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- ***Retracing the origins of international humanitarian law*** — to mark the 125th anniversary of the adoption of the Geneva Convention of 22 August 1864 (*special edition*);
- ***The red cross and red crescent emblem (special edition)***;
- ***The Fundamental Principles in action:***
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States' entitlement to take action to enforce international humanitarian law

by Dr. Kamen Sachariew

I. Introduction

The ultimate purpose of dissemination of and compliance with international humanitarian law (IHL) is to mitigate the effects of armed conflict and provide the best possible protection for its victims. At the same time, IHL fosters wider acceptance of the ideals of humanity and peace between peoples. The relationship between IHL, the struggle for peace and the prohibition of the use of force is becoming ever clearer as the realization grows that lasting peace, development and peaceful international co-operation can be achieved only on the basis of compliance with international law and respect for human life and dignity.

However, violations of those fundamental rules of international humanitarian law, of that self-same prohibition of the use of force, are common practice in numerous armed conflicts today. Moreover the development of first-strike nuclear capability and "Star Wars" weapons is setting the scene for their total disregard.

In these circumstances, the question as to which States can take steps to ensure the implementation of IHL, and when and how they may do so, is becoming more urgent and significant with every passing day.

It must be noted that States do not have sole responsibility for implementing the rules of IHL; an important role is also played by international governmental and non-governmental organizations, the International Red Cross and Red Crescent Movement including the ICRC, and other international and national relief societies as well as many dedicated individuals around the world. However, as members of the international community and parties to the Geneva Conventions, States have a particular political and legal responsibility for the implementation of IHL.

States can act primarily on three levels to ensure that their obligations under IHL are fulfilled: in their own national legislation, as part of the international community and within the framework of the implementation and sanction systems provided by the Geneva Conventions and their Additional Protocols.

II. Internal means of enforcement of international humanitarian law

Every State has an obligation to take whatever national legislative or other steps are necessary to prevent and punish violations of the rules applicable to armed conflict. This obligation arises from the principle that all treaty and customary law obligations must be fulfilled in good faith; it is specifically reinforced by the provisions of the Geneva Conventions and their Additional Protocols (cf. First Convention Arts. 1, 45, 47, 49 and 54; and Protocol I Arts. 80, 84, 86 and 87). Of particular significance is the obligation created by Art. 1 common to the four Geneva Conventions and Additional Protocol I “to respect and to ensure respect” for the Conventions and Protocols “in all circumstances”. An important aspect of this obligation is the use of national law to ensure that international humanitarian law is observed by all persons within the national jurisdiction of the State concerned.¹ With sufficient willingness on the part of the national authorities, violations of IHL can in this way be very effectively and quickly counteracted. However, it is not enough to rely on such methods when particularly grave violations are being systematically committed—as often happens in cases of military aggression—with the support or at least toleration of the State concerned. Such serious violations which threaten world peace can be punished by the international community as international crimes.

¹ See Michael Bothe, “The role of national law in the implementation of international humanitarian law” in *Studies and essays on international humanitarian law and Red Cross principles, in Honour of Jean Pictet* (hereafter *Studies and Essays in honour of Jean Pictet*), Geneva/The Hague 1984, p. 301 et seq. See also L. Condorelli and L. Boisson de Chazournes, “Quelques remarques à propos de l’obligation des Etats de ‘respecter et faire respecter’ le droit international humanitaire ‘en toutes circonstances’”, *ibid.*, pp. 24-25.

III. Enforcement measures for the prevention of international crimes

The Charter of the United Nations, by virtue of the prohibition on the use of force, already sets out a group of legal obligations whose violation qualifies as a threat to peace. A collective security system was established to guard against failure to comply with them. It has been increasingly recognized that the fundamental principles of modern international law create a particular system of obligations. These principles are not based upon bilateral legal relationships; rather, they give rise to obligations which every State must fulfil *vis-à-vis* all other States. The existence of such *erga omnes* norms was confirmed in the well-known ruling of the International Court of Justice in the Barcelona Traction case.² Parallel to the notion of *erga omnes*, the concept of international crimes was evolved to correspond to State responsibility for particularly grave breaches of this kind of obligation. In Art. 19, para. 2 of the UN International Law Commission's (ILC) draft articles on State responsibility, these are defined as being a breach of an obligation "so essential for the protection of fundamental interests of the international community that its breach is recognized as a crime by that community as a whole."³

Among the examples mentioned in Art. 19, para. 3, crimes of particular gravity for IHL are those crimes constituting "a serious breach on a widespread scale of an international obligation of essential importance for safeguarding the human being" (para. 3 (c)). In the light of the provisions of Protocol I additional to the Geneva Conventions, especially Arts. 55, 56 and 85, para. 3 (c), the crimes against the human environment mentioned in Art. 19, para 3 (d) of the ILC draft also assume increased importance. These draft provisions do not, of course, deal with the criminal responsibility of individuals who are found guilty of such violations, but rather with the responsibility under international law of the States in whose name such crimes have been committed.

From our point of view, the most interesting feature is that crimes under international law are not only a bilateral matter between culprit

² International Court of Justice (ICJ) *Reports* 1970, p. 30 et seq., para. 33-34.

³ *Yearbook of the International Law Commission (YBILC)*, 1976, Vol. II, p. 75. Regarding the ILC's work in the area of international crimes, see M. Spinedi, *International crimes of State in the UN Work on Codification of State responsibility*, Florence 1984, p. 4 et seq. and p. 90 et seq.

and victim. A legal interest also exists between the offending State and all States in the international community which must be considered as “injured States” within the meaning of Art. 5 Part 2 of the ILC draft.⁴ The ILC has not thus far held a sufficiently wide-ranging discussion of the legal consequences of international crimes. Above all it has not yet reached a general agreement on how and by what means States which are not directly involved can react. The prevailing view; however, seems to be that such States should react mainly within the UN system.⁵ The direct victims of an international crime are deemed entitled to additional, more extensive remedies within the framework of collective and individual self-defence. Generally speaking, there are two reference points (the United Nations and the direct victims of the crime); these serve to co-ordinate the reactions of the international community in order to prevent chaos in international relations. It is important to stress that the reactions of the victim and those of the international community under Art. 51 of the UN Charter are closely linked and must be in keeping with the fundamental principles of international law and the rules of responsibility under international law.

The concept of international crimes does bring with it the possibility of imposing collective sanctions, but this aspect, although not to be underestimated, is not the main source of its potential strength as a means of combating the most serious violations of international law which constitute a threat to peace. This strength derives far more from the fact that the concept expresses the determination of the international community *as a whole* (and not merely certain groups of countries)⁶ to combat them. The fact that co-ordinated action is possible and necessary in today’s divided world was shown, for example, in the resolution on the Iran-Iraq war unanimously adopted by the UN Security Council.⁷ The effective repression of acts generally acknowledged as crimes likewise ultimately depends on co-ordinated and determined action by

⁴ The text can be found in A/CN.4/L.390, add. 1, p. 3.

⁵ In his commentary on Article 14 (international crimes) of the second part of the draft instrument on codification, W. Riphagen points out that “an individual State which is considered to be injured *only* by virtue of Art. 5(e) [on international crimes — K.S.] enjoys this status as a member of the international community as a whole and should exercise its new rights and obligations within the framework of the *organized* community of States”. W. Riphagen, Sixth Report, A/CN.4/389, p. 26, para. 10.

⁶ See the ILC’s deliberations, in particular Sinclair A/CN.4/SR.1890, pp. 9-10; Flitan, *ibid.* SR.1892, p. 3. On distinguishing between directly and indirectly concerned States, see also B. Graefrath, “Völkerrechtliche Verantwortlichkeit für internationale Verbrechen”, in *Probleme des Völkerrechts 1985*, p. 89 et seq.

⁷ For example, Security Council resolutions 548 of 31.10.1983 and 598 of 20.7.1987.

the international community and full use of the already existing legal possibilities. This has been demonstrated by the fruitless attempts to impose effective sanctions against the crime of apartheid or the violations committed in the territories occupied by Israel.⁸

IV. The system for the enforcement of the Geneva Conventions and Additional Protocol I

A further level on which States can combat violations of international humanitarian law is provided by the implementation and sanction system existing under the Geneva Conventions and Additional Protocol I. Experts in international law have for some time been discussing which States party to those instruments can take action against their violations and how they can do so. This is but one aspect of a wider problem—determining which are the injured States and what means of remedy are at their disposal under multilateral treaties.

1. Setting the problem within the context of the theory of State responsibility

The general principle of State responsibility is that claims and entitlements within the framework of international responsibility arise only for that State whose rights have been violated by a breach of a legal obligation. This presupposes the existence of a legal relationship between the offending State and the injured State. Under bilateral agreements there is normally no problem in determining the injured State. However, under multilateral agreements, where a legal relationship exists between several States, it is not always so easy to determine the State or States which are concerned by a violation of the agreement and are therefore entitled to make claims and take measures against the offending State. This is because the character of obligations under multilateral agreements can vary greatly according to whether one is dealing with a treaty establishing an international organization, a raw materials agreement, a regional peace settlement or treaties such as the Vienna Convention on the Law of Treaties. In discussions among international law experts and within the UN International Law Commission itself, the prevailing view seems to be that with multilateral

⁸ See the many UN General Assembly resolutions on the apartheid policies of the South African government, for example resolutions 39/50 A and 39/72 A of 13.9.1984; or, on the Middle East, resolution 39/146 A of 14.12.1984 and Security Council resolution 592 of 8.12.1986.

agreements it is possible to distinguish between two basic types of obligations—bilateral and multilateral.⁹

A bilateral structure of obligations may be found in multilateral agreements which are basically instruments for establishing bilateral relations between a number of different States. Though binding for any number of States, their provisions in fact take effect between pairs of States. Examples frequently given of such treaties are the Conventions governing diplomatic and consular relations and the Vienna Convention on the Law of Treaties.

Multilateral obligations, on the other hand, are basically such as can only be met simultaneously *vis-à-vis* all other Parties to the agreement. The resulting relationship in law exists between each State party to the agreement and all other States party to it. Examples are multilateral disarmament treaties, human rights conventions and environmental protection agreements, etc.

These differences in the type of obligations created by multilateral treaties result in differences in the system of responsibility, and the answer to the question of which States can react to the violation of an agreement, and the means whereby they can do so vary according to the type of obligations created by the multilateral treaty in question. Generally speaking, bilateral obligations give rise to a bilateral relationship of responsibility. Thus, when multilateral obligations are violated, the rights of all States party to the agreement are affected and they can all take part—in different ways—in the process of enforcing the violated provision.¹⁰

2. The type of obligation created by the Geneva Conventions and their Additional Protocols

The four Geneva Conventions of 1949 and their Additional Protocols of 1977 have seldom received detailed attention in general analyses of the type of obligations created by multilateral agreements. However, in the legal understanding of States and in specialized litera-

⁹ See, for example, B. Simma, *Das Reziprozitätselement im Zustandekommen völkerrechtlicher Verträge*, West Berlin 1972; S. Graefrath, "Zur Bedeutung der grundlegenden Prinzipien für die Struktur des allgemeinen Völkerrechts" in *Probleme einer Strukturtheorie des Rechts*, East Berlin 1985, p. 180 et seq.; K. Sachariew, *Die Rechtsstellung der betroffenen Staaten bei Verletzungen multilateraler Verträge*, East Berlin 1986, particularly pp. 32-44 and 58-82.

¹⁰ The ILC attempted to make a distinction between different degrees of injury in Art. 5 of the second part of the draft instrument to codify rules on State responsibility. See the text in A/CN.4/L.390, add. 1, p. 3.

ture on international humanitarian law, it is rightly taken for granted that the obligations created by the Geneva Conventions and their Additional Protocols are of a multilateral nature.¹¹ This is expressed in Jean Pictet's Commentary on Art. 1 common to the four Geneva Conventions: "It is not an engagement concluded on the basis of reciprocity ... It is rather a series of unilateral engagements solemnly contracted before the world as represented by the other Contracting Parties. Each State contracts obligations *vis-à-vis* itself and at the same time *vis-à-vis* the others."¹² In the years since the Geneva Conventions came into force, this interpretation of the structure of obligations under international humanitarian law has been repeatedly confirmed by the international community. Examples are Resolution XXIII unanimously adopted by the International Conference on Human Rights in Tehran on 12 May 1968 and the intentional usage of the phrase "to respect and ensure respect" in Art. 1 of 1977 Additional Protocol I.¹³

The multilateral relationship in law which thus exists between every State party to the Conventions and all other parties entitles each and every one of them to demand that all others meet their obligations and help to ensure that those obligations are met.¹⁴ This right exists for all States party to the Conventions and not only for the parties to a conflict: "In the event of a Power failing to fulfil its obligations, the other Contracting Parties (neutral, allied or enemy) may, and should, endeavour to bring it back to an attitude of respect for the Convention".¹⁵

This general right to help ensure respect for the Conventions is set out not only in Art. 1 but also in a number of other enforcement provisions. Perhaps the most obvious example is Art. 89 of Additional Protocol I. Entitled "Co-operation", it states that "In situations of

¹¹ See G. Abi-Saab, "The specificities of humanitarian law" in *Studies and essays in honour of Jean Pictet*, *op. cit.*, p. 270; L. Condorelli and L. Boisson de Chazournes, *op. cit.*, *supra* note 1, pp. 26-29; T. Meron, "The Geneva Conventions as customary law", 81 *AJIL* 1987, p. 355.

¹² J. Pictet, *Commentary on the First Geneva Convention of August 12, 1949*, Geneva 1952, p. 25.

¹³ See *Commentary on the Additional Protocols of 8 June 1977*, ICRC, Geneva 1987, Art. 1, Protocol I, p. 36, para. 43; see also Bothe/Partsch/Solf, *New rules for victims of armed conflicts*, The Hague/London/Boston 1982, pp. 38 and 43.

¹⁴ The ICRC has frequently reminded States of their duty under Art. 1 of the Conventions and Protocols. See the ICRC's "Appeal for a humanitarian mobilization" in *International Review of the Red Cross*, No. 244, January-February 1985, p. 31. See also Y. Sandoz, "Appel du CICR dans le cadre du conflit entre l'Iran et l'Irak", *Annuaire français du droit international (XXIX)*, 1983, p. 161.

¹⁵ J. Pictet, *Commentary on the First Geneva Convention*, *op. cit.*, p. 26.

serious violations of the Conventions or this Protocol, the High Contracting Parties undertake to act, jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter". The right (and duty) of every Contracting Party not only scrupulously to fulfil its own obligations but also, using means permitted under international law, to monitor compliance by the other Parties and to take action to enforce it is fully in keeping with the nature and purpose of international humanitarian law—the noble ideal of protection for the human person, human dignity and human life. Just like the victim of armed aggression, the victim of grave violations of international humanitarian law must not be forsaken and needs not only individual but also collective ways and means of countering serious violations of international law.¹⁶

Determining that obligations under international humanitarian law are multilateral in nature and that in the event of breach of obligation, all Contracting Parties are to be considered as injured and entitled to seek redress does not, however, mean that all problems related to the enforcement of IHL are solved. The questions remain, for example, as to what measures are admissible and whether all Contracting Parties (other than the offending State) are equally concerned, in a legal sense, by the violations or whether there are varying degrees of being concerned and therefore of entitlement to take action.

On the latter point, there are clear differences within multilateral agreements under which multilateral obligations are created. When human rights accords are violated, for instance, the States party to the accord are equally concerned—except when persons who are not nationals of the offending State are the object of the violations—since the human rights obligations are, so to speak, inwardly oriented, i.e. they are primarily associated with the relationship between the State and its citizens. When a State observes the provisions of a human rights accord, it simultaneously meets its obligations towards all the other States party to that accord. By the same token, the rights of all States party to the accord are usually concerned in equal measure by human rights violations.

3. Multilateral obligations and armed conflict

A somewhat different situation exists when obligations under international humanitarian law are violated. Although these are also obliga-

¹⁶ See K. Obradović, "Que faire face aux violations du droit humanitaire?" in *Studies and essays in honour of Jean Pictet*, *op. cit.*, pp. 488-490.

tions towards all Contracting Parties and do not depend on strict reciprocity, they are not first and foremost for the benefit of a State's own inhabitants, but relate above all to protected persons and objects belonging to the other Party to an armed conflict. In the event of violation, the other Party would in any case be individually and directly concerned. Apart from obligations to be met in peacetime, a general injury in international humanitarian law can only result from or accompany an individual injury. Unlike the obligations arising out of human rights accords or the prohibition of nuclear tests, all Parties can be wronged only by a specific violation committed against a specific Party. In such a case, they are concerned not only because of the common interest which all States have in the observance of humanitarian rules but also because of the violation of one Party's specific, individual rights. The fact that one Party can be particularly wronged underlines the crucial role played by the Parties to a conflict in the implementation of international humanitarian law. Most of the provisions of the Geneva Conventions and their Additional Protocols are addressed to Parties to a conflict;¹⁷ these provisions must be implemented either by or towards those Parties, and violations are also usually directed against a Party to a conflict or a specific neutral State. Thus Art. 13 of the First and Second Geneva Conventions specifies that the said Conventions apply to various categories of wounded, sick and shipwrecked people who *belong to the Parties to the conflict*, as does Art. 4 of the Third Convention. The protection provided by the Fourth Convention is not confined to nationals of the occupying power, but primarily covers the civilian population in the territory under occupation (Art. 4). However the extended applicability under Art. 13 of the Fourth Convention likewise refers to "the whole of the populations of the *countries in conflict*" (author's italics).

For their implementation by neutral States, the Conventions also apply first and foremost to protected persons from Parties to a conflict (Art. 4, First Convention; Art. 5, Second Convention; Art. 4 B [2], Third Convention). Consequently a violation committed by a neutral State would likewise directly concern one of the said Parties to a conflict.

To widen protection for the victims of armed conflict, the participants in the 1974-77 Diplomatic Conference formulated broader definitions of protected persons (Art. 8 [a] and [b], Art. 9 [1] and Art. 49 [2] of Protocol I). Nevertheless, armed conflict "between two or more of

¹⁷ J. Pictet, *Commentary on the First Geneva Convention*, *op. cit.* p. 406.

the High Contracting Parties” remains, under Art. 1[3] of Protocol I and Art. 2 common to the four Geneva Conventions, the principal sphere of applicability.

This particular characteristic of the Geneva Conventions and their Additional Protocols is also reflected in the provisions governing their entry into force. They came into force six months after *only* two instruments of ratification had been deposited.

It is true that this low number of ratifications required for a multilateral treaty to come into force was rather unusual, but it was so arranged for humanitarian reasons and to accelerate the ratification process.¹⁸ It was possible only because these treaties are essentially implemented between the Parties to an armed conflict. In this respect, the Conventions and Protocols clearly differ from human rights conventions (particularly the 1966 UN Covenants) which are also universal in nature and born of humanitarian considerations; they are not, however, to be implemented only between two parties to a conflict and a minimum of two ratifications would therefore not be acceptable as a basis for their entry into force.

It is thus evident that the obligations created by the Geneva Conventions and their Additional Protocols are particularly complex in structure. On the one hand, because of these instruments’ importance for the protection of human life and dignity and their capacity to promote peace, each State party to them has obligations *vis-à-vis* the international community as a whole (i.e. the other Parties). All States party to these instruments have the right and duty to ensure respect for international humanitarian law. On the other hand, apart from the provisions to be implemented in peacetime, the obligations stemming from these instruments are mainly applicable to armed conflicts between two or more States party to them. It follows that a State which becomes involved in a conflict (as a Party to the conflict, a neutral State, a protecting power, etc.) will have a particular legal status in that it will have specific rights and duties. This is true above all of the States party to the conflict themselves. These States bear the primary responsibility for implementing IHL. They are also the ones most often directly concerned by any violations.

