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# CONTENTS

## INTERNATIONAL REVIEW OF THE RED CROSS

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SEPTEMBER-OCTOBER 1986 — No. 254

### INTERNATIONAL COMMITTEE OF THE RED CROSS

- Vangah Francis Wodie:** Africa and Humanitarian Law . . . . . 249  
**Jean de Preux:** Synopsis VI: Relief . . . . . 268
- 

- Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 . . . . . 279  
Recognition of the Guinea-Bissau Red Cross . . . . . 280  
Recognition of the Red Crescent Society of the United Arab Emirates . . . . . 282

#### *External activities:*

- Africa — Latin America — Asia — Middle East . . . . . 284
- 

### IN THE RED CROSS WORLD

- Dissemination activities — Summer 1986 . . . . . 291  
Mexico one year after the earthquake . . . . . 294
- 

### MISCELLANEOUS

- Resolution of the Organization of African Unity relating to the ICRC . . . . . 296  
Eighth Conference of Heads of State or Government of non-aligned countries . . . . . 298  
International Congress on "Peace and Humanitarian actions" . . . . . 298
- 

### BOOKS AND REVIEWS

- International Law in the service of man — Studies and essays in honour of Hans Haug . . . . . 302  
Charity-business (Bernard Kouchner) . . . . . 303  
Humanitarian Law and Internal conflicts (Rosemary Abi-Saab) . . . . . 306  
Refugee movements . . . . . 309  
The 1985 Yearbook of the International Institute of Humanitarian Law . . . . . 311  
News and Reviews . . . . . 312

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## Africa and Humanitarian Law \*

by Vangah Francis Wodie

*The International Review of the Red Cross is pleased to publish this essay by Professor Vangah Francis Wodie on the perception of humanitarian law by African states, and their contribution to this law's development in view of the problems confronting them. The essay reflects the personal views of the author, who gives special attention to the legal and humanitarian problems facing many states as a result of the influx of refugees and the use of mercenaries in some conflicts.*

*His analysis and conclusions confirm the validity of the resolution adopted in July 1986 by the Council of Ministers of the Organization of African Unity which stressed the desire of African heads of state and government to promote respect for the universally recognized rules of humanitarian law and humanitarian principles, and urged OUA member states to aid the ICRC in its work (see p. 296) (Ed.).*

Before exploring the place accorded by Africa to international humanitarian law and what concerns it in this field, it is appropriate to define what is covered by this law. Traditional Africa was not unaware of humanitarian law, defined as an aggregate of rules to govern the conduct of hostilities and protect its victims. In a study devoted to the subject, "Humanitarian Law and Traditional African Law",<sup>1</sup> Yolande Diallo describes a number of principles

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\* Report presented to the Inaugural Conference of the African Association of International Law, Lusaka, 2 to 5 April 1986.

<sup>1</sup> Yolande Diallo, "Humanitarian Law and Traditional African Law", *International Review of the Red Cross (IRRC)* No. 179, February 1976, pp. 57-63, cited by J. Owona, *Le Droit International Humanitaire, Encyclopédie juridique de l'Afrique*, Les Nouvelles Editions Africaines, Abidjan/Dakar/Lomé, 1982; vol. II, ch. XVI, p. 384.

and humanitarian rules for the conduct of war and the treatment of victims. Africa however, destructured and integrated into the colonial system, lost the autonomy of its own law. Having returned to or achieved independence in international life, a majority of African states succeeded or acceded without reservations to the four Geneva Conventions on humanitarian law as conceived on the European model. This law consists of “all the international legal provisions, whether of statute or customary law, ensuring respect for the individual and his well-being.” This definition by Professor Jean Pictet<sup>2</sup> expands the domain of humanitarian law, which is explained by the author as follows: “Humanitarian law now comprises two branches: the law of war and human rights.” The law of war is also divided into two branches: the law of The Hague, or law of war proper, specifying the rights and duties of the belligerents in the conduct of operations and limiting the choice of means, and the Law of Geneva or humanitarian law proper which seeks to protect soldiers who are *hors de combat* and persons not taking part in hostilities—civilian populations. It is in this sense, as an expression of human rights in times of armed conflict, that humanitarian law should be understood and the role of Africa determined.

The law of war or the Law of The Hague, dating from 1907, and humanitarian law, as defined by the four Geneva Conventions of 12 August 1949, were both evolved by European states while Africa was still divided, for the most part, into colonial territories. Hence, their rules were not subject to African influence. Africa, in its fight for decolonization and independence, derived practically no benefit from the provisions of humanitarian law—not even Article 3 common to the four Geneva Conventions of 1949, which the colonial powers brushed aside, regarding wars of liberation, at least in their early stages, as internal matters completely subject to the sovereignty of the State. Portugal offered the best example of this, stating: “As there is no actual definition of what is meant by a conflict not of an international character... Portugal reserves the right not to apply the provisions of Article 3, in so far as they may

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<sup>2</sup> J. Pictet, *Humanitarian Law and the Protection of War Victims*, A.W. Sijthoff, Leiden, Henry Dunant Institute, Geneva, 1975, p. 13 cited by J. Owona, *le Droit International Humanitaire, Encyclopédie juridique de l’Afrique, op. cit.*, p. 381 and Philippe Bretton, “Remarques générales sur les travaux de la Conférence de Genève sur la réaffirmation et le développement du droit humanitaire applicable dans les conflits armés”, *Annuaire français de droit international (AFDI)*, Paris, 1977, pp. 197 et s.

be contrary to the provisions of Portuguese law in all territories subject to her sovereignty in any part of the world.”<sup>3</sup>

In addition to the external causes which reduced the significance and hence the function of humanitarian law in Africa, there were other causes resulting from the internal structure of the states which limited the range of application of this law. Generalization of the one-party system, growth of personal political power and fake elections closed the way to democratic alternatives and favoured *coups d'Etat* and civil wars in Africa. Neither the leaders of the *coups d'Etat* nor the leaders of governments threatened by civil wars were at all eager to apply the humanitarian law of Geneva as expressed in Article 3. This was the case for example in the Biafra war.<sup>4</sup> The delegate from Zaire to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law expressed this view in commenting on the draft of Protocol II: “Several provisions of this Protocol (Protocol II) encroach upon the internal laws of States and thus dangerously compromise the sovereignty and territorial authority of these States on matters which, in conformity with Article 2 paragraph 7 of the Charter of the United Nations, are within their domestic jurisdiction. The mistake was to place on an equal footing a sovereign state and a group of its insurgent nationals, a legal government and a group of outlaws, a subject of international law and a subject of domestic law.”<sup>5</sup>

There is certainly no doubt that some of these provisions of humanitarian law would impose limits on the unbridled sovereignty of various African states—and there is also no doubt that it can constitute a powerful adjunct to decolonization, the equality of people and the sovereignty of states.

Africa has been and still is the continent of predilection for colonization and race discrimination. The Organization of African Unity (OAU), to help in its fight against the inequality of peoples and of individuals, has characterized the kind of race discrimination that has been raised to the level of a governmental institution by South Africa as a form of colonization and colonialism. In

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<sup>3</sup> Claude Pilloud, “Reservations to the Geneva Conventions of 1949,” *IRRC*, March 1976, No. 180, p. 116, cited by Owona, *op. cit.*, p. 381.

<sup>4</sup> See V.F. Wodie, “La sécession du Biafra et le droit international”, *Revue générale de droit international public (RGDIP)*, Paris, 1969, No. 4.

<sup>5</sup> Michael Bothe, “Conflits armés internes et droit international humanitaire”, *RGDIP*, 1978, No. 1, pp. 82 et s.

parallel with its struggles for national liberation and self determination, from 1960 to 1970, Africa suffered from a reinfestation by colonialist mercenaries, recruited mainly in Europe, the United States and from the white populations of South Africa and "Southern Rhodesia." They attacked various African states, in particular Angola, Mozambique, Nigeria, Zaire, Guinea and Benin, constituting a serious danger to the stability and sovereignty of these states. The mercenaries lit or relit the fires of conflict and tension wherever they went. This fight, like the original fight for decolonization, brought Africa into conflict with countries abroad. Classic humanitarian law, embodied mainly in the four Geneva Conventions of 1949, could not deal with nor satisfy the new demands arising under these conditions. This situation led to the convocation of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law, which opened in Geneva on 20 February 1974 and ended on 10 June 1977 with the adoption of the two Additional Protocols. "Two concepts of the development of humanitarian law came face to face. The traditional one offered a programme of articles and amendments which would fill in gaps and bring up to date the material rules of the Conventions, without disturbing their general pattern. The other concept called for a new humanitarian law which, by emphasizing the predominant political realities of the time, arising from situations of decolonization and inequality of development, would bring about a profound transformation of the existing law, which should cease to be a European law, made for Europeans."<sup>6</sup> Accordingly, having already devoted itself to the development of a regional humanitarian law adapted to its concerns and needs, Africa, together with other third world states,<sup>7</sup> intended to make a substantial contribution to the reaffirmation and development of universal humanitarian law.

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<sup>6</sup> Paul de la Pradelle, "Le droit humanitaire des conflits armés", *RGDIP*, 1978, No. 1, pp. 9 ff.

<sup>7</sup> With the assistance and support of the socialist states.

## I. THE CONTRIBUTION OF AFRICA TO REGIONAL HUMANITARIAN LAW

In this domain, Africa determined to devote its efforts to two subjects of great importance—one of internal origin, the problem of refugees, and the other of external origin, that of mercenaries.

