessary.

The 1868 Declaration of St. Petersburg provides an example of this; it states that hostile operations must be aimed exclusively at securing a military advantage and prohibits the use of projectiles weighing less than 400 grammes which are either explosive or charged with fulminating or inflammable substances. There are other prohibitions and regulations relating to the means that may be employed for air warfare, among which the following are the most important.

- *Causing superfluous injury or unnecessary suffering.* In addition to being expressly stated in Article 35, para. 2, of Additional Protocol I, this restriction stems from the application of the principle of humanity, whereby war should cause only the minimum necessary suffering: no more, as that would be inhumane and hardly effective, and no less, as that would be insufficient.
- *Causing widespread, long-term and severe damage to the natural environment.* The possible identification of this prohibition with the potential effects of nuclear weapons is perhaps what prevented the countries in possession of such weapons from ratifying Protocol I

¹⁵ Charter of the United Nations, Art. 2, para. 4.

¹⁶ The choice of means and methods of warfare is limited, according to Art. 35 of Protocol I additional to the Geneva Conventions. The limitation on weapons is also dealt with in Art. 23 of Hague Convention II.

additional to the Geneva Conventions. Be that as it may, it should be borne in mind that nuclear weapons have been neither banned nor even condemned by any international treaty. Only the United Nations General Assembly condemned their use in 1953, in resolution 1653 (XVI).¹⁷

- *The use of asphyxiating, poisonous or other gases and of bacteriological methods of warfare.* These weapons were prohibited by the Geneva Protocol of 1925, which aimed to update Declaration 3 of The Hague (1899). The issue was further addressed in the 1993 Paris Convention on the total prohibition of chemical weapons. This was perhaps the most ambitious step of all, but the treaty will not enter into force until it is ratified by at least 65 countries, and at the time of writing (April 1997) it had not yet been ratified by such key countries as the United States, the United Kingdom, France, the Russian Federation and Iraq.
- *The use of booby-traps.* These are defined in Article 2 of Protocol II to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects.¹⁸ Prime examples are the booby-trapped medicines used by the Vietcong, and the booby-trapped toys used in the war in Afghanistan.
- *The use of biological and toxin weapons.* The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (1972) covers not only the agent itself but also the means of delivering the agent. It should be pointed out in that connection that while the Western world considers toxins as biological agents, in the East they are classified as chemical agents, as they are not living organisms.

How can air warfare be conducted?

Although aerial tactics must be capable of successfully carrying out a course of action decided by the commanding officer, they must also

¹⁷ It affirmed that the use of nuclear and thermonuclear weapons was not in keeping with the Charter of the United Nations. There were 25 votes in favour, 20 against and 26 abstentions.

¹⁸ As amended on 3 May 1996: "Any device or material which is designed, constructed or adapted to kill or injure, and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act", *International Review of the Red Cross*, No. 312, May-June 1996, p. 369.

remain within the framework defined by the law of armed conflict and therefore the following points must be taken into account.

- *Stratagems are legal at all times.* Deceiving the enemy by camouflaging air bases, simulating traces with drones or RPVs (Remotely Piloted Vehicles), misleading by electronic means or even using the enemy's SIF (Selective Identification Feature) or IFF (Identification Friend or Foe) to penetrate its air defence system are perfectly legal aerial tactics or methods.
- *Perfidy is always illegal.* Perfidy is prohibited without any kind of qualification identifying it with any particular type of warfare.¹⁹ In other words, it is prohibited to engage in hostile acts, regardless of the military advantage they may secure, that are designed to betray the enemy's good will. In the case of air warfare, acts such as the following would obviously be prohibited.
- Using the registration of a civil aircraft. Using a commercial flight or an overflight agreement to carry out a hostile operation, such as photographic or electronic reconnaissance, the activation of air defence systems or even a direct attack, is prohibited. All these would be carried out over enemy territory prior to the outbreak of hostilities or over neutral territory; once the conflict has started, the normal procedure would be to declare an air exclusion zone, which would preclude any type of overflight.
- Using the distinctive signs of humanitarian agencies. Carrying out hostile operations of any kind, even aerial reconnaissance, under cover of aircraft registration numbers or markings belonging to neutral countries, humanitarian agencies, non-governmental organizations and international agencies engaged in eminently humanitarian or neutral functions is prohibited.
- Taking advantage of special agreements, for example using medical or search-and-rescue aircraft to carry out any type of mission other than that for which they have been accorded special status. Here it should be recalled that during a conflict such aircraft require special and specific authorization to perform their tasks, within a predetermined area, with an acceptable degree of security.

¹⁹ Additional Protocol I, Art. 37.

Where or from where can air warfare be conducted?

Naturally, the answer is from airspace. Two dimensions must be determined in order to define airspace: projection over land and altitude. There are two theories relating to projection.

The first is based on orthogonal projection over the airspace of the territory of the different States, including their territorial waters. This theory has not gained wide acceptance as it allows for airspace that falls outside the jurisdiction of any State.

The second, although involving an identical projection area, is calculated by polar projection, whereby the pole is the centre of the earth and the plane of projection is the surrounding airspace. This theory is currently the more widely accepted as it leaves no airspace without jurisdiction.

A further requirement that must be met by the aforementioned areas if air warfare is to be legal is that they must not belong to neutral countries or be within their territorial waters, and they must not include zones accorded special status. However, as long as there is no danger to persons and property in the areas described above, defensive air operations can be carried out.

The altitude relating to the areas within these airspaces will depend on the theory adopted. Indeed, acceptable altitudes have been changing with advances in aerial policing systems for detecting and intercepting aerial objectives. This responsibility inevitably rests with the authority of the country concerned, which may even resort to force in order to safeguard its neutrality.

Who can engage in air warfare?

Given the qualifications required of all the protagonists in this type of warfare, and despite the fact that in theory it may be waged by all those persons mentioned in Article 4 of the Third Geneva Convention and Article 43 of Protocol I, in real and historical terms combatants will most likely belong to what are known as the regular armed forces. However, there have been some anecdotal incidents involving Bosnian Serbs in the Yugoslav conflict and cases where fighter planes of the Albanian air force were seized by dissidents in Valona in 1997.

In any event it may be stated as a general rule that any pilot who enters enemy territory with an aircraft bearing the prescribed distinctive markings will never lose his status as a combatant and can therefore in no way be considered as a spy.

Another point should be made in regard to pilots, should they be forced down and placed *hors de combat*. When Additional Protocol I was being drawn up, a proposal was tabled, but not accepted, that pilots who have ejected from their aircraft in an emergency should be treated as shipwrecked persons. That would mean that they would have to be sought, recovered and cared for. This approach ran counter to the policy followed by Germany during the Second World War, whereby enemy pilots who had parachuted from their planes and were likely to land on enemy territory were shot down, while those likely to land on German territory were captured for interrogation.

Ultimately it was Article 42 of Protocol I that dealt expressly with the matter of the *hors de combat* status of a pilot parachuting from an aircraft in distress.

What may be the target of aerial attack?

Normally, hostile aerial action is taken against military objectives, excluding both the civilian population and civilian property.²⁰

Unfortunately, history shows that armed conflicts are claiming an increasing number of civilian victims. The result from the military standpoint is that before deciding on an aerial attack the question of *proportionality* must be addressed. Because of the degree of subjectivity involved, this principle is considered as the Achilles' heel of the law of war. The rule could perhaps be seen in more practical terms if it stated that an aerial attack expected to cause civilian casualties would be acceptable should it have the same degree of approval as a similar action taking place over a part of the country's own territory under enemy occupation, in which case the civilian casualties would be compatriots.

A further question that may be raised in connection with military objectives concerns the ban on attacking targets whose destruction, despite the military advantage that may result, would unleash dangerous forces, as in the case of dams, dykes and nuclear electrical generating stations.²¹

Another category of objects that may not be the target of direct attack is cultural property, as long as it has been accorded special protection by

²⁰ Additional Protocol I, Art. 52: military objectives are limited to "those objects which by their nature, location, purpose or use make an effective contribution to military action".