This raises the question of whether the multilateral and complex nature of the obligations under this body of law also has effects on the methods used to enforce it, that is, whether the degree varies to which the Parties are entitled to take action in the event of violation.

¹⁸ *Commentary on the Additional Protocols*, Protocol I, Art. 95, p. 1080, para. 3730.

4. Differences in the Parties' entitlement to take enforcement measures

Examination of the provisions in the Geneva Conventions and Additional Protocol I for their enforcement and sanctions in the event of violation reveals that there are indeed several measures which only certain States may take; others, however, are open to all States party to those instruments, though even here the State particularly concerned by the violation may play a more prominent role.

Among the former group of measures is the *conciliation procedure* (Art. 11 of the First, Second and Third Geneva Conventions and Art. 12 of the Fourth Convention). This procedure can be initiated either at the invitation of one of the Parties to the conflict or one of the protecting powers. The *enquiry procedure* (Art. 52 of the First Convention, Art. 53 of the Second Convention, Art. 132 of the Third Convention and Art. 149 of the Fourth Convention) can be initiated only at the request of a Party to the conflict. It is significant that the 1949 Diplomatic Conference explicitly assigned this right to the Parties to a conflict¹⁹ despite the fact that at the 1948 International Conference of the Red Cross in Stockholm the relevant draft provision (draft Art. 41) granted *any High Contracting Party* the right to demand an official enquiry.²⁰ The focus on the Parties to the conflict is reinforced in para. 3 of the corresponding article in the Conventions as they are required, once the violation has been established, to put an end to it and repress it with the least possible delay.

The entitlement to initiate an enquiry through an International Fact-Finding Commission is expressed somewhat differently in Art. 90 of Additional Protocol I. An enquiry may be requested by any Contracting Party which has recognized *ipso facto* and without special agreement the Commission's competence. However, this may be done only in relation to another Contracting Party which has accepted the same obligation (Art. 90 para. 2 [a]). Otherwise, an enquiry into alleged violations can be instituted only by a Party to the conflict with the consent of the other Party or Parties concerned (Art. 90 para. 2 [d]). This is sometimes taken as an indication that paras. 2a may be interpreted more broadly and that application for an enquiry is not open only to Parties to a conflict.²¹ When one looks at the development of

¹⁹ See J. Pictet, *Commentary on the First Geneva Convention*, p. 377.

²⁰ *Ibid.*, p. 375.

²¹ See also L. Condorelli and L. Boisson de Chazournes, *op. cit. supra* note 1, p. 31; and *Commentary on the Additional Protocols*, Protocol I, Art. 90, p. 1046, para. 3626.

Art. 90, however, it becomes clear that in both cases (paras. 2a and 2d) States have tended to view the Parties to the conflict as primarily entitled to take such a measure. The discussion has centred on whether the consent of both sides is necessary and whether the Commission can act on its own initiative or at the request of a protecting power.²²

Prominence is also given to the Parties to a conflict and other specifically involved States in Art. 91 of Additional Protocol I («Responsibility»). This article chiefly sets out the obligation of a Party guilty of violation to pay compensation. Compensation can be paid only to States which have suffered damages in connection with violations of the Conventions and Protocols and therefore qualify as particularly concerned. In the ICRC's Commentary on Art. 91, such States are defined as normally being Parties to the conflict and, in exceptional circumstances, certain neutral countries.²³ At the same time it should be pointed out that responsibility for violations of the Geneva Conventions and their Protocols within the meaning of Art. 91 (and in spite of the somewhat narrow wording of the Article and Commentary)²⁴ can in no way be interpreted as a solely material liability *vis-à-vis* the States particularly concerned (Parties to the conflict). The article's second sentence emphasizes the responsibility of the violating State for all acts committed by persons forming part of its armed forces. This responsibility refers not only to the entitlement of the States concerned to compensation but also to the entire range of rights granted by the Conventions and Protocols.²⁵

5. Means of enforcement open to all States party to the Geneva Conventions and Additional Protocols

It is the measures open to all States party to these instruments which highlight the multilateral nature of the provisions of the Conventions

²² For details on the development of Art. 90, see the *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts (CDDH)*, Bern 1978, vol. IX, p. 194 et seq., particularly (Canada) p. 210, para. 18; the proposed amendment introduced by Japan (CDDH/I/316), *ibid.*, SR.56, p. 194, para. 20 and the "explanations of vote", *ibid.*, SR.73, p. 435 et seq., particularly p. 444. See also B. Graefrath, "Die Untersuchungskommission im Ergänzungsprotokoll zu den Genfer Konventionen" in *Wissenschaftliche Zeitschrift der Humboldt-Universität zu Berlin*, 1981/1, p. 9 et seq.

²³ *Commentary on the Additional Protocols*, Protocol I, Art. 91, p. 1056, para. 3656.

²⁴ This opinion is shared by L. Condorelli/L. Boisson de Chazournes, *op. cit.*, pp. 34-35.

²⁵ This view is supported by F. Kalshoven, *Constraints on the Waging of War*, ICRC, Geneva 1987, p. 130.

and Protocols. The prime example is the provision for individual criminal prosecution of war criminals—the linchpin of the sanctions structure. Under the Geneva Conventions (Art. 49, 50, 129 and 146 respectively of the First, Second, Third and Fourth Convention) *every Contracting Party* has the right and duty to bring suspected war criminals, regardless of their nationality, before its own courts. This provision underscores the responsibility of the entire international community in combating grave breaches of international humanitarian law. Here it is possible for each member of that community to fulfil its responsibility individually. But neither the Geneva Conventions nor their Additional Protocols rule out the possibility of assigning the task to an international criminal court. At the same time, the State on whose territory a suspected war criminal is found can also extradite him in accordance with the principle *aut dedere aut judicare*. It cannot, however, extradite him indiscriminately to any other State party to these instruments, but only to one which is “a Party concerned” in a particular way by the violation in question and can provide sufficient incriminating evidence against him. Article 88 (2) of Additional Protocol I emphasises the particular status of the State on whose territory the alleged offence has occurred. Both this State and the State which can present sufficient incriminating evidence are normally considered to be specifically concerned, either as a Party to the conflict or as a State whose citizens have been victims of the violation. This also emphasises the particular role of these States in the individual prosecution of war criminals.

Among the measures open to all Contracting Parties are the meetings between Parties provided for in Art. 7 of Protocol I and the joint action laid down in Art. 89.

Investigatory meetings such as those provided for in Article 7 are a specific means of enforcing multilateral treaties which may be found in many branches of international law.²⁶ They are explicitly described in the Commentary on Art. 7 as a “method of improving the application of this instrument” and linked with Art. 1 and Art. 80 (“Measures for execution”).²⁷ In our consideration of the subject, it is particularly significant that every State party to the Protocol—not only the Parties

²⁶ Such meetings are provided for in Art. VIII of the Treaty on the Non-Proliferation of Nuclear Weapons and Art. VIII of the Convention on the Prevention of Military or any Other Hostile Use of Environmental Modification Techniques, among many other treaties.

²⁷ See *Commentary on the Additional Protocols*, Protocol I, Art. 7, p. 104, para. 264.

to the conflict or the protecting powers—is entitled to initiate the procedure. This increases the interest of each Party in the implementation of the Conventions and Protocols. The procedure is confined to “general problems concerning the application of the Conventions and Protocols”. Individual violations and situations governed by other provisions would therefore not come within the purview of such meetings.²⁸ However, failure to comply with international humanitarian law would unquestionably be regarded as a “general problem”. The issue of better general prevention and repression of violations therefore certainly belongs to the range of subjects which can be dealt with at such meetings.

The fact that serious violations of the Conventions and Protocols concern all the States party to those instruments becomes even clearer in Art. 89 of Protocol I, which states that in situations of serious violations the Contracting Parties undertake to act, jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter.

The subject and content of this provision are in many ways linked to important problems of enforcing multilateral treaties which give rise to obligations of a multilateral nature. The key question here is how the Contracting Parties as a whole, and especially those not directly concerned by a grave violation, can react to such violations.

Under general international law, certain restrictions exist on the taking of countermeasures: legality, advance notice and proportionality. In addition, international humanitarian law lays down particular prohibitions on reprisals. These apply both to the State directly concerned and to the international community as a whole. One of these is the prohibition on reprisals against protected persons and objects, an express provision of the Conventions and Protocols.²⁹

A significant fact for our analysis is that the prohibition on taking measures against protected persons and objects—even when those measures are a reaction to violations committed by the other side—is closely linked to the multilateral character of humanitarian obligations.³⁰ Such reprisals are prohibited because when the injured State in turn suspends the same obligation as the one originally violated, or

²⁸ *Idem*, p. 106, para. 274.

²⁹ *Idem*, pp. 982-987 and the bibliography on p. 973.

³⁰ This view is supported by J. Pictet, *Commentary on the First Geneva Convention*, *op. cit.*, p. 345 et seq.; J. de Preux, “The Geneva Conventions and Reciprocity”, in *International Review of the Red Cross*, No. 244, January-February 1985, p. 25 et seq.; L. Condorelli and L. Boisson de Chazournes, *op. cit.*, pp. 19-22; G. Abi-Saab, *op. cit.*, (footnote 11), pp. 267 and 280.

another associated obligation, innocent people become the victims of inhuman treatment and the injury done to protected persons and objects becomes even greater.³¹ This also applies *mutatis mutandis* to other multilateral norms creating multilateral obligations which do not represent the sum of the Parties' individual interests but, in the words of the International Court of Justice, are the expression of the common consent of the Parties,³² such as the obligations of States in the area of human rights and environmental protection.³³

Experts in international law disagree about whether, in addition to the prohibition of reprisals which is equally binding for all Parties, there are other principles guiding the use of countermeasures which particularly apply to States indirectly concerned. We are dealing here above all with the relationship between the treaty-based enforcement system and the countermeasures under general (customary) law, and between collective and individual measures.

An opinion widely found in Western literature on international law is that multilateral obligations and the fact that all Parties are concerned when a violation is committed mean that every State can take any measure which is legal under *general international law* and does not constitute a prohibited reprisal.³⁴

In my opinion, the Geneva Conventions and their Additional Protocols leave no doubt that the multilateral obligations structure in no way implies that the Parties automatically have uniform claims and entitlements. The status of an individual State directly concerned by a violation is in marked contrast to that of the other Contracting Parties which are indirectly concerned by the violation. They are concerned solely because of the multilateral nature of the violated provision and because of the injury to the common interests of the Parties *as a whole*, that is, an injury to that *community*. The reactions of those States,

³¹ See the position taken by the German Democratic Republic at the 1974-77 Diplomatic Conference, CDDH/II/SR.47, Vol. IX, p. 71, para. 23, and that of Norway, *ibid.*, p. 75, para. 44.

It should, however, be pointed out that the degree of reciprocity in the so-called "Law of Geneva" and "Law of The Hague" can vary, although there is "a clear tendency" in international humanitarian law as a whole to eliminate considerations of reciprocity.

³² See "Reservations to the Convention on Genocide", Advisory Opinion: ICJ Reports 1951, p. 23.

³³ See K. Sachariew, *op. cit. supra* note 9, p. 93; in the same vein, Art. 11, Part. II of the ILC draft articles on State responsibility, A/CN.4/389, p. 21.

³⁴ See, as one example among many, M. Hanz, *Zur völkerrechtlichen Aktivlegitimation zum Schutze der Menschenrechte, Europarecht — Völkerrecht*, Vol. 8, Munich 1985, particularly p. 45 et seq.

which are concerned only in their capacity as members of the above-mentioned community, must—in accordance with the nature of the violated obligation—be based above all on the procedures laid down in the said instruments and on collectively decided action.³⁵ For the application of the Conventions and Protocol I, this first means that indirectly concerned States must take action within the framework of the measures set out in those instruments. Article 89 of Protocol I and the other relevant enforcement provisions offer these States a wide range of possibilities, at the same time indicating certain limits.

Among the measures which may be taken individually or jointly by indirectly concerned States are, under Article 89, diplomatic and legal action against the offending State,³⁶ provided that it is in accordance with the United Nations Charter, or other special action of a humanitarian nature taken at the recommendation of a “meeting of the High Contracting Parties” (Art. 7, Protocol I)³⁷ or in conjunction with the competent UN bodies. One such action to which every State is, of course, entitled is the criminal prosecution or extradition of individuals who have committed grave violations of international humanitarian law and the right, under Art. 35, para. 1 and 2 of the UN Charter, to bring to the attention of the Security Council or the General Assembly any violation of international humanitarian law likely to endanger peace. One measure which is extremely effective from the humanitarian point of view and can be taken either individually or collectively by States is support for the work of the ICRC and other neutral aid organizations.³⁸ This is especially important on the rare occasions when the ICRC makes a public appeal for such support.³⁹

Conversely, it is doubtful whether individual States can apply economic or other sanctions against those guilty of violations of the Conventions and Protocols. It would seem necessary that there be a

³⁵ See K. Sachariew, *op. cit.* (footnote 9), p. 99 et seq. and p. 103 et seq.; see also W. Riphagen's commentary in Art. 11, Part II of the ILC draft articles on State responsibility, *op. cit. supra* note 33, p. 23, para. 5.

³⁶ The 1972 conference of government experts drew up a draft article expressly providing for the use of such measures. This draft was not, however, considered at the Diplomatic Conference. See the *Report on the work of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts*, ICRC, Geneva 1972, pp. 184-185. “Diplomatic or legal measures” are also mentioned in para. 46, p. 37 of the section dealing with Art. 1 of Protocol I in the *Commentary on the Additional Protocols*, *op. cit.*

³⁷ This view is supported by K. Obradović, *op. cit. supra* note 16, p. 490.

³⁸ *Ibid.*, p. 491 et seq.

³⁹ See footnote 14.

collective decision within the UN framework or the community of States party to those instruments to do so.⁴⁰ On no account should the ideals involved in the enforcement of international humanitarian law be misused as a pretext for one-sided, politically motivated action. As we have already seen, the multilateral character of the obligations offers no justification for such unilateral “sanctions”.⁴¹ On the contrary, multilateral obligations require collective action by the contracting Parties as a whole or collectively agreed action by the individual Parties. The requirement, in the event of a violation, “to act ... in co-operation with the United Nations and in conformity with the United Nations Charter” (Art. 89, Protocol I) is a clear allusion to the primarily institutional and collective nature of the action which can be taken by indirectly concerned States. The discussions at the Diplomatic Conference indicated that this provision was felt to be a restriction on the possibilities for indirectly concerned States to react to violations.⁴² This is confirmed in the position taken by the Syrian representative. The Syrian delegation (one of the proponents of Art. 89) felt that the measures under Art. 89 are restricted to the action provided for by the UN Charter and can be taken only with the consent of the UN General Assembly or Security Council.⁴³ I, too, regard this passage of the text as a safeguard against abuse and interference. In this respect, Art. 89 of Protocol I is related not only to Art. 56 of the UN Charter but also to the enforcement systems in other multilateral treaties with similar safeguarding provisions.⁴⁴

V. The standpoint and practice of States

Establishing State practice regarding collective sanctions and other measures open to indirectly concerned States is an extremely complicated affair. Examples of neutral States taking public action to counter violations of international humanitarian law are very rare. Neutral

⁴⁰ See Y. Sandoz, *op. cit. supra* note 14, p. 167.

⁴¹ This view is not shared by L. Condorelli and L. Boisson de Chazournes, *op. cit. supra* note 1, p. 32.

⁴² See Indonesian statement in the *Official Records* of the 1974-1977 Diplomatic Conference, *op. cit. supra* note 22, Vol. IX, SR.73, p. 447.

⁴³ *Ibid.*, Vol. VI, p. 348, para. 53.

⁴⁴ Such as the enforcement measures under Art. XXII of the 1980 Convention on the Conservation of Antarctic Marine Living Resources which can be taken with regard to other States and must be “consistent with the Charter of the United Nations”.

States, when they do act, usually confine themselves to confidential diplomatic moves, which can only be inferred from other indications.⁴⁵

Important information in this connection is contained in the replies sent by governments to the ICRC's 1972 "Questionnaire concerning measures intended to reinforce the implementation of the Geneva Conventions".⁴⁶ Of particular significance for us are the replies to Question 2: "Can and should the States party to the Geneva Conventions exercise supervision collectively, pursuant to Art. 1 common to those Conventions? If so, what procedure might be envisaged?"

Although the term used is "supervision", the questionnaire clearly also dealt with steps which the Contracting Parties can take in the event of violation.

A wide spectrum of views is revealed. It ranges from a categorical rejection (Argentina, Brazil) of any action by States not involved in the conflict to unreserved acceptance (Belgium and Jordan for example) of action taken collectively or individually by the Contracting States.

Nevertheless, the majority of States felt that under Article 1 the Parties are entitled to take individual or collective, diplomatic or other political steps to bring about compliance by the Parties to a conflict with the rules of international humanitarian law and to invoke the competent UN bodies. Several States (Sweden for example) felt that the methods available to the Parties for the enforcement of the Geneva Conventions were the expression of the Parties' collective interest. It was therefore considered most suitable to have organized or institutionalized mechanisms for the implementation of measures (Finland, Spain). Norway and Switzerland emphasized the special role played by the UN and the ICRC respectively.

Thus, to judge by the views expressed and the practice of States, although there is a general tendency to recognize a collective responsibility on the part of the international community for enforcing international humanitarian law, a rather restricted interpretation is placed on the resultant rights of indirectly concerned States to take action, and

⁴⁵ Switzerland and Austria, for instance, are believed to have appealed belligerents in the Gulf war to respect the Geneva Conventions. See M. Veuthey, "Pour une politique humanitaire" in *Studies and essays in honour of Jean Pictet*, op. cit. p. 1002.

Several other examples are given by A. Cassese, "Remarks on the present legal regulation of crimes of States" in *Le droit international à l'heure de sa codification. Etudes en honneur de R. Ago*, Milan 1987, Vol. III, p. 60 et seq.

⁴⁶ *Questionnaire concerning measures intended to reinforce the implementation of the Geneva Conventions of August 12, 1949, replies sent by governments*, ICRC, Geneva 1973, p. 19 et seq.

such action is taken only in exceptional cases. States evidently have more confidence in measures adopted by collective decision (within the framework of the UN).

VI. Conclusion

Present-day international law offers many interlinked possibilities for States to take part in the important task of enforcing international humanitarian law. A sound basis exists at various levels for combating violations thereof—by treating them as international crimes, by repressing them via internal legislation, and by taking action within the framework of the executory provisions and sanctions laid down by the Geneva Conventions and their Additional Protocols.

At the same time it must be observed that these legal mechanisms for the enforcement of international humanitarian law are no panacea. They have many weak points and are often unable to prevent grave violations. But we must face the fact that a perfect enforcement system—whether for humanitarian or any other branch of international law—is not possible.

Significant improvement in the implementation of international humanitarian law will be possible only if the international community manages to bring about a profound change in international relations, radically reducing the use of force to resolve conflict and ultimately eliminating recourse to force altogether. A key prerequisite for such an achievement will be an international security system which includes humanitarian guarantees.

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The taking of hostages and international humanitarian law*

by Hernán Salinas Burgos

I. Introduction

It is generally acknowledged by the international community that the taking of hostages is one of the most vile and reprehensible of acts. This crime violates fundamental individual rights—the right to life, to liberty and to security—that are protected by binding legal instruments such as the 1966 International Covenant on Civil and Political Rights on the worldwide level, and the 1969 American Convention on Human Rights and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms on the regional level.¹ The United Nations General Assembly has stated that the taking of hostages is an act which places innocent human lives in danger and violates human dignity.²

Moreover, under domestic legislation in each country murder, kidnapping, abduction and extortion are regarded as extremely serious crimes and are severely punished.