### A. THE PROTECTION OF REFUGEES AND THE OAU CONVENTION OF 1969

More than half of the refugees in the world today—about five million—are of African origin, confirming the statement by Owona that Africa in the year 1970 appeared to be the continent for refugees “par excellence.” The increase in the number of refugees in Africa has resulted from various factors: wars for self-determination, especially in territories where several liberation movements coexist and confront one another; inter-state and inter-ethnic conflicts; social discrimination and repression of political adversaries under one-party systems and military regimes in which people are deprived of legal means of expression. Although some states may take steps individually, the most appropriate solution is through regional co-operation. Accordingly, the OAU has given the question of refugees a high place among its concerns since 1969, adopting a Convention on the subject which entered into effect on 20 June 1974 after receiving the required minimum of 11 ratifications. The Convention defines refugees, establishes their status and provides for inter-African regional co-operation.

#### 1. The status of refugees

Article 1, paragraph 1 of the OAU Convention defines the refugee as follows: “For the purpose of this Convention, the term “refugee” shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.”

Under this Convention, a refugee is a person who, for external reasons or because of his own feelings, is outside of his state of nationality or usual residence. Two criteria are thus used, teleological and territorial. The definition is also enlarged to designate as a refugee: "Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

This clause takes into account the consequences or effects of wars of liberation or self determination. If he fulfils the conditions referred to above, the refugee may benefit from asylum in any one of the states party to the Convention. The state granting asylum is the only authority qualified to evaluate the conditions and determine the modalities. No precise obligations are imposed on the states in this domain and a state may grant or refuse asylum to a refugee on its territory.<sup>8</sup> It is forbidden however to close its frontiers against refugees or force them back to their countries of origin (state of nationality or usual residence) or to a territory where their "physical integrity or liberty would be threatened". No state can refuse this minimum humanitarian treatment.

When it welcomes refugees, a state must do its best, as specified in Article II, paragraph 1, "to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality".

In Article IV, the OAU Convention obliges its Member states to give their protection to refugees "without discrimination as to race, religion, nationality, membership of a particular social group or political opinions". For reasons of security, refugees should be settled at a reasonable distance from the frontier of their country of origin. As beneficiaries of the humanitarian treatment provided for in the Convention, refugees have certain obligations. They must, like all residents, submit to the authority of the state, respect its laws and regulations and abstain from any conduct tending to disturb public order. They must also refrain from any political

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<sup>8</sup> See on this point Georges Abi-Saab, "Quelques concepts juridiques techniques concernant l'admission et l'expulsion de réfugiés en portant attention particulière à l'Afrique", *Pan-African Conference on the situation of refugees in Africa, Meeting of experts on legal issues, Arusha, 7-11 May 1979*, UNHCR, Geneva, 1984.

involvement and any subversive or hostile activities against the country of asylum or any state Member of the OAU. This obligation, referring only to members of the OAU, cannot be construed as an obstacle to exercise the right of self-determination which, in the opinion of the OAU, is always directed against non-African states.

The benefit of the status of refugee, as outlined above, can be refused to any persons who, in the opinion of the host state, have been guilty of crimes against peace, war crimes or crimes against humanity, serious common law crimes or activities contrary to the purposes and principles of the Organization of African Unity or of the United Nations. Refugees also lose the benefit of this status if they seriously infringe the purposes and objectives of the Convention, thus placing themselves outside of its protection. The Convention provides for regional co-operation among the Member states to put this humanitarian treatment into effect.

## **2. Regional co-operation for the protection of refugees**

Refugees come from some African countries to seek asylum in other African countries. Article II, paragraph 2, of the Convention specifies that: "The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member state."

This provision tends to create a favorable atmosphere for regional co-operation, provided for in Article II, paragraph 4: "Where a Member state finds difficulty in continuing to grant asylum to refugees, such Member state may appeal directly to other Member states and through the OAU, and such other Member states shall in the spirit of African solidarity and international co-operation take appropriate measures to lighten the burden of the Member state granting asylum."

The African states are underdeveloped countries, facing poverty and famine. Their capacity for the reception of refugees is limited in economic and financial terms. The burden imposed by a massive presence of refugees on its territory may be unbearable for the state granting asylum. Regional co-operation can be a means of easing the burden by sharing it. Member states receiving refugees are called upon to provide them with travel documents enabling them to travel freely from one country to another and when appropriate to move to another country.

The Member states are also asked to supply the Director General of the OAU with information on the condition of refugees, the way in which the Convention is implemented and other appropriate data, to permit effective co-ordination of the action of all the states concerned. For this purpose, the OAU created the Bureau for the employment and education of African refugees by a resolution of its Council of Ministers in June 1971. Commissions, committees and national correspondents in various countries assist the Bureau in its work. Owona notes that already in 1970 there were national correspondents in Cameroon, the Central African Republic, Chad, Zaire, Congo, Gabon, Mauritania, Niger, Senegal and Burkina Faso.

The regional co-operation thus organized is opened up to the rest of the world by the collaboration established between the OAU and the UN, through a specialized agency, the United Nations High Commissioner for Refugees.<sup>9</sup>

The situation of refugees must be regarded as temporary and there must be a constant concern with establishing or re-establishing them in normal conditions. Accordingly, the Convention provides for the voluntary repatriation of refugees, while stating that no refugee may be repatriated against his will. The country of origin in receiving refugees back must facilitate their resettlement and grant them the full rights of nationals, with the same rights and obligations.

When the status of refugee comes to an end, the Convention ceases to apply, just as in the case of a refugee who regains his own nationality or acquires a new nationality. In both circumstances, he ceases to have the status of refugee and becomes—or becomes again—a national or citizen in the full sense of the term.

In addition to valorizing and protecting the status of refugees in the Convention of 1969, the OAU organized the fight against mercenarism in its Convention of 1977.

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<sup>9</sup> The reader will find useful information in the following documents:

- Seminar on the situation of refugees in West Africa, Dakar, Senegal, 13-17 June 1983, UNHCR, Geneva, 1983.
- Final report of the seminar on the problems of refugees in Zaire, Kinshasa, 19-25 April 1982, UNHCR, Geneva, 1982.
- Jaeger, G., "Determination of Refugee Status under International Instruments", in *African Refugees and the Law*, ed. by G. Melander, P. Nobel, The Scandinavian Institute of African Studies, Uppsala, 1978.
- Seminar on the situation of refugees in Central Africa, Yaoundé, Cameroon, 18-22 February 1985, UNHCR, Geneva, 1985.
- Recommendations of the Pan-African Conference on the situation of refugees in Africa, Arusha, 7-17 May 1979, UNHCR, Geneva, 1984.

## B. THE STRUGGLE AGAINST MERCENARISM AND THE OAU CONVENTION OF 1977

The practice of mercenarism goes back to antiquity and has afflicted us in Africa since the Middle Ages. Europe still has occasion to remember the infamous Italian condottieri. In the twentieth century, Africa suffered an intensification of this curse due to the intensification of struggles against colonialism and racism.

The United Nations has constantly had to deal with the question of mercenarism and has devoted numerous specific or general resolutions to it. For example, in connection with the Congo conflict and the secession of Katanga, the Security Council adopted resolutions 161A and 169 on 21 February 1961 and 24 November 1961 respectively.<sup>10</sup>

Mercenarism and resort to its use are regarded as illegal activities in view of the threat they constitute to the stability, sovereignty and independence of states and because they may constitute obstacles to the struggle against colonialism and racism, which in our time appear more and more to assume the form of state institutions and constitute crimes against humanity. Security Council resolution 405 of 14 April 1977 adopted by consensus, condemns all forms of outside interference in the internal affairs of member states, including the use of international mercenaries to destabilize the states or to violate their territorial integrity, sovereignty and independence.<sup>11</sup> While Africa contributed to the development and adoption of these international instruments as it also did with respect to the two Additional Protocols to the Geneva Conventions, it was natural for her to take her own particular measures directed to the elimination of this curse of which she had been a principal victim from 1960 to

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<sup>10</sup> Resolution 289 of 23 November 1970 was devoted to the invasion of Guinea by Portuguese mercenaries. Earlier, resolution 2465 (XXIII) of 20 December 1968, proposed by the USSR to give effect to the declaration concerning the granting of independence to colonial countries and peoples, condemned mercenarism directed against Movements of National Liberation and independence of peoples as a criminal act, and defined mercenaries themselves as criminals. Likewise the declaration concerning the principles of international law affecting friendly relations and co-operation between states (resolution 2625 (XXV) of 24 October 1970 made it obligatory for states to abstain from encouraging mercenarism in their mutual relations. The same concerns were repeated in resolution 3314 (XXIX) of 24 December 1974 defining aggression.

Concerning these points see J. Tercinet, "Les mercenaires et le droit international", *AFDI*, Paris, 1977, pp. 269 ff.

<sup>11</sup> J. Tercinet, *op. cit.*, p. 278.

1974. Accordingly, a number of resolutions and national actions were taken and the OAU Convention on the elimination of mercenarism was adopted at Libreville in 1977.<sup>12</sup>

After defining the term “mercenary”, the Convention proceeds to provide means for prevention and repression of mercenarism.

### 1. The prevention of mercenarism

Mercenarism is considered to be an offence which must be prevented. To succeed in this effort it is essential to know what categories of individuals are guilty of this offence. Under the terms of Article 1, paragraph 1 of the Convention, a mercenary is any person who:

- a) is specially recruited locally or abroad in order to fight in an armed conflict;
- b) does in fact take a direct part in the hostilities;
- c) is motivated to take part in the hostilities essentially by the desire for private gain and in fact is promised by or on behalf of a party to the conflict material compensation;
- d) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;
- e) is not a member of the armed forces of a party to the conflict; and
- f) is not sent by a state other than a party to the conflict on official mission as a member of the armed forces of the said state.