²¹ Additional Protocol I, Article 56.

being entered in the International Register of Cultural Property under Special Protection and is duly marked and placed under surveillance. If these conditions are met, its immunity from attack must be guaranteed by any potential adversary.²²

In all the aforementioned cases of protection, it is the government of the country in which they are located that has primary responsibility for protecting the inhabitants and property. For example, if military installations are placed close to the civilian population as was the case in the Vietnam war, when anti-aircraft defences were set up in Vietcong villages, the adversary may only use “smart” weapons, which are less common and more costly than conventional weapons. Designed to ensure greater precision and less risk to crews and to avoid collateral damage, these weapons’ relative scarcity and high cost means that they are reserved for surgical or high-precision air strikes. As a result they are deployed very infrequently; during the Gulf war this type of weapon was used in only 7% of cases.

Air warfare in the San Remo Manual

Between 1988 and 1994 a group of jurists and naval experts drew up the San Remo Manual on International Law Applicable to Armed Conflicts at Sea.²³

Nowadays it is difficult to conceive of naval operations without the participation of aircraft. Therefore, even though the Manual does not deal with aviation as such, it does look at aerial activity in conjunction with naval operations, and its definitions, classifications and recommendations may be extrapolated to hostile aerial activity. Although the San Remo Manual does not make any surprising affirmations, it is a very useful and practical text for studying the role of aviation in naval operations. In this connection, attention should be drawn to its classification of aircraft into four categories — military, auxiliary and civil aircraft and civil airliners — and to the way in which it deals with each category.

²² Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954.

²³ International Institute of Humanitarian Law, *San Remo Manual on International Law Applicable to Armed Conflicts at Sea* (Louise Doswald-Beck, ed.), Grotius Publications, Cambridge University Press, Cambridge, 1995.

Some instances of belligerent aerial action

Anti-city strategy/blitz

This was used by both sides during the Second World War, in particular by the Germans and the British. The strategic justification for the practice was given by the Commander-in-Chief of the Royal Air Force Bomber Command, Air Marshal Sir Arthur Travers Harris, who might be referred to as the father of what is now known as the anti-city strategy. A famous example of this was the “Thousand-Bomber raid” on the city of Cologne in May 1942, which destroyed 242 hectares of the city centre, in response to the German blitz over the city of London.²⁴

The strategic analysis was based on the following premises:

- what England needed to invade the continent at the time was 15 armoured divisions and 70 other divisions;
- Bombing German cities in the Ruhr would force the fighters of the *Luftwaffe* to defend the heart of Germany, thereby reducing their presence on other fronts, especially the Russian front;
- German anti-aircraft batteries were multi-purpose, being used also against armoured cars and other vehicles. The bombing of the major German cities meant that they would have to be withdrawn from the front and deployed around those cities.

In examining these events in the light of international humanitarian law, it should be borne in mind that during the Second World War there was no agreement, treaty, convention or any other instrument governing the protection of the civilian population or civilian property, as the Conventions then in force dealt only with the protection of the wounded and the sick on the battlefield and in naval warfare, hospital ships, the laws and customs of war and the protection of prisoners of war.

The El Dorado Canyon operation

This bombing operation was carried out by the US Air Force and the US Navy on 14 and 15 April 1986 against Libyan military targets such as the Baz Azizzia headquarters of the Libyan armed forces, the training camp for terrorist commandos in the port of Sidi Billal and the military zone of the Tripoli airport. Leaving aside the legality or otherwise of the

²⁴ *Enciclopedia de aviación y astronáutica, op. cit.*, Vol. 4, p. 672.

air raids and of crossing the “line of death” established by general Khadaffi along the 32°-30° parallel, the operation is mentioned in this article because the tanker aircraft that took off from British bases were accused by some sectors of the media of having overflowed the airspace of a neutral country, that is, Spain.

The facts were actually quite different, since both the refuelling, which took place over the south-western United Kingdom and Cape San Vicente in Portugal, and the route taken to the targets and the return flight were outside Spanish airspace. It should perhaps be mentioned that a Spanish aircraft from the Albacete air base intercepted a US plane that had gone off course, some 60 miles to the east of Valencia, and that one US plane made an emergency landing at the Spanish base of Rota as one of its engines was overheating.

The Gulf war: Desert Shield and Desert Storm

From the start of operation Desert Shield, the High Commands benefited from the services of legal officers whose role was to advise commanders on matters relating to operational law. During the second phase of the war, the so-called *operational lawyers* were always at the side of the commanders, with at least the rank of group leader, advising them as to the choice of targets and even as to the degree to which the targets should be neutralized.²⁵

Operation Deny Flight in the former Yugoslavia

The commander of the Fifth Tactical Allied Air Force has permanent access to specific and case-by-case advice on the law of war given by an operational lawyer, who attends all briefing sessions held to study and analyse the target to be hit and the recommended degree of neutralization or destruction.

Conclusions

To sum up, it may be said that air warfare, by definition, employs violence and therefore claims victims. On account of the first feature, it must comply with the law of war and with the laws and customs of war. On account of the second, it must observe international humanitarian law

²⁵ Lt Col. John G. Humphries, USAF, “Operational law and the rules of warfare in operations Desert Shield and Desert Storm”, *Airpower Journal*, Winter 1994, p. 51.

by protecting the victims of the conflict and refraining from attacks on protected persons.

Although there is no specific body of law devoted to air warfare, as there is in the case of war on land and at sea, there are rules such as the Hague Regulations and Protocol I additional to the Geneva Conventions, which contain pertinent restrictions, prohibitions and guidelines.

Furthermore, to be legal, hostile aerial operations must comply with the four principles of humanitarian law: limitation, military necessity, humanity and proportionality.

Similarly, all the rules of customary law apply to air warfare, as do the extrapolations that can be made on the basis of comparative law.

Finally, although it is not part of treaty law, the San Remo Manual can shed a great deal of light on the use of aircraft at sea. We may therefore conclude by saying that the lack of regulations governing aerial activity does not hinder the application of the law of war to hostile aerial operations, nor do any such operations fall outside its scope. Even if it might seem desirable to draw up a specific body of rules, therefore, such a move does not seem necessary. On the contrary, there is the risk that if the new rules were too specific or restrictive they would not receive the support of most countries, and if they were not specific the existing law of war would be sufficient.

Milestones in aerial operations

- | | |
|-------------------|--|
| 24 June 1783 | The Montgolfier brothers, Joseph and Etienne, go up in a balloon |
| 23 September 1870 | First belligerent operation using a balloon, during the Franco-Prussian war |
| 29 July 1899 | First Hague Peace Conference: prohibition on bombardment from balloons |
| 7 December 1903 | Orville Wright's first flight in Dayton, Ohio |
| 1 November 1911 | Lt Gavotti bombs the Ain Zara oasis during the Italo-Turkish war |
| 20 August 1914 | Lt Watteau and Sgt Breguet carry out a reconnaissance flight over the Marne |
| 5 October 1914 | Sgt Frantz and his mechanic Quenault shoot down a plane during the battle of the Marne |
| 22 November 1920 | ICRC asks for a specific set of rules pertaining to air warfare |
| 20 February 1923 | Draft code governing air warfare |

ICRC appoints members of collegial Directorate

At its meeting on 28 May 1998, the Assembly of the International Committee of the Red Cross appointed Paul Grossrieder to the newly created post of Director-General.

The Assembly further appointed Dr Jacques Stroun as Director of Human Resources and Finance, and confirmed Yves Sandoz and Jean-Daniel Tauxe in their positions as heads of the Directorate of International Law and Communication and of the Directorate of Operations respectively.

The nomination of the four members of the ICRC's collegial Directorate comes as a result of the reorganization of the institution's internal structure, as provided for in the plan of action adopted by the Assembly in late April 1998 within the framework of the major study on the future of the ICRC (see *IRRC*, March 1998, No. 322, pp. 126-136).

The Directorate will take over on 1 September 1998 at the latest.

Geneva Conventions and Additional Protocols

First Periodical Meeting on International Humanitarian Law

Acting on recommendation VII of the Intergovernmental Group of Experts for the Protection of War Victims (Geneva, January 1995)¹ and on Resolution 1 of the 26th International Conference of the Red Cross and Red Crescent (Geneva, December 1995)², in its capacity as depositary of the Geneva Conventions the Swiss Government convened in Geneva, from 19 to 23 January 1998, the *First Periodical Meeting of States party to the Geneva Conventions on general problems relating to the application of international humanitarian law*. The debates were chaired by Ambassador Lucius Caflisch, representative of the Swiss Government.

