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# INTERNATIONAL REVIEW

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## OF THE RED CROSS



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## **ACTION TAKEN BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS IN SITUATIONS OF INTERNAL VIOLENCE**

**by Marion Harroff-Tavel**

*For some decades now, the International Committee of the Red Cross (ICRC) has periodically undertaken the difficult task of reassessing its policy in respect of situations of internal violence. Since 1872, when it made its first offer of services to the parties to a non-international armed conflict, and 1918, when it carried out its first visit to security detainees, the ICRC has accumulated a wealth of experience. During that time it has gradually extended its mandate to cover situations in which human suffering called for action on its part which it would not have contemplated a few years previously.*

*Why does the ICRC feel that the time has come once again to develop and clarify its policy? The reply to this question is to be found in the practices followed by the institution, which has had to adjust to new forms of violence and feels that its existing terms of reference are no longer adequate. It thus seemed worthwhile to conduct a comprehensive internal review, with the participation of many ICRC staff members. The result of this exercise is outlined in the article which follows.*

*The ICRC, which has long been identified with visits to detainees, has for example been attaching increasing importance to the plight of persons affected by violence outside prisons. It has not only carried out food and medical relief operations, sometimes on a very large scale, but also and above all it has approached the de jure or de facto authorities to draw their attention to the humanitarian problems encountered by the population and urge them to remedy the situation.*

*Furthermore, some guidelines adopted by the ICRC to define the framework for its action have proven too restrictive. For instance, going beyond non-international armed conflict and internal disturbances, the ICRC had defined, on the basis of relatively precise criteria, the situations of internal tension in which it considered itself*

*competent to intervene. In practice, however, the ICRC has sometimes felt the need to undertake or pursue humanitarian action even outside the strict framework of internal tension. Indeed, its right of initiative does not hinge on the emergence of a given situation in a country, but rather on the need for action taken by a specifically neutral and independent organization.*

*Lastly, the reasons underlying certain long-standing activities must be explained more clearly to the public at large. All the ICRC's activities serve the same aim, namely to help ensure that universally accepted rules protecting the fundamental rights of the individual are respected and not flouted. The emergency operations carried out by the ICRC, while they may indeed relieve terrible suffering, are not enough. What is important is not so much what the institution does itself, but rather what it encourages others to do or not to do. The main aim of the ICRC's action is thus, above all else, to influence the conduct of those who indulge in violence, conduct of which the de jure or de facto authorities may not always be aware. It endeavours to establish a constructive and sustained dialogue with those authorities, and to build up a relationship of trust, which is a prerequisite for long-term humanitarian action.*

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*The author wishes to thank the ICRC members and staff who have contributed to the review of the institution's policy in situations of internal violence, especially Mr. François Bugnion, Deputy Director at the ICRC, who has been closely involved in this process.*

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Violence is an inherent feature of any human society. The violence resulting from the trials of strength that set individuals or groups against each other may take many different forms, ranging from criminality, which the State seeks to keep in check through policing, to full-scale conflict between organized armed groups. The persons involved in such violence are also many and varied. Thus, while one country might be the scene of conventional clashes between rioters and the police, others will fall prey to fighting between factions, militias or paramilitary groups, with the State's power a mere illusion. Finally,

the causes of the violence, which may be political, economic, religious, ethnic, etc., are often difficult to distinguish.

All such situations have one thing in common: the violence invariably leads to suffering.

Since its inception, the ICRC has always endeavoured to prevent and alleviate suffering.<sup>1</sup> Its mandate, initially confined to international armed conflicts, was soon extended to situations of internal violence. It is this latter aspect that is considered in this study, which focuses on ICRC action in the context of non-international armed conflicts and internal disturbances, and on the humanitarian initiatives which the institution may take in the face of pressing humanitarian needs, even when the violence has not reached such a scale.

In all cases of this type, the ICRC has to make certain choices. When should it offer its services? To do what? Where do its priorities lie? What legal bases and principles can it invoke? These are the questions which this document sets out to answer.

This study revolves around human beings affected by violence. Accordingly, the first part of the document is devoted to an analysis of their needs in humanitarian terms and the specific contribution the ICRC can make in meeting those needs. The second section focuses on the legal and statutory bases on which the ICRC's offers of services are founded. Finally, the document moves on to the institution's actual activities, seen in the light of its principles, in order to define their aim, their global nature and their ever-increasing scope.

## I. THE SPECIFIC ROLE OF AN IMPARTIAL, NEUTRAL AND INDEPENDENT INSTITUTION IN SOLVING THE HUMANITARIAN PROBLEMS CAUSED BY VIOLENCE

What are the problems in question, and what are the features of the ICRC which make it such a unique institution with its own special role?

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<sup>1</sup> The first of the seven Fundamental Principles of the International Red Cross and Red Crescent Movement is humanity. It stipulates that the Movement "*endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being (...)*".

## 1. The effects of violence

The aim here is simply to describe the consequences of violence in humanitarian terms, from the point of view of the victim, leaving aside the question as to whether the violence is the result of lawful acts and who is responsible. In general terms, and without claiming to be exhaustive, we may identify the following:

- physical damage: injury, illness, disability or death;
- torture and ill-treatment;
- disappearances: these may be the result of a deliberate State policy, or the doing of paramilitary groups or opposition movements. Those who disappear may be held captive at secret locations; more often than not, however, they are killed, either to terrorize the population or to avoid the stigma of national or international disapproval resulting from the arrest and detention of certain opposition figures;
- deprivation of freedom: the classic form of detention is incarceration in a closed place designed for the purpose (prisons, camps, or — in some countries — psychiatric hospitals, etc.), but there are others, such as assignment to residence or confinement in another region of the country, often far away, isolated and insalubrious;
- a person's inability to satisfy his vital needs (security, material survival, psychological needs), when he has lost his means of subsistence, has been displaced within the country or has had to seek refuge abroad;
- separation of families, whose members are without news of their relatives on account of the hostilities or unrest;
- the suffering of individuals or communities indirectly affected by the strife, such as families with no means of support, communities whose precarious economic situation is threatened by the additional burden represented by refugees or displaced populations, and persons who are suspect on account of their kinship with someone involved in the violence.

Whatever the form taken by the violence, it also has adverse effects on the psychological integrity of the victims and their families.

## 2. The special nature of the ICRC

In the myriad of humanitarian organizations, the ICRC occupies a special place. Its specific status stems from several factors.

First of all, the ICRC has been entrusted with a mandate by the States party to the Geneva Conventions of 1949, in other words virtually every country in the world. Those States recognized the ICRC's humanitarian character and its impartiality when they signed the Conventions, which are applicable to armed conflicts whether international or otherwise.<sup>2</sup>

Secondly, the same States, in approving the adoption of the Statutes of the International Red Cross and Red Crescent Movement, pledged to respect at all times the ICRC's obligation to act in accordance with Fundamental Principles of the Movement.<sup>3</sup> These include humanity, impartiality, neutrality and independence from any power whatsoever. They are the principles on which the ICRC's action has been founded since 1863 and which it must uphold within the Movement.<sup>4</sup>

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<sup>2</sup> Geneva Conventions:

- for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention)
- for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention)
- relative to the Treatment of Prisoners of War (Third Convention)
- relative to the Protection of Civilian Persons in Time of War (Fourth Convention)

of 12 August 1949.

See in particular Article 3, para. 2, common to the four Geneva Conventions, which describes the ICRC as "*an impartial humanitarian body*".

<sup>3</sup> Article 2, para. 4, of the Statutes of the International Red Cross and Red Crescent Movement, adopted by the 25th International Conference of the Red Cross in Geneva in October 1986. (The International Conference brings together representatives of the components of the Movement and representatives of the States party to the Geneva Conventions).

<sup>4</sup> The seven Principles are: humanity, impartiality, neutrality, independence, voluntary service, unity and universality. The complete text of the Principles appears in the Preamble to the Statutes of the Movement, Article 5, para. 2 (a), of which stipulates that one of the ICRC's roles is "*to maintain and disseminate*" the Principles, a task which the ICRC has performed since the founding of the Movement and which was formally assigned to it in 1921.

From the outset, the ICRC adopted a structure enabling it to respect fully the principles it upholds. The ICRC is an institution formed on a private initiative. Its headquarters are in Switzerland, and its governing body, the Committee, is mononational and recruits its members by cooptation (Article 5, para. 1, of the Statutes of the Movement). Since the members of the Committee do not owe their appointment to any electoral body and are hence free of any political pressure, they enjoy total independence in their decision-making. This constitutes a guarantee of impartial conduct.

Finally, the ICRC's impartiality is the fruit of a tradition and is expressed through its policy guidelines, which ensure continuity in its action and safeguard States against unpredictable reactions on its part.

The ICRC thus enjoys a special status, which the international community recognized when, on 16 October 1990, it granted the institution a seat as observer at the United Nations.<sup>5</sup> To what extent does the ICRC's specific nature dictate its choices as regards offers of services?

## II. THE ICRC'S OFFERS OF SERVICES

ICRC offers of services are conditioned by several factors, namely the magnitude and urgency of the humanitarian needs observed, the legal status of the situation and the potential benefits of intervention by a specifically neutral and independent organization. The weight given to each of these different considerations varies according to the case. For instance, the incentive to take action is extremely great in a non-international armed conflict, in which the parties have a duty to apply a significant portion of international humanitarian law. Yet the ICRC also reserves the right to offer its services in contexts of lesser violence, when it is convinced that its intervention to solve the humanitarian problems stemming from such situations might help to ease tensions.

The mere fact that the ICRC offers its services in a country does not necessarily imply that serious humanitarian problems have been observed there (although obviously the ICRC will give higher priority to such situations); other parameters also have a bearing on the decision.

The assessment of a situation from the point of view of humanitarian needs and the potential benefits of the services of a neutral and independent institution cannot be governed by rigid rules. The ICRC's long experience in such matters provides a guarantee of sound judgement, which is a widely acknowledged attribute of the institution. The legal analysis, on the other hand, is based on very precise criteria, which call for a few comments. The bases for the ICRC's action and

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<sup>5</sup> Observer status for the International Committee of the Red Cross, in consideration of the special role and mandates conferred upon it by the Geneva Conventions of 12 August 1949, United Nations General Assembly resolution A/45/6, adopted at its forty-fifth session, at its 31st plenary meeting of 16 October 1990. General Assembly, official records: forty-fifth session, supplement No. 49 (A/45/49).

the applicable law will differ according to whether the humanitarian problems confronting the ICRC arise within a non-international armed conflict, during internal disturbances or outside the context of such situations.

## 1. Legal analysis

Here we must consider in turn the legal basis for the ICRC's action in a non-international armed conflict, during internal disturbances or outside the context of those two situations, when the institution identifies a humanitarian problem which it believes it can help to solve by virtue of its neutrality and independence.

### ● *ICRC action during a non-international armed conflict*

The Diplomatic Conference of 1949 deliberately refrained from defining the notion of non-international armed conflict. However, Article 1, para. 1, of Protocol II of 1977 sets out the material field of application of the Protocol and thereby defines the non-international armed conflicts to which the instrument is applicable. These are "*all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol*". Furthermore, Article 1, para 2, of Protocol II specifies that this definition does not include riots, isolated and sporadic acts of violence and other acts of a similar nature.<sup>6</sup>

Although the law clearly defines only the non-international armed conflicts within the scope of Protocol II, it is useful for the practitioner to have an idea of what is meant by non-international armed conflict. Observation of actual cases tends to suggest that this sort of

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<sup>6</sup> "*This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts*", Article 1, para. 2, of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), of 8 June 1977.

conflict generally takes the form of a struggle, within a State, between two or more parties, who have recourse to armed force and where the hostile action on the part of each has a collective character and is marked by a measure of organization.

The legal basis for ICRC intervention in such conflicts is Article 3, para. 2, common to the four Geneva Conventions of 1949, which stipulates that “*an impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict*”. Article 5, para 2 (d), of the Statutes of the Movement confirms the ICRC’s mandate under international humanitarian law, stating that one of the ICRC’s duties 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*”. Finally, several resolutions of International Conferences of the Red Cross and the Red Crescent also provide the ICRC with a basis for intervention.<sup>7</sup>

The aforementioned Article 3 does not oblige States to accept the ICRC’s offer of services. However, they have a duty at least to examine it in good faith and to reply. They may not consider an offer of services as interference in their internal affairs.

In a non-international armed conflict, the ICRC will take steps to ensure that the parties comply with either Article 3 common to the four Geneva Conventions of 1949 alone,<sup>8</sup> or both Article 3 and

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<sup>7</sup> In particular, resolutions XIV of the 10th International Conference of the Red Cross (Geneva, 1921); XIV of the 16th International Conference of the Red Cross (London, 1938); XX of the 17th International Conference of the Red Cross (Stockholm, 1948); XIX of the 19th International Conference of the Red Cross (New Delhi, 1957); XXXI of the 20th International Conference of the Red Cross (Vienna, 1965) and VI of the 24th International Conference of the Red Cross (Manila, 1981).

<sup>8</sup> Article 3 common to the four Geneva Conventions is the mainstay of ICRC action in non-international armed conflicts. It reads as follows:

*“In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:*

1) *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, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.*

*To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:*

a) *violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;*  
b) *taking of hostages;*

Protocol II together, if the conditions for application of the latter text, which are more restrictive than those for Article 3, are met. Protocol II can never be applied on its own, independently from Article 3. In other words, in any situation in which Protocol II is applicable, Article 3, which the Protocol supplements, is also applicable.<sup>9</sup>

In some cases other provisions are applicable, either by virtue of recognition of belligerence by the government side, as a result of which the major part of international humanitarian law becomes applicable, or by explicit or tacit agreement between the parties.<sup>10</sup>

● *ICRC action in connection with internal disturbances*

Internal disturbances are marked by serious disruption of domestic order resulting from acts of violence which do not, however, have the characteristics of an armed conflict. They encompass, for example, riots by which individuals or groups of individuals openly express their opposition, their discontent or their demands, or even isolated

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*c) outrages upon personal dignity, in particular humiliating and degrading treatment;*

*d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.*

*2) The wounded and sick shall be collected and cared for.*

*An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.*

*The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.*

*The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."*

<sup>9</sup> The objective criteria which serve to determine at what point Protocol II becomes applicable are mentioned in Article 1 of the Protocol. They include:

1. the type of forces in conflict: government armed forces in the broad sense of the term and either dissident armed forces or organized armed groups;
2. the existence of a responsible command within the armed opposition;
3. control over a part of the territory;
4. sustained and concerted military operations;
5. the ability to implement the Protocol.

Items 1 and 3 are particularly valuable indicators for determining when Protocol II is applicable.

<sup>10</sup> The applicable law also includes the rules of customary law and the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954), Article 19 of which refers to non-international armed conflict. Finally, human rights are also applicable, insofar as the exercise of certain rights cannot be abrogated even in an armed conflict.

and sporadic acts of violence. They may take the form of fighting between different factions or against the power in place.<sup>11</sup>

For a situation to be qualified as one of internal disturbances, it is of no consequence whether State repression is involved or not, whether the disturbances are lasting, brief with durable effects, or intermittent, whether only a part or all of the national territory is affected or whether the disturbances are of religious, ethnic, political or any other origin.

The bases for the ICRC's intervention in situations of internal strife are Article 5, para. 2(d), of the Statutes of the Movement referred to above, certain resolutions of International Conferences of the Red Cross and Red Crescent<sup>12</sup> and traditional ICRC practice, accepted by a large number of States<sup>13</sup>.

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<sup>11</sup> A description of internal disturbances was given at the first session of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts, held in Geneva from 24 May to 12 June 1971 (Document submitted by the ICRC, Vol. V: *Protection of victims of non-international armed conflicts*, Geneva, January 1971, pp. 79-85).