This definition emphasizes the alien nature of mercenarism because the mercenary escapes both from the sovereignty and the usual control exercised by states in conflict with one another. It is specified that he is one who acts for reasons of private gain and

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<sup>12</sup> Examples are provided by the resolution of 10 September 1967 of the OAU Council of Ministers, the resolution of 14 September 1967 of the Conference of Heads of State, the resolutions of the Special Commission on the problem of mercenaries of 12 November 1967 and the Council of Ministers of 12 December 1970, condemning the practice of mercenarism and the invasion of Guinea by mercenaries which was regarded as an aggression. At the Conference of OAU Heads of State in September 1967 in Zaire, a resolution was passed asking the states to treat mercenarism as a crime. In national terms, Angola, Guinea and Benin played decisive roles. The trial of mercenaries in Luanda in 1976, characterized by Owona as the “Nuremburg of mercenaries” contributed directly to a growing consciousness of the evil and to the adoption of the OAU Convention on the elimination of mercenarism in 1977.

personal motives without political or ideological considerations. The mercenary is thus distinguished sharply from the international volunteer who “disregarding the danger to which he exposes himself comes to the assistance of a people engaged in a struggle for its liberty and independence because his own moral position is in harmony with the just cause for which this people is fighting.”<sup>13</sup>

The contracting states are obliged to take all necessary measures to eradicate mercenary activities in Africa by preventing their nationals or foreigners on their territories from engaging in such activities, preventing entry into or passage through their territories of mercenaries or any equipment intended for their use, prohibiting on their territory any activities by persons organizing or using mercenaries against member states of the OAU or the peoples of Africa, forbidding on their territories the recruitment, training, financing or equipping of mercenaries and any other form of activity likely to promote mercenarism.

In order to co-ordinate and strengthen the fighting against mercenarism by preventing it, the states must co-operate with one another by communicating either directly or through the OAU secretariat all necessary information concerning the activities and movements of mercenaries.

They are required to provide mutual assistance in investigations aimed to repress mercenarism, which is defined as an international crime.

## **2. The repression of mercenarism as an international crime**

Article 1, paragraph 2 of the Libreville Convention states that mercenarism is “a crime against peace and security in Africa and shall be punished as such”. The same article notes that the crime of mercenarism may be committed by an “individual, a group, an association, a representative of a state or by the state itself who, with the aim of opposing by armed violence a process of self-determination, stability or the territorial integrity of another state, practises any of the following acts:

a) shelters, organizes, finances, assists, equips, trains, promotes, supports or in any manner employs bands of mercenaries;

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<sup>13</sup> P. Laugier, “Les volontaires internationaux”, *RGDIP*, Paris, 1976, pp. 75-116, cited by J. Owona, *op. cit.*, p. 394.

- b) enlists, enrolls or tries to enrol in the said bands;
- c) allows the activities mentioned in par. a) to be carried out in any territory under its jurisdiction or in any place under its control or affords facilities for transit, transport or other operation of the above-mentioned forces".<sup>14</sup>

The crime of mercenarism may be committed against an already existing state, against its stability or territorial integrity, or the crime may be committed against a people struggling for its independence and moving toward the establishment of a state. The crime of mercenarism may also be committed by a state which violates its obligations with respect to the prevention of mercenarism. The fact of assuming command over or giving orders to mercenaries is considered as an aggravating circumstance, under the provisions of Article 2.

Being thus defined, the crime of mercenarism is punishable in each state by its heaviest penalties, including the death sentence. The crime of mercenarism is a crime against peace and the security of Africa, and the state which is a victim of mercenarism is authorized to bring its case before the appropriate OAU bodies for the settlement of conflicts. We can begin to see the emergence of a kind of regional *jus cogens*, as mercenarism constitutes a grave attack on human rights and the rights of peoples.

The crime of mercenarism must not in any way be regarded as a political offence. Since he is defined as a *common law* criminal, a mercenary cannot benefit from the preferential treatment which protects the perpetrators of certain acts from extradition. The state must act and punish, otherwise it must extradite the criminal. A state which has the responsibility for suppression in a given case must inform the other member states of the OAU of the measures it has been able to take in this domain. A mercenary engaged in conflicts cannot in any way benefit from the status of combatant, and if he falls into the power of the adversary the mercenary cannot be given the treatment accorded to a prisoner of war.

These provisions bring about so complete a degradation of the status of the mercenary that he can no longer even benefit, as Owona comments, from the diplomatic protection of his own state of origin or nationality, since he has in a sense been put "out of court" because of the requirement that one enters a court with "clean hands".

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<sup>14</sup> Cited by Owona, *op. cit.*, p. 394.

Being unable to commit the responsibility of a state in terms of diplomatic protection, the mercenary is compelled to face the fact of his personal responsibility for the crime he has committed and for other offences related to that crime. As the participants at Geneva in the Diplomatic Conference on Humanitarian Law, the African States sought to integrate their regional concerns into the provisions of the two Additional Protocols which emerged from the Conference.

## **II. THE CONTRIBUTION OF AFRICA TO THE RENEWAL OF UNIVERSAL HUMANITARIAN LAW**

Africa brought a significant contribution to the Geneva Diplomatic Conference on The Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. Participants included not only the representatives of states but also of liberation movements, a large number of which have their headquarters in Africa. On the proposal of Cuba, supported by third-world states including the African states, national liberation movements were admitted to participation in the Conference on two conditions: first of all they had to be recognized by an international regional organization and in the case of Africa this meant the OAU; in the second place they had to have been invited by the Conference. Their status was superior to that of observers since these movements cannot only take part in the discussions but, as separate entities, could also sign the final Act of the Conference. They were excluded only from participation in voting.

In their advance toward the self determination of their peoples, a number of national liberation movements achieved independence before the end of the Conference (Angola, Mozambique, etc.). Guinea-Bissau occupied an intermediate position. Having been recognized by about forty socialist and third-world states following her unilateral proclamation of independence, it was admitted to the Conference by consensus. Portugal, a previous colonial power, limited itself to the expression of reservations without opposing the participation of this state, to which the Conference attributed one of its vice-presidencies.

Africa, in co-operation with other third-world states and those of the socialist group, was able to incorporate some of its concerns

in the drafting of the provisions of both protocols. For example, Article 85 paragraph 4 (c) of Protocol I defined as a grave breach, practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination. One author<sup>15</sup> had good reason to declare that the most important innovative provisions of the texts adopted in June 1977 in Geneva could be regarded as a consecration and legitimization of the demands of the third world, supported by the socialist states. Two points deserve particular attention: recognition of wars of national liberation as international armed conflicts and the debasement of the status of mercenaries.

#### A — RECOGNITION OF WARS OF NATIONAL LIBERATION AS INTERNATIONAL ARMED CONFLICTS

The four Geneva Conventions of 12 August 1949 made a clear distinction between international conflicts with states taking part and internal conflicts which did not have this characteristic. Internal conflicts could benefit from the provisions of Article 3 common to the four Conventions. The western states at the Geneva Conference of 1974 resisted in vain the recognition of wars of national liberation as international conflicts, basing themselves on the confusion between *jus in bello* and *jus ad bellum* and on the need to make a distinction between international conflicts in the sense of war between states and those conflicts which were of another character. The decision to establish wars of liberation as international armed conflicts was adopted by 70 votes in favour, with 17 abstentions and 21 votes against. It is appropriate to consider first the new scope given to international conflicts and then to examine the status which results from this for the combatants.

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<sup>15</sup> Philippe Bretton: "L'incidence des guerres contemporaines sur la réaffirmation et le développement du droit international humanitaire applicable dans les conflits armés internationaux et non internationaux", *Journal de droit international (JDI)*, April-June 1978, No. 2, pp. 208-271.

## 1. The scope of international conflicts

The inclusion of wars of international liberation in the domain of international conflicts considerably reduced the scope of internal conflicts and of Protocol II which was intended to cover the latter. Whereas Protocol I contains 102 articles, Protocol II has only 28, thus being reduced to its simplest possible form, on the proposal of Pakistan, supported by Nigeria.

Protocol I relating to the protection of victims of international armed conflicts, in part I, art. 1, paragraph 4, gives the following definition of international conflicts: "The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations." The concept of international conflict is thus enlarged, going beyond warfare between states to warfare in which a state confronts a movement of national liberation fighting for its self-determination or against external domination or against racism. There remains only a narrow category of non-international armed conflicts, which cannot include mere situations of internal disturbances and tensions such as riots, isolated and sporadic acts of violence and other acts of a similar nature.

Article 1 of Protocol II, which deals with non-international armed conflicts, and which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949, applies to all armed conflicts which are not covered by Article 1 of Protocol I additional to the Geneva Conventions of 12 August 1949 relating to the victims of international armed conflicts. It requires for its applicability that the conflicts in question "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".

This article of Protocol II goes on to specify that it "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". To avoid offering an escape clause to colonial, neo-colonial or racist states, some del-

egations, including Algeria and Mozambique, had proposed to exclude from the field of reservations Article 1 of Protocol II, since a reservation concerning it would be incompatible with the object and the purpose of this convention. The convention is mute on this question.