The meeting was attended by the representatives of 129 States party to the Geneva Conventions and 36 observer delegations. The discussions centred on two general topics relating to the implementation of international humanitarian law, namely:

- respect for and security of the personnel of humanitarian organizations;
- armed conflicts linked to the disintegration of State structures.

The ICRC had drafted a preparatory document on each topic.

Preliminary discussions had indicated that States wished the debates to be informal and did not intend to negotiate any new texts. Accordingly, the Chairman presented his conclusions in a report which is not binding on the participants.

¹ *IRRC*, No. 304, January-February 1995, pp. 37-38.

² *IRRC*, No. 310, January-February 1996, pp. 58-60.

The Chairman's report is published below. The preparatory documents may be ordered from the ICRC.

* * *

First Periodical Meeting on International Humanitarian Law

Geneva, 19-23 January 1998

Chairman's Report

I. Factual Elements

The 26th International Conference of the Red Cross and Red Crescent (1995) requested the Swiss Government, as the depositary of the Geneva Conventions, to hold periodical meetings of the States Parties to those Conventions in order to examine general problems relating to the application of international humanitarian law.

Acting under that mandate, and after consulting the States Parties, Switzerland convened the First Periodical Meeting, which took place in Geneva from 19 to 23 January 1998. It proposed that the experts consider two topics: respect for and security of the personnel of humanitarian organizations, and armed conflicts linked to the disintegration of State structures.

At a preparatory meeting in Geneva on 13 January 1998, it was agreed that the First Periodical Meeting would be held on an informal level. This approach was endorsed by the Meeting, which was attended by the representatives of 129 States and 36 observer delegations.

The participation in the Meeting of the Palestinian delegation and of the Federal Republic of Yugoslavia presented some political difficulties. These difficulties were finally overcome by recourse to the solution applied at the 26th International Conference of the Red Cross and Red Crescent in 1995. With regard to Palestine, the Chairman made the following statement: "The appellation 'Palestine' is used in place of the designation 'Palestine Liberation Organization' and this appellation has no territorial connotations in the context of the present Meeting."

As regards the Federal Republic of Yugoslavia, a statement by the latter was circulated among delegations. The delegations of Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Slovenia also made a statement distributed among the partic-

ipants. The two statements are appended as Annexes 1 and 2 to the present Report.³

The debates were based on two preparatory documents drafted by the International Committee of the Red Cross and two working papers submitted by the Swiss authorities.

At the close of the Meeting, the Chairman drew up and presented the conclusions detailed below. These conclusions identify the problems encountered in implementing humanitarian law in respect of the topics discussed and list possible remedies. They reflect the Chairman's personal view and are in no way binding on the delegations which participated in the First Periodical Meeting.

There was also a brief exchange of views on the topics which could be discussed at subsequent periodical meetings. A number of proposals were made, but it was considered premature to specify which theme(s) would be examined at the next periodical meeting.

II. Chairman's Conclusions

1. Respect for and Security of the Personnel of Humanitarian Organizations

Identification of Problems:

Where civilian populations are specifically targeted by acts of violence, humanitarian assistance may be perceived as an obstacle to the very purpose of those acts;

Because they are not familiar with the concept of international humanitarian law, the persons directly participating in an armed conflict often regard humanitarian workers as friends of their enemies;

Where structures have disintegrated, there is no clear distinction between persons directly engaged in an armed conflict and civilians and no chain of command; and there is confusion about the international humanitarian law applicable among the parties to the conflict;

There is insufficient coordination between measures to restore peace and security, and measures to provide humanitarian assistance;

³ Omitted (ed).

Humanitarian organizations do not always sufficiently coordinate their activities; they do not always observe their status of neutrality or respect local customs; and their motivation may not always be purely humanitarian;

Through lack of diligent selection, humanitarian actions are sometimes delegated to organizations that are not capable of performing them adequately;

There is insufficient observance of the duty to "prosecute or extradite" those who have committed acts of violence against humanitarian workers, resulting in insufficient deterrence from and prevention of such acts;

Links between political and humanitarian actions may make humanitarian workers more likely targets of attacks.

Possible Remedies:

Establishment of mechanisms to prevent acts of violence against humanitarian workers, such as early warning systems for the exchange of information on situations that may lead to such acts;

Recognition that the commission of acts of violence against humanitarian workers as well as the order to commit such acts are crimes under both international and national law for which the perpetrators bear individual responsibility;

Relentless prosecution of those committing acts of violence against humanitarian workers; or extradition to another State; or, where appropriate, transfer to an independent international criminal court;

Support for and cooperation with international efforts to clear anti-personnel mines threatening the safety of humanitarian workers;

Strengthening of and increased cooperation with local providers of humanitarian assistance, in particular the National Red Cross and Red Crescent Societies;

Ratification of conventions on international humanitarian law, including conventions on anti-personnel mines, and improved implementation through national legislation;

Ratification of the United Nations Convention on the Safety of United Nations and Associated Personnel;

Fulfillment of the obligation to translate the Geneva Conventions into local languages, where necessary with the cooperation of the ICRC's advisory services;

Increased recognition of the competence of the International Humanitarian Fact-Finding Commission and, where appropriate, resort to ad hoc commissions;

Full compliance by humanitarian organizations with the principles of impartiality, of neutrality and of independence, which are the foundations of humanitarian ethics;

Adherence of all humanitarian organizations to the “Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations in Disaster Relief”⁴, and respect by these organizations for the principles of international humanitarian law;

Acceptance of the “Code of Conduct” by humanitarian organizations, and coordination of their activities with those of other organizations, as a prerequisite for receiving public funds;

Establishment of a system of accreditation for humanitarian organizations;

Intensification of the ICRC’s advisory services as well as of the efforts of other institutions, including those of a religious character, to disseminate international humanitarian law among armed forces and civilian populations, with special emphasis on the protection of humanitarian workers and the red cross and red crescent emblems;

Improvement of the recruitment, education and training of humanitarian personnel;

Effort by humanitarian organizations to cooperate, from the outset of their operations, with the authorities controlling the territory concerned;

Improved cooperation of humanitarian organizations in international efforts to maintain peace and security, where such cooperation does not jeopardize the effectiveness of the humanitarian assistance or the safety of its providers.

2. Armed Conflicts Linked to the Disintegration of State Structures

Identification of Problems:

Situations where State structures have disintegrated in the course of an armed conflict are usually characterized by a lack of effective

⁴ *IRRC*, No. 310, January-February 1996, pp. 119 ff. (ed).

leadership capable of ensuring respect for international humanitarian law or of protecting the safety of humanitarian workers;

Where civilian populations are specifically targeted by acts of violence, the disintegration of State structures and of the common values of a society can have particularly serious consequences;

The distinction between persons directly participating in an armed conflict and civilians tends to blur, as members of local militias rarely wear distinctive signs and mingle with civilians.

Possible Remedies:

International support for measures designed to prevent the disintegration of State structures;

Establishment of early warning mechanisms to detect signs of a State being in the process of disintegration;

Recognition that the basic humanitarian rules in common Article 3 of the Geneva Conventions are applicable in armed conflicts where State structures have disintegrated;

Establishment, among the main actors in an area of armed conflict, of a code of conduct taking into account local ethics and customs in addition to principles of international humanitarian law;

Support for measures aimed at building a lasting peace after a conflict has ended, such as disarmament, resettlement and economic development;

Reduction by States of the influx of weapons into areas of conflict and establishment of a code of ethics on the export of arms;

Integration of conflict prevention into development aid programmes;

Recognition of the necessity to strengthen the capacity of National Red Cross and Red Crescent Societies to enable them to continue to provide humanitarian assistance despite the disintegration of State structures;

Fulfillment of the obligation not to recruit children into armed forces or groups;

Promotion of the endeavour to define minimum humanitarian standards applicable in all circumstances;

Establishment of an independent international criminal court with jurisdiction over acts of violence committed by persons engaged in a conflict where State structures have disintegrated and prosecution by national authorities is no longer feasible;

Support for efforts of the United Nations and regional organizations at managing armed conflicts of an anarchic nature, including those made by the Security Council to restore conditions conducive to provision of humanitarian assistance;

Increased dissemination of humanitarian principles by the ICRC and other institutions, including National Red Cross and Red Crescent Societies and those of a religious character, with emphasis on the education of the young civilian population;

Identification of partners, within structures that may not yet have completely disintegrated or are re-emerging, in order to create the conditions rendering humanitarian assistance possible;

Cooperation and dialogue with local providers of humanitarian assistance who are familiar with local customs and conditions.