As was acknowledged during the discussions preceding the adoption of the International Convention against the Taking of Hostages in 1979, this crime forms part of the wider problem of international terrorism, and, as such, must be condemned and combated.³ The preamble to the said Convention refers to all acts of taking of hostages as manifestations of international terrorism. The taking of hostages for political motives

* The author's opinions are not necessarily those of the institutions where he works.

¹ See Arts. 6 and 9 of the International Covenant on Civil and Political Rights, Arts. 4 and 7 of the American Convention on Human Rights and Arts. 2 and 5 of the European Convention on Human Rights.

² Resolution 31/103 approved by the United Nations General Assembly on 15 December 1976.

³ See the statement of the delegate of Poland before the *ad hoc* Committee on the drafting of an international convention against the taking of hostages. UN doc. A/33/39, 1978.

is one of the most dramatic and striking forms of contemporary terrorism.⁴

Indeed, in such cases the hostages are usually taken in a spectacular operation mounted with the political aim of making known the hostage-takers' position in conflict situations. They demand either the release of prisoners or the publication of political manifestos, often under threat of executing the hostages. Only rarely is the motive to demand a ransom.

In 1979, with the adoption of the International Convention against the Taking of Hostages, this crime was condemned and punished by the international community not only under the law of war but also under peacetime law, since the Convention supplemented already existing provisions governing specific cases, such as the ICAO and New York Conventions covering hostage-taking with reference to the safety of civil aviation and the protection of internationally protected persons.⁵

Moreover, on the regional level, we should mention the Convention to Prevent and Punish the Acts of Terrorism taking the Form of Crimes against Persons and Related Extortion that are of International Significance, signed in Washington on 2 February 1971, and the European Convention on the Suppression of Terrorism of 27 January 1977, both of which cover the crime of hostage-taking.⁶

Without losing sight of the general ban on hostage-taking in international law, especially international humanitarian law, this article will focus on the specific rules defining and sanctioning this type of crime in the law of war. This study will therefore be limited to situations of armed conflict, since international humanitarian law is applicable only in such circumstances. The expression "armed conflict" as defined in international law refers to any conflict between States or within a State characterized by open hostilities and involvement of armed forces.

⁴ Aston, Clive C. "Political Hostage Taking in Western Europe", *Conflict Studies*, Vol. 157, 1984.

⁵ The Convention for the Suppression of Unlawful Seizure of Aircraft signed in The Hague on 16 December 1970 states that any person who unlawfully, by force or threat thereof, or by any other form of intimidation, seizes an aircraft, commits an offence.

The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed in Montreal on 23 September 1971 states that any person commits an offence if he performs an act of violence which is likely to endanger the safety of an aircraft in flight.

The UN Convention adopted on 14 December 1973 in New York made it a crime, among other things, to kidnap an internationally protected person within the meaning of the treaty.

⁶ See Arts. 1 and 2 of the Washington Convention of 1971 and Art. 1(d) of the European Convention of 1977.

II. Definition and general features of the ban on hostage-taking in international law

According to the definition given in Art. 1 of the 1979 International Convention against the Taking of Hostages, it can be stated in general that the crime of hostage-taking is committed by any person who seizes another person—the hostage—or detains him and threatens to kill, injure or continue to detain him in order to compel a third party to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage.

Thus the crime of hostage-taking involves three elements:

- (a) the seizure or detention of the hostage;
- (b) the threat to kill, to injure or to continue to detain the hostage;
- (c) the attempt to compel a third party to act in a given way.

According to Verwey,⁷ it is the second element which distinguishes hostage-taking from kidnapping.

The third element is explicit when the perpetrators demand as a condition for the release of the hostage that the government release political prisoners, pay a ransom or extradite a political figure; it is implicit when certain demands are made on the government without the express statement that they are a condition for the release of the hostage.

As the Uruguayan lawyer Eduardo Jiménez de Arechaga has pointed out,⁸ the rules prohibiting the taking of hostages have the force of *jus cogens*. They thus form part of a body of principles recognized by the international community as safeguarding values of vital importance to humanity and corresponding to fundamental moral standards. Such principles concern all the States and protect interests which are not limited to one State or group of States, but affect the international community as a whole.

These notions were confirmed and specified by the International Court of Justice in an *obiter dictum* appearing in its judgment of

⁷ Verwey, Wil D., "The International Hostages Convention and National Liberation Movements", *American Journal of International Law*, Vol. 75(1), 1981, p. 70, footnote 6.

⁸ See Jiménez de Arechaga, Eduardo, *El Derecho Internacional Contemporáneo*, Madrid, 1980, pp. 80-84. Jiménez de Arechaga considers that the concept of *jus cogens* goes beyond the ban on hostage-taking to include the prohibition of the use or the threat of force and violence, the prevention and suppression of genocide, piracy, the slave trade, racial discrimination and terrorism.

5 February 1970 in the “Barcelona Traction” case. The Court stated: “An essential distinction should be drawn between the obligations of a State towards the international community as a whole, and those arising vis-à-vis another State in the field of diplomatic protection. By their very nature the former are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*.”

Article 53 of the 1969 Vienna Convention on the Law of Treaties also endorses the concept of *jus cogens*, stating that: “A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”

Moreover, the taking of hostages is one of the exceptions to the general principle according to which responsibility for breaches of international law falls upon States and gives rise to claims for compensation. Indeed, hostage-taking constitutes a crime against international law involving individual penal responsibility, and qualifies as a war crime under humanitarian law.

However, in this case as in so many others, international law is inadequate in its scope since it does not lay down any sanctions, leaving internal legal systems to decide on and impose punishment.

This is an example of the double standard expounded by Scelle. Since international law lacks institutions capable of enforcing penal responsibility, it is the internal bodies of each State which fix penalties and entrust national courts to impose them on the guilty persons in each specific case.⁹

III. Historical background

In ancient times, persons captured during an armed conflict, whether combatants or civilians in occupied territory, were killed out of hand.

Later the belligerents realized that they could profit from their combatant or civilian prisoners by reducing them to slavery, either

⁹ See Scelle, G., *Cours du Droit international public (le fédéralisme international)*, Paris, 1947-48, p. 101 et seq.

handing them over to the victorious troops or selling them at public auctions. Compared with summary execution, this represented some progress in terms of the condition of prisoners.

In the Middle Ages, the custom became established of allowing prisoners of war the possibility of obtaining their freedom by payment of a ransom (some of which were very high, as in the case of the Kings of France Saint Louis and Francis I). Hence the necessity to spare the lives of prisoners and respect minimum standards of treatment. In the period following publication of Grotius' famous work, three main methods of ensuring respect for the law of war, based on self-defence, began to emerge. The first was recourse to reprisals; the second was a system of hostage-taking in order to ensure proper conduct on the part of the adversary; and the third was the punishment of war criminals who fell into the hands of the enemy.

Thus the taking of hostages, as well as being a means of making money, became a mode of enforcement of the law of war.¹⁰ Indeed, if any further breaches occurred, the hostages could be killed.

Another method, which was considered rather as a form of reprisal, consisted in taking hostages and killing them as a response to illegal acts on the part of the enemy. This state of affairs persisted until the 18th century. At that time there were some important changes linked to the French revolutionary and Napoleonic wars, during which there were negotiations for the exchange and release of prisoners, without payment of ransom. Nevertheless, the practice of demanding ransom persisted in wars between Christian nations and other powers.

As Pilloud¹¹ pointed out, this change of behaviour in the international community can be linked to some extent to the fact that at the same time slavery was beginning to disappear. The passing of the two phenomena can be attributed to an idea which was gradually gaining ground, that is, that human beings cannot be sold or traded and that any transaction intended to deprive an individual of his life or liberty should be considered void by the courts of all civilized countries.

Thus even at the time of the first attempts to codify the law relating to prisoners of war (Brussels, 1874), the practice of paying ransom for

¹⁰ Draper, G.I.A.D., "The Implementation and Enforcement of the Geneva Conventions of 1949 and of the Two Additional Protocols of 1977", *Collected Courses of The Hague Academy of International Law*, Vol. 164 (III), 1979, pp. 32-34.

¹¹ Pilloud, Claude, "La Rançon", in: *Studies and Essays on international Humanitarian Law and Red Cross Principles, in Honour of Jean Pictet*, Swinarski, C., ed., ICRC Martinus Nijhoff, Geneva/The Hague, 1984, pp. 515-520.

their release was not envisaged in the international law governing armed conflicts between States.

Sad to say, during the Second World War the Third Reich took and killed hostages, on a massive scale, in reprisal for acts of resistance in occupied territories. The killing of “hostages” was one of the accusations made before the international military tribunal of Nuremberg in the so-called “Hostage Case”.¹²

All these factors helped convince the international community that the taking of hostages is an illegal act that should be condemned in all circumstances. As Pilloud says: “Nowadays, both morality and the law condemn any act which subjects the life or liberty of an individual captured in time of war to payment of a sum of money or fulfilment of a set condition”.¹³

Thus the ban on hostage-taking is one of the most firmly established rules of international humanitarian law, dating back to Arts. 46 and 50 of the Regulations annexed to the 1907 Hague Convention concerning the Laws and Customs of War on Land, the article relating to prisoners of war in the 1929 Geneva Convention, the 1945 Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and the Allied Powers’ Statement of 30 October 1949 relating to responsibility for ill-treatment inflicted on hostages.

As we shall see later, this process culminated in the approval of the Fourth Geneva Convention of 1949 relating to the protection of civilian persons, Art. 34 of which prohibits the taking of hostages. This prohibition was reaffirmed in Art. 75, para. 2 of 1977 Additional Protocol I.

IV. The ban on hostage-taking in international armed conflicts

(a) Protected persons

The law of Geneva affords protection for all those who, as a consequence of an armed conflict, have fallen into the hands of the adversary. The protection envisaged here is, hence, not protection against the violence of war itself, but against the arbitrary power which one belligerent party acquires in the course of the war over persons belonging to the other party.¹⁴

¹² *Annual Digest*, 1948, Case No. 215, p. 632.

¹³ Pilloud, *op. cit.*, p. 520.

¹⁴ Kalshoven, Frits, *Constraints on the Waging of War*, International Committee of the Red Cross, Geneva, 1987, p. 40.

The essence of the system of protection established by the 1949 Geneva Conventions can be defined as the principle according to which protected persons must be respected and protected in all circumstances and must be treated humanely, without any adverse distinction founded on sex, race, nationality, religion, political opinions or any other similar criteria.

This principle can be found in Art. 12 of the First Geneva Convention relative to the wounded and sick in armed forces in the field, Art. 12 of the Second Convention relative to wounded, sick and shipwrecked members of armed forces at sea, Art. 16 of the Third Convention relative to prisoners of war and Art. 27 of the Fourth Convention relative to civilian persons.

International humanitarian law bans the deliberate use of terror as a means of warfare, so any recourse to terrorist methods of waging war is absolutely unacceptable. Here we should set out the comprehensive ban on the crime of hostage-taking under international humanitarian law. The Fourth Geneva Convention relative to the protection of civilian persons in time of war is the only one of the 1949 Geneva Conventions in which the word "terrorism" is used explicitly. Art. 33, one of the provisions common to occupied territories, states that "all measures of intimidation or of terrorism are prohibited". This provision supplements the general rule according to which the belligerents must treat enemy civilians in their power humanely (Art. 27).

In connection with the ban on terrorism as a means of warfare, we would mention some special supplementary provisions such as the ban on taking hostage (Art. 34) and on pillage (Art. 33, para. 2).

The prohibition on the taking of hostages in international armed conflicts, that is, conflicts between States and comparable situations described in Art. 1(4) of 1977 Protocol I,¹⁵ is expressed in two basic provisions.

The first of these is Art. 34 of the Fourth Geneva Convention of 1949, which prohibits the taking of hostages. Thus the law of Geneva prohibits the taking of civilians as hostages; Art. 50(1) of 1977 Proto-

¹⁵ Article 1, para. 4, of 1977 Protocol I states, with regard to its scope of application, that international armed conflicts include those in which "peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and co-operation among States in accordance with the Charter of the United Nations".

col I defines civilians as persons who do not belong to one of the categories of persons that are regarded as combatants.¹⁶

Now, not all civilians are protected by the Fourth Geneva Convention. Indeed, Art. 4 excludes the following categories: (1) nationals of a State which is not bound by the Convention; and (2) nationals of a neutral State if that State has normal diplomatic representation in the State in whose hands they are.

These exceptions are of little significance when one considers that the substantive rules of the Geneva Conventions, by virtue of the large number of adherents among the international community (166 States party to the Fourth Convention) and the scope of its provisions (humanitarian rules), have now become part of customary law, and as such are binding upon States which are not party to the Conventions.

Moreover, Art. 75, para. 2(c) of 1977 Additional Protocol I reaffirms the ban on the taking of hostages at any time and in any place whatsoever, whether by civilian or by military agents. The same article also prohibits threats to commit this act, among others,¹⁷ and extends protection to persons who do not benefit from more favourable treatment under the Conventions or under the Protocol, thus filling a loophole in the law.

The ban on the taking of hostages with respect to civilians also applies to other persons protected by the Geneva Conventions who fall into enemy hands.

Although this prohibition refers explicitly only to civilians, we should not forget that common Art. 3, relating to minimum humanitarian treatment during non-international armed conflict, prohibits at any time and in any place whatsoever the taking as hostages of persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause.

It should be stressed, moreover, that Art. 72 of Protocol I stipulates that the provisions of Section III of Part IV, which includes the ban on hostage-taking, “are additional to the rules concerning humanitarian protection of civilians and civilian objects ... as well as to other applicable rules of international law relating to the protection of fundamental human rights during international armed conflict”.

¹⁶ Article 50, para 1, of 1977 Additional Protocol I states: “A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian”.

¹⁷ Article 75, para 2(e) of 1977 Additional Protocol I.

Thus any unjustified delay in the release and repatriation of prisoners of war in violation of Art. 118 of the Third Geneva Convention amounts to a mass holding of hostages.¹⁸

Article 85, para. 4(b) of Protocol I states that this is a grave breach, as is unjustifiable delay in the repatriation of civilians.

(b) Persons bound by the prohibition; repression and sanctions

This review of the international rules that prohibit the taking of hostages and that are applicable in international armed conflict raises the question to whom they are directed.

The Geneva Conventions, the 1977 Additional Protocols and, in this respect, public international law as a whole, are addressed primarily to the States. The States are under the obligation (1) not to have recourse to hostage-taking, and (2) to do all in their power to prevent the perpetration of such acts by individuals or on territory under their jurisdiction. This imposes a direct obligation on persons acting as agents of the State, including members of the armed forces, the police and similar bodies.

International humanitarian law imposes no direct obligation on individuals who do not represent the State in any way. However, the States are under an obligation to enact the necessary internal legislation to guarantee respect for the rules of public international law.

As for the system of sanctions for breaches of their provisions, the Geneva Conventions distinguish between “grave breaches” and other violations. Each Convention contains a precise definition of acts that constitute grave breaches; these are Art. 50 (C. I), Art. 51 (C. II), Art. 130 (C. III) and Art. 147 (C. IV). The taking of hostages is one of the grave breaches listed in Art. 147 of the Fourth Geneva Convention.

By virtue of Art. 146 of the Fourth Convention the States party “undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches...”.

Even more remarkable here is the affirmation of the principle of universal jurisdiction, *aut dedere, aut judicare*. This same Art. 146 states: “Each High Contracting Party is under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regard-

¹⁸ See Solf, Waldemar A., “International Terrorism in Armed Conflict” in: *Terrorism, Political Violence and World Order*, Han, H. H. ed., 1984, p. 470.

less of their nationality, before its own courts”, unless it prefers to “hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case”.

According to Art. 85 of 1977 Protocol I, grave breaches of that Protocol shall be regarded as war crimes. In view of the above, and in accordance with the established principle of universal jurisdiction, the presumed perpetrators of war crimes, the hostage-takers, have to be tried by the authority holding them, whether this power is a party to the conflict or any other State party to the Geneva Conventions or Protocol I, unless it prefers to extradite the presumed criminals to another State wishing to try them. This obligation to prosecute or extradite is a special feature of instruments of humanitarian law.

Nevertheless, it should be made clear that neither the Fourth Geneva Convention of 1949 nor Protocol I considers hostage-taking as a grave breach and therefore an extraditable offence unless the victim can be described as a protected person.

This loophole is covered by Art. 12 of the 1979 International Convention against the Taking of Hostages.¹⁹ The effect of this provision is to make the said Convention, with its well-developed system of prosecution or extradition, applicable to acts of hostage-taking during an armed conflict, in cases in which the Geneva Conventions and their Protocols do not impose the obligation to try or extradite the hostage-taker.

Article 12 is a “compromise solution” between the position of the Third World States, which feel that the Convention should not call into question the legitimacy of the struggle of national liberation movements and should make it clear that acts committed by such movements are, by definition, not to be regarded as acts of terrorism, and that of the Western States, which are unwilling to admit any exceptions to the

¹⁹ Article 12 of the International Convention against the Taking of Hostages of 1979 reads as follows: “In so far as the Geneva Conventions of 1949 for the protection of war victims or the Additional Protocols to those Conventions are applicable to a particular act of hostage-taking, and in so far as States Parties to this Convention are bound under those conventions to prosecute or hand over the hostage-taker, the present Convention shall not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts mentioned in article 1, paragraph 4, of Additional Protocol I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.”

definition of the crime, basing their argument on the absolute ban on hostage-taking under the law of armed conflicts.²⁰

This compromise was reached on the basis of the following factors:

- (a) The reaffirmation in the preamble of the Convention of the legitimacy of struggles of national liberation movements, and the reference to acts of hostage-taking as manifestations of international terrorism.
- (b) The establishment of a link between the Convention and the rules of international law applicable in the event of armed conflict, with the aim of excluding from the scope of application of the Convention acts of hostage-taking committed during armed conflict.
- (c) The comprehensive and unconditional definition of the crime, ensuring that the States party to the Convention are obliged to extradite or bring to trial, with due process of law, the perpetrators, including members of national liberation movements, unless the States are obliged to do so under the Geneva Conventions.

Thus the Convention excludes from its scope of application acts of hostage-taking in time of international armed conflicts, including the struggles of national liberation movements; on the other hand, it does apply to all acts of hostage-taking in peace-time and in situations of non-international armed conflict.

However, since the Geneva Conventions, and in particular Arts. 34, 146 and 147 of the Fourth Convention, at present apply to national liberation movements only if the colonial, racist or foreign power is party to Additional Protocol I (or accepts and applies its provisions)—and since, as Schindler²¹ points out, there is a rule of customary law with respect to the principle of self-determination of peoples but not with respect to the application of the Geneva Conventions to wars of national liberation—the 1979 International Convention against the Taking of Hostages does apply to acts of hostage-taking committed by a national liberation movement in situations where the colonial, racist or foreign power is not a party to or does not apply Additional Protocol I. In these circumstances the Convention could be invoked and on that basis extradition called for. Such an act committed by a national liberation movement would constitute the offence of hostage-taking,

²⁰ de Solá Domingo, Mercedes, “La Convención internacional contra la Toma de Rehenes”, *Revista española de Derecho Internacional*, Vol. 35(1), 1983, p. 88.