The fact that international armed conflict should be thus defined does not settle all problems which may arise in the application of this Additional Protocol. Indeed, the question remains open concerning the designation to be assigned to specific conflicts and specification of a competent body to make such a designation. For example, what designation is to be given to the conflicts in the Ogaden, Eritrea and the Western Sahara? In the opinion of the OAU, the question is decided by the fact that colonialism or colonisation implies a relationship of subjugation from abroad which cannot in any sense be the fault of an African state. We must note at the same time that the case of the Western Sahara is a special one, as the conflict originated from the precipitate departure of the colonial power. With respect to South Africa, we must stress that it is not an African state in the terms of the charter and of the practice of the OAU. Accordingly, as long as the other conditions for application are fulfilled, the struggle against apartheid is subject to the application of the provisions described above. The definition of international armed conflict thus provided also serves as the basis for raising the status of "guerrillas".

## **2. Raising the status of guerrillas**

The first question to be decided is that of the definition of the guerrilla. The guerrilla is a combatant who, as such, must be distinguished from those who are not combatants, that is to say the civilian populations. The Protocols make a distinction in the situation of a combatant who actually takes part in hostilities and the civilian populations who do not. At the request of third-world states a special status was recognized for guerrillas, because to subject them in every respect to the traditional status of combatants would be to expose them to extermination. Accordingly, Article 44 paragraph 3, after establishing the obligation of combatants to distinguish themselves from the civilian population so as to give the latter better protection against the effects of hostilities, authorize the guerrilla not so to distinguish himself, but specifies that he must carry his arms openly. This derogation is explained and justified by

the nature of the hostilities in question and the particular situation of the guerrilla, who is recognized as a combatant. The status of combatant imposes obligations on those who benefit from it, in that they are obliged to respect the rules of international law applicable in armed conflicts. Violation of these rules deprives the combatant of the protection otherwise granted him. Violations of these rules do not deprive the guerrilla of the status and rights of a combatant. He benefits in particular from this provision: "Any combatant who falls into the power of an adverse Party while not engaged in an attack or in a military operation preparatory to an attack shall not forfeit his rights to be a combatant and a prisoner of war by virtue of his prior activities."<sup>16</sup> Granting guerrillas the status of combatants is related to the definition of wars of decolonization, the successful outcome of which all states are obliged to support. This definition also debases the status of mercenaries who oppose the normal evolution of these wars.

## B. DEBASEMENT OF THE STATUS OF MERCENARIES

Africa, which organized the combat against mercenarism in the Libreville Convention of 1977, also sought to weaken the status of mercenaries on the worldwide level.

In the opinion of Gaston Bouthoul, a mercenary is one who carries war as a trade seeking to derive the greatest possible benefit for himself at the least personal risk.<sup>17</sup> It is useful to know how Protocol I defines mercenaries in order to know how they are to be treated.

### 1. The definition of mercenaries

Article 47, Protocol I gives the following definition:

A mercenary is any person who:

- is specially recruited locally or abroad in order to fight in an armed conflict;

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<sup>16</sup> Protocol I, art. 44, paragraph 5.

<sup>17</sup> Cited by Philippe Bretton, "L'incidence des guerres contemporaines sur la réaffirmation et le développement du droit international humanitaire applicable dans les conflits armés internationaux et non internationaux," *JDI*, April-June 1978, No. 2, p. 234.

- does, in fact, take a direct part in the hostilities;
- is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
- is neither a national of a Party to the conflict nor a resident of territory controlled by a Party to the conflict;
- is not a member of the armed forces of a Party to the conflict; and
- has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces.

The definition given by this article is too narrow because it requires the combination of all the criteria listed. It thus limits the field for identifying mercenaries and thus limits the scope for suppression which should result from it.

## 2. The treatment of mercenaries

The treatment specified in the Protocol is a compromise between the third world—Africa in particular—and the Western states where mercenaries are recruited and where they find refuge. Article 47, paragraph 1 limits itself to the statement that “A mercenary shall not have the right to be a combatant or a prisoner of war.” Mercenarism is not regarded as a crime against humanity, as it is in Africa for example, and its suppression is not provided for, since the Protocol does not specify either the nature or the extent of the obligations imposed on states in this respect. There is no mention in any paragraph of the duty of states to abstain from recruiting, training, maintaining or placing their territories at the disposal of mercenaries. Mercenaries, according to commentators, benefit from the fundamental guarantees specified in Article 75 of Protocol I. There is no desire whatsoever among the Western States to forbid and seriously punish mercenarism, which they look upon with favour. Mercenarism is not included in the provisions of Article 85 defining grave breaches of humanitarian law.

Mercenaries and guerrillas are polar opposites; whereas the former fight to maintain colonial and racist domination, the latter

fight against such domination. The desire of some African delegates to see the ideological definition of mercenaries adopted was not fulfilled. It is true that this concept was far from being universally accepted within Africa itself. The delegate from Mali urged that only the payment of money be recognized as the motivation for mercenarism, and that it should in no way be identified or be related to any political motivation.

Africa could not obtain the inclusion of all of its claims in the Additional Protocols. Until these desired changes are brought about, it will be able through the provisions of the Libreville Convention to protect itself partially from the weaknesses and deficiencies of Protocol I with respect to the struggle against mercenarism, considered in Africa as an international crime.

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## *Synopsis VI*

### **Relief**

**by J. de Preux**

#### A. GENERAL PRINCIPLES

##### **Right to receive relief**

In case of armed conflict, the following groups are entitled to relief:

- the civilian population of an occupied territory (Fourth Conv., Art. 59; Prot. I, Art. 69);
- the civilian population of a territory under the control of a party to the conflict, other than an occupied territory (Fourth Conv., Art. 23, 38; Prot. I, Art. 70);
- prisoners of war and civilian internees in the territory of a Party to the conflict or in an occupied territory (Third Conv., Art. 72; Fourth Conv., Art. 108).

##### **The character of relief actions**

Relief actions must be humanitarian and impartial in character and conducted without any adverse distinction (Prot. I, Art. 70).

Exceptions may be made in situations where privileged treatment or special protection is justified (Prot. I, Art. 70). Individual relief is authorized (Third Conv., Art. 72; Fourth Conv., Art. 62, 98, 108).

### **Offers of relief**

Offers of relief shall not be regarded as interference in the armed conflict or as unfriendly acts (Prot. I, Art. 70; Third Conv., Art. 72, 75; Fourth Conv., Art. 59, 108, 111).

Such offers may be made by States, the Protecting Power, impartial humanitarian organizations such as the ICRC, relief societies (Prot. I, Art. 81; Third Conv., Art. 72, 75, 125; Fourth Conv., Art. 59, 61, 108, 109, 111, 142).

### **Free passage**

Each Party to the conflict and each Party to the Conventions and to the Protocol shall allow free, rapid and unimpeded passage of all relief consignments and, if necessary, protect them and facilitate their passage and distribution (Prot. I, Art. 70; Second Conv., Art. 38; Third Conv., Art. 72, 75; Fourth Conv., Art. 23, 59, 108, 111).

### **Conditions for free passage**

The granting of free passage may be conditional on verification of the consignment's contents, though this shall in no way impede their prompt distribution (Prot. I, Art. 70; Second Conv., Art. 38; Third Conv. Art. 72, 76; Fourth Conv., Art. 23, 61, 108, 112).

The granting of free passage may also be conditional on the observance of technical regulations concerning, for example, routings, dates, times, system of signals, etc. (Prot. I, Art. 70; Second Conv., Art. 38; Third Conv., Art. 72; Fourth Conv., Art. 23, 59, 108).

Finally, when relief is being sent to the civilian population of an occupied territory or the territory of a Party to the conflict, free passage may be made conditional on the distribution of the assistance being made under the local supervision of a Protecting Power (Prot. I, Art. 70; Fourth Conv., Art. 23, 59).

## **Diversion**

Relief consignments being sent to prisoners of war and civilian internees shall not be diverted from the purpose for which they are intended.

Relief consignments intended for the civilian population of an occupied territory or the territory of a Party to the conflict shall not be diverted from their destination, except in cases of urgent necessity, in the interests of the civilian population concerned and, in occupied territory, only with the consent of the Protecting Power (Prot. I, Art. 70; Fourth Conv., Art. 60).

## **Exemption from dues**

Relief consignments shall be exempt from all charges, taxes or customs duties (Third Conv., Art. 74; Fourth Conv., Art. 61, 110). Exceptions to this principle may be allowed (on the territory of the Parties to the conflict and in occupied territory) only in cases of urgent necessity, in the interests of the civilian population and of the economy of the territory (Fourth Conv., Art. 61).

## **Transport free of charge**

All the Parties to the Conventions and to the Protocols shall endeavour to permit the transit and transport of relief consignments free of charge (Prot. I, Art. 70; Third Conv., Art. 75; Fourth Conv., Art. 61, 111. (For prisoners of war and civilian internees, see Section D.)

## **Facilities for the ICRC**

The Parties to the conflict shall grant to the ICRC all the facilities within their power so as to enable it to carry out the relief activities assigned to it by the Conventions and the Protocol (Prot. I, Art. 81), particularly those in aid of the civilian population of an occupied territory (Fourth Conv., Art. 59, 61), the civilian population of a Party to the conflict (Fourth Conv., Art. 10, 30), prisoners of war (Third Conv., Art. 73, 75) and civilian internees (Fourth Conv., Art. 109, 111).