The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts (1974-1977) explicitly excluded from the scope of application of the Protocol situations of internal tension and disturbances, which it did not define, but of which it gave examples. These are presented as follows in the Commentary to Protocol II: "*riots, such as demonstrations without a concerted plan from the outset; isolated and sporadic acts of violence, as opposed to military operations carried out by armed forces or armed groups; other acts of a similar nature, including, in particular, large scale arrests of people for their activities or opinions*" (See the Commentary on paragraph 2 of Article I of Protocol II in the *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, International Committee of the Red Cross, Martinus Nijhoff Publishers, Geneva, 1986, paras. 4471-4479, pp. 1354-1356). The Commentary on the Protocol takes up the 1971 definitions, specifying that they form part of ICRC doctrine and that they are designed for practical use.

In this article, the presentation of internal disturbances, while based on that of 1971 and the examples of such situations given in Protocol II, takes account of observations made by the ICRC in the course of its work. First, internal disturbances, formerly qualified as "confrontation characterized by a certain seriousness or duration" may be brief or chronic and may give rise to lasting humanitarian problems. Secondly, internal disturbances may take place without any government intervention to restore order. Disturbances sometimes take the form of clashes between factions, without any direct State participation.

<sup>12</sup> In particular, resolution XIV of the 10th International Conference of the Red Cross (Geneva, 1921) and Resolution VI of the 24th International Conference of the Red Cross (Manila, 1981), which made a solemn appeal "*that the rules of international humanitarian law and the universally recognized humanitarian principles be safeguarded at all times and in all circumstances and that the International Committee of the Red Cross be granted all the facilities necessary to discharge the humanitarian mandate confided to it by the international community*".

<sup>13</sup> The first ICRC visits to security detainees took place in Russia (1918) and Hungary (1919), but it was mainly after the Second World War that ICRC visits to persons detained in their own countries became widespread.

In situations of internal disturbances, the rules of international humanitarian law can only be invoked by analogy. On the other hand, States must respect certain universally acknowledged humanitarian principles, and the human rights instruments to which they are party, in particular the rights for which no derogation is permitted, even when the life of the nation is threatened by an exceptional public danger.<sup>14</sup>

- ***ICRC action outside the context of non-international armed conflicts and internal disturbances***

Finally, outside the context of non-international armed conflicts and internal disturbances, the ICRC retains the option to take action, without having any obligation to do so, when it identifies a problem of humanitarian concern which it might help to solve by virtue of its special character. It may offer its services on the basis of Article 5, para. 3, of the Statutes of the Movement, which stipulates that “*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*”. This right of initiative, founded on custom, does not depend on the type of situation prevailing in the country concerned, but on characteristics pertaining to the ICRC itself: independence, which guarantees that the ICRC will never see its policy dictated by pressure groups and will thus retain an objective view of the humanitarian problems to be solved, and neutrality, which signifies that the ICRC will not take part in any hostilities or controversies and will refrain from making any partisan judgements.<sup>15</sup>

These features of the ICRC are particularly valuable in situations of political or social tension which have not yet degenerated into internal disturbances, but nevertheless cause suffering of the type described in the first section. For instance, the enforcement of order by repressive measures intended to prevent opponents from taking any action (internment of individuals without any grounds for charging

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<sup>14</sup> There are inalienable rights which are considered as universal standards, having customary status: the right to life, the prohibition of torture and of cruel, inhumane or degrading punishment or treatment; the prohibition of slavery and servitude; the principle of legality and non-retroactivity of punishments. In addition, certain judicial guarantees must be respected at all times in order to prevent the violation of rights to which no derogation is permitted.

<sup>15</sup> In this connection, see Yves Sandoz, “Le droit d’initiative du Comité international de la Croix-Rouge”, *German Yearbook of International Law*, Duniker & Humblot, Berlin, 1979, Vol. 22, pp. 352-373.

them with an offence, invasive presence of police forces or the army, etc.) may prompt the ICRC to offer its services in order to ease tension.

As in the case of internal disturbances, the ICRC can refer to the universally acknowledged humanitarian principles and, where it considers it advisable, invoke the inalienable human rights, or even other human rights.

## 2. The effects of an offer of services

ICRC offers of services bring benefits not only for the people whom the institution is endeavouring to help, when it has access to them, but also for the State or political entity accepting the offer. All ICRC action has a calming influence; it eliminates the causes of tension and demonstrates the *de jure* or *de facto* authorities' desire to put an end to the escalation of violence. Furthermore, it provides those authorities with an opportunity to hear the views of an independent and neutral institution on humanitarian problems of which they are sometimes not even aware and to benefit from the ICRC's experience, gained during well over a century.

In order to reply to questions which the ICRC is often asked, a few details need clarifying. First of all, the ICRC is aware of and acknowledges the need to maintain order and public security, on the understanding that the steps taken to that end must respect the fundamental rights of the individual. If this condition is observed, the ICRC will not pass any judgement on the measures taken by the State against people whom it considers as opponents or even criminals. The ICRC's aim is limited: with the backing of the authorities, expressed through their decision to accept the ICRC's offer of services, the institution takes an impartial look at any problems of a humanitarian nature which might arise in a context in which passions are inflamed, and endeavours to help solve those problems.

Secondly, acceptance of an ICRC offer of services has no effect on the legal status of the parties to a conflict or, in the case of internal disturbances, on the status of persons involved in the unrest. Similarly, ICRC visits to detained persons in no way confer any legal status on them.

Finally, the ICRC observes strict confidentiality when reporting its findings to the authorities. Discretion is essential if the ICRC is to gain access to the persons whom it wishes to assist and if it is to be able to establish a constructive dialogue with the authorities in a spirit

of cooperation. It is only in exceptional circumstances, clearly determined by its policy guidelines, that the ICRC may take a stand in public. It only does so, within the framework of armed conflicts, when there have been major and repeated violations of international humanitarian law, when confidential representations to the State concerned have failed, and in so far as such publicity is in the interest of the victims of those violations.<sup>16</sup> In doing so, it hopes to enlist the support of the States party to the Geneva Conventions of 1949, which have undertaken not only to respect but also to ensure respect for humanitarian law in all circumstances.<sup>17</sup>

### III. ICRC ACTIVITIES

For many years, the ICRC gave pride of place to its activities in behalf of detainees. The institution came to be identified with the visits its delegates made to prison camps and the aid given to prisoners. In situations of internal violence, the authorities often reacted by imprisoning opponents and the ICRC endeavoured, through dialogue with the authorities, to improve the treatment given to detainees and their conditions of detention.

While this activity is still fundamental for the ICRC, which has acquired widely acknowledged experience in this area, nowadays it is only one item in a range of services provided. The ICRC has had to cope with increasingly varied humanitarian needs, in countries where authority has often been eroded, where the population itself is the object of the struggle and where all possible methods of repression are used. One need only look at the extent of the phenomenon of disappearances and the suffering inflicted in non-international armed conflicts on civilians, who are tortured, taken hostage or even summarily executed, when one of the foundations of international humanitarian law is the distinction between combatants and civilians and the duty to spare the latter.

The ICRC thus undertakes a wide range of activities: dissemination of knowledge of international humanitarian law and the Fundamental Principles of the Red Cross and Red Crescent, visits to detainees, measures in behalf of the population affected by conflict or strife,

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<sup>16</sup> "Action by the International Committee of the Red Cross in the event of breaches of international humanitarian law", *International Review of the Red Cross*, No. 221, March-April 1981, pp. 76-83.

<sup>17</sup> Article 1 common to the four Geneva Conventions of 1949.

tracing of persons reported missing, provision of food or medical assistance — to name but a few. Yet, all these activities have in common a uniform approach stemming from the ICRC's special character.

The ICRC seeks above all to remind the people it deals with of their obligations under international humanitarian law and their duty to respect universally acknowledged humanitarian principles. Hence the need to make these rules known, first and foremost among combatants. The ICRC is also at the disposal of the parties to facilitate communication or even dialogue between them with a view to solving problems of a humanitarian nature. In such cases it acts as a catalyst, enabling the forces involved to reach a humanitarian agreement which they will have the duty to respect, but which the ICRC can help to implement. It informs the authorities of any problems observed in the course of its visits to detainees or during its food or medical assistance activities, so that these problems may be remedied. And it is because the international community recognizes the ICRC as a humanitarian, impartial, neutral and independent institution that it is able to play this role.

Let us now review the ICRC's main activities in detail.

## **1. ICRC activities in behalf of persons deprived of their freedom<sup>18</sup>**

ICRC delegates visit thousands of detainees all over the world. What is the ICRC's objective? To what type of detainees does it wish to have access? What conditions does it attach to its visits and how does it proceed?

### ● *Objectives*

The aim of ICRC visits is not only to prevent or put a stop to disappearances, torture and ill-treatment, but also to improve detention conditions where necessary and enable family ties to be restored.

The ICRC's preventive function is worth emphasizing. The institution's presence in a place of detention in no way implies that there are problems of a humanitarian nature, but merely that the authorities are

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<sup>18</sup> In international armed conflicts, ICRC visits to protected persons are dealt with in Articles 126 of the Third and 143 of the Fourth Geneva Convention of 1949. In fact, most ICRC visits relate to situations of internal violence. It is an ICRC practice which has been accepted by a large number of States.

willing to talk to the ICRC with a view to ensuring that the persons they are detaining receive humane treatment.

- *Type of detainees visited*

When ICRC delegates enter a prison, they are concerned primarily with persons who have been arrested on account of the situation of internal violence. In some cases, these persons are considered as “*political detainees*” or “*security detainees*”.

The ICRC, for its part, has always avoided giving too precise a definition of the persons whom it wishes to see, for a strictly humanitarian reason. This caution comes from experience. There is no single feature common to all detainees eligible for ICRC protection. It is clearly not enough to think in terms of a detainee’s political motives. Many people requiring ICRC protection have been arrested solely on account of their ethnic or other origin, without their having ever been politically committed in any way. Nor can the ICRC just consider the offence ascribed to the detainee. Political opponents are sometimes imprisoned for common-law offences, such as disruption of public order, vagrancy or illegal possession of firearms. The penal codes in many States qualify as common-law offences activities which may in fact be of a political nature. Should the criterion be the legislation under which the person has been imprisoned? Although this is often a useful point of reference, the decision to charge a detainee under a particular law may be founded on purely arbitrary considerations.

Each of the above criteria, among others, may be useful, but none is sufficient in itself. The ICRC may request access to detainees as different as a captured guerrilla, a peasant accused of collaboration with the armed opposition, a student who has demonstrated against those in power or a member of an ethnic group deemed hostile to the established regime. All these people are detained on account of events which have prompted the ICRC to offer its services and have in common the fact that, rightly or wrongly, they are considered by the detaining authority as real or potential opponents.

- *Conditions for the visits*

So that its visits may lead to practical and well-founded proposals, the ICRC requests the authorities beforehand to:

- allow its delegates to see all detainees that come within its purview and to have access to all places where such detainees are held;

- authorize its delegates to talk to detainees of their choice without witnesses;
- give assurances that it will be authorized during the course of its visits to draw up lists of the detainees whom it considers to be within its mandate or receive such lists from the authorities and be permitted to check and add to them as necessary;
- authorize it to repeat its visits to all detainees to whom it has had access and to see any other detainees of the same type whom it may choose to see, wherever they may be detained, the frequency of such visits being determined by the ICRC according to needs.

Furthermore, the ICRC seeks to obtain the right to conduct visits without advance notice or at very short notice, and to be notified of arrests, admissions to hospital, transfers, sentences, releases and deaths. It is also extremely important that it should be able to inform the detainees' parents, children or spouses, whether or not they themselves are imprisoned or free, of its visits to their relatives of whom they have no news.

#### ● *Visits and follow-up*

During their visits to detained persons, ICRC delegates endeavour to form an objective idea of the humanitarian problems at hand. These may be particularly severe detention conditions, ill-treatment or even executions, or simply the fact that detainees are cut off from their families. In some cases, failure to observe judicial guarantees can amount to ill-treatment, since it has a serious impact on the physical and mental state of the individual concerned.<sup>19</sup>

In the final interview held at the end of each visit with the official in charge of the place of detention, ICRC delegates point out any problems of a humanitarian nature they may have noted, and discuss with the official how these may be remedied. Only if, objectively speaking, the detaining authority is unable to meet the humanitarian needs and those needs are urgent might the ICRC temporarily provide

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<sup>19</sup> Judicial guarantees are specifically mentioned in Article 3 common to the four Geneva Conventions of 1949. The ICRC, whose role it is "*to work for the faithful application of international humanitarian law applicable in armed conflicts*" (Article 5, para. 2 (c), of the Statutes of the Movement), may intervene to ensure that fundamental judicial guarantees are respected in a non-international armed conflict.

In situations of internal disturbances, its responsibility in this connection is different, and it is mainly when the failure to observe judicial guarantees has serious implications for the physical and psychological state of the individual that the ICRC makes representations to the authorities.

assistance. Aid may also be given to common-law detainees, who are themselves often indirect victims of the violence prevailing in the country, since everyone in prison is affected by the poor functioning of the penitentiary administration and by budget shortfalls resulting from the situation. Food shortages, lack of medical care, deterioration of premises and poor conditions of hygiene are a source of suffering for everyone in the place of detention.

With the agreement of the authorities, the ICRC may arrange for the exchange of family messages where mail between the detainees and their relatives is not getting through on account of the absence of normal postal services. In some cases, the ICRC may also provide assistance to detainees' families who are suffering hardship owing to the detention of their breadwinners. In particular, the ICRC has paid travel expenses to enable the families of detainees to visit their relatives held in places of detention far away from their homes.

Finally, the ICRC's visits to prisons are followed up by verbal or written contacts, including confidential reports to the authorities.

In certain circumstances, the ICRC may keep track of a detainee after his release from prison to ensure that he has in fact reached his home and is living there in safety.

## **2. ICRC action to protect the population**

The taking of hostages, looting, rape, displacement of populations, harassment, deliberate cutting off of access to food and drinking water, threats — these are just some of the acts which, in a situation of internal violence, may cause the population great suffering and spread terror. Civilians caught between rival factions are sometimes exposed to as great or even greater danger than combatants detained in a prison under the control of an authority.

To prevent such acts, the ICRC endeavours to ensure that international humanitarian law and the humanitarian principles are known to everyone bound to respect them. It may also, in its capacity as a neutral institution, take initiatives such as evacuating particularly vulnerable individuals from a dangerous area, inviting the warring forces to notify places where mines have been laid, reuniting separated members of families who together would be in a better position to cope with adversity, both materially and psychologically.

All too often, however, the ICRC intervenes after the event, to protest against breaches of international humanitarian law or funda-

mental human rights, which it has not been able to prevent.<sup>20</sup> Its aim is then to inform the authorities of intolerable conduct which must be condemned and brought to a halt. On the other hand, the ICRC refrains from asking who exactly was responsible and if or how the offenders have been punished. Nevertheless, it checks that orders have been issued and appropriate corrective action taken.

The ICRC's work in this field is more difficult in a situation of internal disturbances than in a non-international armed conflict. In the latter case the people it has to deal with are clearly defined, i.e. the parties to the conflict, with whom it will take up matters such as the treatment of persons in their power and the conduct of hostilities. During internal disturbances, on the other hand, demonstrators, who are by definition poorly organized, are not usually led by a formal body for the ICRC to contact. Even if such a body existed, it hardly has any authority over those it is supposed to represent (as soon as the opposition becomes organized to a certain degree, the situation is no longer qualified as one of internal disturbances but rather as a non-international armed conflict). In situations of internal disturbances, it is thus mainly the government that the ICRC approaches in connection with the treatment of demonstrators and the use of force to quell the unrest.

The ICRC's reaction may be "immediate", as soon as a reprehensible act is committed. That being said, the ICRC also finds it necessary to prepare consolidated reports over a certain period, which give examples of unacceptable practices of repression, on the basis of observed incidents. In a non-international armed conflict, such reports may be addressed to the government. If the incidents reported are attributable to opposition movements, a separate report on acts attributed to them may be sent to the latter.

These documents highlight rules of conduct which are essential for maintaining at least a measure of humanity at the heart of the violence — the right to life, safety and human dignity, the prohibition of torture and ill-treatment, judicial guarantees, the prohibition of acts of

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<sup>20</sup> In deciding which acts call for a reaction from them, ICRC delegates also draw on the following texts:

"Declaration on the rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts", International Institute of Humanitarian Law (San Remo, Italy), *International Review of the Red Cross*, No. 278, September-October 1990, pp. 404-408.