²¹ *Ibid.*, p. 91, note 23.

by virtue of Art. 1,²² even if it were not a breach of international humanitarian law because, for example, the persons involved are not protected persons, in which case humanitarian law imposes no ban on their being taken as hostages. The Convention will also apply if the State calling for extradition or the State on whose territory the presumed hostage-taker happens to be is not party to the Geneva Conventions and therefore not bound by Arts. 146 and 147 of the Fourth Convention.

In this connection the representative of France pointed out that: “A hostage-taker would be prosecuted or extradited either under the Convention itself or under the Geneva Conventions and Protocols thereto. The new Convention would therefore provide a basis for prosecution or extradition in all cases where the Geneva Conventions or their Additional Protocol did not apply, for example, because one of the States concerned was not a party to the Geneva Conventions”.²³

By virtue of the content of the 1979 Convention, together with the provisions of the Fourth Geneva Convention of 1949 and Additional Protocol I of 1977, it can be stated that the principle *aut dedere, aut judicare* applies to all cases of hostage-taking, whatever the circumstances in which it occurs, and at any time and in any place.

V. The ban on hostage-taking in non-international armed conflicts

With regard to non-international armed conflicts, however short and succinct the wording of Art. 3 common to the four Geneva Conventions, “it leaves absolutely no doubt as to the fact that . . . terrorist acts

²² Article 1 of the 1979 International Convention against the Taking of Hostages reads as follows:

- “1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the ‘hostage’) in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for release of the hostage commits the offence of taking of hostages (‘hostage taking’) within the meaning of this Convention.
2. Any person who:
 - (a) attempts to commit an act of hostage-taking, or
 - (b) participates as an accomplice of anyone who commits or attempts to commit an act of hostage-takinglikewise commits an offence for the purposes of this convention.”

²³ UN doc. A/C. 6/34/SR. 62, Art. 7 (1979).

of any kind against persons not taking part in the hostilities are absolutely prohibited”.²⁴

Article 3 prohibits, among other things, “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” and “taking of hostages”, the subject of this paper.

Thus Art. 3 common to the four Geneva Conventions of 1949 prohibits, at any time and in any place whatsoever, the taking as hostages of persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause.

Article 4 of Additional Protocol II of 1977 reaffirms this prohibition, expressly banning in paragraph 2(d) any acts of terrorism. Moreover, this Protocol introduces provisions for the protection of civilians which go as far as to affect the conduct of hostilities. In particular, the second paragraph of Art. 13 entitled “Protection of the civilian population” stipulates that “acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited”.

A close examination of Art. 3 of the Geneva Conventions and the above-mentioned provision of Protocol II discloses, as Verwey has pointed out,²⁵ three gaps in the prohibition: (1) members of armed forces who can still take part in the hostilities are not protected; (2) parties to a conflict in which the challenged government is not party to the humanitarian conventions are not affected—unless the provisions of common Art. 3 have become generally binding customary law, which might be difficult to prove, in particular in the case of hostage-taking, because of a lack of relevant State practice; and (3) acts of hostage-taking committed outside the territory of a contracting party are not covered. This last observation derives its practical relevance not only from the fact that parties to the conflict may try to harm supporters of their adversary abroad, but also from the fact that the UN General Assembly has declared, without a dissenting vote, that “the territory of a colony or other Non-Self-Governing Territory has,

²⁴ For a discussion on terrorism and international humanitarian law, see Gasser, Hans-Peter, “Prohibition of Terrorist Acts in International Humanitarian Law”, *International Review of the Red Cross*, No. 253, July-August 1986, p. 200.

²⁵ Verwey, *op. cit.*, p. 79

under the Charter, a status separate and distinct from the territory of the State administering it".²⁶

Now, unlike what happens in international armed conflicts, in non-international armed conflicts the States party are under no obligation to prosecute or extradite hostage-takers since, as Verwey says, this obligation emanates from Art. 34 of the Fourth Convention, which applies exclusively to international armed conflicts;²⁷ neither common Art. 3 nor Additional Protocol II establishes any system for the "suppression" of breaches.

In effect, the violation of humanitarian rules applicable in internal armed conflicts is subject to sanction only according to the national legislation of the States party.²⁸ In view of the content of Art. 12 of the 1979 Hostages Convention, its provisions are fully applicable to the taking of hostages during non-international armed conflicts and hence such acts are subject to the rules it lays down for prosecution or extradition.

It should be stressed that under the 1979 International Convention against the Taking of Hostages the extradition option is limited by Arts. 9 and 15. Article 9, which was negotiated by the Arab States so that they could accept the Convention as a whole, stipulates that a request for the extradition of an alleged offender, pursuant to the Convention, shall not be granted if the requested State party has substantial grounds for believing that the request for extradition for an offence of hostage-taking has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion or that the person's position may be prejudiced for any of the reasons mentioned or because communication with him by the appropriate authorities of the State entitled to exercise rights of protection cannot be effected.

The obligation not to extradite does not impair the obligation to prosecute and is aimed at ensuring that the presumed offender may benefit from due process of law without interference from factors extraneous to the offence. It guarantees the right to the protection

²⁶ Declaration on Principles of International Law concerning Friendly Relations and Co-operation amongst States in accordance with the Charter of the United Nations. GA Res. 2625 (XXV) of 24 October 1970.

²⁷ Verwey, *op. cit.*, p. 83.

²⁸ The only provision relating to the application of humanitarian rules governing non-international armed conflicts and sanctions for the violation of those rules is Art. 19 of Protocol II, which merely states that the Protocol shall be disseminated as widely as possible.

provided by the subject's State of citizenship or residence; moreover, the reasons cited above are common to many extradition treaties.

This obligation to prosecute affirmed in Art. 8 of the Convention, as Rosenstock points out,²⁹ applies whether or not there is an extradition requirement, since the State party is bound to submit the case to its competent authorities for the purpose of prosecution, "without exception whatsoever" and whether or not the offence was committed on its territory.

It is considered that the taking of hostages, as one of the most vile and outrageous of terrorist acts, can in no case be regarded as a political offence, whatever its motivation; and this prevents any such exception being cited in connection with an extradition request.³⁰

This has been stated explicitly in some Conventions, such as the 1977 European Convention on the Suppression of Terrorism³¹ and the Supplementary Treaty to the Treaty of Extradition between the United States and the United Kingdom of Great Britain and Northern Ireland of 1972, signed in 1985.³²

VI. Action taken by the International Committee of the Red Cross

As Swinarski has said, the International Committee of the Red Cross is, in fact as in law, an international agent for the application and implementation of the law of Geneva, being in fact the guardian of the principles of the Conventions.³³

This is demonstrated by the acknowledgement of the institution's "right of initiative", itself based on the Conventions; in the event of

²⁹ Rosenstock, Robert, "International Convention against the Taking of Hostages: Another International Community Step against Terrorism", *Denver Journal of International Law and Policy*, Vol. 19(2), 1980.

³⁰ See the remarks made by the delegate of Chile before the *ad hoc* Committee on the drafting of an international convention against the taking of hostages, Doc. UN AG, Supplement No. 39(A) 32/39.

³¹ Article 1(d) of the European Convention on the Suppression of Terrorism expressly excludes an offence involving kidnapping, the taking of a hostage or serious unlawful detention from the category of offences inspired by political motives.

³² Article 1(d) and (h) of the Supplementary Treaty of Extradition between the United States and the United Kingdom states that none of the offences cited in the 1979 International Convention against the Taking of Hostages may be regarded as political offences.

³³ Swinarski, Christophe, *Introducción al Derecho Internacional Humanitario*, CICR, San José/Geneva, 1984.

international or non-international armed conflict this gives it the right to take steps in its own initiative to protect the victims.

The right of initiative is wider in the event of international armed conflict, during which the institution's delegates are entitled to visit any place where persons protected by the Geneva Conventions, whether prisoners of war or civilian internees, are to be found. Moreover, the delegates must be granted all the facilities necessary to enable them to carry out their humanitarian functions.³⁴

In internal armed conflicts, the right of the ICRC to offer its services is recognized but the parties are not obliged to accept the offer. The exercise of this "Convention-based right of initiative" cannot be regarded by the parties to the conflict as incompatible with the principle of non-interference in the internal affairs of a State, and this cannot be used as a pretext for denying the right of initiative.

In situations of internal disturbances or tension, ICRC action is based mainly on what is known as its "statutory right of initiative".

Indeed, Art. 5 of the Statutes of the International Red Cross and Red Crescent Movement, adopted in October 1986 by the Twenty-fifth International Conference, defines the major roles of the ICRC. Paragraph 2 states that one of those roles is "to endeavour at all times—as a neutral institution whose humanitarian work is carried out particularly in time of international and other armed conflicts or internal strife—to ensure the protection of and assistance to military and civilian victims of such events and of their direct results".

Paragraph 3 of the same article states: "The International Committee 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 by such an institution".

It should be mentioned here that the Statutes of the International Red Cross and Red Crescent Movement were approved by the Movement's International Conference which is held every four years and brings together, together with the representatives of all the National Red Cross and Red Crescent Societies and representatives of the ICRC and the League of Red Cross and Red Crescent Societies, representatives of the States party to the Geneva Conventions, each of which have one vote. Thus the decisions of the Conference do not emanate merely

³⁴ See Art. 126 of the Third Geneva Convention, Art. 143 of the Fourth Geneva Convention and Art. 81 of Protocol I.

from a non-governmental organization; they also express the will of the governments of the States party to the Geneva Conventions.

Faced with a breach of international humanitarian law, such as the taking of hostages, the ICRC decision on what attitude to adopt is based essentially on one criterion: the interest of the victims it is responsible for protecting and assisting. In such circumstances, its specific mission to act as a neutral intermediary between parties to a conflict and its duty to treat all the victims of armed conflict without discrimination oblige the ICRC to delay taking action until it has carefully calculated the consequences that its reaction might entail for the victims.

The International Committee of the Red Cross has taken humanitarian action during several notorious episodes of hostage-taking that took place in situations outside the scope of application of international humanitarian law.

For example, ICRC delegates visited the hostages held in the United States Embassy in Iran. This visit made it possible to establish the identity of all the hostages (a question that had hitherto remained vague) and to ascertain the conditions in which the hostages were being detained, to bring them moral support and to enable their relatives to hear from them.³⁵

Similarly, the ICRC had a role to play when hostages were taken at the Dominican Embassy in Bogotá, Columbia. It carried out several visits to the hostages held at the embassy, for the purpose of checking the conditions of detention and the detainees' state of health and giving moral support to them and their families. The ICRC also intervened in the final phase of the affair, the release of the hostages, in accordance with the wishes of the Columbian government and the people occupying the embassy.³⁶

In addition to the interventions on humanitarian grounds described above, the ICRC has in several cases acted as mediator. It is not always easy for the ICRC to decide whether or not to intervene in such cases when it is asked to do so. Among other considerations, it has to bear in mind that failure to take action just as much as the failure of any action taken could have adverse effects on its humanitarian work worldwide.

On the other hand, ICRC delegates cannot take part in negotiations which might compromise its vital neutrality, for on this depend the trust and confidence of all in its humanitarian work.

³⁵ *Annual Report 1980*, International Committee of the Red Cross, p. 53.

³⁶ *Ibid.*, pp. 28-29.

If the ICRC tried to put pressure on the authorities to give in to the hostage-takers' demands, it could be accused of encouraging similar acts in the future. If, on the contrary, it takes the side of the authorities, there is the risk that the hostage-takers might refuse to let it visit the hostages, thus possibly placing the latter's lives in danger.

To sum up, the ICRC cannot give the impression that it is playing any role in the decision to yield to or refuse the demands of the hostage-takers. Following several bitter experiences in which the ICRC appeared to be the object of political manipulation, as in the case of hostage-taking that took place at Athens airport in July 1970, the Zeka affair of September 1970 and the taking of hostages at Lod airport in Tel-Aviv on 9 May 1972,³⁷ the humanitarian organization laid down strict conditions for its intervention.

Thus, four months after Israeli soldiers made their surprise attack on the hijacked plane at Lod airport, overpowering the Palestinian commando responsible, the institution decided to set out the following criteria for any future action in favour of hostages:³⁸

- I. *The ICRC condemns violations of legal and humanitarian principles, especially acts which involve the deaths or threaten the lives of innocent people. In doing so, it is guided solely by concern for the victims and the will to help them.*
- II. *ICRC delegates may materially assist hostages and, by their presence, provide moral comfort. As a general rule, however, participation in negotiations between authorities and the perpetrators of such violations does not come within the delegates' purview.*
- III. *In the victims' interest and in so far as there is no other intermediary or direct contact, the ICRC may, as an exception, intervene at the request of one party and with the agreement of others. The parties shall renounce the use of force, take no step detrimental to the welfare of the hostages, and shall grant the delegates freedom of action without let or hindrance so long as they maintain contact between the parties.*
- IV. *The delegates will ask for all facilities to assist victims and, whenever possible, for all persons entitled to special consideration, such as*

³⁷ Freymond, Jacques, *Guerres, Révolutions, Croix-Rouge: Réflexions sur le rôle du CICR*, Graduate Institute of International Studies, Geneva, 1976.

³⁸ *The International Committee of the Red Cross and Internal Disturbances and Tensions*, International Committee of the Red Cross, Geneva, August 1986, p. 16.

the wounded, the sick, children, and so forth, to be removed to safety.

- V. *Whether delegates participate in negotiations or merely act as couriers, responsibility for proposals transmitted, for decisions and action, lies solely with the parties. Delegates shall not guarantee the implementation of decisions or the observance of conditions laid down by the parties.*

These principles make it clear that the ICRC does not normally intervene in cases of hostage-taking that occur outside the scope of application of the Geneva Conventions. However, exceptionally it may feel that it is essential, for humanitarian reasons, to become involved, depending on various objective criteria. It will provide material assistance and moral comfort only if the following conditions are fulfilled:

- (a) *the principal parties concerned must give their agreement;*
- (b) *all parties concerned must promise not to take advantage of ICRC action to play a trick on the other party or parties and, consequently, on the ICRC;*
- (c) *communications must be kept open at all times with ICRC headquarters and with the hostage-takers, as far as materially possible;*
- (d) *all parties must promise not to have recourse to violence, not only while the delegates are providing assistance but also and at least during the time they take to reach the hostages and to return to their base.³⁹*

Moreover, the ICRC alone may accept, exceptionally, the role of intermediary, which the institution understands as entailing mainly the passing on of proposals from one party to the other.

This task of mediation will be possible only if:

- (a) *There is no direct contact between the parties.*
- (b) *The ICRC is the most suitable body to undertake the task of mediation.*
- (c) *The parties renounce any act of violence during the time it takes the ICRC to complete its work. The parties must promise not to use violence, as in assistance operations, not only during the time it takes for the delegates to reach the hostages, carry out their visit and return to the base, but also during the entire period of negotiations.*

³⁹ *Ibid.*, Annex IV, *Attitude of the Red Cross to the taking of hostages*, pp. 34-35.

(d) *The ICRC is free to cease its activity as mediator at any time and to communicate this decision to the parties.*⁴⁰

VII. Conclusions

Since the Second World War, the idea has gained ground that human rights must be supported by international guarantees. This trend has not only led to the drafting of international instruments on the matter, it has also given a strong impetus to international humanitarian law, reflecting a growing convergence of and complementarity between the two branches of the law.

Moreover, the rise in international terrorism has created a new awareness on the part of the States, the principal protagonists on the international scene, of the need to adopt rules to prevent and suppress such practices. Although there has been no consensus among the world community on the adoption of a universal convention on the subject, owing mainly to failure to agree on a definition and on the advisability of taking causes and motives into account in such legislation, some conventions have been signed condemning and setting out measures to combat the most outrageous manifestations of terrorism on the international level.

This is the background to the international ban on the taking of hostages. The relevant provisions pertain to both international humanitarian law and international human rights law. They place hostage-taking in the category of international crimes and set up a co-ordinated system for sanctioning such offences, based mainly on the principle of universal jurisdiction, the individual being directly responsible for this breach of international law.

Not only is there complementarity between the provisions of the law of war and those of the law of peace, they are also co-ordinated, thus making it very difficult to commit this terrorist act with impunity.

Indeed, by virtue of Article 12 of the 1979 International Convention against the Taking of Hostages, which we hope will one day reach the high level of ratification achieved by the Geneva Conventions, its provisions apply to all situations in which the principle *aut dedere, aut judicare* is not established by humanitarian law, thus increasing protection against this form of international terrorism by giving full effect to that principle.

⁴⁰ *Ibid.*, p. 35.

In conclusion, prominence should be given to the work done in this connection by the International Committee of the Red Cross. Despite the risks presented in certain cases for respect of its status as an independent and impartial institution, the ICRC has carried out an important mission. On several occasions it has successfully accomplished the valuable but difficult task of bringing assistance to and mediating in favour of hostages and their families, acting as an indispensable auxiliary to the parties when other channels for negotiation were blocked or exhausted. This is further evidence of the growing importance of the ICRC's role, not only in situations covered by international humanitarian law but also in circumstances outside its scope, but calling for the institution's intervention because of the principle of humanity by which it is guided.

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Synopsis IX

Respect for the human being in the Geneva Conventions

by Jean de Preux

The persons protected by the Geneva Conventions must be accorded respect in the first place because they are human beings. But they also are entitled to a certain degree of respect in their capacity as individuals, soldiers, nationals of a foreign State and, to a certain extent, as combatants.

A. RESPECT FOR THE HUMAN BEING

The persons protected under the Geneva Conventions are protected against murder (C. I-IV, Art. 3; C. I and II, Art. 12; C. III, Art. 13; C. IV, Art. 27; P. I, Art. 10, 51, 75).¹ They are entitled to respect for their persons and their honour (C. III, Art. 14; C. IV, Art. 27) and must be treated humanely (C. III, Art. 13; C. IV, Art. 27) and protected from outrages upon personal dignity (C. I-IV, Art. 3; P. I, Art. 75). The wounded, the sick and the dead must be identified (C. I, Art. 16; C. II, Art. 19; C. III, Art. 120; C. IV, Art. 130). The dead must receive a proper burial (C. I, Art. 17; C. II, Art. 20; C. III, Art. 120; C. IV, Art. 130).

Non-discrimination

This respect must be shown without any adverse distinction founded on sex, race, religion, political or other opinion, colour, language,

¹ The Roman numerals refer to the First (I), the Second (II), the Third (III) and the Fourth (IV) Geneva Conventions (C). The abbreviation P. I stands for Additional Protocol I. The articles are indicated by Arabic numbers.

belief, national or social origin, wealth, birth or other status, or any other similar criteria (C. I and II, Art. 12; C. III, Art. 16; C. IV, Art. 27; P. I, Art. 75).

Health

Wounded, sick and shipwrecked persons must be treated humanely and receive, to the greatest extent possible and with the minimum of delay, the medical care required by their condition. There must be no distinction among them founded on any grounds other than medical ones (C. I and II, Art. 12; P. I, Art. 10). The dead must be respected (C. I. Art. 17; C. II, Art. 20).

Differences in treatment

Vulnerable categories of persons, such as women, expectant mothers, maternity cases, children,² the infirm and the aged, must receive preferential treatment (C. I and II, Art. 12; C. III, Art. 14; C. IV, Art. 14, 17, 23, 27; P. I, Art. 76, 77).

Proper living conditions

Protected persons are entitled to proper living conditions which are not prejudicial to their health, specifically as regards quarters (C. III, Art. 25; C. IV, Art. 85), food (C. III, Art. 26; C. IV, Art. 89), clothing (C. III, Art. 27; C. IV, Art. 90), hygiene and medical care (C. III, Art. 29-31; C. IV, Art. 91-92).