3. Follow-up

Periodical meetings, convened by the depositary of the Geneva Conventions and the Additional Protocols, pursuant to Resolution 1, paragraph 7, of the 26th International Conference of the Red Cross and Red Crescent⁵, which shall, as part of a continuing process, examine general problems relating to the application of international humanitarian law, in conformity with common Article 1 of the Geneva Conventions;

Regular meetings of experts on questions of dissemination of international humanitarian law, organized specifically in regions of conflict;

Communication by the Chairman of his Report on the present Meeting to all the States Parties to the Geneva Conventions, to all the participants in the Meeting, to the 27th International Conference of the Red Cross and Red Crescent, and to the Standing Commission of the Red Cross and Red Crescent;

Communication by the Chairman of his Report on the present Meeting to the Secretary-General of the United Nations to assist him in his task

⁵ *Ibid.*, pp. 58 ff. (ed).

to report to the 53rd Session of the General Assembly on the security of United Nations personnel pursuant to United Nations Resolution 52/167 of 16 December 1997.

Lucius Caflisch
Chairman
First Periodical Meeting

Books and Reviews

Luigi Condorelli, Anne-Marie La Rosa and Sylvie Scherrer (eds): *Les Nations Unies et le droit international humanitaire/The United Nations and international humanitarian law*, Proceedings of the international symposium held on the occasion of the 50th anniversary of the United Nations (Geneva, 19, 20 and 21 October 1995), Éditions Pedone, Paris, 506 pp.

In its early days the United Nations' relationship with international humanitarian law was fraught with distrust and ambiguity. Dietrich Schindler, in his conclusions to the deliberations of the symposium's first session on the development of humanitarian law, distinguishes three phases in this relationship. The first ended with the watershed proclamation of the International Conference on Human Rights held in Tehran in 1968. In the second phase the United Nations took the concept of humanitarian law on board, within the limits imposed by the Cold War. The third and current phase began with the Gulf war and is characterized by broad recognition of humanitarian law on the part of the United Nations and the resulting confusion between *jus in bello* and *jus contra bellum*. Like the organizer of the symposium, Professor Luigi Condorelli, we feel that this analysis offers ample food for thought.

There could not have been a better time — the 50th anniversary of the United Nations — or place — Geneva, the cradle of humanitarian law — to hold a symposium on the United Nations and international humanitarian law. During the inaugural session reference was made to this fact by several of the distinguished participants gathered under the auspices of the Geneva University Faculty of Law, and in particular by ICRC President Cornelio Sommaruga and Vladimir Petrovsky, Director of the United Nations Office in Geneva. For the President of the ICRC, the most important task was to “strengthen respect for international humanitarian law”; Mr Petrovsky felt that we must “realistically acknowledge the need to manage crises”.¹

¹ The English versions of quotations from participants who spoke in French are ICRC translations.

This set the tone for the discussions, which focused on the United Nations' three roles in connection with international humanitarian law: (1) development of the law; (2) its implementation; and (3) United Nations involvement in armed conflicts. The Proceedings follow this structure. I found them to contain a wealth of information and new ideas, and understand why at the end of the presentations Eric Suy went so far as to describe the symposium as "absolutely extraordinary". Its principle merit lay in the judicious choice of speakers — a successful combination of practitioners and academics — and the high quality of the reports and papers presented, all of which are reproduced in full in the Proceedings.

The three roles of the United Nations

Development of international humanitarian law — After outlining the methods used by the United Nations to develop international humanitarian law, Eric David in his introductory report described in detail the world body's most significant contributions in this respect. I found this enumeration extremely useful for reference purposes and was particularly interested in three issues highlighted by the presentations and subsequent discussions.

The first of these issues to be debated was the 1994 Convention on the Safety of United Nations and Associated Personnel. The treaty is ambiguous, even dangerous, because, in the words of Mahnoush H. Arsanjani of the UN Office of Legal Affairs, "oscillating between different statuses inevitably creates confusion". Although it is indeed necessary to safeguard United Nations personnel, humanitarian workers must not be confused with UN combatants or they will risk losing the special protection to which they are entitled. Some people have such grave reservations regarding the 1994 Convention that they even wish it would be "forgotten altogether" (Condorelli).

Next my attention turned to the debate surrounding the growing number of rules produced by the United Nations, which Eric David, not without irony, compared to toothbrushes, ranging as they do from "extra-soft to extra-hard". The Security Council has been especially prolific at the "soft" end of the scale. Quantity, however, is not necessarily quality — which led Ms Laurence Boisson de Chazournes to criticize the selectiveness of the Security Council and to warn of the risk that humanitarian law may become "hostage to political and diplomatic interests". Professor Schindler concluded in this regard that "international humanitarian law needs both the input of independent and impartial humanitarian

organizations, which have the necessary field experience, and the unfailing support of States and the United Nations”.

I was pleased to note that, in the discussion which followed Christian Dominicé's presentation, the participants acknowledged that the basic rules of humanitarian law constitute *jus cogens*. In other words, in the event of conflict between decisions based on the Charter of the United Nations and the principles of humanitarian law, the latter would prevail.

Implementation of humanitarian law — I must confess that for me, with my longstanding commitment to the ICRC, this was the most disappointing part of the Proceedings and thus probably of the symposium itself. In fact, there is very little analysis of the impact, the strengths and the weaknesses of UN operations, apart from a sound introductory report by Michael Bothe, which on the basis of five concrete examples (Israel and the occupied territories, Iran-Iraq, the former Yugoslavia, Rwanda, and Burundi) examines the various types and forms of action taken by the United Nations to ensure compliance with and respect for international humanitarian law.

Quite understandably, most of the attention was devoted to a recent breakthrough in the area of enforcement, namely the establishment of the international criminal tribunals for the former Yugoslavia and Rwanda. The presentations given by the Presidents of the two tribunals, Antonio Cassese and Laity Kama, underscored the favourable developments resulting from what Professor Condorelli called the “jurisdictionalization” of humanitarian law. Uppermost in everyone's mind, of course, was the endeavour to make serious violations of humanitarian law committed in the course of non-international armed conflicts criminal offences at the international level. The most significant contribution, however, to the development of humanitarian reflection and standards must surely be what Cassese described as the “tremendous amount of thought, analysis and commentary” to emanate from the tribunals. In only two years, both in the tribunals themselves and within other bodies acting under their stimulus, more new analyses have been produced and more new ideas proposed than during the preceding twenty years.

Regarding other aspects of implementation, however, there was little to satisfy, even if Hans-Peter Gasser did stress the need for complementary action and cooperation between the United Nations system and the ICRC, and even though Mario Bettati presented a convincing argument in favour of unrestricted access to conflict victims. The crucial question, as posed by two students during the discussions, remains this: where was the United Nations and where were the other humanitarian organizations during the

Srebrenica massacre? What can we learn from such events to ensure better respect for humanitarian law in the future?

United Nations involvement in armed conflicts — Ms Daphna Shrager (United Nations Office of Legal Counsel) introduced this subject in masterly fashion in her report entitled “The United Nations as an actor bound by international humanitarian law”. Her presentation was followed by the pragmatic views of Jean de Courten, Director of Operations at the ICRC, who spoke about the ICRC’s perception of United Nations field operations. The report by Ms Shrager, together with several other communications and presentations, offered a critical analysis of the applicability of humanitarian law to United Nations forces. It was good to see that no one disputed this principle, there being unanimous agreement that all the basic rules of behaviour in warfare must be observed by soldiers enlisted under the UN flag. Differences of opinion remained concerning the applicability of the humanitarian treaties in their entirety. Regarding civil wars — whether or not the involvement of the United Nations gives them international status in formal terms — Ms Shrager stated that the United Nations “will consider itself bound by not a lesser minimum standard of humanitarian treatment than that which is applicable in international armed conflicts”. There is thus broad consensus in this regard. That is why we, like Professor Condorelli and Jovica Patrnogic, believe that what is still lacking today is a clear, solemn declaration by the United Nations to that effect and, more particularly, the adoption of the “Guidelines for UN forces regarding respect for international humanitarian law” prepared by legal experts of the ICRC and of the UN secretariat.