"Declaration of Minimum Humanitarian Standards", adopted by a meeting of experts in Turku, Åbo, Finland (30 November-2 December 1990), *International Review of the Red Cross*, No. 282, May-June 1991, pp. 330-336.

terrorism and indiscriminate violence, respect for medical work and the wounded, the special protection to be granted to children and the limits to be imposed on means of maintaining order, and so forth.

A look at ICRC practice clearly shows that its work outside the prison context has significantly developed in recent years. Of course, the authorities are not always inclined to allow a humanitarian organization to play such a role until they have understood the potential benefits for themselves and the way in which the ICRC operates. However, when a climate of trust has been established between the ICRC and its contacts within a country or region, the latter are often willing to let it do its work on the basis of the same principles as in places of detention. The ICRC guarantees discretion, as long as the authorities for their part assume their humanitarian responsibilities and endeavour to put a stop to any abuses which are observed. Here again, the ICRC concludes a sort of "*contract of trust*" with the authorities, realizing that its discretion is often the prerequisite for effective action.

### **3. ICRC action in behalf of persons whose fate has not been elucidated or who have disappeared<sup>21</sup>**

When people go missing, this may be due to a chance incident, on account of the events taking place in the country, or it may be the result of a deliberate policy on the part of the State or of opposition movements. In a non-international armed conflict, for instance, one may lose trace of a soldier during the fighting or of a civilian fleeing clashes or being displaced by force; but it also happens that those in power or their adversaries use forced disappearances as a deliberate policy. In the latter case, civilians who have been arrested or captured never turn up in prisons and are never seen in the hands of the opposition.

To avoid losing track of combatants in a non-international armed conflict, the ICRC draws the authorities' attention to the need for certain measures, namely to ensure that all combatants carry identity papers or disks, to indicate gravesites and retrieve personal belongings, and to set up a service to handle such matters. If combatants nevertheless go missing on the battlefield, the ICRC requests that appropriate information be gathered, for example that a list of victims be drawn

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<sup>21</sup> Resolution II of the 24th International Conference of the Red Cross (Manila, 1981) recommends, inter alia, that "*the ICRC take any appropriate action which might reveal the fate of missing persons or bring their families relief (...)*".

up. It may offer its services to the parties to facilitate communication between them and to trace people whose fate has not been elucidated.

The action taken in favour of civilians in a non-international armed conflict is primarily remedial. ICRC delegates endeavour to restore contact between families when some of their members have fled, have been displaced or no longer have any means of sending news to their loved ones. They display lists in camps for displaced persons, organize exchanges of family messages, transmit lists of persons reported missing and supply the authorities with technical means to facilitate enquiries. Naturally, they also try to trace missing persons in the detention centres which they visit. In this regard, the fact that delegates register each detainee by name is a great help, in particular in preventing disappearances.

When faced with a deliberate policy of forced disappearances, however, the ICRC receives no reply or unsatisfactory replies to its approaches. If it has every reason to believe that someone is dead, it seeks confirmation so that the family can come to terms with its loss. In particular, it approaches the authorities with a view to obtaining official notification, to enable the surviving relatives to settle outstanding matters such as inheritance or receipt of a pension.

It also strives, in the longer term, to curb forced disappearances and summary executions by collecting information and submitting it to the authorities, urging them to take the measures necessary to put a stop to such practices.

#### **4. Food, medical and other relief**

The aspect of the ICRC's relief policy which is visible to the outside world is the provision of food or medicines to keep individuals or populations alive, alleviate their suffering and avoid their future being compromised by the effects of illness, injury or malnutrition. However, this is merely the most conspicuous feature of a much broader policy. First and foremost, the ICRC endeavours to ensure that the *de jure* or *de facto* authorities allow the population access to the essential resources and services needed for its survival and for the community to function properly and, where necessary, that they provide whatever assistance is required. Sharing its expertise in public health, logistics and emergency medical relief, the support it can give in training medical staff to restore basic services, the role it can play as a neutral institution in removing obstacles to community life which

are not justified by any military necessity are all equally important components of the ICRC's relief policy.<sup>22</sup>

When emergency assistance is required and the ICRC is particularly well placed to play a useful role by virtue of its specific mandate, it sets three conditions before undertaking any relief action, namely that it be allowed access to the persons requiring assistance, to observe their situation and to evaluate their needs; that it be present when the aid is brought in; and, finally, that it be allowed to exercise administrative supervision in order to prepare reports on distributions made. It also seeks authorization to return to the scene in order to assess the impact of its work on the condition of the population (health, food, clothing, hygiene, etc.) in relation to the targets set.

Generally speaking, aid provided by the ICRC is of an urgent nature. The degree of urgency depends on the magnitude or gravity of the humanitarian needs (malnutrition, epidemics, etc.) or from the fact that the acts that have given rise to those needs are very recent. When the emergency is over, the ICRC's assistance is normally phased out. It will have helped people in distress to survive a difficult time, and will often have improved a community's standard of living by setting up an infrastructure which was not there before, such as dispensaries, wells or latrines, but it stops at the point where development commences. For in this respect the ICRC's chief aim is to strengthen the operational capacity of the National Red Cross and Red Crescent Societies whose role it is to contribute to the development of their countries.<sup>23</sup>

Within the Movement, the ICRC has the particular responsibility of assuming the general direction of international Red Cross and Red Crescent operations in armed conflicts and situations requiring action by a specifically neutral and independent institution.<sup>24</sup> This task is important in order to avoid duplication of effort and so that a single entity within the Movement is in contact with the *de facto* or *de jure* authorities in contexts where tension is running high. The ICRC gives

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<sup>22</sup> See in particular: Jean-Luc Blondel, "Assistance to protected persons", *International Review of the Red Cross*, No. 260, September-October 1987, pp. 451-468.

<sup>23</sup> The ICRC's policy in respect of the development of National Red Cross and Red Crescent Societies is set within the framework of Article 7 of the Agreement between the International Committee of the Red Cross and the League of Red Cross and Red Crescent Societies of 20 October 1989. (The League has since been renamed the International Federation).

<sup>24</sup> Article 5, para. 4 (b), of the Statutes of the Movement and Articles 18 and 20 of the Agreement referred to in note 23.

priority to providing relief in areas of the country affected by conflict or disturbances. It also pays particular attention to vulnerable people or communities who are not or are no longer involved in the hostilities but find themselves in a hostile environment, while always ensuring that the aid granted to specific groups will not have any immediate or long-term adverse effects on the people concerned.

## **5. Dissemination of international humanitarian law and of the Red Cross and Red Crescent principles**

Responsibility to make international humanitarian law better known, in particular among the armed forces and health personnel, but also among the population at large, lies first and foremost with States. This obligation on States is clearly laid down both in the 1949 Geneva Conventions and in their Additional Protocols.<sup>25</sup> Failure to discharge that duty is a breach of those instruments, often attributable to poor knowledge of the law or a shortage of resources.

The ICRC's mission is to assist actively in the promotion of international humanitarian law by States.

It produces teaching material; it runs courses which vary in content according to the target audience; it also shares its expertise with nationals of the country in which it is working so that they will be able to pass on the humanitarian message in the local language with due regard for local cultural traditions; finally, through contact with the media, it seeks to give the message as broad an impact as possible.

These activities are mainly intended to foster respect for international humanitarian law, enhance the safety of Red Cross and Red Crescent staff and medical personnel and strengthen the cohesion of the International Red Cross and Red Crescent Movement. The prime targets of ICRC dissemination work are the armed forces, the National Societies, political and academic circles and the media.

Trying to promote knowledge of fundamental humanitarian standards against a background of internal violence poses particular problems. First of all, what standards should be emphasized in a situation of internal disturbances where international humanitarian law is not

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<sup>25</sup> Article 47 of the First Geneva Convention, 48 of the Second Geneva Convention, 127 of the Third Geneva Convention, 144 of the Fourth Geneva Convention of 1949, and Articles 83 of Protocol I and 19 of Protocol II.

See also Resolution X of the 24th International Conference of the Red Cross (Manila, 1981).

applicable? The “*Declaration of Minimum Humanitarian Standards*” adopted by a group of experts in Turku in 1990 and the “*Code of Conduct*” drawn up by Mr. Hans-Peter Gasser for situations which at the time were qualified as internal disturbances and tension are useful reference texts.<sup>26</sup> Nevertheless, instruction for the armed forces when they are called upon to repress disturbances or urban uprisings is more complex than that dispensed within the framework of a non-international armed conflict. In this latter case, the teaching of international humanitarian law is more or less the same as for international armed conflicts, where the distinction between civilians and combatants is clearly established.

Secondly, how far does the ICRC wish to become involved in promoting awareness of human rights, some provisions of which correspond to States’ obligations under international humanitarian law? Up to now, the ICRC has confined itself to disseminating international humanitarian law which, in respect of armed conflicts, lays down much more detailed rules than human rights law. It also considers that the promotion of certain human rights, such as the right to peaceful assembly, freedom of opinion and expression and the right to vote, do not come within its field of competence. That being said, in the dissemination of international humanitarian law references to human rights are made in appropriate contexts.

Finally, how should the humanitarian message be brought home to those involved in the violence associated with internal disturbances? Emphasis must be laid on dissemination among young people, even the very young, whether or not they attend school, for these age-groups often take part in disturbances and are the first to suffer. They must be reached in schools in slum areas as well as in universities, by way of radio, television, comic strips and plays. In short, apart from the content of the message, which must be simplified, it is the means of communication which must be developed in an imaginative and understanding way.

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<sup>26</sup> For the Turku Declaration, see note 20. The Code of Conduct, which is written in simple language, is intended not only for the authorities but for everyone who has recourse to violence. Rather than creating any new law it sets out the existing rules of international law, some of which are customary.

Hans-Peter Gasser, “A measure of humanity in internal disturbances and tensions: proposal for a Code of Conduct”, *International Review of the Red Cross*, No. 262, January-February 1988, pp. 38-58.

## 6. Cooperation with the National Red Cross or Red Crescent Societies

When violence disrupts a country's political stability, the National Society, which is an auxiliary of the public authorities in the humanitarian field, faces a major challenge, namely to act impartially although feelings are running high in the country, in order to gain everyone's trust. This calls for considerable self-control and a high degree of motivation. It is also a prerequisite for effective action.

In a situation of internal violence, the ICRC wishes to cooperate with a National Society which is respected by all the adversaries and whose operational capacity is up to the task. It needs both material and cultural backing from National Society volunteers who have a knowledge of the local situation, the traditional networks of solidarity and how the community functions and can help it in its work to take account of factors which are difficult to perceive without an intimate knowledge of the country.

In return, the ICRC helps the National Society to achieve balanced development, within the framework of the statutory rules and the agreement concluded with the International Federation of Red Cross and Red Crescent Societies in 1989. It is especially responsible for preparing the National Society to carry out activities in behalf of victims of violence in the country. This requires a suitable infrastructure and the training of volunteers in jointly determined areas. Often, the ICRC informs volunteers of the rules of international humanitarian law, in particular the rights and duties of health personnel. Sometimes, the National Society wishes to give its first-aid workers further training, and the ICRC then provides them with basic equipment. There are many areas of cooperation, and it is up to the National Societies to propose specific projects in line with the distribution of tasks within the Movement.

## 7. Good offices

Less well known, but just as important as the activities described above, is the role that the ICRC may play in a non-international armed conflict to promote the conclusion of humanitarian agreements between the parties. Article 3 common to the four Geneva Conventions calls upon the parties to endeavour *"to bring into force, by means of special agreements, all or part of the other provisions of the*

*present Convention*", and authorizes the ICRC to offer them its services. Accordingly, the ICRC may propose its good offices or services as a mediator with a view to concluding agreements for evacuating the wounded or civilians (cease-fires, truces) or for the establishment of hospital zones and safe areas.

Furthermore, without any formal agreements being necessary, the ICRC may offer its services in respect of activities requiring the consent of both parties (e.g., retrieving mortal remains in a contested region, repairing a water reservoir in an area temporarily cleared of mines by those controlling it), or to transmit strictly humanitarian messages between adversaries who are not on speaking terms (for instance, in the event of hostage-taking in a situation of internal disturbances).

Finally, the ICRC is willing to examine any request from the parties involved inviting it, in its capacity as an independent and neutral institution, to perform a task which, if properly executed, will undeniably be of direct and tangible assistance in helping to settle differences.

## CONCLUSION

The time has now come to draw some conclusions from our analysis of situations of internal violence, on the basis of the ICRC's experience. First of all, it emerges that in today's conflicts and disturbances, the context in which the ICRC has to operate is less and less well defined. Violence manifests itself in many different ways. Contacts have to be maintained with many different people, on account of the fragmentation of public authority, when there is any; persons not taking part in the hostilities, old people, children, are all potential targets; the limits to violence, which stem from the humanitarian values found in all great civilizations, are being constantly eroded by the choice of methods used by the parties to achieve their aims, such as summary executions, hostage-taking and torture.

The ICRC has endeavoured to respond to humanitarian problems of a new type and magnitude, by developing and diversifying its activities. Visits to detainees are now only one of the facets — albeit an extremely important one — of its mandate. Keen to avoid duplicating efforts, the ICRC has sought its own way, dictated by its specific role as a neutral, independent and impartial organization. This specific role is a great asset, but also a necessary constraint, obliging it to maintain

a certain reserve which people sometimes find hard to understand when passions are running high.

The ICRC's main task is not to take action itself, but to approach those in power to ensure that they are aware of and meet their humanitarian responsibilities both inside and outside places of detention. The institution's watchword might be "not only to act, but also to encourage others to take action". This commitment may go as far as bringing together the parties in conflict so that they can themselves work out solutions to their humanitarian problems.

May the day come when everyone who wields power will be intimately convinced that, in leading a people or a community, however small, they are leading, "*men made of flesh and blood, men who are born, suffer and die against their will, men who are ends in themselves and not only means to an end; men whose virtue is being what they are and not otherwise; last but not least, men who aspire to what we call happiness*".<sup>27</sup>

### Marion Harroff-Tavel

**Marion Harroff-Tavel** holds a degree in political science from the Geneva Graduate Institute of International Studies and a Master of Arts in Law and Diplomacy from the Fletcher School of Law and Diplomacy in Medford, Massachusetts, USA. After working for the Diplomatic Conference on International Humanitarian Law, she joined the ICRC in 1977 as a jurist specializing in matters of policy. She was the author of an article entitled "Neutrality and impartiality", which was published in the November-December 1989 issue of the *International Review of the Red Cross*, and has also written a number of book reviews.

She subsequently served as deputy head of the ICRC's Division for Principles and Relations with the Movement, and since January 1993 has been Deputy Delegate General for Eastern Europe and Central Asia with the ICRC's Operations Department.

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<sup>27</sup> Miguel de Unamuno (1864-1936).

# Humanitarian standards for internal strife

## A brief review of new developments

by Hans-Peter Gasser

In his book “A Memory of Solferino”, Henry Dunant set out two proposals for action on the international level to alleviate the suffering of war victims: the first was to have governments adopt an international treaty to be respected in time of war, and the second was to establish an organizational framework for ensuring compliance with such international obligations. Dunant seemed to realize that only the combination of international, treaty-based obligations and an organization to implement them could induce governments to act in the way he wished. The outcome of his proposals was of course the adoption of the Geneva Convention of 1864 on the one hand, and the founding of the Red Cross Movement on the other.

There is no specific international treaty law that deals with humanitarian issues arising in situations of what is commonly known as “internal strife” (or internal disturbances and tensions,<sup>1</sup> internal violence, public emergency, etc.). In accordance with their field of applicability, the instruments of international humanitarian law<sup>2</sup> do not apply to such situations. International treaty law for the protection of human rights does apply, but its provisions are not worded in such a way as to respond specifically to problems arising in situations of internal strife. Application of those provisions may even be suspended in times of public emergency (or internal strife), with the exception of a core of basic rules.<sup>3</sup>

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<sup>1</sup> The expression used in Article 1, para. 2, of Protocol II additional to the 1949 Geneva Conventions.