Relief

When in need, persons protected under the Geneva Conventions are entitled to receive relief.³ They can contact relief societies and other organizations, in particular the International Committee of the Red Cross (C. III, Art. 79, 125 and 126; C. IV, Art. 30 and 143). They are entitled to talk without witnesses with representatives of the Protecting Power and the ICRC (C. III, Art. 126; C. IV, Art. 143).

² See Synopsis III: "Special protection of women and children", *International Review of the Red Cross (IRRC)*, No. 248, September-October 1985, pp. 292-302.

³ See Synopsis VI, "Relief", *IRRC*, No. 254, September-October 1986, pp. 268-278.

Ill-treatment

Physical or mental torture, corporal punishment, mutilations, medical or scientific experiments not necessitated by medical treatment, and any other measures of brutality, violence, intimidation or terrorization are prohibited (C. III, Art. 13, 87; C. IV, Art. 32, 33; P. I, Art. 11, 51, 75; C. I-IV, Art. 3; C. I, Art. 50; C. II, Art. 51; C. III, Art. 130; C. IV, Art. 147).

Outrages against personal dignity

Humiliating and degrading treatment, enforced prostitution or any form of indecent assault, insults and exposure to public curiosity, humiliating and degrading work and physical or moral threats, pressure or coercion, such as those intended to obtain information, are prohibited (Hague Regulations,⁴ Art. 44; C. III, Art. 13, 17, 52, 99; C. IV, Art. 27, 31; P. I, Art. 75; C. I-IV, Art. 3). Identification by tattooing or other markings on the body are prohibited (C. IV, Art. 100).

Hostages

The taking of hostages is prohibited (C. IV, Art. 34; P. I, Art. 75).

Collective punishment

Collective penalties are prohibited (C. III, Art. 87; C. IV, Art. 33).

Judicial procedure

Any person charged with a penal offence must be presumed innocent until proven guilty. That person is entitled to legal counsel for his defence and, if convicted, must be informed of his right to appeal or seek other recourse against his conviction or sentence and of the time limit within which he may do so (C. III, Art. 99, 105, 106; C. IV, Art. 71, 72, 73; P. I, Art. 75). The basic rules of judicial procedure must be respected (C. I-IV, Art. 3; C. III, Art. 82-108; C. IV, Art. 71-76; P. I, Art. 75).

⁴ Regulations respecting the laws and customs of war on land. — Annex to the Hague Convention No. IV of 18 October 1907.

B. RESPECT FOR THE INDIVIDUAL

Respect for personal convictions

Protected persons are entitled to respect not only for their persons and their honour but also for their religious convictions and practices (C. IV, Art. 27; P. I, Art. 75).

Spiritual assistance

The individual must enjoy complete latitude in the observance of his religion, whatever it may be. Adequate premises must be provided where religious services may be held (C. III, Art. 34; C. IV, Art. 76 and 93). Protected persons must be allowed to have the devotional articles required to meet their needs (C. III, Art. 72; C. IV, Art. 108).

Respect for habits and customs

The individual is entitled in all circumstances to respect for his habits and customs (C. III, Art. 22; C. IV, Art. 27). In providing food, account must be taken of the individual's customary diet (C. III, Art. 26; C. IV, Art. 89). The clothing provided to protected persons and the outward markings placed on their own clothes must not be ignominious or expose them to ridicule (C. III, Art. 27; C. IV, Art. 90). Work required of protected persons must correspond to the individual's age, sex, aptitudes and capacities (C. III, Art. 49; C. IV, Art. 51).

Personal effects

The individual may not be deprived of identity documents or articles for personal use or having personal or sentimental value (C. III, Art. 17, 48, 119; C. IV, Art. 97). Pillage is prohibited (C. IV, Art. 33).

Civil capacity

The individual must retain his full civil capacity. He may execute legal documents, powers of attorney and wills, submit complaints and requests and institute legal proceedings (Hague Regulations, Art. 23 [h]; C. III, Art. 14, 77, 78; C. IV, Art. 113, 129).

Respect for the individual's own language

The individual is entitled to be communicated with in a language which he understands, if necessary through an interpreter (C. III, Art. 17, 41, 96, 105, 107; C. IV, Art. 65, 71, 72).

Respect for family ties

Families are entitled to be informed of what has happened to their members (P. I, Art. 32). The individual is entitled to correspond with his family (C. III, Art. 70, 71; C. IV, Art. 25, 107) and to be reunited with it (C. IV, Art. 26, 85; P. I, Art. 74, 77).

Respect for children

Children may not be recruited and must receive preferential treatment (see footnote 2).

Respect for women

Women must be treated with due consideration for their sex (see footnote 2).

Respect for personal volition

The individual may not be forced to give information which he does not wish to divulge (C. III, Art. 17; C. IV, Art. 31). Latitude must be given to his personal tastes in his intellectual, educational, recreational, and athletic pursuits (C. III, Art. 38; C. IV, Art. 94). He may not be repatriated without his consent (C. III, Art. 109; C. IV, Art. 45).

C. RESPECT FOR THE SOLDIER

Loyalty

Members of the armed forces who fall into the hands of the enemy and thus become prisoners of war remain soldiers of their own armed forces and therefore are not bound by any duty of allegiance to their captors (C. III, Art. 87, 100). They are, in principle, entitled to attempt to escape (C. III, Art. 91, 92). They are not obliged to give any information other than their identity (C. III, Art. 17).

Saluting

With the exception of officers, prisoners of war must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own armed forces.

Officers held prisoner of war are required to salute only officers of a higher rank of the Detaining Power. However, whatever their own rank, they are required to salute the camp commander (C. III, Art. 39).

Rank

Prisoners of war must be treated with due consideration for their rank and age (C. III, Art. 44 and 45). The wearing of badges of rank and nationality, as well as decorations, is permitted (C. III, Art. 40). These insignia and decorations may not be taken away (C. III, Art. 17).

Pay

Prisoners of war must receive their pay (C. III, Art. 60).

Work

Prisoners of war may not be compelled to do work which is unhealthy or dangerous, or assigned to labour of a military nature or purpose (C. III, Art. 50, 52). They must be paid a fair rate of pay for their work (C. III, Art. 62).

Conscription

Prisoners of war may not be compelled to serve in the forces of the enemy power (C. III, Art. 130).

Punishment

- If any law, regulation or order of the Detaining Power declares acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the armed forces of the Detaining Power, such acts may entail disciplinary punishments only (C. III, Art. 82).
- In undergoing punishment, prisoners of war may not be subject to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power (C. III, Art. 88).
- Prisoners of war must under no circumstances be transferred to penitentiary establishments to undergo punishment (C. III, Art. 97). Officers and persons of equivalent status must not be lodged in the same quarters as non-commissioned officers or men (C. III, Art. 97).

— A prisoner of war given disciplinary punishment may not be deprived of the prerogatives attached to his rank (C. III, Art. 98). Sentences pronounced on prisoners of war must be served under the same conditions as in the case of members of the armed forces of the Detaining Power (C. III, Art. 108).

Repatriation

Prisoners of war must be released and repatriated without delay after active hostilities have ended (C. III, Art. 118).

D. RESPECT FOR A PERSON'S CITIZENSHIP

Nationals of a neutral country enjoy no special protection while on the territory of a belligerent State if the State of which they are nationals has normal diplomatic representation in the State in whose hands they are (C. IV, Art. 4). Conversely, those persons who find themselves, in the event of conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals, do enjoy protection (C. IV, Art. 4).

1. Aliens in the territory of a Party to a conflict

Right of departure

All protected persons who desire to leave the territory of a State at war are entitled to do so unless their departure is contrary to the national interests of the State (C. IV, Art. 35). If any such person is refused permission to leave the territory, such refusal must be reconsidered as soon as possible (C. IV, Art. 35).

Non-repatriated persons

The situation of non-repatriated persons must continue to be regulated, in principle, by the provisions concerning the treatment of aliens in time of peace (C. IV, Art. 38). In any case, minimum rights must be granted to them (C. IV, Art. 38-43).

Exceptions for refugees

In applying the measures of control which may prove to be necessary, the Detaining Power must not treat as enemy aliens, exclusively on the basis of their nationality *de jure* of an enemy State, refugees who do not, in fact, enjoy the protection of any government (C. IV, Art. 44).

Cancellation of restrictive measures

Any restrictive measures taken regarding protected persons or their property must be cancelled as soon as possible after the close of hostilities (C. IV, Art. 46).

2. Inhabitants of occupied territory

General protection

Inhabitants of occupied territory enjoy extensive protection both under the Hague Regulations (Section III, Art. 42-56) and by the Fourth Geneva Convention, which lay down guarantees for their protection as such by the Occupying Power and specifically prohibit the following:

- compulsion to swear allegiance to the hostile power (Hague Regulations, Art. 45);
- compulsion to provide information. This prohibition already exists under the basic protection of the individual (Hague Regulations, Art. 44);
- deportation (C. IV, Art. 49);
- work connected with military operations (C. IV, Art. 51);
- violations of private property (Hague Regulations, Art. 46);
- compulsion to serve in the Occupying Power's armed or auxiliary forces or to take part in military operations (C. IV, Art. 51, 68);
- modification of the status of public officials or judges (C. IV, Art. 54);
- the arbitrary suspension of the laws in force (Hague Regulations, Art. 43; C. IV, Art. 64);

- the arbitrary suspension of tribunals in an occupied territory (C. IV, Art. 64);
- prosecution or conviction for acts committed or opinions expressed before an occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war (C. IV, Art. 70).

Penalties

In passing sentence, the courts or authorities must take as far as possible into account the fact that the defendant is not a national of the Detaining or Occupying Power (C. IV, Art. 68, 118).

3. Aliens in occupied territory

Aliens in occupied territory may avail themselves of the right to leave that territory in the same way as if they were aliens on the territory of a Party to a conflict (C. IV, Art. 48).

Nationals of the Occupying Power who, before the beginning of hostilities, were considered as refugees under the law applicable in the territory meanwhile occupied, have the same prerogatives (P. I, Art. 73). Moreover, they may be transferred to the territory of the Occupying Power only in accordance with the law of the occupied territory relating to extradition (C. IV, Art. 70-72).

E. RESPECT FOR COMBATANTS

Basically, it is only when a combatant surrenders⁵ or is rendered *hors de combat* that he is protected by the Conventions. However, he may not be punished for hostile acts which do not violate law applicable to armed conflict (C. III, Art. 99).

In any case combatants, too, are entitled to a certain degree of respect during the fighting.

Prohibition of acts causing superfluous injury and unnecessary suffering

It is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury and unneces-

⁵ See Synopsis V: "Capture", *IRRC*, No. 251, March-April 1986, pp. 89-100.

ary suffering (Hague Regulations, Art. 23 [e]; P. I, Art. 35). This rule primarily concerns weapons which are expressly prohibited: explosive and dum-dum bullets, projectiles which explode into undetectable fragments, poison, gas, serrated edges and certain booby-traps. It also governs the way in which unprohibited weapons must be used, such as the use of napalm only against combatants who are out in the open. This rule states implicitly that the object of war would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable (Declaration of St. Petersburg, 1868).

Quarter

It is prohibited to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on that basis (Hague Regulations, Article 23 [d]; P. I, Art. 40).

Reprisals

Reprisal must not be graver than the violations which have given rise to them and must be stopped as soon as that violation has ceased. Moreover, reprisals are a last resort and must be undertaken only on orders from government authority.

Perfidy

It is prohibited to kill, injure or capture an adversary by resort to perfidy, i.e. by acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence (for example the feigning, without the use of a protective sign, of a surrender or of an intention to negotiate) (P. I, Art. 37). It is prohibited to kill or wound treacherously (Hague Regulations, Art. 23 [b]).

Ruse

It is prohibited to make use in an armed conflict of the flags or military emblems, insignia or uniforms of adverse Parties while engaging in attacks or in order to shield, favour, protect or impede military operations (Hague Regulations, Art. 23 [f]; P. I, Art. 39).

Protective signs

It is prohibited to make improper use of protective signs (red cross, flag of truce, etc.) (Hague Regulations, Art. 23 [f]; P. I, Art. 37).

Search for casualties

After an engagement, an armistice or a cease-fire, local arrangements must be made whenever circumstances permit for the removal, exchange and transport of the wounded left on the battlefield (C. I, Art. 15; C. II, Art. 18).

Jean de Preux

Former Legal Adviser at the ICRC

ICRC President visits the United States of America

Mr. Cornelio Sommaruga, President of the ICRC, was in Washington from 14 to 17 May 1989, accompanied by Mr. André Pasquier, Director of Operations, and Mr. Jürg Bischoff from the Press Division.

Mr. Sommaruga and Mr. Pasquier were received by the President of the United States, Mr. George Bush, in the presence of Mr. Richard F. Schubert, President of the American Red Cross. The ICRC representatives conveyed their warm thanks for the financial support provided by the American authorities to the ICRC; they also expressed the hope that the contribution would be increased, given the expansion in ICRC operational activities in many parts of the world. There was also an exchange of views as to ratification by the United States Government of the Protocols additional to the Geneva Conventions, as well as talks on humanitarian mobilization and current ICRC activities. Mr. Bush assured Mr. Sommaruga that he could count on continued diplomatic and financial support from the United States.

At the State Department, Mr. Sommaruga and Mr. Pasquier met Mr. Eagleburger, Deputy Secretary of State, and several Assistant Secretaries of State and discussed with them the financial implications of the ICRC's operational activities.

The ICRC representatives also met Senator Pell, Chairman of the Senate Foreign Relations Committee, and four members of the Committee on Foreign Affairs of the House of Representatives, accompanied by several colleagues. They said they were in favour of an increase in the American financial contribution. The meeting also provided an opportunity to describe the mandate and activities of the ICRC.

Mr. Sommaruga and Mr. Pasquier then visited the headquarters of the American Red Cross where they were received by Mr. Al Panico, Manager, International Operations, and member of the Board of Governors, Mr. Schubert and other senior American Red Cross officials.

*EXTERNAL ACTIVITIES**March-April 1989***Africa****Uganda**

On 13 March, the ICRC delegation was able to resume the assistance which had been suspended in the region of Soroti since mid-January. Under the agricultural programme, some 125,000 people who could no longer produce enough food for their needs were given hoes, bean seed (200 tonnes) and sorghum seed (100 tonnes). Relief distributions to displaced civilians in the Gulu district, interrupted on 10 March, were resumed in mid-April. Food, blankets, soap and kitchen utensils were given to some 10,000 people.

Visits to detainees in army-controlled places of detention and police stations were extended to the provinces.

Angola

During the period under review, the ICRC had to cope with a rapid deterioration in the nutritional state of the people living on the Planalto. A food aid programme was immediately started: at the end of March, more than 2,000 tonnes of food were distributed to about 200,000 people in the provinces of Huambo, Benguela and Bie. The ICRC is also preparing to return to the province of Cunene; work on the dispensary at N'Giva is going well.

Mozambique

On 14 March, a team composed of one member of the Mozambique Red Cross and three ICRC delegates was detained by combatants of

RENAMO (Mozambican National Resistance Movement) who attacked the town of Memba in Nampula Province. RENAMO representatives at once assured the ICRC that all four persons would be set free in a safe place, and this was done two weeks later.

Fortunately, this incident did not greatly affect the ICRC's activities in the country. After the provinces of Manica and Sofala, the ICRC delegates gained access to Nahamacca (Nampula Province). Following attacks, the ICRC and the Mozambique Red Cross had to step up their activities at Inhassunge (Zambesia Province). As landing strips dried out after the floods earlier in the year, the ICRC made the necessary arrangements to reach other victims of the conflict in areas controlled by the government but difficult to reach, or in areas not completely under the control of the government armed forces.

Southern Sudan

In the period under review, the ICRC intensified its relief work for victims of the conflict in Southern Sudan. A few weeks before the rainy season made some areas inaccessible, the ICRC concentrated its efforts on places difficult to reach or where other organizations were unable to work. At the beginning of April, the flight plan for ICRC aircraft could be extended to include six more destinations, bringing the total number of zones covered to 18, in regions controlled by the Sudanese Government or by the SPLA (Sudan People's Liberation Army). By mid-April, 150 tonnes of food were being ferried daily by air, some of it being distributed immediately to the groups most at risk, the rest being used to form reserves in regions that the rains would cut off from the outside.

Medical activities also went ahead. The existing medical infrastructure was regularly supplied with essential equipment and medicines. The vaccination programme covered 50,000 people at Wau, 20,000 at Aweil and 30,000 in the SPLA-controlled area. The surgical hospital at Lokichokio (Kenya) continued to treat casualties evacuated from Sudan (208 patients admitted during April).

About 350,000 head of cattle were vaccinated by the ICRC veterinary surgeons. In Wau and Aweil, seed and hoes were distributed to 10,000 families, and 20 tonnes of seed were given out in the zone under SPLA control. Some 35,000 recently displaced persons received blankets, mosquito nets and kitchen utensils worth 500,000 Swiss francs, and several thousand families were provided with fishing tackle.

South Africa/Angola/Cuba/Namibia

An exchange of prisoners took place on 31 March between Cuba, South Africa and UNITA (National Union for the Total Independence of Angola). One South African prisoner in Cuban hands, eleven Angolans and three Cubans held by UNITA, and one Angolan pilot held in South Africa were released. The ICRC had had regular access, in accordance with its criteria, to the Angolan pilot and the South African prisoner. The delegate based at Oshakati (Namibia) visited, from 4 April, some combatants of PLAN (the armed branch of SWAPO—South West Africa People's Organisation) captured by the army. On 26 April these prisoners were released and handed over to the forces of the United Nations Transition Assistance Group (UNTAG).

Latin America

Peru

The last issue of the Review mentioned that the ICRC had been authorized to resume its activities in the areas under a state of emergency. During the period under review, the delegation made frequent representations to the authorities and local military commanders to arrange for the practical implementation of the March agreement in principle.

Delegates resumed two assistance programmes—one material and one medical—in Ayacucho. In the Department of Apurímac, a programme to prevent infectious diseases was set up with the help of a Peruvian doctor who speaks Quechua.

Suriname

Following the incidents which occurred on 23 April in the village of Pogikron, some 150 km south of Paramaribo, the delegate based in Bogotá who covers Suriname conducted a survey with the Suriname Red Cross of the situation in Pogikron. About 100 people who had lost their property during the events received food aid.

Nicaragua

On 17 April, the Nicaraguan authorities released 1,894 former members of the National Guard. The delegation registered the identities of those released and gave them clothing and shoes. The ICRC also paid their travel expenses to various regional centres from where they returned to their places of origin.

El Salvador

On 21 April, the head of delegation was received by President-elect Cristiani, who expressed a desire for continuity in his government's relations with the ICRC.

In early April, delegates were once again able to go to the Departments of Morazán and San Miguel, access to which had been made difficult since the beginning of the year by military operations.

Asia

Afghan Conflict

The fierce fighting that broke out round the city of Jalalabad brought an unusually large number of casualties to the ICRC surgical hospital in Peshawar (Pakistan) during March (440 admissions, as compared with 284 in January and 204 in February). The ICRC at once reinforced the system for evacuating the wounded from along the frontier, sending four extra ambulances to the first-aid post at Landi Kotal and setting up a mobile medical unit at Spin Shah, on Afghan territory.

In the period under review, the delegates based in Pakistan undertook numerous missions into several Afghan provinces (Kandahar, Kunar, Paktika, Nangarhar, Logar, Wardak and Zabul). In the course of these missions they were able to visit hundreds of prisoners held by the opposition in various places and to contact its local and regional leaders.