The next speaker was Ms Françoise Hampson, who presented a highly stimulating analysis of the difficulties encountered by the different types of operations authorized or delegated by the United Nations. She concluded that the following steps were necessary:

- adoption of a set of rules accepted by all;
- cooperation in the provision of training and information for the various players involved;
- re-examination of the principles of “neutrality” and “impartiality” so as to promote better understanding of their meaning and ensure that the same perception is shared by all concerned;
- acknowledgement that if during the Gulf war the Coalition forces largely complied with humanitarian law, this was not due to a sense of responsibility vis-à-vis the United Nations, which gave them their

mandate, but “to the need to keep a diverse coalition together, (...) also (...) to public accountability through CNN”.

There is therefore still some way to go, even though we may agree with Michael Bothe that in United Nations strategy peace-keeping and international security have priority over the implementation of humanitarian law.

If there is one area in which we share Theodor Meron’s view that the United Nations could do better, it is in regard to the “protective role of the United Nations forces”, notably their practical role as agents responsible for ensuring respect for humanitarian law. Although the symposium did highlight this point, it offered no new ideas on the matter.

Key points emerging from the symposium

The Proceedings end with the general conclusions of the man who was the driving force behind the symposium and its principal moderator, Professor Luigi Condorelli. His text reflects not only the intensity of the discussions and his clarity of vision, but also his modesty. His conclusions offer more than a summary; they contain a plan of action which is as useful for people working in the field as it is for policy-makers. As an illustration, some passages are reproduced below:

- the obligation arising from Article 1 common to the Geneva Conventions of 1949 has “the merit of expressing effectively the idea that it is in everyone’s moral, political and also legal interest to respect international humanitarian law, which implies that all States, as well as the United Nations, have a right and a duty to demand such respect”;
- “international humanitarian law must be seen by the [Security] Council as forming an integral part of the ‘principles of justice and international law’ with which all United Nations operations have to comply in accordance with Article 1, para. 1, of the Charter”;
- “it is essential to safeguard the domain of ‘neutral’ humanitarian action by avoiding any risk of confusion between the activities of purely humanitarian organizations and those of the United Nations, which inevitably have a political dimension”;
- and lastly, “we must take advantage of all opportunities presented by the law of Geneva (notably the International Conferences of the Red Cross and Red Crescent and future periodical meetings of the High Contracting Parties ...) to improve existing mechanisms or bring them into operation if they have remained in abeyance”. Regarding this last

point Professor Condorelli mentioned in particular the extremely useful services that could be rendered by the International Fact-Finding Commission, constituted under Article 90 of Protocol I additional to the Geneva Conventions.

The Proceedings comprise some 500 pages and, rather surprisingly for this type of publication, are presented in a manner that is easy to follow. For us they constitute not just a reference document but a veritable manual on the United Nations and international humanitarian law. The texts are in French or English, depending on the language in which the presentations were made. Those who speak both will appreciate the excellent bilingual index.

This book deserves a prominent place in any collection of works on humanitarian affairs.

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Greg Hansen and Robert Seely, *War and humanitarian action in Chechnya*, Occasional Paper No. 26, Thomas J. Watson Jr. Institute for International Studies, Providence, R.I., 1996, 106 pp.

This work by Greg Hansen and Robert Seely is a political analysis of the Chechen conflict, of the reaction of the international community to an internal conflict in a key State on the global scene and of the strengths and weaknesses of humanitarian action. This very well documented study, methodical, lucid and severe in its judgements, ends with specific recommendations which remain of interest despite the passage of time.

The time frame extends up to August 1996. It thus covers a period of intense fighting in Grozny and large-scale population movements out of the city, until the signing of a cease-fire led, if not to a political settlement of the dispute, at least to a suspension of actual hostilities.

The authors state their position from the outset. In the interests of objectivity, they decided not to express any views on the territorial status of Chechnya. They recognize that neither the federal nor the separatist forces fulfilled their obligations towards the civilian population. Considering the military capacity of the Russian Federation, its undertakings within the OSCE and the Council of Europe and the international treaties to which it is party, it was from that sovereign State that the authors expected the most moderation, however. Hence their critical analysis not only of the political decisions taken by the Russian Federation and of the manner in which it conducted the hostilities, but also of the reactions of its peers, the other States of the international community, both at the bilateral level and in the forums where they forgathered, particularly the United Nations and the OSCE. This critical analysis ends with the conclusion that the Chechen conflict serves as a demonstration of the precariousness of humanitarian action when the international community allows itself to be guided by *realpolitik* and fails to mobilize in order to establish a framework for such action.

The structure of the book leads the reader step by step through the complexities of a major conflict of the post-Soviet era.

The authors begin by explaining the political, economic, religious and ethnic context of the northern Caucasus, and then draw the reader into the history of Russian expansion in the region, of the resistance that it encountered and of the uprising led by Imam Shamil in the middle of the last century. They move on to an analysis of the Soviet era, describing the deportation of the Chechen people to Central Asia ordered by Stalin in 1944, the rehabilitation of the deportees declared by Khrushchev in 1957, their return, and then, in the late 1980s, the effects of perestroika on Chechnya's attempts to free itself from Muscovite rule. The declaration of independence proclaimed in 1991 and its implementation by President Dudayev, the dismal episode of the Ossetian-Ingush conflict in 1992, the outbreak of the Chechen conflict in December 1994 and the 21 months of fighting, divided into several phases, conclude this historical review.

The retrospective analysis of this war serves as a background for criticism of the humanitarian response to the conflict. Indeed, certain recurrent problems such as the restrictions imposed on the humanitarian workers who were seeking access to the victims, threats to the independence of their activity and the deterioration of security conditions should have compelled the community of States to take political measures that would provide a framework for humanitarian action. In the absence of such measures, for reasons connected with the defence of national interests

and particularly the fear of weakening the position of the Russian presidency through unduly vehement criticism of its policy regarding Chechnya, the humanitarian agencies did what they could — that is to say, too little. This was especially the case inside Chechnya where few players were present, except for the ICRC, the French and Belgian branches of *Médecins sans Frontières* and a few other NGOs.

The authors more specifically reproach the United Nations agencies and especially UNHCR for concentrating their efforts on Ingushetia and Dagestan, that is to say, on the periphery of the conflict. A United Nations presence in Chechnya would have informed the world more clearly of what was going on. It is true that the OSCE was there, but according to Greg Hansen and Robert Seely this presence did not have the anticipated effect, as the OSCE was wearing two hats, that of mediator and that of defender of human rights. These two functions, which could coexist while a cease-fire was being discussed, would have proved incompatible during delicate political negotiations that did not permit taking a firm stance on human rights. In the end, political obstacles prevented the United Nations from intervening in Chechnya. It took note of the presence of the OSCE and chose the option of sharing relief-related tasks with the ICRC and the NGOs present in Chechnya. Seen in retrospect, this decision not to insist on taking action in Chechnya appears unfortunate in the authors' view. The victims of the Chechen conflict indeed received a little assistance, but did not enjoy the protection that they were entitled to expect.

What lessons are to be drawn from this apparent failure of the humanitarian response? The authors offer the following recommendations:

- First of all, in order to create a suitable framework for humanitarian action, stress should be laid on educational tasks and on the dissemination of ethical principles. Civilian society will have to be strengthened and the long-term challenge of changing attitudes will have to be addressed. The authors propose that the ICRC further develop its dissemination programmes in the northern Caucasus, particularly where the Ministries of Defence and the Interior are concerned.
- States should inform the Russian Federation of the importance they attach to humanitarian considerations. A political framework must be created for humanitarian action.
- The resources allocated to Chechnya must be commensurate with the needs. The destruction, the damage done to essential infrastructure, the shortages of health supplies and services, the presence of mines which affects agricultural activity and the fall in food reserves are some of

the serious problems confronting the Chechen population. Emergency assistance is needed.