<sup>2</sup> In particular Article 3 common to the four Geneva Conventions of 1949, and Additional Protocol II.

<sup>3</sup> International Covenant on Civil and Political Rights, Article 4; European Convention on Human Rights, Article 15; and American Convention on Human Rights, Article 27.

Moreover, no international institution has been set up to act specifically in situations of internal strife — as the ICRC does in times of armed conflict.

In her article entitled “Action taken by the International Committee of the Red Cross in situations of internal violence”,<sup>4</sup> Marion Harroff-Tavel explains how the ICRC has come to take action in situations not covered by the Geneva Conventions. She also outlines what the ICRC actually does to protect the basic human rights of persons caught up in the turmoil of internal strife, in particular detainees.<sup>5</sup>

Let us now consider some developments in the codification of international standards designed to apply specifically during situations of internal strife.

## 1. The two 1988 draft Declarations

In its January-February 1988 edition, the *International Review of the Red Cross (IRRC)* published two texts, both of which dealt with the subject of international standards applicable in situations of internal strife. Although their authors approached the question from different angles, the two texts were the result of an intensive search for an appropriate response to the same phenomenon: violations of fundamental human rights in such exceptional situations.

The first text, by Professor Theodor Meron, is a “Draft Model Declaration on Internal Strife”, containing an “irreducible and non-derogable core of human and humanitarian norms that must be applied in situations of internal strife and violence”.<sup>6</sup> The Declaration sets out standards with respect to “abuses not effectively addressed by existing norms”.<sup>7</sup> Although based primarily on existing human rights and humanitarian law instruments, the Declaration also proposes rules which, according to existing positive law, may not at present be binding in situations of internal strife. Thus, Professor Meron’s Draft Declaration represents an attempt to codify the international rules protecting the individual in times of internal strife.

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<sup>4</sup> See this issue of the *IRRC*, pp. 195-220.

<sup>5</sup> See in particular “ICRC Protection and Assistance Activities in Situations not Covered by International Humanitarian Law”, *IRRC*, No. 262, January-February 1988, pp. 9-37.

<sup>6</sup> Theodor Meron, “Draft Model Declaration on Internal Strife”, *IRRC*, No. 262, January-February 1988, pp. 59-76.

<sup>7</sup> *Ibid.*, p. 61.

The second article, written by the author of the present paper, deals with the same subject-matter, but does not adopt a normative approach.<sup>8</sup> It contains a proposal for a Code of Conduct, which takes up the basic international standards generally applicable but formulates them in such a way as to be relevant to the special circumstances of internal strife. The author does not therefore propose the creation of new law. The Code appeals to all persons likely to commit acts of violence — persons acting on behalf of a government as well as insurgents — and is intended as an attempt to spread knowledge of some fundamental rules of behaviour, in a language everybody should be able to understand.<sup>9</sup>

Since then there have been a number of developments regarding the two initiatives described above. We shall first examine the proposal to establish new standards and then go on to the “code of conduct” approach.

## **2. The standard-setting approach: the Turku Declaration of Minimum Humanitarian Standards**

In June 1987, the Norwegian Institute of Human Rights convened a meeting of experts to discuss a possible approach for drawing up a series of minimum rules to be observed in situations of internal strife. The outcome was the “Oslo Statement on Norms and Procedures in Time of Public Emergency or Internal Strife”.<sup>10</sup>

On the initiative of the Institute for Human Rights of the Abo Akademi University, Turku/Abo (Finland), a group of jurists from various universities and international organizations met in a private capacity in Turku in 1990 and drew up a “Declaration of Minimum Humanitarian Standards”.<sup>11</sup> The *Review* published this text in its May-June 1991 issue, without adopting any stand on the proposal.<sup>12</sup>

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<sup>8</sup> Hans-Peter Gasser, “A measure of humanity in internal disturbances and tensions: proposal for a Code of Conduct”, *IRRC*, No. 262, January-February 1988, pp. 38-58.

<sup>9</sup> For a brief look at the ICRC’s position on the initiative, see *ibid.*, p. 47 ff.

<sup>10</sup> Published in *5 Mennesker og Rettigheter* (Nordic Journal on Human Rights), 1987, pp. 2-4, and in the “Declaration of Minimum Humanitarian Standards” (note 11), pp. 13-16.

<sup>11</sup> See “Declaration of Minimum Humanitarian Standards”, Institute for Human Rights, Abo Akademi University, Turku/Abo, 1991. Also published by Theodor Meron and Allan Rosas in *85 American Journal of International Law*, 1991, pp. 375-381, with useful references to related materials and documents.

<sup>12</sup> Hans-Peter Gasser, “New Draft Declaration of Minimum Humanitarian Standards”, *IRRC*, No. 282, May-June 1991, pp. 328-336.

The purpose of the Turku Declaration is to codify certain basic rules which must be respected as a minimum in times of internal strife or public emergency. The text draws on many sources, primarily international human rights law and its main codifications. International humanitarian law also had an influence on the drafting of the rules, although it is not applicable *de jure* in such situations. It may, however, be of interest to recall that the International Court of Justice described the provisions of Article 3 common to the four Geneva Conventions "as a minimum yardstick ... which, in the Court's opinion, reflect what the Court in 1949 called 'elementary considerations of humanity'".<sup>13</sup>

Such "elementary considerations of humanity" also have a bearing on situations of internal strife. Furthermore, the Turku Declaration draws on a number of documents which do not have force of law, such as Professor Meron's Draft Declaration and the author's proposed Code of Conduct, as well as the Siracusa Principles<sup>14</sup> and the Paris Minimum Standards adopted by the International Law Association.<sup>15</sup>

The Turku Declaration is essentially the result of a normative approach. Although the various standards set out in the text basically reflect customary law, the authors did not hesitate to propose a progressive development of existing international rules.

After the text had appeared in scholarly reviews, the Turku Declaration was introduced into the United Nations system. At the 1991 session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, two of its members, Theo van Boven and Asbjørn Eide (both of whom, incidentally, participated in the drafting of the Declaration), submitted the Declaration to the Sub-Commission in the form of a working paper, without further comment.<sup>16</sup> As the topic was not on the Sub-Commission's agenda, there was no discussion on the text. The Sub-Commission nevertheless decided without a vote to give due consideration to the Declaration in its future work.<sup>17</sup> A year later, the Sub-Commission had the Declaration of Minimum

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<sup>13</sup> International Court of Justice, *Reports of Judgments, Advisory Opinions and Orders*. Case concerning military and paramilitary activities in and against Nicaragua, Merits, p. 114, para. 218.

<sup>14</sup> Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1984), UN doc. E/CN.4/1984/4, and 7 *Human Rights Quarterly*, 1985, pp. 3-14.

<sup>15</sup> Paris Minimum Standards of Human Rights Norms in a State of Emergency (1984), International Law Association, *Report of the Sixty-first Conference* (1984); also published in 79 *American Journal of International Law*, 1985, pp. 1072-1081.

<sup>16</sup> E/CN.4/Sub.2/1991/55 of 12 August 1991.

<sup>17</sup> Decision 1991/55 of 29 August 1991.

Humanitarian Standards included in one of the Secretary-General's reports to the United Nations General Assembly on the New International Humanitarian Order.<sup>18</sup>

Thus the Turku Declaration, originally just a non-governmental initiative, has now gained international status, modest though it may be. This is an important step in the right direction. First, the Declaration may become the expression of standards to which the Sub-Commission (and possibly other international human rights bodies) will regularly refer in its monitoring activities. The Sub-Commission has already done so in its Decision 1992/106 on the humanitarian situation in Iraq, where the Declaration is mentioned alongside the Geneva Conventions and other treaties. Secondly, a reference to the Declaration by an international body may help to speed up its informal acceptance by States, reflected in their practice.

The Conference on Security and Co-operation in Europe (CSCE) underlined in its Moscow Document the determination of participating States to protect human rights and fundamental freedoms during a state of emergency.<sup>19</sup> In a very commendable move the participating States went one step further and undertook to refrain from making derogations to human rights guarantees in such situations, even where the treaties authorize them to do so.<sup>20</sup> Throughout the Document several standards are mentioned which are of direct relevance to situations of internal strife. As Allan Rosas quite rightly says, the Moscow Document is a major step forward in the formulation of minimum humanitarian standards.<sup>21</sup>

### **3. The Code of Conduct, an instrument for dissemination**

It is impossible to assess the actual impact of the Code of Conduct proposed by the author of this article. No authority was expected to take any formal step with respect to the proposal. It was hoped that the text would be used as it was or would serve as a model for drafting similar rules applicable in specific circumstances of internal

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<sup>18</sup> Doc. A/47/352 of 21 August 1992.

<sup>19</sup> Document of the Moscow meeting of the Conference on the Human Dimension of the CSCE, of 3 October 1991, published in 30 *ILM*, 1991, p. 1670. See in particular para. (28).

<sup>20</sup> Para. (28.7).

<sup>21</sup> Allan Rosas, "International controls of internal conflicts" in: *Current problems of international humanitarian law*, Finnish Red Cross and Abo Akademi Institute for Human Rights, p. 6 (1992).

strife. To give the Code a maximum amount of exposure, the text has been widely circulated.

The idea of using codes of conduct as a means of disseminating existing rules of law may become common practice, especially in situations as complex as internal strife. This is not the place, however, to analyse international practice in general; suffice it to say that the ICRC is currently working on a project to establish a code of conduct for police and military forces responsible for maintaining or restoring order and public safety in times of internal disturbances.

#### 4. Concluding remarks

The reasons that prompted the various initiatives described above are simple: the international standards protecting the individual against abuse of power in times of internal disturbances or internal strife are not considered fully adequate to respond to the special dangers for fundamental human rights inherent in such situations. In particular, the rules of the major human rights treaties allowing for the suspension of certain rights during a state of exception may not be entirely satisfactory. However, the time is probably not ripe for a revision of those treaties. Declarations and codes of conduct whose content is adapted to the special circumstances of internal strife may play a welcome role in increasing awareness of human rights and humanitarian standards on the part of those who are called upon to observe them, and thus in keeping the rules alive. They may also prepare the ground for an eventual strengthening of the law.

**Hans-Peter Gasser**

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# Applicability of international humanitarian law to United Nations peace-keeping forces

by Umesh Palwankar

## Introduction

In recent years, and especially in 1992, the number of United Nations peace-keeping operations has increased at an unprecedented rate. Thirteen such operations were carried out between 1945 and 1987, whereas fourteen have been initiated since 1987. In 1992 alone, three new operations were started — in Cambodia, the former Yugoslavia and Somalia — and 1993 brought another, in Mozambique. The number of United Nations personnel deployed in the field quadrupled during 1992 to more than 50,000 persons, with a total budget of some \$2,500 million at the end of the year.<sup>1</sup>

## United Nations peace-keeping forces: definition and characteristics<sup>2</sup>

United Nations peace-keeping forces (PKF) are not armed forces raised by the Security Council by virtue of Articles 43 and 47 of the United Nations Charter, nor are they organized by the States Members on the basis of an invitation (as in Korea in 1950) or of an authoriza-

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<sup>1</sup> Figures taken from a UN publication: "Background Note: United Nations Peace-keeping Operations", prepared by the Communications and Project Management Division, Public Information Department, PS/DPI/15/Rev.2, September 1992.

<sup>2</sup> For general works on United Nations forces, see: Michael Bothe, "*Le droit de la guerre et les Nations Unies*", *Etudes et travaux de l'Institut Universitaire de Hautes Etudes Internationales*, No. 5, Geneva, 1967, pp. 137-239; D.W. Bowett, *United Nations peace-keeping. A legal study of United Nations practice*, Stevens & Sons, London, 1964; Rosalyn Higgins, *United Nations peace-keeping 1946-1967: Documents and commentary*, Oxford University Press, Oxford, Vol. I: *The Middle East* (1969), Vol. II: *Asia* (1970), Vol. III: *Africa* (1980), Vol. IV: *Europe* 1981; Finn Seyersted, *United Nations forces in the law of peace and war*, Sijthoff, Leyden, 1966.

tion by the Security Council (as in the Gulf in 1990, and Somalia in 1992). Both these categories are empowered to use coercive measures to *restore* international peace and security (or adequate security conditions) in the region concerned.

The PKF differ from the forces previously mentioned, primarily in that their mandate is to *keep* the peace.<sup>3</sup> In this area, two broad types of operations undertaken by the UN may be distinguished. One involves the sending of an *observation mission* [examples: United Nations Truce Supervision Organization (UNTSO) in Palestine, 1948, and United Nations Military Observer Group in India and Pakistan (UNMOGIP), 1949]. Here, the sole function of the mission's members was *observation*, any active role being ruled out. Since these forces are unarmed, no questions concerning the applicability of international humanitarian law (IHL) arise.

UN forces taking part in the other broad category of operations have the specific mandate to *keep* the peace by supervising the armistice or ceasefire agreements which are a precondition for the deployment of such forces. A peace-keeping operation, therefore, is a temporary arrangement aimed at maintaining the necessary conditions of peace and security, and especially preventing a resumption of hostilities, so that negotiations for settling the differences between the parties can take place; the idea being that the physical presence of a neutral and impartial multinational force could have a powerful deterrent effect on the combatants. Such PKF were first deployed in 1956 [United Nations Emergency Force (UNEF I, in the Sinai and the Gaza Strip)], and continue to be used today [United Nations Protection Force (UNPROFOR) in the former Yugoslavia, and United Nations Transitional Authority in Cambodia (UNTAC)].

The contingents assigned to the PKF are provided by the States on a voluntary basis at the request of the UN Secretary-General. Moreover, the government of the territory to which the PKF is to be sent, as well as the other party or parties directly involved in the conflict, must also give their assent.

A PKF is placed under the command of the UN, in the person of the Secretary-General, but is under the authority of the Security Council, which the Secretary-General keeps fully informed. Command

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<sup>3</sup> Since the PKF are not mentioned in the Charter, their legal basis can be questioned. In practice, however, their legality has been uncontested whenever they have been set up by the Security Council. For fuller details on this point, see in particular Yves Sandoz, "The application of humanitarian law by the armed forces of the United Nations Organization", *IRRC*, No. 206, September-October 1978, pp. 274-284; and Michael Bothe, *supra*, note 2.

in the field is exercised by a commander appointed by the Secretary-General with the approval of the Security Council. The commander is answerable to the Secretary-General.

The characteristic of the PKF which directly raises the question of applicability of IHL is that its members are *armed*. It would be useful here to cite the relevant paragraph of the report that the Security Council requested of the Secretary-General when it was contemplating setting up the United Nations Interim Force in Lebanon (UNIFIL) on 19 March 1978.<sup>4</sup>

*“D) The Force will be provided with weapons of a defensive character. It shall not use force except in self-defence. Self-defence would include resistance to attempts by forceful means to prevent it from discharging its duties under the mandate of the Security Council. The Force will proceed on the assumption that the parties to the conflict will take all the necessary steps for compliance with the decisions of the Security Council”.*

The theoretical and practical problems involved in fulfilling the PKF mission within the limits of the above-mentioned guidelines but without violating IHL will be examined later in relation to the present operations in the former Yugoslavia and in Cambodia. It suffices here to stress the real risk of seeing the PKF becoming involved in a conflict, such as happened during the operation in the Congo in July 1960.<sup>5</sup> The question of the applicability of IHL to the PKF thus has two aspects: first, the respect for IHL shown by these forces; and secondly, the part they can play in ensuring respect for the law.

## **Applicability of IHL to the PKF: position of the ICRC and the International Conference of the Red Cross and Red Crescent**

Both the ICRC and the International Conference of the Red Cross and Red Crescent have on many occasions expressed their opinion on the applicability of IHL to the PKF. Several examples of these affirmations, made at various times and in different forms, could be cited.

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<sup>4</sup> UN document S/12611, p. 2.

<sup>5</sup> “To a large extent, the United Nations troops have been able to fulfil their mandate solely by their presence, using persuasion and conciliation. But they have also made use of their weapons. The nature, extent and duration of these armed incidents have varied”, Michael Bothe, *op. cit.*, p. 143.