From mid-March onwards, an aircraft chartered by the ICRC made twice-weekly flights between Peshawar and Kabul, carrying medical equipment and relief supplies. A team of ICRC delegates based in the Afghan capital travelled to Mazar I Sharif to visit the main prison for

the second time since October 1988. The team then went to Sibargan, where it visited the prison there for the first time. In Kabul itself, the delegates continued their medical work (surgical hospital, orthopaedic centre and dispensaries), Tracing Agency activities (more than 1,500 Red Cross messages exchanged since the beginning of the year) and visits to persons detained in Pul I Charkhi prison, to whom they gave toilet articles and food.

Kampuchea Conflict

In early March, an emergency plan was set up following heavy shelling near Site 2, the main camp in the border area. The ICRC delegates, in co-operation with UNBRO (United Nations Border Relief Operation) evacuated the wounded from the dispensaries and pregnant women to Khao-I-Dang Hospital, while some 5,000 other people (the elderly, children and disabled persons) were taken to an evacuation site further away from the border.

The ICRC reminded the authorities that the civilian status of the camps along the border must be respected and safer areas found for displaced persons. It continued to express concern regarding the situation of the civilian population under the control of Democratic Kampuchea and pursued its efforts to have these people moved to sites accessible to the international organizations.

Middle East

Lebanon

Violence erupted once again in Lebanon on 14 March. Intensive and indiscriminate shelling of urban areas resulted in a great many civilian casualties. Hospitals were badly damaged and much of Beirut was left without water and electricity.

In view of the deteriorating situation, the ICRC delegation in Lebanon launched appeals on 14 and 28 March and held a press conference on 5 April in which it called urgently upon all the parties concerned to respect the principles of international humanitarian law and spare civilians, their property, and medical establishments, vehicles and personnel. On 14 April, the ICRC renewed this appeal from

Geneva. In addition, the Director of Operations and the delegate-general for the Middle East travelled to Damascus and Lebanon, where they met Syrian authorities and the Lebanese parties engaged in the shelling. These contacts were aimed at obtaining authorization for humanitarian measures and appealing to them to respect the provisions of humanitarian law which protect civilians and medical centres.

Some 1,500 families living near the various front lines received food and other material assistance (family parcels, blankets and cooking utensils).

The delegation was able to resume its visits to prisoners, which had been suspended since October 1988. From 6 to 13 March, delegates visited four places of detention where they saw 92 prisoners, registering 64 of them for the first time.

Iran/Iraq

With no progress being made towards an agreement to repatriate all the Iranian and Iraqi prisoners of war, the ICRC made a fresh series of representations to Iran and Iraq. On 31 March and 3 April, a memorandum was submitted to the permanent missions in Geneva. At the same time, talks were held with a number of representatives of the two countries. In addition, the delegate-general went to Baghdad from 6 to 10 April and to Tehran in early May.

On 10 April, 66 Iraqi prisoners of war were repatriated under ICRC auspices.

The delegation in Baghdad continued to regularly visit the Iranian prisoners of war and civilian internees to which it has access. From 26 to 31 March, delegates also visited the Khuzistani civilian internees of Iranian origin in the Missan region, to which the ICRC was allowed to return in December 1988 after an interruption of two years.

Israel and the occupied territories

There were further violent clashes in the territories occupied by Israel. A particularly grave incident occurred on 13 April in the village of Nahalin when five persons were killed and several dozen others injured. The ICRC made known its concern about these tragic events in a firm public declaration.

During the period under review, the ICRC contacted the Israeli authorities on a growing number of occasions to urge them to put an end to practices which breach the Geneva Conventions. On 17 March, for example, the delegate-general for the Middle East met with Mr. Itzhak Rabin, the Israeli Minister of Defence.

In their work in the field, delegates concentrated on medical activities. Often working under difficult conditions, they endeavoured to ensure that people injured in the disturbances could be taken to hospital without delay. Visits to people detained in connection with the events were continued.

Jordan

The Deputy Director of Operations went to Jordan from 11 to 14 April to renew the 1978 agreement allowing the ICRC to visit persons detained for security reasons. He had talks with several officials including Mr. Issam Jundi, Mr. Nassouh Mohieddin and Prince Al Hassan.

IN THE RED CROSS AND RED CRESCENT WORLD

125th ANNIVERSARY OF THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT

World Red Cross and Red Crescent Day 1989

To mark World Red Cross and Red Crescent Day on 8 May 1989, the National Red Cross and Red Crescent Societies were asked to urge their governments to make some exceptional humanitarian gesture to protect human life and alleviate suffering, thereby demonstrating their commitment to the Fundamental Principles of the International Red Cross and Red Crescent Movement. (See International Review of the Red Cross, No. 269, March-April 1989, p. 153.)

The Review is publishing here under the text of the joint message issued by the League of Red Cross and Red Crescent Societies and the International Committee of the Red Cross on that occasion.

On 8 May, Mr. Cornelio Sommaruga and Mr. Mario Villarroel, the Presidents of the ICRC and the League respectively, held a press conference during which they both reiterated this appeal to governments and emphasized the importance of World Red Cross and Red Crescent Day. We are also publishing the reference paper on the Humanitarian Gesture.

As of 19 May 1989, a total of 56 countries had undertaken to make humanitarian gestures, all of which are recorded in a Roll of Honour open for signature by State representatives until 22 August 1989, which will be the 125th anniversary of the signature of the First Geneva Convention. In one of its next issues, the Review will be reporting on response to the Movement's humanitarian appeal and on the various measures adopted by governments worldwide.

JOINT MESSAGE OF THE LEAGUE OF RED CROSS
AND RED CRESCENT SOCIETIES
AND THE INTERNATIONAL COMMITTEE OF THE RED CROSS*

This World Red Cross and Red Crescent Day, governments around the world have been making a Humanitarian Gesture as a “birthday present” to our Movement in this, its 125th year.

These Gestures give hope and dignity to persons who are deprived, forgotten and in despair; people whose condition could not be improved without an act of exceptional benevolence.

Today the Geneva Conventions are the world’s most widely accepted treaties. By becoming party to them, states everywhere have shown their commitment to humanity and to the protection of human life.

The Humanitarian Gestures made by governments today are a further link in this chain of international solidarity. They are a very special way of marking 125 years of solidarity with the victims of conflicts and natural or man-made disasters, 125 years of fidelity to the fundamental principles of a Movement which has to date rescued millions of people from death, oblivion and catastrophe.

In the words of our founder Henry Dunant, today’s Humanitarian Gestures are another step in the process whereby the governments of the world are “won over to the cause of universal brotherhood”.

Even in the most desperately inhuman and violent situations, one humanitarian gesture can be the spark that kindles a gleam of hope for a better way of life and eventually ignites the flame of peace.

When you reach out with open arms in a situation otherwise dominated by the clenched fist, you can, in the midst of violence and disaster, foster trust and brotherhood. This is because such a gesture is inspired not by fear or domination, but by respect for people as human beings. It is proof that, in the face of suffering, it is possible to cease being enemies and to work together for the common good.

* This message has been recorded by:

Mr. Cornelio Sommaruga, President of the International Committee of the Red Cross (speaking in French, German and Italian);

Dr. Mario Villarroel Lander, President of the League of Red Cross and Red Crescent Societies (speaking in Spanish);

Mr. Pär Stenbäck, Secretary General of the League of Red Cross and Red Crescent Societies (speaking in English);

Dr. Ahmad Abu-Goura, Chairman of the Standing Commission of the Red Cross and Red Crescent (speaking in Arabic).

Today 250 million members of the Red Cross and Red Crescent are ready to accomplish such gestures every day, in order to save the lives and relieve the suffering of those who become the victims of natural disasters or man-made catastrophes.

Our Movement continues to base its conviction and determination on the human capacity to be moved by the suffering of others and to refuse to see that suffering as unavoidable.*

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HUMANITARIAN GESTURE

Reference paper

Today is World Red Cross and Red Crescent Day. For the entire Movement. For the millions of members and volunteers—including 90 million young people!—of the 148 National Societies. For the staff and delegates of the ICRC and the League.

This year there are three reasons to celebrate 8 May. Two birthdays and “birthday gifts”, in the service of one cause—“protecting human life”.

First, today is the anniversary of the birth of our Movement’s founder, Henry Dunant. And with him, the birth of a vision, an endeavour and an organization.

Secondly, 1989 World Day is the year of 125th anniversary of the initial Geneva Convention of 1864 and the 40th anniversary of the 1949 Geneva Conventions.

And finally, the third reason. In response to requests from their National Societies, a number of Governments have today announced a **Humanitarian Gesture** to mark the 125th anniversary of the Movement and to illustrate—better than any speech—the spirit which guides Red Cross and Red Crescent action.

1. In 1859, Henry Dunant was horrified to see that thousands of soldiers no longer able to fight were left to die of their wounds, of thirst and hunger, on the battlefield of Solferino.

How can we today not fail to be similarly horrified by the arbitrary, pointless and intolerable acts of violence which are committed throughout the world against so many people? How can we not want these cruel acts—a shame to all humanity—to stop?

How can we remain impassive and not do everything possible to protect the life and ease the suffering of all those who, accidentally or unjustly, are the victims of man-made catastrophes or natural disasters?

In the past as in the present, the International Red Cross and Red Crescent Movement has based its conviction on this capacity to be moved by the suffering of others and to refuse to accept that suffering as inevitable.

In the words of Henry Dunant, “War, the science of chaos, kills not only the body but all too often the soul as well. It abases, corrupts, tarnishes and degrades. In the face of war and its demands there can be no freedom, no fraternity, no family, no friends, no neighbours, nor even any conscience.”

He went on, “The enemy, our true enemy, is not the nation next door, it is hunger, cold, poverty, ignorance, routine, superstition, preconceived ideas.” (Both texts taken from *L’avenir sanglant*, by Henry Dunant).

The Movement founded by Henry Dunant has gone on to become the largest humanitarian institution in the world. All its members share a common goal: to assist those who suffer, no matter what their nationality, race, condition, religion or political opinions.

The National Red Cross and Red Crescent Societies teach first aid in the furthest reaches of the world. Under the Red Cross or Red Crescent banner, the symbol of neutrality, the Movement’s members are present in all the “hot spots” in our strife-ridden world. They are always among the first to arrive on the spot, be it after an earthquake or a flood, during a conflict or a famine.

The delegates of the International Committee of the Red Cross will go anywhere in the world to provide protection to prisoners of war and security detainees. They protect and assist the civilian victims of conflict, also giving them medical aid, they work to reunite families separated by events, and they try to spread understanding and encourage acceptance by combatants of the rules of International Humanitarian Law.

When disaster strikes, the delegates of the League of Red Cross and Red Crescent Societies catch the first flight to the place of the disaster, to bring relief to the victims.

Throughout the world, the Movement’s volunteers and staff provide assistance—sometimes at the risk of their lives—to those who have lost everything, including their country. They protect children from the effects of desertification, planting trees and digging wells. They also protect the victims of AIDS from the hostility of a society which tends to shut them out.

Henry Dunant’s dream was of a universal and neutral Movement, bringing together motivated men and women who “would act whenever and wherever” necessary.

Today, 125 years later, his dream has become reality. But everywhere in the world, the need to protect human life is greater than ever.

2. Let us now go on to the second reason which, this year, gives special significance to World Red Cross and Red Crescent Day.

Almost 125 years ago to the day, on 22 August 1864, *the initial Geneva Convention was signed*. By making this decisive commitment for a more humane world, governments for the first time guaranteed protection for the victims on the battlefield.

Then and now, the chain of fellowship, love and understanding represented by the Red Cross and Red Crescent depends on the support and co-operation of the States, which have united for humanity and undertaken to protect human life by becoming party to the most widely-accepted of treaties.

As the 20th century draws to an end, the solution to the major problems of our time cannot be dissociated from respect for the universal values on which humanitarian endeavour is based. Whether protecting human life or alleviating suffering, fighting hunger and disease, promoting understanding and co-operation, no lasting progress can be made unless measures are taken to safeguard the life and dignity of every human being.

We must redouble our efforts to encourage this new awareness and new realism, to persuade people to convert their way of thinking and redirect their energies; to bring out clearly the convergence of interests of all types and the human values common to all civilizations; for a new approach to humanitarian undertakings, for their justification lies not only on moral grounds but also in practical necessity.

The prevailing tendency, it is true, is to give precedence to immediate political imperatives over humanitarian considerations. Man's deeds every day contradict the principles he espouses. However, the cessation of hostilities, the start of negotiations in many conflict areas, the progress made on disarmament and human rights, are all good omens for regaining the humanitarian initiative and taking the offensive on the humanitarian front.

The determination to talk, to act for reconciliation and peace, is therefore not in vain. The endeavours of the United Nations, understanding and co-operation between the big powers, the search for a peaceful solution to conflict, have already given renewed hope and courage to entire peoples, have eased their suffering and saved lives.

None of this has given rise in us, however, to naive optimism or self-defeating pessimism.

In 125 years we have seen ample proof that humanitarian ideals are not pipedreams. With the co-operation and the support of the States party to the Geneva Conventions, the humanitarian action of the Red Cross and Red Crescent has saved millions of victims from death, humiliation and oblivion.

But how many people are there in the world today—men, women, children—who still wait for the protection and assistance to which they are entitled? How many tens and hundreds of thousands have appealed from the depths of their distress and their solitude?

No human being, no government, can and will turn a deaf ear to these appeals and remain indifferent to the suffering of so many victims. To act calls for a humanitarian mobilization of all our energy in order to:

- make the “humanitarian reflex” second nature to those in power,
- encourage trends which advocate respect for humanitarian principles,
- spread knowledge of the effectiveness and impartiality of our activities for all the victims, with a view to increasing the Movement’s freedom and means of action.

The Movement’s priority for the coming decade, this humanitarian mobilization implies unremitting effort to win over the States and public opinion to the ideals and principles of the Red Cross and Red Crescent.

1989 World Day must further the mobilization and lay the foundations for a renewed commitment, which the States shall be invited to share on the occasion of the ceremonies to commemorate the anniversary of the Geneva Conventions, on 22 August 1989 in Berne, and on 13 October 1989 in New York on the occasion of the United Nations General Assembly.

3. But there is a third dimension, the most immediate and the most tangible, which the Movement wished to give this World Red Cross and Red Crescent Day and which is very much in line with the call for a *humanitarian mobilization*.

We wanted the States in which there is a National Red Cross or Red Crescent Society to mark the 125th anniversary not only with good wishes but also by a special effort—neither exorbitant nor necessarily spectacular—to encourage the permanent work of the Movement and thereby directly or indirectly ameliorate the plight of the underprivileged, the discouraged, the forgotten.

This was the request made to their respective governments by many National Societies, in the hope of inciting countries on all five continents to make a series of humanitarian gestures in the best tradition of Henry Dunant. Their appeal was heard. According to the information transmitted to us by the National Societies and, in the case of some countries, by the authorities themselves, many Governments have decided on such a humanitarian gesture to commemorate the 125th anniversary of the Movement.

The gestures are most often very practical: measures for refugees or displaced persons, for separated families or detainees, financial and administrative measures for the benefit of National Societies, educational measures

for the dissemination of the Red Cross and Red Crescent principles and of International Humanitarian Law, legislative measures such as the ratification of the Additional Protocols or the adoption of a law to protect the emblem.

A birthday gift from each State to the National Society, messages of compassion and conciliation, these humanitarian gestures are a very special way of marking 125 years of solidarity with the victims of conflicts and disasters, 125 years during which our fundamental principles have been faithfully upheld and the Movement's unity has overcome borders and differences.

This is why these humanitarian gestures have been recorded in a Roll of Honour, opened several days ago for signature by State representatives.

Other humanitarian gestures will probably be announced in the coming days.

We are confident that many States will take the opportunity to make another entry in the Roll of Honour, which will be open for signature until 22 August 1989.

Every humanitarian gesture helps forge a spirit of mutual aid, understanding and co-operation. To the fist raised in anger it proffers a hand in friendship, and in the midst of violence and disaster, establishes a link of trust and brotherhood.

Every humanitarian gesture helps foster a spirit of peace, because it is not based on domination and fear, but on respect for the human being: it proves that, in the face of suffering, men can cease to be enemies and be shaken out of their indifference to help their fellow man.

The humanitarian gestures announced today will lead to others. They will all encourage a climate of confidence, the mobilization necessary to meet humanitarian emergencies and the building of a more brotherly, just and peaceful world.

Statutory meetings in Geneva

(April 1989)

● League Executive Council

The Executive Council of the League of Red Cross and Red Crescent Societies held its 23rd session in Geneva on 20 and 21 April 1989, under the chairmanship of the League President, Mr. Mario Villarroel.

In his address, Mr. Villarroel expressed the hope that the League's 70th anniversary and the "Humanitarian Gesture" celebrated in May in connection with the Movement's 125th anniversary would encourage National Societies to continue building the Movement in the spirit that spurred those who founded it.

League Secretary General Mr. Pär Stenbäck then reported on the activities carried out by the Secretariat since October 1988, focusing on relief operations and National Society development.

The Council provisionally admitted the Dominica Red Cross as the federation's 148th member; it also examined a draft ICRC/League agreement to be used as a basis for discussion with the ICRC before being submitted to the League General Assembly and was given details on a worldwide campaign for the protection of war victims, involving the League, the ICRC and the National Societies (following a resolution adopted by the Council of Delegates in 1987).

Delegates attending the Executive Council were also given an oral report of the Commission on the League Strategy for the Nineties, stressing the need for a strategy better adapted to the present world situation.

The Council moreover noted the change in the title of the Museum in Geneva to "International Museum of the Red Cross and Red Crescent", to reflect more fully the Movement's composition. At its last session in October 1988, the Council had requested the League Secretary-General to take the necessary steps in this respect.

The Executive Council fixed the date of its next session on 20 October 1989, to be followed by the VIIIth session of the League General Assembly on 21 October and from 23 to 26 October. The Council of Delegates will meet on 27 October 1989.

● Standing Commission of the Red Cross and Red Crescent

The Commission met on 18 April and discussed various points of interest to the Movement, in particular the provisional agenda of the Council of Delegates in October 1989 and the list of observers to attend the meeting.

The Commission also decided that the Henry Dunant Medal would be awarded to the following persons:

- Mr. G. Elsey (USA);
- Dr. A. Fourati (Tunisia);
- Mr. G. Mencer (Czechoslovakia);
- Mr. K. Snidvongs (Thailand);
- Mr. L. G. Stubbings (Australia);
- Mr. M. Egabu (Uganda) (posthumous award).

The Commission also awarded for the first time the Red Cross and Red Crescent Prize for Peace and Humanity following the adoption of a resolution (No. 1) by the Council of Delegates in 1987. The prize is to be awarded to the Lebanese Red Cross.

The Henry Dunant Medal and the Red Cross and Red Crescent Prize for Peace and Humanity will both be awarded by the Chairman of the Standing Commission on 26 October next at the end of the opening session of the Council of Delegates.

An information session was held at the ICRC for the National Society delegates attending the Commission meeting.

● League's 70th birthday

The League recently celebrated the 70th anniversary of its foundation in Paris on 5 May 1919. The brainchild of American Red Cross leader Henry P. Davison, it had five founding members—the Red Cross Societies of France, Great Britain, Italy, Japan and the United States of America. On its foundation they declared: "We are confident that this Movement, assured as it is at the outset of the moral support of the international community, has in it "great possibilities of adding immeasurably to the happiness and welfare of mankind". Seven months later it numbered 23 member Societies.

A 30-page illustrated brochure relating the highlights of the League's history has been published in *English, French, Arabic and Spanish* (See also p. 266).