- Since the strengths and weaknesses of the various humanitarian players were brought to light during the conflict, each organization should be urged to concentrate on the activities which it is probably best suited to carry out. The authors cite humanitarian diplomacy, education and emergency aid as strengths of the ICRC. In their opinion the organization should focus on the dissemination of humanitarian law at all levels.
- Higher priority must be given to seeking a settlement of the conflict and to promoting forces of reconciliation. The OSCE should limit its activities to the political sphere and to creating an environment allowing for the protection of the civilian population. The Council of Europe should also exercise supervision in matters relating to human rights.
- Since the northern Caucasus is a region where each republic is affected by the problems of its neighbours, a regional approach must be adopted. The tensions between Ossetians and Ingush in the Prigorodny district should be closely monitored. The humanitarian organizations (especially UNHCR) can draw numerous lessons from the experience gained in other countries of the Caucasus, such as Georgia.

Even though these recommendations date back to 1996, those relating to humanitarian action still give us plenty of food for thought. Unfortunately, the insecurity prevailing in Chechnya — where the ICRC suffered a grievous blow with the murder of six staff members in December 1996 — makes it impossible to respond to humanitarian problems to a degree commensurate with the needs, which are considerable, particularly where the restoration of basic structures is concerned. The ICRC has been able to continue some of its activities thanks to the commitment and competence of local staff members, but in the absence of clarification about the origins of the tragedy, it could not maintain an expatriate presence in Chechnya. In view of what happened, the risks — inherent in any humanitarian assignment — were too great.

We cannot but agree with Greg Hansen and Robert Seely when they advocate heightening awareness of the rule of law, especially humanitarian law. This is a long-term task which requires a thorough knowledge of the context involved. The ICRC has already begun a study of Chechen customs, emphasizing the traditional values that can be used as a reference in conveying a humanitarian message.

The authors announce from the outset their intention to pay primary attention to the Russian Federation in their analysis of the Chechen conflict, but here we have a regrettable imbalance which may be explained not only by the reasons they put forward, but also by the difficulty of finding sources of information on the Chechen side. Access to the regions concerned, particularly to the mountains bordering on Georgia, was difficult to say the least at the time the book was written.

In conclusion, although a United Nations presence in Chechnya might have been desirable from the political point of view, at the humanitarian level the geographical distribution of tasks between UNHCR and the ICRC served to avoid duplication of effort. The assistance provided by the ICRC and the NGOs present in Chechnya met the needs as far as possible, despite obstacles of all kinds — difficulty in identifying the beneficiaries, logistical problems, customs barriers, etc. The real failure concerned the protection conferred by humanitarian law on the civilian population as on prisoners: such protection was limited in both cases.

To sum up, this is a stimulating book, deserving its place among the other publications of the Watson Institute on conflicts in the post-Soviet world. It may be recommended to neophytes anxious to learn, but also to those who have lived through this conflict, so that they can analyse it critically and, with hindsight, question the relevance of the options chosen.

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Michael J. Kelly, *Peace Operations*, Australian Government Publishing Services, Canberra, 1997, 450 pages (approx.)

The editor of the *Review* commented to me that at first glance this seemed to be an important book. It is an important book of obvious relevance to military lawyers but also to students of international law who will gain

an appreciation of the practical application of the subject. I would like to see the book included in the syllabus for military and civil service staff colleges and read in UN circles, for there is much that can be learnt from the Somalia experience which motivated Major Kelly to put his thoughts on record. He quotes one military administrator who, in 1948, wrote:

“It will perhaps only be when an international lawyer is himself called upon to take part in the legal affairs of a military administration as an army officer that he will truly appreciate the multifarious difficulties which can arise and seek to provide an answer to them in a text-book which one may hope that he will write.”¹

These words are just as relevant now as they were 50 years ago. It is important for policy makers when they are formulating mandates, operation plans, force structures and rules of engagement, to understand and take account of the difficulties under which soldiers are being asked to operate. Often quite junior personnel with little guidance are required to make difficult decisions quickly. The outcome of those decisions can have far-reaching consequences. Ultimately, those personnel must feel that they have the authority, and the backing if necessary, to do what they consider right in the circumstances that they face. Bold and decisive action at the time can pay enormous dividends; failure to act while awaiting instructions can be disastrous. The selection and training of personnel for peace support operations are therefore crucial. These operations call for intelligent, motivated, impartial and disciplined troops and for firm but fair leaders.

Major Kelly has similar messages for military planners, saying that “the real challenge facing military planners is coming to grips with intra-state anarchy on such a scale that it threatens international peace and security” and that “commanders must appreciate that low intensity conflicts are often as much or more political as they are military.” The fact is that peace support operations are very different from conventional military operations and call for different skills and force capabilities.

I expect that when historians look back at the 1990s, they will see a decade of missed opportunity by the international community in trying to bring peace to the world’s trouble spots. Lessons are being learnt only slowly, which means that mistakes are repeated. One thing is clear: quick and resolute action can be effective in preventing bloodshed, suffering and destruction. Armed groups that hold a country to ransom only respect

¹ Lord Rennell of Rodd, *British Military Administration of Occupied Territories in Africa During the Years 1941-1947*, H.M.S.O., 1948, p. 322.

superior force. They are quick to exploit weakness. But any peace support operation needs brain and sensitivity as well as brute strength; any perceived failures or over-reactions on its part will seriously undermine public support. Furthermore, building peace is a long and painstaking process which cannot be achieved in a hurry or within a fixed time limit. Failure to recognize this means that resources, money and hard-won improvements are often wasted. Peace support forces need to be specially trained and structured. While there is usually a need for muscle in the form of a heavily armed quick response force, a lot of effort also needs to be put into relations with the civil authorities, intelligence, legal matters, civil-military cooperation and the coordination of the activities of outside agencies so that the overall effort can be directed most efficiently. Above all, it must be clear who is in charge and there must be no divisions among the various parts of the whole peace support structure.

Major Kelly was the legal adviser to the Australian contingent which formed part of the Unified Task Force deployed to Somalia in early 1993 under a United Nations Security Council mandate, resolution 794 (1992). "It was a Chapter VII peace enforcement operation into a collapsed state for humanitarian purposes" and "became a state rehabilitation mission when resolution 814 (1993) was added" to the mandate. Given that Major Kelly had first-hand experience of his subject matter, it behoves us all to listen attentively to his message.

He starts with the factual background, considering the question of humanitarian intervention in other states, and concludes that without a UN Security Council mandate there is no unilateral (as opposed to consensual) right of humanitarian intervention — even in cases where genocide is going on — except, possibly, when a state has completely broken down so that there is no sovereignty to offend. The second chapter looks at the actual experience of intervention in cases such as Iraq, the former Yugoslavia, Cambodia and Rwanda, and it seems a sad story of too little too late and not long enough. Law and order become important issues when forces have created a stable environment, but this requires police, prosecutors and the judiciary.

Next comes the question of the legal basis on which intervening forces operate and a consideration of past examples of non-belligerent occupation, whether by invitation of the legitimate government, by peace treaty, to secure reparations or to protect national interests. In Chapter 4, Major Kelly pursues his theory that, at least in practice if not in law, the Fourth Geneva (Civilian) Convention of 1949 should be the legal framework within which intervening forces should operate, certainly those that have been

“contracted out” and arguably the “blue helmets” as well. The next chapter examines the rights and obligations imposed by this convention; Major Kelly argues that intervening forces should not shy away from applying the convention for they can find much in it to guide them, especially in a case like Somalia where government has broken down and the UN-mandated forces become the authority in charge. Lastly, in the legal part of the book, Major Kelly looks at human rights law in the context of peace support operations but concludes that adherence to the principles of the Fourth Geneva Convention will ensure that human rights are protected.