*At the official level*, we should mention the *Memorandum* entitled “Application and dissemination of the Geneva Conventions” of 10 November 1961, addressed to the States party to the Geneva Conventions and Members of the UN, in which the ICRC draws the attention of the UN Secretary-General to the necessity for ensuring application of the Conventions by the forces placed at the disposal of the United Nations. Since the UN, as such, is not party to the Conventions, the ICRC considers that each State remains individually responsible for the application of these treaties whenever it provides a contingent for a PKF. In consequence, the State should do what is necessary, especially by issuing appropriate instructions to the troops before they are posted abroad.

The Memorandum also stressed that by virtue of Article 1 common to the four Conventions, which also requires the High Contracting Parties to ensure respect for the Conventions, the States providing contingents “*should each, where necessary, use their influence to ensure that the provisions of humanitarian law are applied by all the contingents concerned, as well as by the unified command*”.

Resolution XXV (“Application of the Geneva Conventions by the United Nations Emergency Force”), adopted by the 20th International Conference of the Red Cross (Vienna, 1965), made three recommendations. Two of them propose:

- that appropriate arrangements be made to ensure that armed forces placed at the disposal of the UN observe the provisions of the Geneva Conventions and be protected by them (para. 1); and
- that the authorities responsible for the contingents agree to take all necessary measures to prevent and suppress any breaches of the said Conventions (para. 3).

Similarly, in a letter of 10 April 1978 addressed to the UN Secretary-General when a PKF was set up in Lebanon (UNIFIL), the President of the ICRC referred to the contents of the above-mentioned memorandum and resolution, and also proffered an opinion on relations between the PKF and the ICRC, both of which were operating on the same territory but under different mandates. He wrote: “*The ICRC knows that it can count on the United Nations and the forces it has deployed in Lebanon to facilitate freedom of movement for ICRC delegates and to guarantee, as far as possible, their safety in the regions where they have to conduct their humanitarian activities in accordance with the Geneva Conventions*”.

Members and staff of the ICRC have on numerous occasions reaffirmed, in studies and essays, the position of the institution. For example: “The obligation on the UN forces to observe the fundamental principles of the Geneva Conventions can hardly be questioned today”. Concerning the Protocols: “It would seem in any case that the UN should take account of the principles which inspired the Protocols”.<sup>6</sup> And lastly: “It is uncontested that the United Nations is bound by the customary rules of IHL when engaged in hostilities”.<sup>7</sup>

*To sum up*, the position of the ICRC on the applicability of IHL to the PKF and its observance by these forces emphasizes that:

- the fundamental principles and customary rules of IHL are applicable and must be observed;
- to ensure this, the States providing contingents are under an obligation to issue appropriate instructions to their troops and the UN is under the same obligation with respect to the unified command;
- any breaches of IHL must be repressed by the national authorities of the contingent concerned; and
- since there is a certain complementarity between the ultimate objectives of their respective mandates, the PKF should cooperate with the ICRC, but in no case hinder its activities or question its competence.

## Position of the UN

It would be useful here to recall certain important factors in the UN position regarding the applicability of IHL to the PKF.

*At the legal level*, following discussions within the UN on the possibility of the organization becoming party to the instruments of IHL, the conclusion was reached that certain provisions of the Convention could not apply to or be applied by the UN (for example, those relating to occupation [Articles 27-28 of the Fourth Convention], to the repression of grave breaches [Articles 49/50/129/146 respectively of the four Conventions, Article 85(1) of Protocol I, etc.].

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<sup>6</sup> Yves Sandoz, “The application of humanitarian law by the armed forces of the United Nations Organization”, *IRRC*, No. 206, September-October 1978, p. 283.

<sup>7</sup> Dietrich Schindler, “United Nations forces and international humanitarian law”, in *Studies and essays on international humanitarian law and Red Cross principles in honour of Jean Pictet*, Christophe Swinarski, ed., ICRC, Martinus Nijhoff, Geneva/The Hague, 1984, p. 526.

Moreover, since there is no definition (or even mention) of “peace-keeping forces” in the instruments of IHL, these forces might appear as “combatants”. It would also have to be determined whether the UN may, or may not, be considered a “Power” for purposes of acceding to the Conventions. Then there is the problem that might arise should the same force comprise troops from States party to Protocol I and States that are not party to the Protocol.

*At the political level*, a request from the UN for accession to the IHL treaties, or even an attempt to arrive at a general declaration on the applicability of IHL to the PKF (in the form of a resolution by the General Assembly, for example), would create the risk of opening a sensitive debate on the Protocols. On the other hand, a request to accede to the Conventions alone would be prejudicial to the promotion of IHL as a whole.

Finally, it should be noted that although the soldiers within the UN forces are bound by the commitments made by their States of origin, the UN has always insisted on the fact that during the exercise of their mandate these troops are under the sole authority of the organization and not that of their respective States.

*The official documents supporting the position of the UN are as follows:*

- The “Interoffice memorandum” addressed on 24 May 1978 by Mr. Guyer and Mr. Urquhart to all commanders of UN forces then operative, and a memorandum, dated 30 October 1978, from the Commander-in-Chief of the UN forces to all commanders at General Staff and contingent level. This memorandum specifies that, in cases where the forces have to use their weapons in accordance with their mandate, the principles and spirit of the rules of IHL should apply, as laid down in the Geneva Conventions of 1949, the Additional Protocols of 1977 and elsewhere.
- A letter of 23 October 1978 to the President of the ICRC (in reply to a letter from the President dated 10 April 1978), in which the UN Secretary-General stresses that *“the principles of humanitarian law ... must, should the need arise, be applied within the framework of the operations carried out by United Nations forces”*.
- Another letter, also dated 23 October 1978, addressed by the UN Secretary-General to the permanent representatives of governments sending contingents to the United Nations Interim Force in Lebanon (UNIFIL). This letter points out that in situations where members of such forces have to use their weapons in self-defence,

in conformity with guideline D, the principles and spirit of IHL “as contained, inter alia, in the Geneva (Red Cross) Conventions ... [and] the Protocols of 8 June 1977 ... shall apply”. To this end, the States providing contingents must ensure that their troops fully understand the principles of IHL and the measures to be taken to ensure their observance. The UN, for its part, “undertakes, through the chain of command, the tasks of supervising the effective compliance with the principles of humanitarian law by the contingents of its peace-keeping forces”.

*In short*, the position of the UN with regard to the applicability of IHL to the PKF is not entirely satisfactory. Admittedly, there have been some declarations in the past, but these were selective and contained no more than a commitment to respect the principles and spirit of IHL. The UN could therefore also examine the most appropriate means of ensuring the application of the pertinent rules of IHL to its forces, including those relative to the methods and means of warfare, to different categories of protected persons, to respect for the distinctive emblems (in this case the Red Cross and the Red Crescent), and to medical personnel and transports.

## **Current problems**

In the light of the foregoing observations, we can examine the present situation with reference to the UN’s decision to send PKF into the former Yugoslavia and Cambodia. This involves identifying the shortcomings and problems (existing or foreseeable), both at the general level (ICRC – UN – States providing contingents), and at the operational level, i.e. the implementation of and respect for IHL by the PKF themselves, the role of these forces in ensuring respect for IHL among the different entities on the spot, cooperation between the PKF and the ICRC, and envisaging the steps to be taken.

At the general level, it should be noted that the dispatch of PKF to the former Yugoslavia and Cambodia was not preceded, as on previous occasions, by official measures on the part of the UN to draw attention to the role of IHL.

This is an oversight that should be rectified, especially as other operations have been set up (Somalia, Mozambique).

At the time of writing,<sup>8</sup> there has been no formal statement by the UN on the applicability of the pertinent rules of IHL to its forces.

There has not even been a letter from the UN Secretary-General to the States providing the contingents, such as that of 23 October 1978, reminding them of their obligation to ensure that their soldiers are fully informed about IHL and to repress any violations of the law.

## **Measures to improve dissemination of IHL**

It should be stressed here that primary responsibility at the operational level for ensuring implementation of and respect for IHL by PKF devolves upon the UN. The UN Secretariat has been reminded of this by the ICRC, which also declared its readiness to help, as far as it was able, in disseminating IHL among the PKF, in particular by issuing a model plan of instruction in IHL adaptable to the specific needs of each PKF.

In addition, various programmes designed to spread knowledge of IHL could be undertaken by the ICRC in cooperation with the States concerned and the UN.

One important measure would be the dissemination of IHL among the contingents before their departure, especially by the relevant ICRC regional delegation. The ICRC delegation in New York could also brief contingent commanders when they pass through UN headquarters.

Lastly, it would be of vital importance to ensure that dissemination activities are carried out in the country of operations, by delegates working on the spot or by ICRC specialists in dissemination to the armed forces. Here, as on other occasions, it could be stressed that the application of and respect for IHL are in the interest of the members of the PKF themselves, for in certain situations they could find themselves caught up in an armed conflict or even be detained by one of the parties. It would then be easier for them to have recourse to the whole system of protection and responsibilities provided for in the IHL treaties.

One could even go further and envisage the dissemination of the principles and fundamental rules of IHL by the PKF themselves among the armed units of the parties to the conflict with which they come into contact. This would be part of these forces' responsibility

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<sup>8</sup> April 1993.

under IHL to promote respect for the law. The practical steps to be taken would be the selection or proposed selection of a person to be responsible for humanitarian affairs within the PKF; this person would then set up a group of officers capable of teaching the rules of IHL to members of both the PKF and the armed forces in the region concerned.

## **Implementation of and respect for IHL by the PKF**

It would be appropriate to mention very briefly the basic elements of the mandate of the PKF in the former Yugoslavia (UNPROFOR) and in Cambodia (UNTAC) which touch on, or could touch on, the applicability of IHL on the one hand, and ICRC activities conducted by the ICRC in these regions on the other.<sup>9</sup>

In both cases the PKF have military, administrative and police components. The military component has the task of stabilizing the security situation and creating a climate of trust conducive to a negotiated settlement in the former Yugoslavia, and to the holding of elections in Cambodia. With this in view, the PKF will supervise the ceasefire and withdrawal of all foreign forces in Cambodia, and the withdrawal of armed forces from the demilitarized zones in the former Yugoslavia, in particular by disarming and demobilizing the combatants and protecting the population living in the demilitarized zones from any armed attack by setting up crossing points at strategic positions. The members of the PKF carry light weapons to be used solely in self-defence, but are also provided with armoured vehicles for transporting troops and with air support.

There is enormous scope here for the application of the provisions of IHL covering the conduct of hostilities, should the case arise, and especially the whole body of principles and rules of IHL relating to different categories of protected persons.

The other component of the PKF, the civilian police, although unarmed, will have the task of closely supervising the work of the local police to ensure the impartial and effective maintenance of public order and full respect for human rights and basic freedoms. For this purpose, the civilian police forces will accompany the local police on

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<sup>9</sup> For details of these mandates, see: Report of the Secretary-General pursuant to Security Council Resolution 721 (1991), S/23280, 11 December 1991, Annex III (for UNPROFOR); and Report of the Secretary-General (S/23613 and Add.1) reproduced in Press release, United Nations, SC/272, 28 February 1992 (for UNTAC).

their patrols and have free and immediate access to all premises belonging to the local police or under their control.

Here, as with the activities of the PKF listed at the beginning of this section, the whole question of detention and the ICRC's mandate arises.

The mandate of the military component of the PKF makes no mention of the force's competence to take prisoners. On the other hand, the extent of that mandate as outlined above suggests that in particularly tense situations the PKF could make arrests should the situation so require. This happened once in the past, during the UN operation in the Congo, and the role of the ICRC in such circumstances emerges clearly in the description of these events by a specialist.<sup>10</sup>

The civilian police force of the UN, on the other hand, has the specific mandate to supervise all the activities of the local police and enjoys freedom of access to all their premises. This means that all detainees held by the local police come under the supervision of the UN civil police.

As for the competence of the ICRC operating in the same area as the PKF, the situation is fairly clear in situations of international armed conflict, where the legal rules contained in the relevant provisions of the Third and Fourth Geneva Conventions can be invoked to justify visits to prisoners of war and civilian internees or supervision of their release. The situation is more sensitive in non-international armed conflicts. It would be preferable in such cases for the ICRC's mandate to be set out in a general agreement (e.g.: The Paris accord on the political settlement of the conflict in Cambodia). Failing this, the ICRC should negotiate an agreement with the UN.

The position of the ICRC is quite clear as regards the communication of reports on visits. As a general rule, reports on visits to prisoners captured by the UN forces are delivered to the prisoners' Powers of Origin, the UN and the governments of the States whose contingents have captured or are holding the prisoners visited.

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<sup>10</sup> "Circumstances developed in a way that it became necessary for the UN peace-keeping force to arrest and detain some of the foreign mercenaries who took up arms against the UN. A contingent of the mercenaries was actually captured in a field operation and detained under UN custody at the Kamina military base in Central Congo. The detainees were treated according to the rules laid down in the 1949 Geneva Conventions, Part III on Prisoners of War. The UN handling of the detainees was supervised by ICRC representatives". Bjørn Egge, "Coordinating UN peace-keeping operations and relief and refugee programmes", paper submitted to the Nordic UN Seminar, Oslo, 29 June 1988, p. 13.

Another area of applicability of IHL to PKF is obviously the respect and protection which these forces owe to the emblem and to medical personnel, transports and establishments. In practice, this does not appear to cause any problems and never has done. On the other hand, referring again to dissemination of IHL in the countries in which the PKF operate, the forces could make a special effort to promote respect for the emblem and for ICRC medical activities among the armed units of the parties in conflict.

## **Possible role for the PKF in promoting respect for IHL**

We are concerned here with determining how the PKF could ensure respect for IHL by the armed forces of the parties to the conflict, police forces and the population.

One way would be to draw up reports on violations of IHL in the sectors where the PKF are deployed. In fact, the mandates of both UNPROFOR and UNTAC<sup>11</sup> foresee that certain of their components (the civilian police in the former Yugoslavia, the human rights component in Cambodia) will have the task of investigating alleged violations of human rights, and the military component (in the case of the former Yugoslavia) of alleged violations in the demilitarized zones. The Secretary-General might ensure that the PKF do the same in respect of violations of IHL, which in some cases also amount to violations of human rights. These reports could be sent to the parties concerned and/or the Security Council to put a stop to such violations and to ensure that appropriate sanctions are applied to those responsible. In this context, both the State concerned and the UN could promote the application of Article 89 of Protocol I (cooperation)<sup>12</sup>

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<sup>11</sup> *Supra*, note 9.

<sup>12</sup> "In situations of serious violations of the Conventions or of 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" (Article 89, Protocol I).

"Acting for the protection of man, also in time of armed conflict, accords with the aims of the United Nations no less than does the maintenance of international peace and security. The Organization showed its concern in two main ways: first, by its participation in the process of reaffirming and developing international humanitarian law; secondly, by its resolutions on the applicability of humanitarian law and requiring its application to given situations or categories of persons, and also by issuing reports evaluating the application and respect of that law.

The United Nations actions to which Article 89 refers may therefore consist of issuing an appeal to respect humanitarian law, just as well as, for example, setting up enquiries on compliance with the Conventions and the Protocol". Commentary on

and, in addition, the role of the International Fact-Finding Commission (IFFC).

Let us recall here that requests for the services of the IFFC are not automatically confined to international conflicts. At its constituent meeting on 12 and 13 March 1992 in Bern, the IFFC declared itself ready to take action even in situations of civil war if asked to do so by the parties.

In conclusion, the PKF could also play a preventive role, particularly by monitoring the activities of military or paramilitary forces operating in sectors in which UN forces are deployed.

## Cooperation between the PKF and the ICRC

There can (and should) also be cooperation and coordination between the humanitarian activities of the PKF and those of the ICRC. This is evident if one looks at practice to date, which shows that operational cooperation has involved tracing missing persons, prison visits, relief work, investigations, release and repatriation of prisoners of war (POWs), evacuations, transport and medical services.