ACTIVITIES OF THE NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

The Libyan Red Crescent Training and Study Centre

The Libyan Red Crescent Training and Study Centre was founded in April 1984 by a decision of the Third General Assembly of the Libyan Red Crescent.

Aims and structure

The aims of the Centre are to prepare and publish research papers about Libyan Red Crescent health and social activities and to organize symposia, seminars and training courses for active staff from headquarters and local branches of the Libyan Red Crescent in various aspects of humanitarian work. It co-ordinates and participates in the dissemination of the fundamental principles of the International Red Cross and Red Crescent Movement and international humanitarian law.

The Centre may also be consulted on legal and technical matters and can set up *ad hoc* committees to study plans and programmes for Red Crescent activities. It awards prizes and grants to encourage research, and produces audiovisual material.

The Centre has a Standing Commission made up of six people, four of whom are appointed to four-year terms by the General Assembly. The Director and the delegate from the General Secretariat are appointed by the Secretary General himself. The Commission members decide on general policy for the activities of the Centre and approve the annual budget. They draw up programmes for symposia, training courses and national and international seminars. The Director, Mr. Mohammad Hamad Al Asbali, makes suggestions for activities and represents the Centre in contacts with similar Red Cross and Red Crescent organizations.

The Centre's training activities

The Centre's achievements in the field of training include:

- two national training courses organized from 14-18 October 1984 and from 23-29 September 1985 for relief officers from branches of the Libyan Red Crescent. The first course was attended by 38 representatives from 10 branches, the second by 30 representatives, also from 10 branches;
- a first-aid course for medical and dentistry students from the Faculty of Medicine (1-24 March 1986);
- a national training course for first-aid instructors, from 2-10 February 1988, attended by 31 delegates from 30 branches;
- the first national course on the dissemination of the Principles of the Red Cross and Red Crescent and international humanitarian law, held from (1-4 December 1984 and attended by 35 representatives from 10 branches;
- the first national course on accounting and financial management (27-30 September 1986) which aimed to define and standardize the accounting and financial procedures used by branches of the Libyan Red Crescent;
- the first national course for information officers (21 March-4 April 1987) to develop and improve their abilities in various areas of Red Crescent activity. The course was attended by 27 representatives from 22 branches.

Among the Centre's activities between 1988 and 1990, special mention should be made of a Seminar on Voluntary Service in Social Work, which was held from 20-23 March 1989. The seminar's purpose was to evaluate the experience gained with volunteers of the Libyan Red Crescent and other Libyan volunteer organizations, to draw the necessary conclusions for the future development of social welfare activities and to ensure co-ordination between the agencies concerned.

The seminar was attended by representatives of the Libyan Red Crescent and about 60 delegates from the following institutions: the Libyan Scouts Congress, the Benghazi Association for the Blind, the Centre for Scientific Research, the Libyan Women's Association and several social and cultural organizations. University professors, in particular from Garyounis University, participated and the ICRC was also represented.

Some of the topics dealt with were the nature of voluntary service, volunteer work in Libyan customs and traditions, the recruitment and training of volunteers, several aspects of volunteer social work in the face of social and cultural changes, and the co-ordination of volunteer work by national volunteer institutions.

The delegates adopted conclusions and made recommendations: while reasserting their deep respect for the religious precepts on which volunteer service is based, they nevertheless said they were anxious to adapt such service to the realities of the modern world, and consequently to set up structures and methods, in particular the development of continuous training programmes for volunteers, so as to give fresh impetus to voluntary service in Libya. The points emphasized included the value of initiative, the effectiveness of collective work and the need to draw up rules on the rights and duties of volunteers and to make the public aware of the concept of voluntary service.

The Centre has planned a further series of courses, to train delegates for tracing activities, on rescue operations and medical aid in the event of a natural disaster, on the dissemination of international humanitarian law (definition of the material to be disseminated, identification of target groups, means and methods of dissemination, etc.) and on disaster preparedness (preparing relief supplies beforehand, defining the role of the national institutions concerned and co-ordinating their activities, and examining the feasibility of devising a national disaster relief plan).

Study and research

The Centre meets requests for advice, study projects and research addressed to it by local committees and other specialized bodies of the Libyan Red Crescent. In particular, it gives legal and technical advice on administration, management and social work.

Among the studies carried out by the Centre are an assessment of the programmes of activity of the Libyan Red Crescent and its branches, a survey of blood donors and a feasibility study for a health centre near the phosphorous springs in the Udane region. It has also compiled an index of medical services and issued several publications for young people or for use in dissemination programmes.

Colombian Red Cross Seminar on the

Contribution of disasters to development

From 28 February to 4 March 1989, the Colombian Red Cross organized a technical seminar entitled *Contribution of disasters to development*, which brought together representatives from all the National Societies of Latin America, the Spanish Red Cross, the American Red Cross, the League, the ICRC and the Henry Dunant Institute. EEC and UNDP specialists, people with academic backgrounds and from Colombian public and social institutions also attended. The seminar examined the following three questions:

- To what extent did a natural disaster make it possible to do development work in the region affected?
- What was the relationship between a natural disaster, the reconstruction process, long-term development and the prevention of further disasters?
- How did the Red Cross contribute to relief operations and to rehabilitation and development programmes?

The work of the seminar will be published. During the discussions, a broad consensus emerged on the importance of preventive, or at least contingency action (disaster preparedness). In this respect, coordination with other non-governmental organizations and with government services was essential. Moreover, even in the event of a disaster, the affected community must be encouraged to join in overcoming it (work *with* and not just *for*): external aid should help strengthen internal capacity and avoid creating or maintaining a state of dependence.

Those present also agreed that the Red Cross should retain its specificity and should not overdiversify by taking on tasks for which other organizations were better prepared. Within their terms of reference (emergency operations in the event of disasters), the National Societies still had much to do to improve their operational capacity. In this respect, greater co-operation between the

continent's National Societies was called for: many of them had considerable experience in relief operations when disaster struck, and that experience should be shared.

The development of *all* National Societies and, within each Society, of each of its branches was an important prerequisite for Red Cross efficiency. As an indivisible, unified body, both nationally and internationally, the Red Cross would find the strength to meet other major challenges: poverty, ecological devastation, drug abuse, i.e. all those ongoing disasters which are also of concern to the Red Cross, especially in Latin America.

The seminar ended with a visit to Armero, the village destroyed by an avalanche of mud in November 1985 when the Nevado del Ruiz erupted. The reconstruction work (institutions, hospitals, workshops, etc.) and the job-creating projects run by the Colombian Red Cross much impressed the participants, who were able to observe first-hand the importance and value of Red Cross work for the victims of a disaster.



JOINT COMMISSION
OF THE EMPRESS SHÔKEN FUND

CIRCULAR No. 80

Geneva, 11 April 1989

To all National Red Cross and Red Crescent Societies

Sixty-eighth distribution of income

The Joint Commission entrusted with the distribution of the income of the Empress Shôken Fund met in Geneva on 29 March 1989. The Japanese Red Cross Society was represented by the Ambassador and Permanent Representative of Japan in Geneva, His Excellency Mr. Yoshio Hatano.

The Commission approved the statement of accounts on the situation of the Fund as at 31 December 1988 and noted that the balance available amounted to 322,062 Swiss francs. It was decided to increase the sum available to approximately 350,000 Swiss francs by a corresponding transfer from the provision for losses on investments.

In examining the 31 projects presented by 26 National Societies, the Joint Commission reviewed the experiences of the past few years. The Commission noted that the following criteria were still valid:

- a. to restrict the number of allocations and thereby increasing the allocations so as to permit the beneficiary National Societies to implement the plans envisaged;
- b. to uphold only those from developing National Societies unable to have their projects financed otherwise and, among such Societies, whenever feasible those which have hitherto benefited least from assistance from the Empress Shôken Fund;

- c. to refrain from considering the requests from National Societies which received allocations in the past and which did not conform to the requirements under Article 7 of the Regulations according to which the beneficiary National Societies are expected to submit a detailed report on the use of the allocations received.

The Joint Commission furthermore decided that:

- d. in the event of an allocation the Secretariat of the Joint Commission will decide whether purchase arrangements will be made by the League's Logistics Service or directly by the beneficiary Society;
- e. if the item(s) requested is (are) immediately available on the local market or can be manufactured locally, the National Society shall submit to the Joint Commission an original offer or proforma invoice, established in English, French or Spanish and indicating a reliable date of delivery. In accordance with internationally accepted business rules the Joint Commission will transfer 50% of the indicated price to enable the National Society to place the order. The balance will be transferred only upon receipt of the seller's or manufacturer's delivery form and of the final invoice on which the initial down payment is duly entered;
- f. if the goods are to be imported from abroad, the League's Logistics Service will handle all purchase and shipping arrangements. The beneficiary Society may wish to communicate to the Joint Commission the name and full address of its shipping agent;
- g. allocations remaining unclaimed or unused after twelve months will be withdrawn and added to the amount available for the next distribution.

Twenty-six National Societies submitted requests for allocations from the 68th distribution of income and the Joint Commission decided to make the following grants based on the above-mentioned criteria:

	<i>Swiss francs</i>
1) Ecuatorial Guinea	
1 Ambulance type "Renault" or "Peugeot" and First Aid supplies	40,000
2) Guinea (Conakry)	
1 Mini Bus type "Toyota Hi-Lux" for Youth Red Cross activities	28,000
3) Guyana	
2 Station Wagons type "Mazda 323" to develop Youth activities, First Aid and Rescue programmes, and Social Welfare activities	52,000

4)	Lebanon	To update teaching material for First Aid programmes	7,000
5)	Madagascar	1 Lorry for use in Disaster Preparedness, Community Health and Youth Red Cross activities	52,000
6)	Morocco	Mini Bus type "Renault trafic" for Disaster Relief Emergency Centre in Rabat	23,000
7)	Panama	1 Mini Bus type "Toyota Hi-Lux" for Health, Social Welfare and Youth Red Cross activities	25,000
8)	Solomon Islands	1 Mini Bus to develop the Blood Transfusion Services	26,000
9)	Togo	1 Mini Bus for the training and activities of First Aid teams	26,000
10)	Tonga	1 Twelve-seater van type "Toyota Hiace" for the transport of Disabled, Youth Red Cross and First Aid teams, etc.	24,000
11)	Tuvalu	1 Mini Bus "Toyota Hi-Lux" for Rehabilitation programmes for Disabled, Blood Donor recruitment and Youth Red Cross activities	26,000
12)	Yemen (Arab Rep.)	To equip and furnish the First Aid Emergency Centre in Sana'a	20,000

The Joint Commission decided that the unused balance will be added to the income available for the 69th Distribution.

Pursuant to the Fund's regulations, each beneficiary Society must submit to the Joint Commission a report on results achieved in using the equipment purchased with the grant. The Joint Commission requests that these descriptive reports be sent not later than twelve months after receiving the allocation, accompanied, if possible, by photographs illustrating the activities carried out thanks to the allocation. The report should show whether the allocation has enabled the Society to implement the programme, and whether the programme has in fact met the needs of the population, so that the Joint Commission is in a position to form an opinion on results achieved.

The Joint Commission reminds beneficiaries of Article 6 of the Regulations which prohibits the assigning of the grant for purposes other than those specified without the previous consent of the Joint Commission.

69th Distribution — 1990

The 1989 income will be distributed in 1990. To facilitate National Societies to make applications in conformity with the Regulations, the Joint Commission will mail in August model application forms to all National Societies. Requests for allocation must be submitted to the Secretariat of the Joint Commission before 31 December 1989.

For the Joint Commission

*International Committee
of the Red Cross*

Mr. M. Aubert (Chairman)
Mr. M. Martin
Mr. S. Nessi

*League of Red Cross and
Red Crescent Societies*

Mr. P. Stenbäck
Mr. B. Bergman
Mr. K. Watanabe
Mr. P. Tischhauser (Secretary)

MISCELLANEOUS

The Hellenic Republic ratifies Protocol I

On 31 March 1989, the Hellenic Republic ratified Protocol I additional to the Geneva Conventions of 12 August 1949 and relating to the protection of the victims of international armed conflicts, which was adopted in Geneva on 8 June 1977.

In accordance with its provisions, Protocol I will come into force for the Hellenic Republic as from 30 September 1989.

The Hellenic Republic is the **81st** State to become party to Protocol I.

The Hungarian People's Republic ratifies the Protocols

On 12 April 1989, the Hungarian People's Republic ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of the victims of international (Protocol I) and non-international (Protocol II) armed conflicts, which were adopted in Geneva on 8 June 1977.

In accordance with their provisions, the Protocols will come into force for the Hungarian People's Republic as from 12 October 1989.

The Hungarian People's Republic is the **82nd** State to become party to Protocol I and the **72nd** to Protocol II.

The Republic of Malta accedes to the Protocols

On 17 April 1989, the Republic of Malta acceded to the Protocols additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts, which were adopted in Geneva on 8 June 1977.

The instrument of accession contained the following declaration:

“The Government of the Republic of Malta wishes to declare that it accepts the competence of the International Fact-finding Commission in accordance with Article 90 of Protocol I.”

The Republic of Malta is the **twelfth State** to make such a declaration about the International Fact-finding Commission (which will be set up when 20 such declarations have been made).

The Republic of Malta’s instrument of accession was accompanied by two reservations:

- 1) “Article 75 of Protocol I will be applied insofar as:
 - a) sub-paragraph (e) of paragraph 4 is not incompatible with legislation providing that any defendant, who causes a disturbance at the trial or whose presence is likely to impede the questioning of another defendant or the hearing of a witness or expert witness, may be removed from the courtroom;
 - b) sub-paragraph (h) of paragraph 4 is not incompatible with legal provisions authorizing the reopening of proceedings that have resulted in a final declaration of conviction or acquittal.”
- 2) “Article 6, paragraph 2, sub-paragraph (e) of Protocol II will be applied insofar as it is not incompatible with legislation providing that any defendant, who causes a disturbance at the trial or whose presence is likely to impede the questioning of another defendant or the hearing of a witness or expert witness, may be removed from the courtroom.”

In accordance with their provisions, the Protocols will enter into force for the Republic of Malta on 17 October 1989.

The Republic of Malta is the **83rd** State party to Protocol I and the **73rd** to Protocol II.

BOOKS AND REVIEWS

WAR, AGGRESSION AND SELF-DEFENCE

In his book *War, Aggression and Self-Defence*, Yoram Dinstein, an Israeli expert on international public law, gives the interested reader a comprehensive description of international law as it limits the use of force by States.* The author argues convincingly in favour of the realism and effectiveness of the United Nations Charter prohibition of the use of force, to which there are two exceptions: the right of self-defence, and collective security. The judgment of the International Court of Justice in the *Nicaragua case* also provides Dinstein (and quite rightly) with a wealth of material on the present-day interpretation of the prohibition of the use of force, especially as regards the right of individual and collective self-defence.

War, Aggression and Self-Defence merits inclusion in the book reviews published by the *International Review of the Red Cross* because Dinstein also clarifies the relation between the rules of international public law on the right of States to use force (traditionally called *jus ad bellum*) and international humanitarian law, or *jus in bello*, which limits the use of force for humanitarian reasons.

In the first part of this readable and judiciously compact book, Dinstein defines a number of concepts essential to an understanding of war and its legal consequences. The nature of war, the beginning of war, the termination of war by peace treaties or (what is more usual today) armistice agreements, the suspension of hostilities, neutrality, etc., are given a welcome clarification. It can be noted with satisfaction that Dinstein, too, refers to Additional Protocol I of 8 June 1977 in support of his conclusions and clearly acknowledges it as an authoritative text for extensive areas of international humanitarian law, even though it has as yet been ratified by only about half of all States.

Part II examines the prohibition of the use of inter-State force from the historical perspective and in contemporary international law. Of special interest

* Yoram Dinstein, *War, Aggression and Self-Defence*, Cambridge, Grotius Publications Limited, 1988.

is the explanation of the “just war” doctrine (*bellum justum*), which is admitted to have brought the development of the law of war to a *cul-de-sac*. The (allegedly) “just causes” for the use of force are no criteria whereby to differentiate between “lawful” and “unlawful” war, since no party to a conflict will ever question one of the causes it has invoked. The only legally tenable answer is to prohibit war (except in the above-mentioned cases, i.e. in self-defence). This was the step taken by the United Nations Charter, which prohibited the use of inter-State force (Article 2 [4]) after the 1928 Kellogg-Briand Pact had paved the way for such progress. Today the prohibition of the use of force is an integral part of (unwritten) customary international law, as was compellingly demonstrated by the judgment of the International Court of Justice in the *Nicaragua* case. Dinstein’s examination of this precedent-setting judgment and its consequences on how the prohibition of the use of force is to be construed is especially welcome. He shows the extent to which the prohibition of the use of force by international law reflects the modern thinking. *Jus ad bellum* has become *jus contra bellum*.

Of the many implications of the prohibition of the use of force which the author subjects to careful analysis, let us mention just one question of current interest. According to Dinstein, a State infringes this rule when it uses military might against another State on the grounds that the latter has violated human rights (“humanitarian intervention”).

After thoroughly analysing the criminalization of aggressive war—in the Nuremburg trials, aggressive war was held to be a crime against peace—the author reviews the exceptions to the prohibition on the use of force, first and foremost among them the right of individual and collective self-defence. This is the most important exception in practical terms, since States continue to wage war—despite the prohibition—invariably claiming that they do so in exercise of their right of self-defence. Self-defence is the lawful use of force against an unlawful attack. Numerous questions have repeatedly arisen in practice as to the scope of that right, which is also acknowledged as such by customary law, and the author examines them in detail. He looks, for example, at the controversial issue of to what extent the threat of force against a State justifies the preemptive use of force by that State. The author says it does not, although he allows that there are situations in which the threatened State may be justified in shooting first. He also makes interesting remarks on the question of how to judge attacks by armed groups launched from the territory of a third State.

Works which deal above all with the terms and conditions of the right of States to use force do not often speak extensively of international humanitarian law. It is pleasing to see (but by no means a matter of course) that the author makes the obvious connections between the two. For example, he quite rightly

states when discussing the concept of war that the rules of international humanitarian law must be implemented whenever force is employed between States. Above all, he demonstrates with all desirable clarity that international humanitarian law must always be respected, regardless of the (political) reason for the war. *Jus in bello* must similarly always be applied by all belligerents, without any restrictions.

Dinstein's newest book is a comprehensive work on the right to wage war and its limits. It is imbued with the conviction that international public law can help to promote peaceful relations between States. The book is a useful introduction to the subject.

Hans-Peter Gasser

FROM UTOPIA TO REALITY

Record of the Henry Dunant Symposium

Why hold a Symposium on Henry Dunant, seventy-five years after the death of this great Genevese philanthropist who founded the International Red Cross and Red Crescent Movement? For the academic interest of the subject, doubtless, and to take stock of the historical research concerning him, but above all in the belief that the message he has left us is astonishingly relevant to our times. In May 1985 the Henry Dunant Society celebrated its tenth anniversary by holding this symposium in Geneva. This, like the number of lecturers at the symposium—over twenty—and the subsequent publication of the *Record of the Symposium*,* was the hallmark of a vigorous society. The publication is a handsome volume containing high-quality essays whose value is enhanced by an index and fine illustrations. It makes highly interesting reading, and is a useful reference document.

All researchers start by making an inventory of the sources at their disposal. Thus the first two essays in this book are on what the archives of the International Committee of the Red Cross, the Swiss Red Cross and the Geneva Public and University Library have to say about Henry Dunant. The minutes of the Committee's meetings and his voluminous correspondence, particularly with his friend Rudolf Müller, the architect of his rehabilitation, contain invaluable and hitherto unpublished information on his life and thought.