## **Facilities for the National Red Cross or Red Crescent Societies, for the League and for humanitarian organizations**

The Parties to the conflict and the Parties to the Conventions and to the Protocols shall grant, respectively, to their own National Societies and to all the organizations of the Red Cross, every facility to extend assistance to the victims of conflicts, in accordance with the provisions of the Conventions and the Protocol and the fundamental principles of the Red Cross (Prot. I, Art. 9, 12, 17, 22, 81; First Conv., Art. 26, 27; Second Conv., Art. 24, 25; Third Conv., Art. 125; Fourth Conv., Art. 142).

As far as possible, similar facilities shall be granted to other duly authorized humanitarian organizations which perform their activities in accordance with the provisions of the Conventions and the Protocol (Prot. I, Art. 9, 12, 17, 22, 81; First Conv., Art. 18, 26; Second Conv., Art. 24, 25; Third Conv., Art. 72, 75; Fourth Conv., Art. 30, 39, 59, 61, 98, 108, 109, 111).

### **Personnel**

Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for the transportation and distribution of relief consignments. The participation of such personnel shall be subject to the approval of the Party in whose territory they will carry out their duties. Such personnel shall be assisted, respected and protected, and their rapid and unimpeded passage shall be facilitated. Their activities may not be limited nor their movements restricted except in case of imperative military necessity.

Personnel may not exceed the terms of their mission and shall take account of the security requirements of the Party in whose territory they are carrying out their duties (Prot. I, Art. 70, 71).

## **B. OCCUPIED TERRITORY**

### **Principle**

Where the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population and facilitate them by all the means at its disposal (Prot. I, Art. 69, Fourth Conv., Art. 59).

## **Organizing relief schemes**

Relief action may be undertaken by States or by impartial humanitarian organizations such as the ICRC (Fourth Conv., Art. 59). Such schemes shall be implemented without delay (Prot. I, Art. 69).

## **Nature of the relief**

Relief consignments may consist of foodstuffs, medical supplies, clothing, bedding, emergency shelters and other articles necessary to the survival of the population.

They may also contain books and articles required for religious observance (Prot. I, Art. 69; Fourth Conv., Art. 58, 59).

## **Individual relief**

Individual relief shall be permitted (Fourth Conv., Art. 62).

## **Distribution**

The distribution of relief consignments shall be carried out with the co-operation and under the supervision of the Protecting Power. This duty may also be delegated to a neutral Power, to the ICRC or to any other impartial humanitarian organization (Fourth Conv., Art. 61).

When such consignments are being distributed, priority shall be given to persons such as children, pregnant women or women in labour who require special treatment. (Prot. I, Art. 70; Fourth Conv., Art. 23).

## **Transport free of charge**

All Parties to the Conventions and the Protocol shall endeavour to permit the transit and transport, free of charge, of relief consignments on their way to occupied territories (Fourth Conv., Art. 61).

## C. TERRITORY OF THE PARTIES TO THE CONFLICT (See A. General Principles and B. Occupied Territory.)

Moreover, in the distribution of relief consignments, *priority* shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who are to be accorded privileged treatment (Prot. I, Art. 70; Fourth Conv., Art. 23).

The Parties to the Conventions and Protocol which are involved in the relief action shall facilitate effective international *co-ordination* (Prot. I, Art. 70). Aliens shall also be enabled to receive individual or collective relief, or a cash allowance (Fourth Conv., Art. 38, 39).

## D. PRISONERS OF WAR AND CIVILIAN INTERNEES

### **Right to receive relief**

Prisoners of war and civilian internees, in occupied territory or on national soil, shall have the right to receive individual or collective relief in the camps, before their arrival in a camp or in the course of transfer (Third Conv., Art. 72, Annex III, Art. 9; Fourth Conv., Art. 108, Annex II, Art. 8). Such relief consignments may be in kind or in cash (Third, Conv., Art. 61, 72; Fourth Conv., Art. 98, 108).

### **Limits**

Only the Protecting Power or, in respect of their own shipments only, intermediary relief organizations shall be able to place limits on these shipments (Third, Conv., Art. 72; Fourth Conv., Art. 109).

#### *1. Conveyance of relief by the Powers concerned*

### **Obligations of the Powers concerned**

The conveyance of relief shipments is primarily the obligation of the Powers concerned: the Power on which the prisoners of war

depend, the Detaining Power, or the country of transit, whether neutral or belligerent. The Power shall be relieved of this responsibility only when prevented from fulfilling it by military operations (Third, Conv., Art. 75; Fourth Conv., Art. 111).

### **Facilities**

The Powers concerned shall grant the necessary facilities, for example, means of transport, safe-conducts where necessary, protection against the effects of war (Third Conv., Art. 75; Fourth Conv., Art. 111; Prot. I, Art. 70).

### **Post**

Individual relief parcels, correspondence and authorized remittances of money may be sent by mail, either direct or through the Information Bureaux or the Central Tracing Agency (Third Conv., Art. 72, 74; Fourth Conv., Art. 108, 110).

### **Exemption from dues**

All relief shipments for prisoners of war and civilian internees shall be exempt from all import, customs and other dues, whatever their appellation, which are levied on goods from abroad (Third Conv., Art. 74; Fourth Conv., Art. 110).

### **Exemption from postal dues**

Correspondence, relief shipments and authorized remittances of money being sent to or by prisoners of war, whether direct or not, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries (Third Conv., Art. 74; Universal Postal Convention, 1952, Art. 37).

For civilian internees, this exemption shall apply to everything sent by them through the post office and also to that which they receive, provided that it has been sent from a country other than the country in which they are interned (Fourth Conv., Art. 110).

## **Costs of transport**

The cost of transporting relief shipments not sent through the post office, for example collective relief, shall be borne by the Detaining Power in all the territories under its control, thus also in territories which it occupies. The other Powers party to the Convention shall bear the cost of transport in their respective territories, whatever the means of transport used: railway, road vehicle etc. (Third Conv., Art. 74; Fourth Conv., Art. 110).

In the absence of special agreements, the costs of transport by sea and by air shall be charged to the senders (Third Conv., Art. 74; Fourth Conv., Art. 110).

### *2. Conveyance of relief by an intermediary*

Should military operations prevent the Powers concerned from fulfilling their obligations to ensure the conveyance of relief shipments, the Protecting Power, the ICRC or any other duly approved organization may undertake to ensure the conveyance of such shipments (Third Conv., Art. 75; Fourth Conv., Art. 111).

## **Facilities**

The Parties to the Conventions shall endeavour to supply them with the necessary transport and to allow its circulation, especially by granting the necessary safe-conducts (Third Conv., Art. 75; Fourth Conv., Art. 111). ICRC transports may use the red cross emblem (First Conv., Art. 44).

## **Costs**

The costs occasioned by the use of such means of transport shall be borne, proportionally by the Parties to the conflict whose nationals are benefited thereby (Third Conv., Art., 75; Fourth Conv., Art. 111), unless special agreements have been made. The same would probably apply to costs arising from the organization of such transport where it is not provided free of charge.

## **Exemption from dues**

Exemptions are the same as those applying to conveyance of relief by the Powers concerned.

### *3. Nature of the relief*

#### **Relief in kind**

The relief may consist of foodstuffs, clothing, medical supplies and articles of a religious, educational, sporting or recreational character which may meet their needs.

Medical relief supplies shall generally be sent in collective shipments (Third Conv., Art. 72; Fourth Conv., Art. 108). The cost of any apparatus necessary for the maintenance of prisoners and internees in good health (artificial appliances, spectacles, etc.) shall be borne by the Detaining Power (Third Conv., Art. 30; Fourth Conv., Art. 91).

#### **Cash relief**

For prisoners of war, cash relief shall consist of sums forwarded to them by the Power on which they depend (Third Conv., Art. 61). For civilian internees, they shall consist of allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as any income they may have (Fourth Conv., Art. 98).

The sums forwarded by the Power on which the prisoners of war depend or granted to civilian internees by the Power to which they owe allegiance shall be the same for each category and may not be allocated on the basis of prohibited discriminations (Third Conv., Art. 61; Fourth Conv., Art. 98; Prot. I, Art. 70).

#### **Canteens**

Canteens shall be installed in all prisoner of war camps and in camps for civilian internees where suitable facilities do not exist. Prisoners of war and internees may procure foodstuffs, ordinary articles in daily use, soap and tobacco, at prices not higher than local market prices (Third Conv., Art. 28; Fourth Conv., Art. 87).

## **Establishing needs**

Prisoners' representatives and Internee Committees shall be allowed to complete and cause to be completed, for example by senior medical officers of hospitals, forms or questionnaires intended for the donors and relating to collective relief supplies (Third Conv., Annex III, Art. 5; Fourth Conv., Annex II, Art. 5).

## **Purchase of relief supplies**

The purchase of relief supplies in the territory of the Detaining Power for prisoners of war and civilian internees shall be authorized (Third Conv., Annex III, Art. 8; Fourth Conv., Annex II, Art. 7).

### *4. Receipt, distribution and supervision*

#### **Receipt**

The prisoners' representatives and Internee Committees shall be allowed to go to railway stations or other points of arrival of relief supplies near their places of internment, so as to be able to verify the quality as well as the quantity of the goods received, and to make out detailed reports thereon for the donors (Third Conv., Art. 73 and Annex III, Art. 3, Fourth Conv., Art. 109 and Annex II, Art. 3).

Receipts for each consignment, signed by the prisoners' or internees' representatives and the administrative authorities of the camp, shall be forwarded to the relief society or organization making the shipment (Third Conv., Art. 125 and Annex III, Art. 5, Fourth Conv., Annex II, Art.5).