Some examples are cited below:

Concerning the operations of the United Nations Peace-keeping Forces in Cyprus (UNFICYP, since March 1964), one of the reports of the UN Secretary-General mentioned that: *“With regard to humanitarian activities, a meeting was held ... with representatives of the International Committee of the Red Cross (ICRC) and it was agreed that the Red Cross would assume primary responsibility for providing relief and taking care of refugees, prisoners, missing persons, allegations of atrocities and similar problems that are traditionally within the terms of reference of the ICRC. The force will continue to play an active role, including investigations and local negotiations, and will fully assist and cooperate in carrying out humanitarian relief operations”*.<sup>13</sup>

With reference to the above-mentioned investigations, a resolution of the General Assembly had requested the Secretary-General *“to provide his good offices, through his Special Representative in Cyprus,*

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Article 89 of Protocol I, in *Commentary on the Additional Protocols of 1977 to the Geneva Conventions of 1949*, Yves Sandoz, Christophe Swinarski, Bruno Zimmerman, eds., ICRC, Martinus Nijhoff Publishers, Geneva/The Hague 1985, paras. 3596, 3597, pp. 1034-1035.

<sup>13</sup> Additional report by the Secretary-General on the situation in Cyprus, S/11353/Add. 12, 31 July 1974, para. 5.

*to support the establishment of an investigatory body with the participation of the International Committee of the Red Cross which would be in a position to function impartially, effectively and speedily so as to resolve the problem without undue delay”*.<sup>14</sup>

Similarly, in Cyprus, “[b]ecause of the blockading of certain areas inhabited by Turkish Cypriots, the ICRC has been trying, together with the United Nations, to obtain relaxations enabling these localities to receive food supplies”.<sup>15</sup>

Within the context of the UN operations in the Congo (UNCO), a note from the special representative of the Secretary-General stresses that: “*The Secretary General ... repeats his request that the United Nations be permitted again to visit the persons detained and to ascertain their treatment through representatives of the Red Cross*”.<sup>16</sup> Apart from these visits, the ICRC even organized the exchange of prisoners.<sup>17</sup>

At present in Cambodia, although primary responsibility for the repatriation process rests with UNHCR, all the ICRC’s surgical and medical facilities in the country are obviously available to the returnees. Moreover, the ICRC’s Central Tracing Agency is especially active in the zones controlled by the factions. In addition, the institution may have to become involved in the protection of minorities.

In the former Yugoslavia, UNPROFOR arranged a meeting between Generals Mladić and Halilović in Sarajevo on 17 and 18 April 1993. The agreement signed at the conclusion of these discussions, which provided for a ceasefire and the demilitarization of Srebrenica, mentioned a role for the ICRC in evacuating the sick and seriously wounded and in supervising the exchange of prisoners and casualties.

With a view to pursuing this humanitarian cooperation with the PKF, the ICRC is trying to identify suitable areas and to negotiate *ad hoc* arrangements with the PKF command, insofar as the present situation permits.

***In conclusion***, it can be said that:

— IHL is indeed applicable to the PKF.

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<sup>14</sup> Resolution 32/128, 16 December 1977 (Missing persons in Cyprus), para. 1.

<sup>15</sup> *IRRC*, No. 43, October 1964, p. 515.

<sup>16</sup> S/4590, 9 December 1960, Annex: Text of a protest note addressed by the Special Representative to the principal authorities in Stanleyville, para. (f).

<sup>17</sup> Michael Bothe, *op. cit.*, p.223.

- The UN has in the past recognized the applicability of at least the principles and spirit of the rules of IHL.
- An undertaking by the UN aimed at consolidating the applicability of IHL to its forces would be an excellent means of promoting the applicability of and respect for the law by States providing the contingents, by the State on whose territory the operation is being conducted, and by all parties to the conflict. Such promotion of IHL is in fact an objective of the international community, as expressed in the resolutions which the UN General Assembly has adopted every two years since 1977 on the status of the Protocols additional to the Geneva Conventions.<sup>18</sup>
- Much remains to be done, however, to reinforce implementation of and respect for IHL by the PKF, not only at the formal but also at the operational level, bearing in mind both present and future operations. At the moment, the ICRC is examining the most appropriate means, and is counting on the cooperation of the States and the United Nations.

**Umesh Palwankar**

**Mr. Umesh Palwankar** commenced his university studies in Bombay and completed them at the Geneva University Graduate Institute of International Studies, where he was awarded a doctorate. He has been assistant lecturer at the law faculty of Geneva University, and later research officer at the International Institute for Peace Research in Geneva. He has also participated as rapporteur in many round table discussions and meetings of experts organized by the International Institute of Humanitarian Law in San Remo. Since 1991, he has been a member of the ICRC's Legal Division.

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<sup>18</sup> Two paragraphs may be cited from the preamble to the resolution adopted by the General Assembly at its forty-seventh session, 1992 (RES/47/30), in which the Assembly declared itself:

“*Convinced* of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances ...;

(...)

*Stressing* the need ... for universal acceptance of such law ...”.

### **HUMANITARIAN ACTION AND PEACE-KEEPING OPERATIONS**

*The ICRC President, Mr. Cornelio Sommaruga, and his special adviser, Mr. André Pasquier, took part on 5 and 6 March 1993 in the 25th session of the Academy for Peace and International Security in Monaco, chaired by the Academy's President, Professor René-Jean Dupuy.*

*The session's theme was: "The UN and regional organizations – how can they cooperate to improve international security? Is there a special role for Europe?"*

*About one hundred people representing international organizations, diplomatic and political circles, and the media attended the meeting. Among them were Mr. Robert Badinter, President of France's Constitutional Council and former Keeper of the Seals, Mr. Peter Schmidhuber, member of the Commission of the European Communities, and Mr. Manfred Wörner, Secretary-General of NATO. Talks were given on "Europe and the problem of security" and "The UN and regional organizations – limits to cooperation".*

*Mr. Sommaruga took part in a round table discussion on the subject of "peace-keeping operations and intervention on humanitarian grounds". The other participants were Professor Maurice Torrelli, Dean of the Institute of Peace and Development Law at the University of Nice – Sophia Antipolis, Dr. Luise Drüke, senior liaison officer for European matters at UNHCR, and Colonel Robert Meille, an officer in the French Army and former commander of the French battalion in Croatia.*

*The Review has pleasure in publishing below the text of the talk given by the ICRC President on this occasion. Examining as it does the relationship between humanitarian action and peace-keeping operations, it represents the latest contribution to the current debate on the issue of intervention on humanitarian grounds.<sup>1</sup>*

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<sup>1</sup> See Yves Sandoz, "Droit or devoir d'ingérence and the right to assistance: the issues involved"; Maurice Torrelli, "From humanitarian assistance to intervention on humanitarian grounds?"; Denise Plattner, "Assistance to the civilian population: the

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Never since the Second World War has the International Committee of the Red Cross had to face, simultaneously, so many deadly conflicts. When I think of all these crises, my feelings are mixed. On the one hand, we have never been so active, never done so much for so many victims of armed conflict; but on the other hand, never has our work been called into question as fundamentally as it is now in connection with certain conflicts, and never have the Geneva Conventions been so completely disregarded and the rights of conflict victims spurned with such tragic results.

The questions raised by this state of affairs reflect the uncertainty that we are all feeling in the face of the upheavals following the end of the Cold War. History itself is disintegrating under nationalistic, ethnic, religious and political pressures. New ideologies rooted in violence have profoundly altered the nature and scope of conflict. Anarchy and intolerance have turned war into a merciless struggle where no holds are barred. And civilians are the first to suffer. Millions of men, women and children are being starved, arrested, tortured, raped or simply massacred, as a matter of deliberate policy. Others are forced to take the road to exile in a state of total destitution. Every day we measure the difficulty of persuading the belligerents in these barbaric struggles to respect even the most basic rules of humanitarian conduct.

What can we do to stem this tide of violence? Is there a way of restoring respect for the humanitarian principles that we believed were recognized and secure? How can we convince the warring parties to honour their commitments and allow humanitarian agencies to do their work?

With conflicts all around us sliding, inexorably it seems, from horror into utter chaos, many questions clamour for our urgent attention. International humanitarian law, as compiled in the Geneva Conventions and now universally accepted, is an edifice that has required over a century of patient construction. Is it no longer able to

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development and present state of international humanitarian law", *International Review of the Red Cross*, No. 288, May-June 1992, pp. 215-263; and Frédéric Maurice†, "Humanitarian ambition"; Cornelio Sommaruga, "Assistance to victims of war in international humanitarian law and humanitarian practice", *IRRC*, No. 289, July-August 1992, pp. 363-382. The reader may also be interested to read an article by the ICRC President entitled "*Droit d'ingérence: faut-il repenser l'action humanitaire?*" which was published in *Le Monde* on 19 February 1993.

withstand the violence being unleashed around us? Will humanitarian diplomacy alone be sufficient to bring the conduct of belligerents back within the limits of humanitarian law? Does the sheer scale of present needs not oblige humanitarian organizations to coordinate their activities more closely? Must we now accept the use of armed escorts to ensure protection for our convoys? Must we, as some suggest, seek new solutions by establishing a so-called “right to intervene on humanitarian grounds”, that is, the right to use force if necessary, to ignore the principle of non-interference in the internal affairs of sovereign States, in order to impose humanitarian measures in cases where the survival of entire populations is at stake? Or should we opt for a compromise, linking humanitarian action more systematically to the political action taken by the United Nations in the framework of what are known as “peace-building” operations?

I would like to examine these various questions and proposals in the rest of my talk.

To me there is a perfectly obvious need to step up coordination among the large number of humanitarian agencies working in war-torn countries today, both to avoid duplication of effort and to increase the effectiveness of each individual enterprise. Bearing this in mind, I feel we should look more closely at two particular requirements. First, flexible consultation mechanisms must be devised which neither slow the decision-making process nor complicate cooperation in the field. After all, each conflict has its own special characteristics, and a rigid consultation procedure applied to all cases would be impracticable. Secondly, and in my view more importantly, we must agree on sound working principles which will ensure that any cooperation is compatible and at the same time will safeguard the impartial character of all truly humanitarian endeavour. It could be useful to define a standard set of ethical and operational principles for use by all the different non-governmental organizations whose activities do not derive from international treaties and which do not have mandates clearly defined and recognized by the international community.

Turning now to the use of military power to back up humanitarian action, and even in certain cases to protect those charged with carrying it out, these are measures that have sadly proved necessary, particularly in Somalia, a country that was plunged into chaos by armed gangs and widespread looting. In such situations, the extremely insecure conditions in which we have to work have a direct impact on the effectiveness of our operations. But we must be careful not to view armed escorts as either an acceptable or a lasting solution to the problem; they can only be a temporary and quite exceptional palli-

ative. Indeed, if we resign ourselves to such measures, does that not mean that we have given up all hope of inducing the belligerents not only to respect humanitarian operations but above all to spare the civilian population which enjoys no such armed protection? What we must insist on restoring is respect for the protective emblems — primarily the Red Cross and Red Crescent emblems — which are so often completely disregarded. Such respect is indispensable to preserve the impartiality that humanitarian endeavour needs if it is to bring effective and equitable aid to the victims and, as a corollary, to maintain its independence vis-à-vis all the belligerents.

For the same reasons, I believe we should look very closely at a form of interaction which holds much promise in certain circumstances, provided the consent of the warring parties is obtained. I refer to the interaction between humanitarian endeavour and political measures ranging from peace-keeping operations to the more dynamic peace-building operations. This should respond to the urgent needs of the victims while at the same time addressing the underlying causes of the conflict in question. The current UNPROFOR operation in Bosnia has shown us that regarding humanitarian action as political action by other means is not without its dangers.

This last observation makes me wonder about the proposal to establish what is known as a “right to intervene on humanitarian grounds”. Would such a right improve on humanitarian law as defined by the Geneva Conventions? Anyone familiar with the Conventions knows that the problem lies elsewhere. Indeed, the 1949 Conventions and their Additional Protocols, adopted in 1977, contain broad and unequivocal provisions establishing the right of conflict victims to receive assistance and protection. In particular, it is stipulated that impartial relief actions may not be considered by the belligerents as interference in the conflict or as unfriendly acts, even if the relief supplies are intended for the adversary’s civilian population.

It must be acknowledged that the implementation of humanitarian law largely depends on the willingness of the States to meet their commitments. Is it likely that a “right to intervene” can be established without any obstacles whatsoever and without raising new questions? Quite apart from the contradiction in terms involved here, it seems obvious that in practice the right to intervene is subject to a number of contingencies.

First of all, recourse to force must be approved by the UN Security Council. The Council’s decisions — where they are not simply vetoed — are reached after often conflicting interests and divergent political, economic and strategic considerations have been weighed in the

balance. How can the delays and compromises involved in such negotiations be avoided? Half a million civilians had to die in Somalia before any effective military action was taken under UN auspices.

What is more, a military operation may be relatively easy to carry out and cost few lives when mounted against a militarily weak State, but what would be the consequences if the State concerned were a major power? Can an intervention on humanitarian grounds abandon all claim to impartiality and pick and choose its targets on the basis of the balance of power inherent in any conflict? What about Liberia, southern Sudan, Angola, Afghanistan, the Caucasus and Central Asia, and Bosnia? What about the future? Where should our priorities lie? Surely the fact that so many deadly conflicts are raging simultaneously in so many parts of the world imposes its own limits on the right to intervene.

Finally, how can we conceive of a humanitarian operation which is based on force and will thus inevitably lead to further deaths and perhaps even an escalation of the conflict? These are but a few of the many questions that cannot be simply brushed aside.

Everyone has condemned the atrocities being committed in Bosnia, but opinion is sharply divided on whether outside interference is called for, for the reasons just mentioned. The ongoing debate shows how difficult it is to reconcile humanitarian and political considerations in a context in which any action aimed at enforcing respect for civilians implies *de facto* a large-scale military intervention to which States are still reluctant to commit themselves. To the suggestion that military intervention could be restricted to the sole objective of meeting the need for humanitarian aid, we must answer that this could only be one aspect of a wider undertaking aimed at restoring international peace and security.

But let us return to international humanitarian law. What remedies do the Geneva Conventions offer when all the possibilities of humanitarian diplomacy have been exhausted? Do they preclude the use of force as a last resort? Humanitarian law contains two answers to this crucial question. First, Article 1 common to the four Geneva Conventions requires States "to respect and *ensure respect* for humanitarian law in all circumstances". Second, Article 89 of Additional Protocol I provides that "in situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties *undertake to act*, jointly or individually, in cooperation with the United Nations and in conformity with the United Nations Charter". Clearly, therefore, where matters of humanitarian concern are the major issue in conflicts which threaten international peace and security, it is up to the States them-

selves to go beyond the scope of humanitarian law and to act instead on the basis of Chapter VII of the United Nations Charter, which authorizes the use of force in certain cases. Where, then, is the legal void that the right of intervention could usefully fill?

Security Council Resolution 794 of 3 December 1992, on Somalia, aptly illustrates how a UN operation to maintain peace and security can arise from humanitarian law. It is generally agreed that if the operation's objectives had been merely to improve security conditions without disarming those bearing weapons, that impact would have been temporary and superficial. The steps taken concurrently by the United Nations Secretary-General are further evidence that here, too, the intention was to set up a process to restore peace and security. Once the initial stage of pacification is over, this process should be continued until lasting stability returns to the country. The clashes that have taken place between Somalis and troops deployed under the UN mandate make it obvious that this is an international police action aimed at putting an end to anarchy. We must not underestimate the risk of an escalation that would bring with it even greater dangers for the humanitarian operation.

How does military intervention affect the work being done by humanitarian organizations in conflicts such as these? A clear distinction has to be drawn between the role of States and that of impartial humanitarian organizations, for they have entirely different functions. The function of States, in fulfilment of their duty to dispense justice, is to ensure that the law is respected and to take appropriate measures against States guilty of violating it, while that of relief organizations is solely to assist the victims according to the principles of humanity. In other words, you have on the one hand the police and judiciary responsible for enforcing respect for the law, and if necessary for punishing violations, and on the other the Good Samaritan who provides help. I feel that this is a vital distinction in that it allows us to define and delimit the respective roles of impartial humanitarian organizations and of States, whose duty it remains, at another level and by other means, to "respect and ensure respect for" international humanitarian law. To merge these two roles, as proposed by those who advocate the right to intervene, would result in a situation whereby States, substituting themselves for humanitarian organizations, would impose humanitarian action by force. This would inevitably lead to politicization of the humanitarian mission. That is the bitter lesson of the Bosnian conflict: humanitarian work can be neither negotiated nor conducted by politicians without becoming ensnared in the issues that divide the parties to the conflict. It is hardly surprising,

therefore, that the victims regard the relief supplies they receive as a subterfuge and an admission of the governments' inability or refusal fully to assume their political responsibilities.