Part III of the book concentrates on Somalia. Major Kelly describes a “Dante’s inferno” of inter-clan fighting and banditry in a place where all law and order had broken down; where up to 80% of relief supplies were being looted and relief agencies were having to hire private armies for their protection. It was into this environment that the Unified Task Force was deployed. The author considers that this intervention did a lot of good, but that it could have done better. The main problems were the failure to disarm the factions, which simply waited for the UN-mandated forces to leave before re-exerting their influence, and the failure to reconstruct the justice system so that those who had committed serious offences could be put on trial. This led to unfortunate incidents in which frustrated peace support soldiers from another contingent took the law into their own hands. Lack of civil affairs expertise was another drawback, as was the failure to take over the radio stations which continued to broadcast antagonistic propaganda. Returning to his leitmotiv, Major Kelly asserts that application of the Fourth Geneva Convention would have enabled the “occupying” troops to make use of public property, control the media, reassemble the criminal justice system, bring public order offenders to trial, direct the contribution of relief agencies and take over air traffic control, all of which would have helped build a lasting peace. As it was, much of the good done was only of short duration.

Of particular interest to military readers may be Major Kelly’s comments on the orders for opening fire issued to members of the Australian contingent and the training those soldiers were given. This was based on the need to retain the good will of the people and on principles which can be found in the law of war, namely, identification of the target, proportionate use of force depending on the threat (i.e., lethal or non-lethal) and minimization of incidental damage. When lethal force was permitted, soldiers were not trained to shoot to wound. Nor were single aimed shots insisted upon since the response would always depend on the threat. In his final chapter, Major Kelly makes some practical suggestions about the composition of teams for military investigations, justice reconstruction and civil-military cooperation.

Major Kelly obviously indulged in the luxury of being able to deal expansively with his subject and so, as matters are examined from different angles, there is a fair amount of repetition. A more compressed treatment of the material and an index would have made the book more useful as a reference work. Perhaps the author could be persuaded to produce such a textbook. Nevertheless, this is a most valuable work which I commend. For those who do not have time to read the whole book, I would recommend that, at least, they read Chapters 10 and 11.

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Thomas G. Weiss, David Cortright, George A. Lopez and Larry Minear, *Political gain and civilian pain: Humanitarian impacts of economic sanctions*, Rowman & Littlefield Publishers, Lanham/New York/Boulder/Oxford, 1997, 277 pages.

Larry Minear, David Cortright, Julia Wagler, George A. Lopez and Thomas G. Weiss, *Toward more humane and effective sanctions management: enhancing the capacity of the United Nations system*, Thomas J. Watson Jr. Institute for International Studies, Occasional Paper No. 31, 1998, 90 pages.

Collective economic sanctions are among those measures not involving the use of military force which the Security Council may decide on in order "to maintain or restore international peace and security" (UN Charter, Article 41). The framers of the Charter intended to give policy makers the possibility to enforce the collective will against a recalcitrant State by acting forcefully, but without resorting to military might. The imposition of collective economic sanctions was perceived as an alternative to a greater evil-war.

"Political gain and civilian pain: Humanitarian impacts of economic sanctions" attempts to answer the question whether sanctions "work", i.e., whether they attain their goal of effecting a change in the behaviour of a

government and inducing it to respect its commitments under the UN Charter. The authors, a group of social scientists from American universities and research institutions, have no doubt that as a political tool economic sanctions usually fail to bring about a change in the policy of the targeted State. Worse still, sanctions always hit the wrong people and regularly cause unacceptable suffering to the most vulnerable sections of civil society.

After the end of the Cold War, the United Nations Security Council started turning more and more to collective economic sanctions under the authority of Chapter VII of the UN Charter. The authors examine four cases in which the Security Council resorted to such measures: South Africa (1977-1994), Iraq (since 1990), the former Yugoslavia (1991-1996) and Haiti (1993-1994).¹ In two of them international humanitarian law was applicable to the situation when sanctions were imposed (the 1991 Gulf war against Iraq and the conflict in the former Yugoslavia). After painting a broad picture of the different political and economic contexts, the authors attempt to answer two questions:

1. Did sanctions lead to a change in the behaviour of the government concerned? The authors acknowledge the methodological complexities which make it difficult or even impossible to provide a clear answer. Indeed, among the many different factors which influence a government's decisions, is it possible to determine the part played by economic sanctions? How can we correlate cause (the sanctions) and effect (the policy change)? Having allowed for these difficulties, the authors conclude nevertheless: "In no case were sanctions the definitive factor bringing about political change; but in each instance economic coercion played at least some role in generating pressures for negotiation or compromise."

2. To what degree do economic sanctions affect the lives of the civilian population and, at the same time, damage the civilian infrastructure of the country concerned? In particular, what are their repercussions on the most vulnerable and weakest segments of society? On this point the authors' conclusions leave no room for doubt: economic sanctions have a pernicious effect on the civilian population. The four case studies produce a wealth of statistical data which establish the destructive impact of sanctions on the health and well-being of the affected population, despite international humanitarian assistance.

¹ On the impact of sanctions on Burundi see Eric Hoskins and Samantha Nutt, *The humanitarian impacts of economic sanctions on Burundi*, Thomas J. Watson Jr. Institute for International Studies, Occasional Paper No. 29, 1997, 118 pages.

On the basis of their findings, the authors reject comprehensive economic sanctions as a policy tool, as a legitimate enforcement measure against a State. However, they put forward a number of recommendations to be followed should the Security Council nevertheless resort to economic sanctions. These include:

- absolute clarity as to the goal to be achieved by the sanctions;
- preference of “smart” (partial) sanctions, such as restrictions on financial assets of the targeted country’s elite, over comprehensive ones;
- periodical assessment of the sanctions’ impact on the civilian population;
- obligation to constantly adapt the sanctions regime to changing circumstances;
- streamlining procedures at the international level, in particular as regards humanitarian assistance;
- obligation for the international community to assist in the reconstruction of a country under embargo.

We have to be grateful to the authors for their well-documented contribution to a necessary, even urgent debate on the value and legitimacy of economic sanctions as an international enforcement measure. The results of their case studies, in particular the data on Iraq and the former Yugoslavia, are important elements for a better understanding of the sanctions’ impact on the civilian population. But we are also tempted to say: isn’t it obvious that economic sanctions, though targeted at a country’s government and its elite, inevitably affect the civilian population and the civilian infrastructure of that unhappy State? Nobody can condone, justify or legitimize such suffering. The question is how to resolve the dilemma between the international community’s determination to uphold some basic concepts, such as peace and fundamental human rights, and the suffering inflicted on innocent civilians.

A decisive weakness of international law is the paucity of mechanisms to enforce the obligations it sets out. The role which economic sanctions are meant to play in enforcing fundamental values, such as safeguarding or restoring peace, should not be dismissed out of hand. Collective economic sanctions are not just one “policy tool” among others, a device to achieve political gains, as the authors sometimes seem to suggest. They are a means of fulfilling one of the fundamental purposes of the UN Charter: to guarantee peace. It must be made sure, however, that they remain measures to be taken only and exclusively to that end. In other words, collective sanctions are justified only as long as there is a threat to or a breach of peace.

While it is justified to underline the shortcomings of economic sanctions as a measure aimed at enforcing international peace, one has to look for available alternatives and, in particular, to assess their cost. War, with all its horrors, is not a viable alternative. It is difficult to accept that outright war might be a lesser evil than economic sanctions, a conclusion which "Political gain and civilian pain" sometimes seems to suggest. Nor is "impunity" a satisfactory solution, in the sense of letting a government get away with breaches of its international obligations, such as failure to safeguard peace and fundamental human rights.

Existing international law has set up a "safety net" for the population of a country under embargo. Any decision to impose collective economic sanctions must comply with the provisions of the 1949 Geneva Conventions and their 1977 Additional Protocols which provide for humanitarian assistance to the civilian population in need. The various Security Council resolutions on sanctions against Iraq and the former Yugoslavia respect and adopt these inbuilt limits to sanctions by granting exceptions for the import of goods for humanitarian purposes (the so-called "humanitarian window"). The studies on Iraq and the former Yugoslavia do not take sufficiently into account the potential of these international legal commitments to provide for humanitarian assistance. No doubt the Security Council and its sanctions committees could and should develop these exceptions. In this way, the negative impact of sanctions on the civilian population could be mitigated at least to some extent.²

It should also be noted, although the authors are silent on this issue, that ICRC delegates were present in Iraq throughout the Iran-Iraq conflict and the Gulf war. They assisted the Iraqi population not only at the time of active hostilities in 1991 but also during the entire period of economic sanctions, and they continue to do so.