#### **Distribution**

The distribution of collective relief shipments shall be effected equitably and in accordance with the instructions of the donors and with a plan drawn up by the prisoners' representatives or the

Internee Committee. The issue of medical stores shall be made for preference in agreement with the senior medical officers (Third Conv., Art. 73 and Annex III, Art. 2; Fourth Conv., Art. 109 and Annex II, Art. 2).

### **Supervision**

No agreement shall restrict the right of the Protecting Power, the ICRC or any other organization giving assistance to the prisoners and internees to supervise the distribution of relief supplies to their recipients (Third Conv., Art. 73; Fourth Conv., Art. 109).

The supervision by the Detaining Power shall not be such as to expose the goods to deterioration (Third Conv., Art. 76; Fourth Conv., Art. 112).

### **Assistance to relief societies and the ICRC**

Relief societies shall receive all necessary facilities for visiting the prisoners and internees and distributing relief supplies. The special position of the ICRC shall be recognized and respected at all times (Third Conv., Art. 125; Fourth Conv., Art. 142; Prot. I, Art. 81).

*In the case of armed conflict not of an international character, any impartial humanitarian body, such as the ICRC, may offer its services to the Parties to the conflict (First to Fourth Conv., Art. 3).*

The same is true, in high-intensity internal conflicts (Prot. II), of National Red Cross Societies with regard to their traditional activities (Prot. II, Art. 18). Finally, relief actions which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction, especially those to provide foodstuffs and medical supplies, may be undertaken (Prot. II, Art. 18).

**Jean de Preux**  
*ICRC legal adviser*

# INTERNATIONAL COMMITTEE OF THE RED CROSS

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## Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949

The International Committee of the Red Cross  
*Martinus Nijhoff Publishers, Geneva, 1986,*  
*xxxv + 1647 pages*

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Following the adoption of the Additional Protocols in 1977, the ICRC decided to start working on the interpretation of these new treaties of international humanitarian law, just as it had published a Commentary on the Geneva Conventions after their adoption in 1949.

The ICRC asked Mr. Jean Pictet, who is today its honorary Vice-President, as well as a number of legal experts on its staff, to devote themselves to this work. On the eve of the Twenty-fifth International Conference of the Red Cross, their efforts have resulted in the publication, on 6 October 1986, of the "Commentaire des Protocoles additionnels". This work groups in a single volume the commentary on Protocol I, on Annex I thereto (Regulations concerning Identification) and on Protocol II, as well as a number of accessory texts, including a bibliography and an index.

Aware of its role as guardian of humanitarian law, the ICRC is convinced of the usefulness of this Commentary for those who are in charge of implementing the Protocols or making them better known. Since law remains a dead letter unless it is known and implemented, the ICRC sees the publication of the Commentary above all as a step towards guaranteeing better protection to the victims of armed conflict.

The English version of the Commentary on the Additional Protocols will be published by the ICRC during the first half of 1987.

Both versions may be ordered at special prices until 30 June 1987 from *Martinus Nijhoff Publishers* (see enclosed brochure).

An account of the Commentary will appear shortly in the *Review*.

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## Recognition of the Guinea-Bissau Red Cross

Geneva, 8 September 1986

CIRCULAR NO. 538

*To the Central Committees of the National Red Cross  
and Red Crescent Societies*

LADIES AND GENTLEMEN,

We have the honour to inform you of the official recognition of the Guinea-Bissau Red Cross by the International Committee of the Red Cross. This recognition, which took effect on 27 August 1986, brings to 138 the number of National Societies members of the International Red Cross.

Founded on 2 December 1977, the Society officially applied for recognition by the International Committee of the Red Cross on 12 November 1984. In support of its application it forwarded various documents, including the text of its Statutes and a copy of Government Decree No. 26/83 of 3 October 1983 attesting that the Guinea-Bissau Red Cross is recognized by the government as a voluntary aid society auxiliary to the public authorities in accordance with the provisions of the First Geneva Convention of 1949. A

report on the Society's activities was subsequently forwarded to the ICRC.

These documents, which were examined jointly by the International Committee and the Secretariat of the League of Red Cross and Red Crescent Societies, showed that the ten conditions for the recognition of a new National Society by the International Committee had been fulfilled.

The International Committee and the League have observed the activities of the Guinea-Bissau Red Cross for several years. Representatives of the two institutions have ascertained that the Guinea-Bissau Red Cross is set up in conformity with the fundamental principles of our Movement and that it has a sound infrastructure. The Society extends its activities throughout the country and is developing them in several fields: training first-aid workers, assisting disaster victims, growing crops and distributing them to the needy, organizing and collecting blood donations, running a crèche for twins, and preparing a weekly radio information programme.

On 21 February 1974, the Swiss Federal Council received notification of the accession of the Republic of Guinea-Bissau to the Geneva Conventions of 12 August 1949, which therefore entered into force on the territory of Guinea-Bissau on 21 August 1974.

The Guinea-Bissau Red Cross is presided over by Mrs. Maria Isabel R. Vieira. Its headquarters is located in Bissau. The Society's provisional address is as follows: Sociedade Nacional da Cruz Vermelha da Guiné-Bissau, rua Justino Lopes No. 22-B.

The International Committee of the Red Cross has pleasure in welcoming the Guinea-Bissau Red Cross to membership of the International Red Cross, in accrediting it and commending it, by this circular, to all other National Societies, and in expressing sincere good wishes to the Society for its future and for the success of its humanitarian work.

FOR THE INTERNATIONAL COMMITTEE  
OF THE RED CROSS

*Alexandre HAY*  
*President*

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## **Recognition of the Red Crescent Society of the United Arab Emirates**

Geneva, 8 September 1986

CIRCULAR NO. 539

*To the Central Committees of the National Red Cross  
and Red Crescent Societies*

LADIES AND GENTLEMEN,

We have the honour to inform you that the International Committee of the Red Cross has officially recognized the Red Crescent Society of the United Arab Emirates. This recognition, which took effect on 27 August 1986, brings to 139 the number of National Societies members of the International Red Cross.

The new Society applied for recognition by the International Committee on 1 October 1985. In support of its application it forwarded various documents, including a report on its activities, the text of its Statutes and a copy of Ministerial Decree No. 6/2 of 1983 attesting that the Red Crescent Society of the United Arab Emirates is recognized by the government as a voluntary aid society auxiliary to the public authorities, particularly within the meaning of the First Geneva Convention of 1949.

These documents, which were examined jointly by the International Committee and the Secretariat of the League of Red Cross and Red Crescent Societies, showed that the ten qualifying conditions for the recognition of a new National Society by the International Committee had been fulfilled.

The International Committee and the League have closely observed the activities of the Red Crescent Society of the United Arab Emirates since it was founded in 1983. Representatives of the two institutions have ascertained that this Society, which has a sound infrastructure, is capable of acting throughout the entire country in the event of an emergency. The Red Crescent Society of the United Arab Emirates devotes itself to improving public health through health education (schools and hostels), training first-aid workers and disseminating knowledge of the fundamental prin-

ciples of the Movement amongst the youth of the country. Moreover, it has from the start been very active on the international level, engaging in bilateral relief operations.

The Government of the United Arab Emirates acceded on 10 May 1972 to the Geneva Conventions of 1949.

The Society is presided over by Mr. Eid Khamis Al Muhairy and has its headquarters in Abu Dhabi.

The International Committee of the Red Cross has pleasure in welcoming the Red Crescent Society of the United Arab Emirates to membership of the International Red Cross and commending it, by this circular, to all the National Societies. It expresses its sincere good wishes for the continuance and expansion of its humanitarian work.

FOR THE INTERNATIONAL COMMITTEE  
OF THE RED CROSS

*Alexandre HAY*  
*President*

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*EXTERNAL ACTIVITIES*  
*July-August 1986*

**Africa**

**Sudan**

In July and August the ICRC continued its attempts to implement an aid programme for the victims of the conflict situation in southern Sudan. An ICRC team went to Wau on 31 July to organize an airlift. Forty tonnes of relief supplies were transported on board three flights from Entebbe (Uganda) to Wau on 14 and 15 August; on the second of these two days the flights were suspended because of threats from the SPLA to shoot down any aircraft flying over the territories controlled by its troops without its authorization. The 40 tonnes of relief supplies which got through before the blockade were distributed between 19 and 22 August to starving people living in the camps for displaced people. Since the airlift was interrupted, the ICRC has made numerous approaches to the parties to the conflict, particularly the SPLA, in order to be allowed to recommence its humanitarian work.

The food aid programme and the evacuation of the wounded which was undertaken in the Narus region from Kenya continued during the period under review.

The assistance programme conducted from Sudan for the victims of the situation in Eritrea and Tigré had to be interrupted between July and August because of the severe conditions in the rainy season which rendered roads impassable. Nevertheless, it was possible to carry out *ad hoc* relief work in Eritrea whenever the rivers could be forded: thus 1,176 tonnes of relief supplies were forwarded to the distribution points.

## **Ethiopia**

The joint ICRC/Ethiopian Red Cross relief operation (JRO) continued: 8,032 tonnes of relief supplies were distributed. The food situation continued to be satisfactory in most of the regions in northern Ethiopia. In July, the latest seed distribution (255 tonnes) affected 154,258 recipients.

In the Wollo region, the joint ICRC/Save the Children Fund programme to reunite unaccompanied children with members of their families during food distributions was considerably slowed down due to the fact that no distributions had taken place in this region.

During July and August 49 patients were fitted with prostheses or orthoses in the Asmara and Harrar orthopaedic centres.