If we were to allow such an overlapping of roles, the impartial nature of humanitarian activities would also be called into question and therefore imperilled. In this respect, Mr. Boutros Ghali aptly remarked in a recent interview that any military intervention in the former Yugoslavia would spell the immediate end of the assistance operation being conducted by the UN humanitarian agencies, which would be identified with it. We conclude, therefore, that the proposal to establish a right to intervene on humanitarian grounds has offered no innovative or practical remedies; perhaps its chief effect has been to further blur the line between political and humanitarian action.

For a humanitarian operation to be effective and credible and, generally speaking, for it to win broad acceptance from the belligerents, its purpose must be clear. This fact makes it urgent for the governments and humanitarian organizations, on their various levels of responsibility, to agree among themselves and work out patterns of cooperation based on concepts that constitute different, interlocking parts of the same whole.

Thus, in a new system of collective security which, under United Nations supervision, will pay more attention to the causes of major human tragedies, the use of force can be seen only as a last resort in situations of extreme distress, an exceptional measure that is subject, as we have seen, to many constraints. Is the use of force in fact an adequate response to today's general crisis of values stemming from the collapse of the East-West balance of power? I believe that the most effective means of ensuring that belligerents behave more humanely in the long term and of providing proper protection for the victims is to restore, as rapidly and fully as possible, the authority of international humanitarian law and the moral values it enshrines. This can be accomplished only if the States show the necessary determination and commitment. Together they must embark on a course parallel to that of the humanitarian organizations, first limiting the effects of conflicts by taking preventive diplomatic action and insisting that governments meet their obligations under the Geneva Conventions, and later taking measures to punish any violations in the framework of a new international penal system set up to repress breaches of the law worldwide.

## ICRC ELECTS NEW MEMBERS

At its meeting on 29 April, the Assembly of the International Committee of the Red Cross elected two new members, Ms. Lilian Uchtenhagen and Mr. Georges-André Cuendet.

*Lilian Uchtenhagen* was born in 1928 in Sissach in the Canton of Basel-Land. She attended school in Olten and Neuchâtel before studying at Basel University and the University of London. Mrs. Uchtenhagen holds a doctorate in economics and was a member of the Swiss National Council from 1971 to 1991.

*Georges-André Cuendet* was born in 1932 and comes from Sainte-Croix in the Canton of Vaud. He holds a law degree from the University of Geneva, a diploma from the Institute of Political Studies at the University of Paris and a master of arts degree from Stanford University in the United States. Mr. Cuendet is a member of the board of directors of a private Geneva bank. He is a former mayor and member and chairman of the municipal council of Cologny, in the Canton of Geneva, and is currently a member of the town's administrative council. He also sits on the management control commission of the Canton of Geneva and the academic council of that city's university.

The election of Ms. Uchtenhagen and Mr. Cuendet brings to 23 the membership of the International Committee, which is composed exclusively of Swiss citizens.

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

At its meeting on 19 and 20 April 1993, the Standing Commission of the Red Cross and Red Crescent elected a new Chairman in the person of Botho, Prince zu Sayn-Wittgenstein-Hohenstein. Prince Botho succeeds Dr. Ahmad Abu-Goura, who chaired the Standing Commission for 12 years before stepping down last January for health reasons.

Prince Botho is the President of the German Red Cross and has been the Commission's Vice-Chairman since 1986. His successor to the vice-chairmanship is another Commission member, Mr. Byron Hove, President of the Zimbabwe Red Cross Society. In accordance with Article 17, para. 2, of the Movement's Statutes, the vacant place on the Commission was taken by Mrs. Véronique Ahouanmenou, President of the Red Cross of Benin.

The members of the Commission paid tribute to Dr. Abu-Goura for the spirit of harmony that prevailed over the Commission's work throughout his term in office.

The Commission also drew up the agenda for the next meeting of the Council of Delegates, due to be held in Birmingham on 29 and 30 October 1993, took note of the interim report of the working group on the future of the International Conference and selected the recipients of the Henry Dunant Medal and of the Red Cross and Red Crescent Prize for Peace and Humanity.

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### **ICRC recognizes two Red Cross Societies**

The International Committee of the Red Cross has confirmed its recognition of the *Estonia Red Cross* — originally accorded in 1922 — and announced its recognition of the *Namibia Red Cross Society*.

These decisions, which took effect on 31 March 1993, bring to **155** the number of National Societies which are members of the International Red Cross and Red Crescent Movement.

## **WORLD RED CROSS AND RED CRESCENT DAY 1993**

JOINT MESSAGE OF THE INTERNATIONAL FEDERATION  
OF RED CROSS AND RED CRESCENT SOCIETIES  
AND OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

### ***DIGNITY FOR ALL***

Today, 8 May 1993, is World Red Cross and Red Crescent Day.

The International Red Cross and Red Crescent Movement wishes to take this opportunity to pay tribute to all who serve its humanitarian cause, whose selfless activities bring not only healing and assistance to millions of people in distress but also hope to a world overshadowed by disasters, war and suffering.

With the end of the cold war, we thought that a brighter future might lie ahead. But suffering has not diminished. On the contrary, in many parts of the world it is becoming even more acute. Armed conflict, ethnic violence and natural disasters are a constant threat to the lives and dignity of millions of men, women and children. Diseases such as AIDS and malaria, as well as poverty and malnutrition, also afflict countless people throughout the world.

There is an urgent need for food, medicines, clothing and shelter for the world's hungry and destitute. But it takes more than food and other relief supplies to address the problems of human suffering. No less important is the need for dignity... the need to protect the human rights of the individual and ensure that the victims of conflict and other adversity are respected.

The life of every human being is unique and irreplaceable. The Geneva Conventions and their Additional Protocols and the United Nations Universal Declaration of Human Rights attest to the common agreement of nations that all human beings are born free and equal in dignity and rights.

Without respect for the dignity of human beings, the quality of life is lost; our society, and civilization itself, are at stake.

Today we are launching an appeal on behalf of the hundreds of millions of people suffering from the consequences of war, from ethnic and other violence, natural disasters, disease and malnutrition. We call on every individual to respect the dignity of the people most in need. We ask for the soli-

darity of everyone, everywhere, to support humanitarian assistance and thereby to help safeguard human rights and dignity.

Let us pledge that each and every one of us will continue to combat the suffering of this world. Let us work to provide food, shelter, medical care, blood services and other necessary relief.

Let us also pledge that we shall refuse to accept the inevitability of conflict by working towards peace and reconciliation.

***“Dignity for all” must be our common goal.***

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*Note:*

This message was 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 International Federation of Red Cross and Red Crescent Societies (speaking in *Spanish*);

Mr. George Weber, Acting Secretary General of the International Federation of Red Cross and Red Crescent Societies (speaking in *English*);

Dr. Fouad Hamza, President of the Syrian Arab Red Crescent and Vice-President of the International Federation of Red Cross and Red Crescent Societies (speaking in *Arabic*);

The recording (on 7 1/2 inch reel tape or cassette) can be obtained from the Public Affairs Department of the International Federation of Red Cross and Red Crescent Societies.

## SEVENTY-SECOND DISTRIBUTION OF INCOME FROM THE EMPRESS SHÔKEN FUND

Fourteen Red Cross or Red Crescent Societies in developing countries will benefit from grants totalling 423,000 Swiss francs under the seventy-second distribution of income from the Empress Shôken Fund. The money will finance activities relating to disaster preparedness, health, social welfare, first aid and youth programmes.

The National Societies were selected at a recent meeting in Geneva of the joint ICRC-Federation Commission entrusted with the distribution of the income of the Fund. The meeting was chaired by Mr. Maurice Aubert, former Vice-President of the International Committee of the Red Cross (ICRC). The delegation of the International Federation of Red Cross and Red Crescent Societies (Federation) was headed by its Acting Secretary General, Mr. George Weber. The Ambassador of Japan in Geneva, H.E. Mr. Hidetoshi Ukawa, was present at the meeting.

The grants will finance the following projects:

<i>Beneficiary National Society</i>	<i>Amount in Swiss francs</i>	<i>Purpose of allocation</i>
<b>Cape Verde</b>	30,000	To purchase a minibus for the transport of aged people
<b>Chile</b>	37,000	For a CHEVROLET-ISUZU "Transporter" ambulance
<b>Costa Rica</b>	12,000	To install communication links in the "Región Tres"
<b>Ecuador</b>	35,000	For a TOYOTA Hiace 4WD ambulance
<b>Egypt</b>	35,000	For first-aid and rescue-training programmes all over the country

<b>Jordan</b>	34,000	To purchase medical equipment for a laboratory in the Ma'an district
<b>Laos</b>	45,000	To strengthen the capacity of the Red Cross Blood Transfusion Service
<b>Madagascar</b>	7,000	To purchase audio-visual equipment for training programmes
<b>Pakistan</b>	43,000	To purchase medical equipment for the Blood Donor Centre in Islamabad
<b>Rwanda</b>	30,000	For a TOYOTA Hiace ambulance/minibus
<b>Sao Tome &amp; Principe</b>	20,000	Wheelchairs/tricycles for disabled persons
<b>Solomon Islands</b>	20,000	To purchase equipment for training and development programmes
<b>South Africa</b>	50,000	To help finance the enlargement of the Kwanobuhle Community Centre in the Eastern Cape Region
<b>Swaziland</b>	25,000	To train first-aid instructors for programmes to be carried out throughout the country
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<b>Total</b>	423,000	

The Fund was set up in 1912 through a gift from Her Imperial Majesty of Japan to encourage the development of humanitarian activities by National Red Cross and Red Crescent Societies. The Empress Shōken died on 11 April 1914. The Fund has received repeated gifts from the Imperial Family of Japan, the most recent one being a five million yen donation to mark the 90th birthday of Her Majesty the Dowager Empress on 6 March 1993.

Both the Japanese Government and the Japanese Red Cross Society also contribute to the Fund, the former with generous annual allocations of twenty million yen, the latter with donations on special occasions, e.g. a five million yen contribution on 8 March 1993, the 40th anniversary of the enactment of the Japanese Red Cross Law.

The interest-bearing investments of the Fund amount to 7.5 million Swiss francs.

### **Declaration of succession by the Slovak Republic to the Geneva Conventions and their Additional Protocols**

On 2 April 1993, the Slovak Republic deposited with the Swiss Government a declaration of succession to the four Geneva Conventions of 12 August 1949 and to their Additional Protocols of 8 June 1977. The declaration contained the reservations previously made by Czechoslovakia concerning the Conventions.

This declaration of succession took effect on 1 January 1993, the date of independence of Slovakia.

The Slovak Republic is the **178th** State to become party to the Geneva Conventions. It is the **122nd** State party to Protocol I and the **113th** to Protocol II.

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### **Declaration by the Grand Duchy of Luxembourg**

On 12 May 1993 the Grand Duchy of Luxembourg made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission:

“In accordance with Article 90, paragraph 2(a), of Protocol I additional to the Geneva Conventions of 12 August 1949, the Grand Duchy of Luxembourg declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to enquire into allegations by such other Party”.

The Grand Duchy of Luxembourg is the **thirty-fourth** State to make the declaration regarding the Fact-Finding Commission.

## **Accession of the Republic of Moldova to the Geneva Conventions and their Additional Protocols**

On 24 May 1993, the Republic of Moldova acceded to the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

These instruments will come into force for the Republic of Moldova on 24 November 1993.

The Republic of Moldova is the **179th** State party to the Geneva Conventions. It is the **123rd** State party to Protocol I and the **114th** to Protocol II.

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## **Accession of the Republic of Azerbaijan to the Geneva Conventions**

On 1 June 1993, the Republic of Azerbaijan acceded to the four Geneva Conventions of 12 August 1949.

This instrument will come into force for the Republic of Azerbaijan on 1 December 1993.

The Republic of Azerbaijan is the **180th** State party to the Geneva Conventions.

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## **Accession of the Republic of Armenia to the Geneva Conventions and their Additional Protocols**

On 7 June 1993, the Republic of Armenia acceded to the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977.

These instruments will come into force for the Republic of Armenia on 7 December 1993.

The Republic of Armenia is the **181st** State party to the Geneva Conventions. It is the **124th** State party to Protocol I and the **115th** to Protocol II.

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### **Accession to the Protocols by the Republic of Burundi**

The Republic of Burundi acceded on 10 June 1993 to the Protocols additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) and Non-International Armed Conflicts (Protocol II), adopted in Geneva on 8 June 1977.

Pursuant to their provisions, the Protocols will come into force for the Republic of Burundi on 10 December 1993.

This accession brings to **125** the number of States party to Protocol I and to **116** those party to Protocol II.

## Book reviews

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### LES MAILLONS DE LA CHAÎNE

(LINKS IN THE CHAIN)

1939-1945

*A prisoner of war's story*

*Tragically, the author of the following book review — Florianne Truninger — died recently. Miss Truninger was a Research Officer in the ICRC's Department of Principles, Law and Relations with the Movement. She was a competent and highly motivated colleague who will long be remembered at the ICRC for her devotion to the Red Cross cause.*

*Links in the chain* is the account of Henry Goldstein's "forced holiday at the expense of the Third Reich". Goldstein, a Belgian, was taken as a prisoner of war in May 1940 when the Germans invaded his country.\*

Goldstein makes his situation clear from the outset. "For the Germans, I was obviously a prisoner with a difference. But that was my problem." He realized that with his Germanic, Jewish-sounding name the Germans would inevitably regard him as an enemy of the Third Reich. "This was a big difference. It followed me around like my shadow wherever I went."

Henry Goldstein was lucky to have prisoner-of-war status and thus be protected by the Geneva Convention of 1929 relating to the treatment of prisoners of war. Since the Convention prohibited any differences of treatment between POWs except on the basis of rank, state of health, professional abilities or sex, Goldstein was able to survive history's most sinister attempt to exterminate the Jews.

From the outset Goldstein was set apart from the other prisoners in the German camps. His POW identity card, for example, was yellow, while those of the other Belgian prisoners were blue. The fact that his card identified him as a Jew came back to haunt him from time to time throughout his captivity. It brought him eight terrible months in solitary confinement at Colditz disci-

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\* Henry Goldstein, *Les Maillons de la chaîne, 1939-1945*, Editions Dricot, Liège-Bressoux, 1992, Vol. I, *Récit vécu*, 495 pages; Vol. II, *La descente en enfer*, 431 pages; preface by Professor Yves Durand of the University of Orléans — La Source, France.

plinary camp. In violation of the Geneva Convention, the Germans separated him from his fellow Belgians at Colditz, placed him under their sole authority and forced him to exchange his military uniform for anonymous work clothes.

Then Goldstein was transferred to Eichstätt in Bavaria, where he was forced to work as an odd-job man in the German staff quarters despite the protests of the highest-ranking Belgian officer. This too was a violation of the Convention, decided on by simple soldiers.

The author gives an often humorous account of his peregrinations from Stalag to Stalag and Oflag to Oflag, and of life in the camps where vermin and boredom were his daily lot. He also describes moments of comfort at the infirmary and the comradeship shown by his companions around a Red Cross parcel.

He was eventually transferred north to Stalag XB in the very heart of the port of Hamburg and was put to work handling incoming food supplies for the city. In this, perhaps the best part of the book, Goldstein relates the more colourful aspect of his captivity. He describes the prisoners' ingenuity in making their quarters a cosy place by scrounging coal and pilfering supplies as sympathetic guards turned a blind eye. We are far removed, obviously, from the classic image of idle prisoners languishing behind barbed wire or pottering away their days on a farm.