In the second publication the same group of authors, joined by Julia Wagler, examine measures which make for a more effective management of the sanctions regime at the international level.

Hans-Peter Gasser
International Review of the Red Cross

² See Hans-Peter Gasser, "Collective economic sanctions and international humanitarian law. An enforcement measure under the United Nations Charter and the right of civilians to immunity: an unavoidable clash of policy goals?", *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*, Vol. 56, 1996, pp. 871-904.

Recent publications

Eric A. Belgrad and Nitza Nachmias, *The politics of international humanitarian aid operations*, Praeger, Westport (Connecticut) and London, 1997, 220 pp.

Several authors examine current problems concerning international humanitarian aid, including the debate surrounding intervention on humanitarian grounds in internal conflicts.

Pierre Boissier, *De Solferino a Tsushima: Historia del Comité Internacional de la Cruz Roja*, Henry Dunant Institute and International Committee of the Red Cross, Geneva, 1963/1997, 510 pp.

This is the Spanish-language edition of the first volume of the history of the ICRC by Pierre Boissier, published in 1963 in French and in 1985 in English.

Major Michael J. Kelly, *Peace operations: Tackling the military, legal and policy challenges*, Australian Government Publishing Service, Canberra, 1997

The author is a legal officer in the Australian armed forces who took part in the United Nations peace-keeping operations in Somalia and Bosnia-Herzegovina. In this book he examines issues of international law, including the applicability of humanitarian law, which arose during the UN operations, notably in Somalia.

Andrei Siperco, *Crucea Rosie Internationala si Romania in perioada celui de-al doilea razboi mondial (1 septembrie 1939 - 23 august 1944)*, Editura Enciclopedica, Bucharest, 1997, 302 pp. — with summaries in French and English.

This book by a Romanian historian examines the ICRC's humanitarian work in Romania during the Second World War. The author describes how ICRC delegates were able to help prisoners of war belonging to the Western Allied forces and the country's Jewish population.

Daniel Warner (ed.), *Human rights and humanitarian law: The quest for universality*, Martinus Nijhoff, The Hague/London/Boston, 1997, 145 pp.

This is a compilation of texts prepared by different authors for a symposium held in 1995 in Geneva.

Thomas G. Weiss, David Cortright, George A. Lopez and Larry Minear (eds), *Political gain and civilian gain: Humanitarian impacts of economic sanctions*, Rowman & Littlefield Publishers, Lanham/New York/Boulder/Oxford, 1997, 277 pp.

In view of the growing trend to impose economic sanctions, several authors explore the consequences they have for the civilian population of targeted States and try to answer the question whether the objectives pursued by such coercive measures justify the suffering they inflict on civilians. The book is rounded off by analyses of the sanctions imposed on South Africa, Iraq, the former Yugoslavia and Haiti.

Antônio Augusto Cançado Trindade and Christophe Swinarski (eds), *Héctor Gros Espiell — Amicorum Liber: Persona humana y derecho internacional/Personne humaine et droit international/The human person and international law*, Bruylant, Brussels, 1997, 1878 pp.

A collection of texts paying tribute to Professor Héctor Gros Espiell, several of which deal with questions relating to international humanitarian law.

Entre urgence et développement: Pratiques humanitaires en questions, under the direction of Claire Pirotte and Bernard Husson, Éditions Karthala, Paris, 1997, 237 pp.

What type of aid should be given when the situation in the field calls for a combination of emergency assistance and development work? This book contains a series of contributions and suggestions reflecting the experience of various non-governmental organizations.

Daphne A. Reid and Patrick F. Gilbo (eds), *Beyond conflict: The International Federation of Red Cross and Red Crescent Societies, 1919-1994*, International Federation of Red Cross and Red Crescent Societies, Geneva, 1997, 351 pp.

An illustrated history of the International Federation of Red Cross and Red Crescent Societies, the umbrella organization of the National Red Cross and Red Crescent Societies.

Pablo Antonio Fernandez Sanchez (coordinator), *La licitud del uso de las armas nucleares en los conflictos armados*, IV Jornadas de Derecho Internacional Humanitario, University of Huelva/University of Seville/Spanish Red Cross/Ministry of Defence, Seville, 1997, 321 pp.

This book contains the proceedings of the fourth Session on International Humanitarian Law organized by the universities of Huelva and Seville. Several authors look at the Advisory Opinion of the International Court of Justice on the legality of nuclear weapons from the standpoint of international humanitarian law.

Claude Emanuelli (ed.), *Les casques bleus: policiers ou combattants/Blue Helmets: policemen or combatants*, Faculty of Law, Department of Civil Law, University of Ottawa, Wilson and Lafleur Ltée, Montreal, 1997, 130 pp.

This publication is a compilation of papers presented at a symposium. The authors examine a number of questions surrounding operations carried out by the Blue Helmets and how international humanitarian law applies to their work.

Abdulhay Sayed, *Quand le droit est face à son néant, Le droit à l'épreuve de l'emploi de l'arme nucléaire*, Bruylant, Brussels, 1998, 203 pp.

The author looks at the Advisory Opinion of the International Court of Justice on the legality of the use of nuclear weapons. One chapter deals specifically with the applicability of international humanitarian law in the event of their use.

Anne-Marie La Rosa, *Dictionnaire de droit international pénal, Termes choisis*, Presses universitaires de France, Paris, 1998, 118 pp.

In about 100 pages, the author defines or describes 33 terms from “*aut dedere aut judicare*” to “violations of the laws and customs of war”, which come under both international humanitarian law and international criminal law. This is not just a dictionary; it explains and comments briefly on a few important legal principles relating to the penal repression of serious violations of humanitarian law.

It would be most useful if this work could be translated into English.

Ivan Nikiforovich Artsybasov

1927-1997

We were greatly saddened to learn of the death of Professor Ivan Nikiforovich Artsybasov, doctor of laws, member of the Russian Academy of Military Science and recipient of official Russian Federation honours for his contribution to international law.

Professor Artsybasov's renown as a leading expert in the law of armed conflict reached far beyond the boundaries of his home country. He is the author of over fifty works, published both in Russia and abroad, on international legal regulation of relations during armed conflict. His writings in this field made a significant impact on the development of Russian doctrine on the law of armed conflict and related legislative practice.

Professor Artsybasov devoted more than thirty years of his life to fruitful academic activity and research at Moscow's Military University, where he occupied the chair of theory and history of the State and of international law. It was also there that in 1981 he submitted and successfully defended his doctoral dissertation on the "International legal problems of armed conflict regulation". In 1989 he published, together with the author of these lines, a book entitled "Armed conflicts: Law, Policy, Diplomacy".

His academic and pedagogical work and participation in numerous seminars and conferences were largely instrumental in improving the teaching of the law of war in military educational institutions of the Russian Federation, and in making the laws and customs of war better known by the troops.

One could hardly overstate the importance of Professor Artsybasov's contribution to the promotion of international humanitarian law. For his active participation in spreading knowledge of the rules of international

humanitarian law applicable in armed conflict he was awarded the N.I. Pirogov medal by the Alliance of the Red Cross and Red Crescent Societies of the USSR.

Ivan Nikiforovich Artsybasov was a wonderful person and a gifted teacher and scholar. He was a man whom we will not forget.

Sergei Alexeyevich Yegorov
Professor, Diplomatic Academy
Ministry of Foreign Affairs, Moscow

The *International Review of the Red Cross* is the official publication of the International Committee of the Red Cross. It was first published in 1869 under the title "Bulletin international des Sociétés de secours aux militaires blessés", and then "Bulletin international des Sociétés de la Croix-Rouge".

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1202 Geneva, Switzerland

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Internet: review.gva@icrc.org

SUBSCRIPTIONS: one year, 30 Swiss francs or US\$ 18

single copy, 10 Swiss francs

Postal cheque account No. 12 - 5527-06 Geneva

Bank account No. 129.986.0, Swiss Bank Corporation, Geneva

**INTERNATIONAL
REVIEW**
OF THE RED CROSS