## **Uganda**

In July and August the ICRC delegation in Kampala concentrated its efforts on continuing protection work: first of all, assessment visits were made to five police stations and six prisons situated mainly in the northern and north-west regions; then visits were made to the Masindi and Luzira Upper prisons and to four other police stations.

In July medical activities were directed towards preparing and organizing a course specially designed for the medical staff of the Uganda penitentiary service. The first course of this type took place between 28 July and 2 August. Furthermore, during the medical survey missions, an ICRC doctor went to several hospitals and dispensaries in the south west as well as to Gulu and Aber (in the north of the country), where medicaments and medical equipment were supplied according to needs.

## **Burundi**

An ICRC team composed of four delegates, including a doctor, visited four places of detention between 8 and 31 July.

## South Africa

The ICRC delegation continued negotiations with the relevant authorities in the Republic of South Africa concerning the offer of services made on 13 June by the ICRC requesting access to all persons detained under the state of emergency and, more particularly, to all the security detainees it had as yet been unable to visit.

The ICRC delegates maintained a permanent presence in the main regions affected by the troubles: the police gave the delegation its consent to establish direct dialogue between the delegates based in the various regions and the provincial police officials.

Close co-operation continued between the ICRC delegation and the national and regional directors of the National Society—on the one hand, as regards providing emergency aid to the victims of the troubles and, on the other hand, preparing Red Cross dissemination material suited to the South African context.

## Angola

Since the second week in June, the provincial authorities have suspended ICRC flights for security reasons to six of the eight communities (*municípios*) still receiving aid in Huambo province. Despite repeated approaches made by ICRC delegates, both in Huambo and Luanda, operations continued to be suspended in July and August. At the end of August, the delegation was authorized to recommence its activities in the *municípios* and began organizing its seed distribution programme on the Planalto (flying in seeds from the Atlantic coast to Huambo).

## Latin America

### El Salvador

ICRC delegates visited security detainees throughout the country in 122 places of detention in July and 140 places in August (penitentiary establishments under the jurisdiction of the armed forces and security corps).

Over 127,000 people in July and over 107,000 in August benefited from the ICRC and Salvadorean Red Cross food aid programme; a total of 843 tonnes of food were distributed. Medical campaigns (treatment of civilians, transferring the severely ill and injured to hospital establishments, distributions of medical supplies to civilian hospitals) and the campaigns to improve hygiene were continued.

The delegation also studied the possibilities of supplying agricultural aid (mainly in the form of maize seed and fertilizer) to certain localities and population groups. This would enable the amount of food aid currently being provided to be reduced.

Several more conferences on international humanitarian law and the work of the Red Cross were organized, mainly for the armed forces.

## Nicaragua

The assistance programme for civilians affected by the conflict continued, in close co-operation with the National Society, in the regions along the Atlantic coast, the north-east (the Rio Coco region) and the north-west of the country. As a follow-up to a survey conducted in July by an ICRC delegate and a nurse together with relief workers from the Nicaraguan Red Cross, who visited 13 villages situated along the banks of the Rio Coco downstream from Waspan and accessible only by river, a relief programme (blankets, clothing, basic essentials) was set up to help the displaced people in these isolated regions.

Traditionally suspended in July because of holidays to commemorate 19 July 1979, the ICRC visits to detention centres began again on 13 August with a visit to Tipitapa prison, the main penitentiary centre in the country.

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In *Chili* the ICRC continued to visit security detainees in prisons under the jurisdiction of the Ministry of Justice. It also continued its visits in *Peru* and *Colombia*.

## **Asia**

### **Afghanistan**

In August the Afghan Red Crescent responded favourably to proposals for medical co-operation (rehabilitation of the physically disabled and war surgery) which the ICRC made to it in May. At the beginning of September two delegates left for Kabul to discuss with the National Society the actual ways and means of running these medical programmes and to discuss a programme to disseminate knowledge of international humanitarian law. At the same time the delegates will continue the dialogue with the Afghan authorities regarding the protection activities which the ICRC plans to build up.

The ICRC's medical activities in Pakistan for the victims of the Afghan conflict have been continued and even stepped up because of a fresh upsurge in the number of war wounded: the orthopaedic hospital in Quetta admitted 82 casualties in July and 108 in August (the number of new admissions had not been as high since May 1984), and the hospital in Peshawar admitted 309 people during the period under consideration. Furthermore, since July the Pakistan Red Crescent has assumed full responsibility for running the paraplegic rehabilitation centre which the ICRC opened in Peshawar in 1981. However, an ICRC physiotherapist is staying on as an adviser. Since it opened, the centre has admitted 665 patients, both Afghans and Pakistanis.

### **Kampuchea**

In August the ICRC entered into agreements with the Red Cross Societies of Australia and Switzerland to co-operate in providing logistic and administrative support for the medical teams which these National Societies are going to install in the hospitals in Kompong Speu and Takeo respectively. The ICRC is already giving support to two other medical teams: one from the Swedish Red Cross in Kompong Chnang and the other from the French Red Cross in Phnom Penh.

## **Philippines**

ICRC visits recommenced in July to places of detention under the jurisdiction of the Ministry of Justice: 55 detainees under the jurisdiction of the national male penitentiary in Muntinlupa were visited at four places of detention. In August a female detainee was visited in the women's prison in Madaluyong (Metro Manille). The ICRC continued its efforts to obtain visiting permission from the Ministry of Defence.

Food distributions for people displaced because of the clashes continued, particularly in Cagayan province (northern Philippines) and on the island of Mindanao.

## **Malaysia**

The ICRC carried out a series of visits to people detained under Articles 57 to 62 of the Internal Security Act (people awaiting trial or sentenced): between 16 June and 9 July seventy-two people were visited in nine places of detention in accordance with the ICRC's criteria.

## **Indonesia**

In August the ICRC conducted a medical and nutritional survey of the civilian population in fourteen villages in East Timor.

## **Middle East**

### **Conflict between Iraq and Iran**

In July and August, the ICRC continued its visits to Iranian prisoners of war in Iraq. However, the ICRC has still not been able to resume its protection activities on behalf of Iraqi prisoners of war in Iran, which were suspended by the Iranian authorities on 10 October 1984.

The ICRC Director of Operations, Mr. Pasquier, was in Tehran from 25 to 27 July to carry on the discussions initiated during a

previous mission last May and to stress the importance of resuming ICRC visits to Iraqi prisoners held in Iran. Mr. Pasquier had talks with representatives of the Iranian Ministry of Foreign Affairs and with representatives of the country's Red Crescent Society.

In August, ICRC delegates visited some 10,000 Iranian prisoners of war interned in nine camps and four military hospitals in Iraq.

In July and August, the ICRC continued to arrange the exchange of messages between Iranian prisoners of war and their families and between Iraqi prisoners of war and their families.

### **Israel and the occupied territories**

From 17 to 25 August, Mr. Moreillon, Director General at the ICRC, and Mr. Hoefliger, Delegate General for the Middle East, were in Israel for discussions with the Israeli authorities on the ICRC's activities in Israel, the occupied territories and the "security zone" under Israeli control in South Lebanon. The two ICRC representatives had talks with Mr. Avraham Sharir, Minister of Justice, Mr. Yitzhak Shamir, Minister of Foreign Affairs, Mr. Yitzhak Rabin, Minister of Defence, Mr. Ezer Weizman, Minister without portfolio, and Mr. Bar Lev, Minister of Police and Prisons. They also met several other important figures.

### **Yemen Arab Republic**

A series of visits to persons detained in the Yemen Arab Republic was carried out from 31 July to 8 August. Two ICRC delegates and an ICRC doctor visited some 3,500 detainees, including 67 security detainees, held in detention centres in the capital and seven other cities. The visits were carried out in accordance with the ICRC's usual criteria.

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# IN THE RED CROSS WORLD

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## Dissemination activities — Summer 1986

*The summer of 1986 was characterized by intense activity in the dissemination of knowledge of international humanitarian law and of Red Cross Principles and ideals. Courses and seminars were organized in Strasbourg, Warsaw, Lima, Quito and San José for dissemination officers of National Societies, as well as for law students, judges, representatives of government circles, etc. from Europe and the Americas.*

### **Strasbourg**

The close co-operation between the International Institute of Human Rights in Strasbourg, the ICRC and the Henry Dunant Institute has been reflected since 1973 in the organization of an annual *course on international humanitarian law for law students* as part of the summer session at the Strasbourg Institute.

This year the ten-hour course was held from 28 July to 1 August and was given simultaneously in English, French and Spanish. The lecturers were Mr. M. Veuthey, Head of the International Organizations Division at the ICRC, Mr. J. Meurant, in his capacity as Director of the Henry Dunant Institute, and Mr. C. Swinarski, ICRC legal adviser. The course was attended by about 200 students.

### **Warsaw**

The *fourth summer course on international humanitarian law for advanced law students from Europe and North America* was held in Warsaw from 19 to 30 August. The course, organized by the Polish Red Cross and the ICRC, was opened by Professor J. Bonczak,

President of the Polish Red Cross, and Mr. M. Aubert, Vice-President of the ICRC. University lecturers from France, Great Britain, Italy, Poland, the United States and the USSR, as well as Mrs. C. Kruck, Mr. J. Meurant, Mr. J. Sassoli and Mr. M. Veuthey, all from the ICRC, gave lectures on international humanitarian law to 36 students and examined with them the ways of promoting knowledge of this law in their respective countries.

## **Lima**

*The second training course for persons in charge of dissemination in South American National Societies* took place in Lima from 11 to 16 August. This training course, the fifth to have been organized in Latin America and the second in South America since 1983, brought together 24 participants from eight South American National Societies and, as special guests, representatives of two National Societies from Central America.