But at the same time Goldstein impresses on us what life was like for the residents of Hamburg, constantly pounded by Allied bombs. Shared experiences such as this fostered human contacts and even friendship between the prisoners and German civilians. Goldstein paints us vivid portraits of decent German men and women — employers, guards and lovers alike — alongside the truly despicable characters he encountered.

As the war wore on, as the list of dead and wounded grew ever longer and the boys mobilized ever younger, and when even elderly men were withdrawn from the workforce and sent to the front, the POWs became “a vital economic necessity without which many activities would have ground to a halt”. The result was a better relationship between the POWs and their employers and, as the German army suffered military reverses and bombs rained down on the country, the situation of the prisoners gradually improved.

But life still had its ups and downs. Goldstein's personal nightmare remains the haggard faces of the deportees he saw at the Neuengamme concentration camp, 25 km from Hamburg. These starving men in their striped uniforms were forced to do backbreaking work although they could scarcely stand. The author remains horrified by the memory to this day, knowing that the same could so easily have happened to him.

As the war drew to a close, things again took a turn for the worse for Goldstein. The German command, doubtless fearing sabotage by enemies of the Reich, transferred him to reprisal camp 1446 for French POWs at Himmelmorr, near Quickborn, where he was made to work in peat bogs under appalling conditions. It was there that he was finally liberated by the British army under Field Marshal Montgomery.

Henry Goldstein tells a fascinating story teeming with details about daily life in the camps. Vivid, instructive and rich in anecdotes both comic and tragic, the book is written in a natural, simple style. "All through those dramatic years", writes Goldstein, "there was no respite. My life was like an endless chain, each link inexorably leading to the next".

True to life, colourful and moving, *Les maillons de la chaîne* is a faithful reconstruction of five years of captivity on enemy territory.

Florianne Truninger

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## EFFECTING COMPLIANCE — ARMED CONFLICT AND THE NEW LAW

### *Do the States comply with humanitarian law?*

In 1985 the British Institute of International and Comparative Law set up a group to discuss the law of armed conflict. The group's deliberations resulted in the publication in 1989 of a collection of articles on the 1977 Additional Protocols and the 1980 Weapons Convention. A second volume has now appeared dealing with various aspects of the problem of ensuring the States' compliance with humanitarian law.\*

This subject was chosen in an effort to respond to the most urgent needs relating to the regulation of armed conflicts. As one of the authors points out, this is a question not so much of adopting new rules as of improving the effectiveness of those already in force. The editors of the book believe that a comprehensive approach is required, taking into account not only the role that must be played by the States as those directly bound by the rules, but also the responsibilities in this respect of other players on the international scene. Such an approach also prompts us to look beyond the framework of inter-State relations and consider the measures that must be taken by governments on the national level.

The work is divided into six parts. Part I takes stock of the general effectiveness of the law of armed conflict. *George A. Aldrich* suggests three reasons why this body of law often remains a dead letter. One reason is that those whose duty it is to implement it are often unfamiliar with its provisions. The second is the scepticism and cynicism caused by awareness that viola-

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\* *Effecting Compliance, Armed Conflict and the New Law, Vol. II*, Hazel Fox and Michael A. Meyer (eds.), London, The British Institute of International and Comparative Law, 1993, 251 p.

tions of the law go unpunished. The third reason is that there are no effective mechanisms for implementation (verification, investigation and settlement of disputes). Aldrich suggests various ways in which such obstacles can be overcome, laying particular stress on the responsibility of States to ensure that humanitarian law is widely known and understood and to punish violations.

*Hans-Peter Gasser* draws the attention of the reader to the steps that can be taken by parties not involved in a given conflict. Article 1 common to the four Geneva Conventions of 1949 and to Protocol I of 1977 requires States party to those treaties not only to respect their provisions but also to “ensure respect” for them. Gasser describes how States can meet this second obligation. For one thing, they have a duty to refrain from encouraging belligerents to act in violation of international humanitarian law. They may also make diplomatic representations, offer their good offices and, if need be, petition the International Court of Justice. Third parties other than States can also take action. The United Nations is becoming increasingly involved in both the formulation and the implementation of the law of armed conflict. In the final section of his article, Gasser describes the means used by the ICRC to urge States not themselves involved in a conflict to meet their obligation to “ensure respect” for the law of Geneva.

An article by *Françoise Hampson* opens Part II with a subtle analysis of the fact-finding process in conflicts. After reviewing the different forms that this procedure can take and the characteristics of each, she looks at the International Fact-Finding Commission which was recently set up under Article 90 of Additional Protocol I. While she welcomes the Commission’s establishment, this author expresses doubt as to its effectiveness, which depends too heavily on the willingness of States to cooperate.

The next article is by *David P. Forsythe*, who turns the discerning gaze of a political scientist on the ICRC and formulates some criticisms. In particular, he takes the institution to task for distancing itself from the human rights movement, saying that the ICRC could have taken advantage of the sharp rise in interest in human rights, especially since the 1970s, to boost its own activities. Forsythe also points out several dilemmas facing the ICRC as it attempts to bring protection and assistance to the victims of war.

Part III of *Effecting compliance* is devoted to weaponry. *Louise Doswald-Beck* explains why interpretation and implementation of the treaties that regulate the use of certain weapons have proved so difficult although the texts themselves are basically very straightforward. This problem is also dealt with by *H. McCoubrey*, who focuses his attention on bacteriological and chemical weapons.

The second Gulf war highlighted the urgent need for renewed efforts to improve protection for the environment during periods of armed conflict. *Dieter Fleck* opens Part IV with this observation, and goes on to examine the protection for the environment afforded by existing humanitarian law and possibilities for future developments. He ends by pointing out that it would be too simple a solution just to negotiate a new convention; there is an even greater need to improve compliance with existing agreements.

*G. Plant* contributes the second article on environmental matters. This deals not so much with pollution employed as a means of warfare as with the environmental damage resulting from hostilities. This author considers existing law to be inadequate and calls for it to be revised rather than being reaffirmed in a bid to improve compliance.

Part V contains two studies on different practical aspects of implementing humanitarian law. The first, written jointly by *J.B.R.L. Langdon*, *A.P.V. Rogers* and *C.J. Eadie*, covers the provisions of 1977 Protocol I governing the use of ground, sea and air transport.

The second, by *L.C. Green*, looks at the situation of those accused of committing grave breaches of humanitarian law and asks to what extent they can exculpate themselves by claiming that they were simply following orders. As the Geneva Conventions and their Additional Protocols have nothing to say on this subject, the author attempts to piece together an answer from customary law.

Part VI, finally, takes stock of national measures for the implementation of humanitarian law. *Peter J. Rowe* and *Christopher Greenwood* both contribute articles dealing specifically with British practice in this area.

*Effecting compliance* is the latest contribution to the search for better ways of ensuring implementation of humanitarian law. It pinpoints the obstacles to full compliance with the law and suggests a number of ways of overcoming them. But it should not be forgotten that this is a collective work which, although its contents are presented in a systematic fashion, suffers from the lack of consistency inevitable in any such volume. It should not therefore be regarded as an exhaustive study of the problems of implementing humanitarian law.

*Sylvain Vité*

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## BOOK REVIEWS

- **Ian McAllister**, *Projects for Relief and Development — Some Red Cross and Red Crescent Dimensions*, Henry Dunant Institute, Geneva, 1991 (Development Studies), 40 pp. (Also available in *French* and *Spanish*).

In *Projects for Relief and Development — Some Red Cross and Red Crescent Dimensions*, Professor Ian McAllister, Senior Development Adviser of the International Federation of Red Cross and Red Crescent Societies from July 1989 to July 1991, describes in detail each of the main phases of a Red Cross or Red Crescent development project. Special consideration is given to the humanitarian dimension.

Throughout this booklet, which above all is realistic and practical, the author places particular emphasis on the essential questions which must be asked when initiating and implementing a development project and on the criteria to be complied with in order to ensure that each project is “a powerful messenger of Red Cross/Red Crescent humanitarian principles”.

Divided into five main parts (project identification; project preparation; project negotiations and financing; project execution; evaluation and follow-up), this work is intended for the National Societies and for delegates of the Federation and the ICRC who are working on a development programme within a Red Cross or Red Crescent Society. This clearly and concisely written booklet can serve as a reference tool at any stage of a development project.

McAllister supports his statements with numerous examples and brief commentaries on the procedures and the diverse possible approaches; he particularly emphasises the two basic principles which must be observed when planning a development programme: clearness and coherence.

The author then lists and analyses the main guidelines for various development programmes set up within the Movement or by other development agencies (World Bank, FINNIDA, etc.).

Professor McAllister's monograph, with its down-to-earth approach, its many specific examples and its extensive, annotated bibliography, is a very useful addition to the handbooks on National Society development. It gives practical answers to questions which are bound to arise for National Societies and ICRC or Federation delegates engaged in the identification and execution of a Red Cross or Red Crescent project.

*Jacqueline Hugentobler*

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- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
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- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SEYCHELLES — Seychelles Red Cross Society, P.O.B. 52, *Mahé*.
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- 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*.
- TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY — The Turkish Red Crescent Society, Genel Baskanligi, Karanfil Sokak No. 7, 06650 *Kizilay-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.1X. 7EJ*.
- UNITED STATES OF AMERICA — American Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- 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-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN (Republic of) — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a*.
- 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 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

COMING OUT SOON

**Jean de Preux**  
**INTERNATIONAL HUMANITARIAN LAW**  
*SYNOPSIS*

From 1985 to 1989, the *International Review of the Red Cross* published nine legal synopses devoted to various aspects of international humanitarian law. The author, Jean de Preux, a former legal expert at the ICRC, adopted a didactic approach in dealing with major topics concerning humanitarian law (e.g. combatant and prisoner-of-war status) and in guiding the reader by highlighting key words and expressions relating to each of the topics (e.g. combatants: status, respect for the law of armed conflict, loss of status, general condition that combatants must be distinguishable, scope of the rule that combatants must be distinguishable, etc.). The texts were designed to facilitate the teaching of humanitarian law to both the initiated and the layman, whatever their background or occupation.

The nine legal synopses were received very enthusiastically by disseminators of international humanitarian law in the National Red Cross and Red Crescent Societies and by academic circles. This has encouraged the *Review* to publish the collected texts in the form of a handy and readily accessible booklet, which should be of great service to both teachers and students, and indeed to any reader interested in the subject.

The synopses deal with the following topics:

*Protecting Power*  
*Protection of civilian populations*  
*against the effects of hostilities*  
*Special protection of*  
*women and children*  
*Identification*  
*Capture*  
*Relief*  
*Combatant and prisoner-of-war status*  
*Conventions and Neutral Powers*  
*Respect for the human being*  
*in the Geneva Conventions*

This book will be published in *English, French and Spanish*.  
Price: 8 Swiss francs.

Orders should be sent to the ICRC, Public Information Division.

## THE PAUL REUTER PRIZE

The Paul Reuter Fund was created in 1983 thanks to a donation made to the ICRC by the late Paul Reuter, Honorary Professor of the University of Paris and member of the Institute of International Law. Its purpose is twofold: its income is used to encourage a work or an undertaking in the field of international humanitarian law and its dissemination, and to finance the Paul Reuter Prize.

The prize, in the amount of 2,000 Swiss francs, is awarded for a major work in the field of international humanitarian law. The prize has previously been awarded three times: it was first awarded in 1985 to *Mr. Mohamed El Kouhène*, Doctor of Laws, for his doctoral thesis entitled "Les garanties fondamentales de la personne en droit humanitaire et droits de l'homme" (Fundamental guarantees of the individual under humanitarian law and in human rights). The second award was made in 1988 to *Ms. Heather A. Wilson*, Doctor of Laws, for her thesis entitled "International Law and the Use of Force by National Liberation Movements". In an exceptional decision, there were two recipients when it was awarded for the third time in 1991: *Mr. Edward K. Kwakwa*, Doctor of Laws, received the prize for his thesis entitled "Trends in the International Law of Armed Conflict: Claims relating to Personal and Material Fields of Application", and *Mr. Alejandro Valencia Villa*, a lawyer, received the prize for his book entitled "La humanización de la guerra: la aplicación del derecho internacional humanitario al conflicto armado en Colombia".

The prize will be awarded for the fourth time in **1994**. In accordance with the Regulations of the Paul Reuter Prize, to be considered for the award applicants must fulfil the following conditions:

1. The works admitted must be aimed at improving knowledge or understanding of international humanitarian law.
2. It must either be still unpublished or have been published recently, in 1989 or 1990.
3. Authors who meet the above requirements may send their applications to *Mr. Paolo Bernasconi, Chairman of the Commission of the Paul Reuter Fund, International Committee of the Red Cross*, 19, Avenue de la Paix, CH-1202 Geneva, as soon as possible and by **15 November 1993** at the latest.
4. Applications may be submitted in English, French or Spanish, and must include:
  - a brief curriculum vitae;
  - a list of the applicant's publications;
  - three unabridged copies of the works admitted to the Commission.

COMING OUT SOON

HANS HAUG

In cooperation with  
Hans-Peter Gasser, Françoise Perret  
and Jean-Pierre Robert-Tissot

**HUMANITY FOR ALL**

**The International Red Cross  
and Red Crescent Movement**

With forewords by  
*Cornelio Sommaruga* and  
*Mario Villarroel Lander*

The forthcoming book sets out to give an accurate and suitably documented account of the International Red Cross and Red Crescent Movement. Unlike most of the works already published on the subject, which are mainly devoted to specific aspects of the Movement, the intention here is to present it in its entirety. The instruments of international humanitarian law, initiated and promoted by the ICRC, are also extensively discussed.

The author, *Hans Haug*, was a professor of public law, in particular public international law, at the St. Gallen University for Economics, Law and Social Sciences between 1967 and 1986, President of the Swiss Red Cross and Vice-President of the International Federation of Red Cross and Red Crescent Societies between 1968 and 1982 and a member of the International Committee of the Red Cross between 1983 and 1991. He begins by examining the various components of the Movement (the International Committee of the Red Cross, the National Red Cross and Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies), the seven Fundamental Principles of the International Red Cross and Red Crescent Movement, and international humanitarian law. Other subjects covered are the Red Cross and Red Crescent as a factor of peace, the cooperation of the components of the Movement with other national and international organizations, and the Red Cross and Red Crescent Movement and human rights.

This book is published by the Henry Dunant Institute, Geneva, and Paul Haupt Publishers, Bern/Stuttgart/Vienna. It appeared in *German* in 1991 and in *French* in 1992 (see review by Anton Schlögel in *IRRC*, No. 287, March-April 1992, pp. 202-205).

Orders should be sent to the Henry Dunant Institute, 114 rue de Lausanne, CH-1202 Geneva, Switzerland (price: 48 Swiss francs).

The *International Review of the Red Cross* is the official publication of the International Committee of the Red Cross. It was first published in 1869 under the title "Bulletin international des Sociétés de secours aux militaires blessés", and then "Bulletin international des Sociétés de la Croix-Rouge".

The *International Review of the Red Cross* is a forum for reflection and comment and serves as a reference work on the mission and guiding principles of the International Red Cross and Red Crescent Movement. It is also a specialized journal in the field of international humanitarian law and other aspects of humanitarian endeavour.

As a chronicle of the international activities of the Movement and a record of events, the *International Review of the Red Cross* is a constant source of information and maintains a link between the components of the International Red Cross and Red Crescent Movement.

The *International Review of the Red Cross* is published every two months, in four main editions:

French: REVUE INTERNATIONALE DE LA CROIX-ROUGE (since October 1869)

English: INTERNATIONAL REVIEW OF THE RED CROSS (since April 1961)

Spanish: REVISTA INTERNACIONAL DE LA CRUZ ROJA (since January 1976)

Arabic: المجلة الدولية للصليب الأحمر  
(since May-June 1988)

Selected articles from the main editions have also been published in German under the title *Auszüge* since January 1950.

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The *International Committee of the Red Cross (ICRC)* and the *International Federation of Red Cross and Red Crescent Societies*, together with the *National Red Cross and Red Crescent Societies*, form the International Red Cross and Red Crescent Movement.

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

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**INTERNATIONAL  
REVIEW**

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**Action taken by the ICRC  
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*Humanitarian standards  
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**Applicability of international  
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