* *De l'utopie à la réalité*. A record of the Henry Dunant Symposium (ed. Roger Durand), held in Geneva at the Palais de l'Athénée and the Chapelle de l'Oratoire from 3 to 5 May 1985; Geneva, Société Henry Dunant, Collection Henry Dunant No. 3, 1988, pp. 413.

The essays draw on contemporary documents to illustrate various sides of Henry Dunant's personality: his character, his religious convictions, and his work as the founder of the Red Cross and apostle of the brotherhood of man.

We are shown his character in all its greatness and with all its flaws. The records of the Colladon family tell of his childhood, of long country holidays at his grandfather's house in Avully, remembered with affection all his life. The house was delightful and his grandfather, the patriarch of the family, made him welcome. Henry's mother, frail, shy and in delicate health, was fond of Avully, finding peace of mind there. Nothing was lacking to make such holidays magically happy.

Later on, as a business man and colonist in Algeria, Dunant ran into trouble which cost him 40 years' exile and loneliness. Napoleon III said of him in 1865: "*Mr. Dunant does not appear to me to have put forward any clear or precise plan. It is all very well for him to day-dream and point to things that might be improved, but he has not shown any way in which a society could prosper and succeed.*" This opinion sums up one of Dunant's main weaknesses. He liked taking risks, and ruined himself by speculation in Algeria.

And yet ... had he lacked this exuberant imagination and crusading spirit, would he ever have dared to embark on such a wild adventure as the Red Cross? The audacity that ruined him in business became genius when he set out to protect wounded and sick men on the battlefield.

The book reveals other failings of Henry Dunant. According to psychiatric opinion he was clearly a manic-depressive. From the age of 45 onwards he suffered from persecution mania. He appears never to have recovered from the shock of the horrors he saw at Solferino, and it seems to have disturbed his mental health. It was this sensitive reaction, and all the pain it caused him, that led him to found the Red Cross. Readers cannot fail to be affected by his personal tragedy—he lived in dread of being poisoned; but neither can they fail to be impressed by his strength of purpose in carrying out the plan fashioned in his mental torment.

The *Record of the Symposium* on Henry Dunant goes on from this portrait of the man to consider his *religious belief* and his protestantism. As a young man he was active in religious affairs, and was one of the founders of the *Union Chrétienne* of Geneva, to which he devoted much of his time, recruiting members, collecting funds and making international contacts for it. He was also one of the principal organizers of the first World Conference of Young Men's Christian Associations (Y.M.C.A.'s), held in Paris in 1855. His youthful faith seems to have been a lasting one, although later on he distanced himself from the Church and harshly criticised the Calvinists, and for good measure the Jesuits too, on whom he wrote a pamphlet. As a practising Christian, he took a prophetic and tragic view of history, dominated by his belief that the end of the world was approaching. The four pictures he drew between 1880 and 1890 symbolize this view of the history of mankind.

One cannot help being impressed, and struck with admiration, on realizing that in spite of his strongly religious outlook he intended the Red Cross to make no distinction at all between religious confessions, so that it could inspire

confidence and benefit men and women everywhere, whatever their religious beliefs!

A third side of Henry Dunant's personality discussed by the symposium relates to his ambiguous relations with the *Red Cross*. Although he was the principal founder of the Red Cross, in 1867 Dunant was obliged to resign his post as Secretary of the International Committee because of his risky speculations in Algeria. His subsequent relations with the Committee were antagonistic, and Gustave Moynier, President of the Committee from 1864 to 1910, disputed the view that Henry Dunant was the founding father of the Red Cross.

Three lectures in the *Record of the Seminar* shed new light on Dunant's part in the foundation of the Red Cross and the drafting of the original Geneva Convention of 1864, on his work for the protection of prisoners of war, and on his wish to found a museum.

The reader cannot fail to be struck by Dunant's visionary character and tenacity. He was admittedly supported by all members of the International Committee formed in Geneva to set up permanent committees for the relief of wounded or sick soldiers, which would use volunteer medical personnel to collect the wounded of both sides. Yet, when the International Conference on Statistics met in Berlin in 1863 and he took occasion, as the representative of the Geneva Committee but without consulting it, to put forward the idea of declaring army medical services neutral, Geneva's reaction was far from enthusiastic. The idea would have been dropped later but for the vigilance of Major Basting, of the Netherlands Army Medical Services, at the Geneva Conference of 1863.

Furthermore, Henry Dunant very soon concluded that attention should not be confined to wounded soldiers, relief societies and medical personnel, but should extend to able-bodied prisoners of war. Untiringly, he strove to win support for his belief that prisoners of war should not be left to fall ill for lack of proper food, clothing and shelter; that they should be allowed to correspond with their families; and that in certain circumstances they should be repatriated in decent conditions. He was appointed International Secretary of the Society for the Amelioration of the Condition of Prisoners of War, which pressed for a diplomatic conference to be held to approve regulations concerning prisoners of war. After innumerable setbacks the conference was held in Brussels in 1874, but sponsored by the Russian Government. Its draft international declaration concerning the laws and customs of war owed much to Dunant's ideas; though the text never achieved force of law as no State ever ratified it, it was not forgotten, for it formed the basis of the proceedings of the Hague Conference of 1899. Dunant may accordingly be said to have inspired the provisions relating to prisoners of war contained in the Regulations of 1899 respecting the Law and Customs of War on Land, which after some amendments were annexed to the Hague Convention of 1907 concerning the Laws and Customs of War on Land. This example of Dunant's visionary genius shows his accurate perception of what would eventually be accepted by the international community.

The last chapter of this book deals with Henry Dunant as the *apostle of the brotherhood of man*. Whatever cause he championed, Dunant saw its interna-

tional ramifications. He was open-minded about the various cultures in which he moved, and firmly believed that solidarity—helping those in need anywhere—could do away with many evils. The *Record of the Symposium* contains examples of this cosmopolitan spirit: he was a forerunner of UNESCO, ardently desiring publication of a collection of masterpieces of human intellect and creativity that would make known the literature, arts and sciences and drama of widely differing cultures, and furthermore encourage friendly relations between them. He opposed slavery and tried in vain to call an international conference to condemn it. He loved peace, tried to alleviate the suffering caused by war, and attacked the root causes of conflicts by proposing that an international High Court of Arbitration should be set up. He was in favour of the progressive emancipation of women, as is shown by his correspondence with his friend Bertha von Suttner, an active pacifist, and he suggested the formation of an International Alliance for the Advancement of Women to improve and protect their social status. These views show his broadmindedness, remarkable even for a time when, as one of the lecturers at the Symposium said, philanthropy in Geneva was in full swing. They show that his ideals were not ephemeral or local, but valid for all time and all lands.

The Henry Dunant Symposium leaves us with a picture of a man devoured by dreams of greatness, a practising but non-clerical Christian with extraordinary powers of persuasion and an unbridled imagination. His experiences after the battle of Solferino left an indelible scar on his personality, and he was wounded to the quick by being rejected by Genevese society after the infamizing sentence passed on him by a court. The Symposium shows him as unhappy, unstable and depressive, prone to dissipate his abilities, but always devoting all his energies to noble ideals.

In chronicling the ups and downs of Henry Dunant's life, examining his correspondence, and throwing light on his successes and failures in a rigorously impartial spirit, the Symposium perhaps reveals—sometimes unflatteringly—the deeply human and fallible side of this remarkable man. These burrowings show, however, how singularly rich was his personality and how modern his thought. Henry Dunant's life-work, and his talents as a writer, made their mark on his age; and he upheld an ideal of solidarity and respect for human dignity to which men and women of our own time owe their lives and health, and freedom from torture and ill-treatment. This makes him a citizen of the world and one of the great men of history. It is to be hoped that his life and work will inspire and encourage everyone, everywhere, who shares his ideal of progress through brotherhood.

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Marion Harroff-Tavel

GUIDELINES FOR DISSEMINATING THE FUNDAMENTAL PRINCIPLES OF THE RED CROSS AND RED CRESCENT MOVEMENT

A picture is worth a thousand words

This publication has been prepared on the initiative of the League of Red Cross and Red Crescent Societies, in close co-operation with the International Committee of the Red Cross.*

Representatives from the National Societies of Belgium, Denmark, Great Britain, Lebanon, Norway, Poland, Sweden and Switzerland and the Henry Dunant Institute took an active part in the work.

* *Guidelines for disseminating the Fundamental Principles of the Red Cross and Red Crescent Movement*, Yolande Camporini, ed., League of Red Cross and Red Crescent Societies, Geneva, 1988/89, 9 pp. and 29 transparencies. See also *Dissemination*, No. 11, December 1988, p. 17.

Dissemination of the Fundamental Principles of the Red Cross and Red Crescent Movement must form an integral part of each Society's overall dissemination programme and must be inspired by and incorporated in all the humanitarian activities of the Society in question.

It was with that in mind, and on the basis of the Commentary on the Fundamental Principles published by Mr. J. Pictet in 1979, that this initiative was taken, seeing that one of the functions of the League, according to its Constitution, is to assist National Societies to inculcate in their members the Principles and ideals of the Movement.

The compendium is a compilation of overhead projector transparencies with accompanying notes and should be looked upon as a working guide, which can of course be adapted according to the needs of each individual Society. It offers ideas as a model for dissemination of the Principles.

The transparencies are grouped in the following sections:

1. Do you know the seven Fundamental Principles?
2. What is the origin and why are the Principles a necessity?
3. How do the seven Principles fit together?
4. What do the Principles mean in practice?
5. Practical exercises.

The approach adopted in drafting these guidelines was essentially practical; each of the Fundamental Principles is clearly illustrated so as to be comprehensible to all, with notes explaining its underlying meaning and showing how to adapt its presentation to different target groups.

The compendium also enables users to compare the different ways in which the seven Principles may be set forth and to select the transparencies best suited to local customs and circumstances.

It has been sent out to the National Societies and is available in *English*, *French* and *Spanish*. An *Arabic-language* version is currently being prepared. The League Secretariat will supply additional copies on request.

This publication, edited by Yolande Camporini, who is the League's technical adviser on statutory matters and dissemination, will undoubtedly prove invaluable to National Societies organizing dissemination and development programmes.

J. M.

RECENT PUBLICATIONS

The *International Review of the Red Cross* would like to draw its readers' attention to the following recent publications:

● **Isaac Paenson, *English-French-Spanish-Russian Manual of the Terminology of the Law of Armed Conflicts and of International Humanitarian Organizations*** (foreword by Alexandre Hay, President of the ICRC when the book went to print; preface by Jean Pictet, honorary Vice-President of the ICRC, former Associate Professor at Geneva University, former Director of the Henry Dunant Institute), published for the International Committee of the Red Cross, the Henry Dunant Institute and the International Centre for the Terminology of the Social Sciences (Geneva), with the financial assistance of UNESCO, by Martinus Nijhoff, Dordrecht (English-speaking countries) and Bruylant, Brussels (for all other countries), 1989, 844 pages.

This Manual is the continuation of the *English-French-Spanish-Russian Manual of the Terminology of Public International Law (Law of Peace) and International Organizations*, published by Bruylant in 1983. It is based on the same principles and its structure is identical. As Alexandre Hay says in his foreword: "The original method employed by Dr. Paenson has allocated a double function to this Manual: first, to find for each term relating to the specialized sphere of the law of armed conflicts an equivalent in the three other languages of the Manual. This is the function of a glossary of terms; however, it is fulfilled better than usual because all terms are presented in their logical context. But, secondly, the book of Dr. Paenson also fulfils the traditional function of a Manual whose text may be read for its own sake in each of its languages and whose intrinsic value is great".

By the same token, Jean Pictet states in his preface: "The basic principle which characterizes Dr. Paenson's original method is the following: to present the terms to be defined in their natural context, thus applying the general theory of systems to terminology. . . . His manual may also be considered as a canvas for a model course of lectures on the Law of Armed Conflicts and many University professors teaching this subject could profitably draw their inspiration from it. . . . In conclusion I would like to pay tribute to the erudite and conscientious work of the author. Thanks to his vast experience, his profound knowledge of the subject matter and its terminology he created a Manual extremely well conceived and remarkable from any point of view."

The work is divided into three tomes and five books dealing with armed conflict between States (*jus ad bellum*—the right to resort to war; *jus in bello*—the laws and customs of war; the law of neutrality), non-international armed conflicts, and the International Red Cross (genesis and development of the International Red Cross, structure and functioning of the International Red Cross and Red Crescent Movement).

● **Review 1988 of the League of Red Cross and Red Crescent Societies.** The *Review* gives the facts and figures for what proved to be a record year for relief

operations. It also describes the initiatives taken by the League in the fields of health, development and training, peace and personnel management. An overview of the League's financial situation completes the picture of twelve months of work. (The *Review* may be obtained from the League Secretariat in *English, French, Spanish and Arabic*, and is free of charge for up to 100 copies.)

● ***The League of Red Cross and Red Crescent Societies, 1919-1989.*** This 24-page, richly illustrated booklet was published to mark the 70th anniversary of the League, which came into being on 5 May 1919. Starting with the League's foundation by the American Henry P. Davison and five National Societies (France, Great Britain, Italy, Japan, the United States), it takes the reader through seven decades of humanitarian service, including the launching of over 1,000 appeals for assistance.

Particular attention is given to League activities during the typhus epidemic in Poland and the famine in Russia (1919-1921), the 1923 earthquake in Japan which left about 3 million people homeless, and the disastrous floods in China in 1931. After the Second World War, the League launched large-scale operations for Palestinian refugees (1948-1950), for the some 11,000 victims of mass poisoning with adulterated oil in Morocco in 1959-1961 and for Algerian refugees from 1958 to 1962. More recently, its work for the victims of drought in Africa (1984-1986) and the earthquake in Armenia (1988) is still present in our minds. (Available in *English, French, Spanish and Arabic*, free of charge for up to 10 copies; all additional copies 3 Swiss francs each.)

● ***Actio Humana*** is a new periodical put out by the Swiss Red Cross. Aimed at a wide readership, it sets out to explore the reaction of communities, groups and individuals to world events and to make people think about values which are not material but are nevertheless essential to the quality of life.

Subtitled "The Human Adventure", *Actio Humana* is especially interested in the underlying motives for human behaviour of all kinds and will deal with a specific theme each year. For 1989, it has chosen a topic of signal importance in human society: *communication*. The result is a series of articles on human relations in everyday life, contact with the sick, communication with animals, problems of lack of communication, the plight of autistic children, etc.

In the four issues to appear in 1989, this new periodical will examine different aspects of communication: *Seeking contact; The thirst to communicate; Grasping is understanding; Wanting to know*. The booklets complement each other and together constitute a complete file on the subject.

The periodical is richly illustrated and impeccably presented. (Four issues per year, in *French and German*; Swiss Red Cross, Rainmattstrasse 10, 3001 Bern; 10 Swiss francs per issue.)

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA (Socialist People's Republic of) — Albanian Red Cross, Boulevard Marsel Kashen, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Cruz Vermelha de Angola, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, 3, Gusshausstrasse, Postfach 39, A-1041, *Vienne 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, Dhaka-1217, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (People's Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRASIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURMA (Socialist Republic of the Union of) — Burma Red Cross Society, Red Cross Building, 42, Strand Road, *Rangoon*.
- BURUNDI — Burundi Red Cross, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa, Ontario K1G 4J5*.
- CAPE-VERDE (Republic of) — Cruz Vermelha de Cabo Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA (People's Republic of) — Red Cross Society of China, 53, Ganmien Hutong, *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, N.º 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO (People's Republic of the) — Croix-Rouge congolaise, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Croix-Rouge de Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Calzada 51 Vedado, Ciudad Habana, *Habana 4*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovská 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjölds Allé 28, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Société du Croissant-Rouge de Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, calle de la Cruz Roja y Avenida Colombia, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C, Pte y Av. Henri Dunant, *San Salvador*, Apartado Postal 2672.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis-Ababa*.
- FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. Box 168, 00141 *Helsinki 1415*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMAN DEMOCRATIC REPUBLIC — German Red Cross of the German Democratic Republic, Kaitzer Strasse 2, DDR, 8010 *Dresden*.
- GERMANY, FEDERAL REPUBLIC OF — German Red Cross in the Federal Republic of Germany, Friedrich-Erbert-Allee 71, 5300, *Bonn 1*, Postfach 1460 (D.B.R.).
- GHANA — Ghana Red Cross Society, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 221, *St George's*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUINEA — The Guinean Red Cross Society, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Sociedad Nacional da Cruz Vermelha de Guiné-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*

- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.^a Calle, 1.^a y 2.^a Avenidas, *Comayagüela D.M.*
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, *Budapest 1367*. Mail Add.: *1367 Budapest 51. Pf. 121*.
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New-Dehli 110001*.
- INDONESIA — Indonesian Red Cross Society, II Jend Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Bagdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, St. John's Gate, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat, *Kuwait*.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*, West Africa.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, *Luxembourg 2*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, aneue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10*, Z.P. *11510*.
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Cruz Vermehla de Moçambique, Caixa Postal 2986, *Maputo*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217 *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O.B. 28120, *2502 KC The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*. (P.O. Box 12-140, *Wellington Thorndon*.)
- NICARAGUA — Nicaráguan Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. N-0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Camino del Inca y Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, *1293 Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of the Socialist Republic of Romania, Strada Biserica Amzei, 29, *Bucarest*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries St. Lucia*, W. I.
- SAN MARINO — Red Cross of San Marino, Comité central, *San Marino*.
- SÃO TOMÉ AND PRÍNCIPE — Sociedade Nacional da Cruz Vermehla de São Tomé e Príncipe, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House 15, Penang Lane, *Singapore 0923*.
- SOMALIA (Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.

- SOUTH AFRICA** — The South African Red Cross Society, Essanby House 6th Floor, 175 Jeppe Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN** — Spanish Red Cross, Eduardo Dato, 16, *Madrid 28010*.
- SRI LANKA** (Dem. Soc. Rep. of) — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN** (The Republic of the) — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME** — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND** — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN** — Swedish Red Cross, Box 27 316, *102-54 Stockholm*.
- SWITZERLAND** — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, *3001 Berne*.
- SYRIAN ARAB REPUBLIC** — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA** — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND** — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO** — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA** — Tonga Red Cross Society, P.O. Box 456, *Nuku'Alofa, South West Pacific*.
- TRINIDAD AND TOBAGO** — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain, Trinidad, West Indies*.
- TUNISIA** — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY** — The Turkish Red Crescent Society, Genel Başkanlığı, Karanfil Sokak No. 7, 06650 Kızılay-*Ankara*.
- UGANDA** — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UNITED ARAB EMIRATES** — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM** — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.IX. 7EJ*.
- USA** — American Red Cross, 17th and D. Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY** — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- U.R.S.S** — The Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., I, Tcheremushkinskii proezd 5, *Moscow, 117036*.
- VENEZUELA** — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado, 3185, *Caracas 1010*.
- VIET NAM** (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Ba-Trìu, *Hanoi*.
- WESTERN SAMOA** — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN ARAB REPUBLIC** — Red Crescent Society of the Yemen Arab Republic, P.O. Box 1257, *Sana'a*.
- YEMEN** (People's Democratic Republic of) — Red Crescent Society of the People's Democratic Republic of Yemen, P. O. Box 455, Crater, *Aden*.
- YUGOSLAVIA** — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade*.
- ZAIRE** — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA** — Zambia Red Cross Society, P.O. Box 50 001, 2837 Brentwood Drive, Longacres, *Lusaka*.
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