Such courses, organized by the ICRC in co-operation with the League and a National Society—in this case the Peruvian Red Cross—are intended for National Society officers directly involved in dissemination activities. The topics (history of the Red Cross, International Red Cross, Principles, emblem, doctrine, international humanitarian law) are dealt with from the viewpoint of a National Society working in situations of armed conflict or internal disturbances or tensions.

The method used is based on active and constant participation by all delegates, who are divided into small working groups with the task of working out solutions to practical exercises. This makes it possible to gain a better insight into the problems facing National Societies.

The ultimate aim of these courses is to establish a permanent structure and clearly defined tasks within National Societies for their dissemination work, and to train dissemination officers.

The ICRC was represented by Mr. R. Hammer, dissemination delegate for Latin America, as well as by several regional delegates, while the League was represented by Mrs. A. Baccino, delegate.

## **Quito**

The Round Table on the safety of journalists on dangerous professional missions, held in April 1985 at Mont Pèlerin sur Vevey

(Switzerland), had recommended that the ICRC organize regional seminars to promote knowledge of its activities among journalists (see summary in *International Review of the Red Cross*, No. 246, May-June 1985, pp. 184-186).

The *Latin American seminar "Media and international humanitarian law"*, organized by the ICRC in co-operation with the Ecuadorean Red Cross and held in Quito from 18 to 21 August, was a follow-up to that Round Table.

Thirty-three journalists and various media representatives from 17 Latin American countries took part in this seminar, whose main topic was the protection of journalists on dangerous missions. The organizers wished, however, to broaden the debate in order to make media circles, which play a very important role in forming public opinion, more familiar with the work of the ICRC.

A more detailed presentation of humanitarian law made it possible above all to put emphasis on the distinction between international and non-international armed conflict and on the inapplicability of humanitarian law in internal disturbances or tensions, as well as on the difference between international humanitarian law and human rights, which are all subjects of direct everyday concern to journalists.

An exposé on ICRC operations in Latin America and throughout the world was followed by a presentation of the bases, and hence the scope and restrictions, of the ICRC's humanitarian action. This subject is quite a delicate one, in that the ICRC's and the journalists' goals do not always coincide: whereas the ICRC is bound to respect the principles of neutrality and impartiality and thus be discreet about its activities in the interest of the victims, journalists seek to obtain maximum information and to pass it all on, invoking the public's right to know.

One of the main objectives of the seminar was to promote understanding and acceptance of the specific nature of ICRC action. Judging from the journalists' reactions, that goal was achieved. The account of an ICRC delegate's visit, by one of the participants who had spent 13 years in detention, certainly contributed towards that comprehension.

The participants expressed the hope that in future the ICRC would also organize national seminars. The ICRC's task will now be to foster the contacts established at this seminar, so as to ensure wider coverage of its activities in the field and to be able to count on the support of the mass media in its dissemination programmes.

The ICRC delegation was made up of Mr. R. Hammer, dissemination delegate for Latin America, several ICRC staff members and regional delegates.

## San José

The ICRC took part in the *fourth interdisciplinary course* which is organized every year by the Inter-American Institute of Human Rights in San José (Costa Rica).

International humanitarian law has been taught at the Institute since 1985, when the ICRC founded “the Jean Pictet chair of international humanitarian law”.

The course, held from 17 to 30 August, was attended by 182 participants representing governments, the judiciary, universities and national non-governmental human rights organizations from all the countries in the Americas.

The ICRC was represented by Mr. C. Swinarski, legal adviser.

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## Mexico one year after the earthquake

On 19 September 1985 Mexico City and the provinces along the Pacific coast were hit by a strong earthquake which left over 5,000 people dead and hundreds of thousands homeless. The rehousing of survivors was and remains the most imperative problem, since almost 100,000 persons are still living in temporary shelters.

After the earthquake, the League of Red Cross and Red Crescent Societies received about 54 million Swiss francs in cash and in kind from National Societies and governments. Red Cross relief operations began immediately after the disaster, distributing thousands of tonnes of relief supplies for a total value of 8.5 million Swiss francs.

Operations are still continuing, but today the accent is on rehabilitation and reconstruction. More than 2,000 houses have been built in the States of Guerrero and Jalisco, as well as in the Federal District. Priority is given to housing in rural areas to stop families flocking to urban centres and aggravating already existing problems.

The joint League/Mexican Red Cross operation has set up a prosthesis service which has assisted more than 500 amputees. This service provides not only prosthetic appliances, but also psychological counselling, house care for the handicapped, an at-home training programme and vocational training.

In addition, the Mexican Red Cross has handled thousands of tracing requests from people all over the world anxious about relatives. Tracing work is still going on, and it is now a regular service provided by the National Society.

Some of the Mexican Red Cross centres destroyed in the earthquake have been repaired, and new ones are being built.

The Mexican Red Cross has organized several events to mark the first anniversary of the earthquake. Among them was the inauguration of 337 family homes in Ciudad Guzman on the Pacific coast, attended by delegates from several National Societies. In Geneva, the League Secretary General, Mr. Hans Hoegh, declared that the priority of the joint League/Mexican Red Cross operation for 1987 was to build yet more houses, concentrating in particular on Mexico City, where most of the homeless are living.

Other projects under way include the creation of two orphanages, homes for the elderly, a fleet of 54 ambulances in Mexico City and an emergency radio communication network, and the construction of seven Red Cross first-aid posts in the capital.

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## MISCELLANEOUS

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### Resolution of the Organization of African Unity relating to the ICRC

*The ICRC was invited to attend the Forty-fourth Ordinary Session of the Council of Ministers and the Twenty-second Session of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) held in Addis Ababa from 21 to 30 July 1986. A delegation led by Maurice Aubert, ICRC Vice-President, represented the International Committee.*

*It was with great satisfaction that the ICRC read Resolution CM/Res. 1059 (XLIV) "On the International Committee of the Red Cross" which was adopted by the OAU. This resolution, which expresses the desire of Heads of State and Government to promote respect for the rules of international humanitarian law, is especially welcome at a time when the ICRC needs the unconditional support of the international community to carry out its work.*

*The resolution, the text of which follows, calls on Member States to make the public more familiar with the activities of the International Red Cross and Red Crescent Movement.*

#### ORGANIZATION OF AFRICAN UNITY

##### RESOLUTION CM/RES. 1059 (XLIV) ON THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)

The Council of Ministers of the Organization of African Unity, meeting in its Forty-fourth Ordinary Session in Addis Ababa, Ethiopia from 21 to 26 July, 1986,

*Recalling* that the mission of the International Committee of the Red Cross is to protect and assist the victims of armed conflicts, on the basis of the 1949 Geneva Conventions and their 1977 Additional Protocols,

*Paying tribute* to the principles which are the basis of its work and of the entire Red Cross Movement, especially humanity, impartiality, neutrality, independence and universality,

*Recalling* the desire expressed by the Heads of State and Government of Africa to promote throughout the world and, in Southern Africa in particular, the respect of International Humanitarian Law and the universally recognized humanitarian principles,

*Stressing* the ICRC's particularly great efforts in recent years to assist Africa which make this continent the main beneficiary of ICRC operations,

*Considering* that the work of the ICRC deserves the widest and most committed support of the international community and regional organizations,

*Recalling* that the financing of ICRC activities depends mainly on voluntary contributions by governments,

1. EXPRESSES once again its gratitude to and its support for the ICRC in the humanitarian work it is accomplishing in the world;
2. INVITES Member States to help the ICRC in its work, by granting it all the facilities necessary to carry out its mandate as laid down in the Geneva Conventions;
3. INVITES Member States to support the activities of the ICRC to the fullest extent they can and by annual financial contributions;
4. INVITES Member States, in cooperation with their National Societies, to support efforts to make public opinion more familiar with all the activities of the International Red Cross and Red Crescent Movement;
5. APPEALS to Member States to ratify, if they have not already done so, or accede to the two Protocols additional to the 1949 Geneva Conventions.

## Eighth Conference of Heads of State or Government of non-aligned countries

The President of the ICRC attended the eighth summit meeting of non-aligned countries, held in Harare (Zimbabwe) from 1 to 6 September, where he had discussions on humanitarian matters with some twenty Heads of State and Ministers of Foreign Affairs. He was accompanied by Mr. A. Pasquier, Director of Operations, Mr. M. Veuthey, Head of the Division of International Organizations, and his Deputy, Mr. J.-D. Biéler, with support from Mr. U.G. Bédert, ICRC regional delegate based in Harare.

The Chairman of the Conference and the Movement of non-aligned countries, the Prime Minister of Zimbabwe, Mr. Robert Mugabe, launched an appeal, in his opening speech, for respect for international humanitarian law in the Gulf conflict.

In the course of this mission, the President of the ICRC visited the headquarters of the Zimbabwe Red Cross, where he was welcomed by Secretary General, Mr. Olivier Kuwana, surrounded by senior members of his staff.

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## International Congress on “Peace and Humanitarian Actions”

The United Nations decided that 1986 would be the International Year of Peace. On this occasion, the International Institute of Humanitarian Law organized an International Congress on “Peace and Humanitarian Actions”, which was held from 3 to 6 September 1986 in San Remo. The Congress was followed by a Red Cross and Red Crescent Symposium.

Under the high patronage of the President of the Italian Republic, the Congress welcomed some 125 representatives of governmental and non-governmental international organizations, permanent missions to the United Nations in Geneva, National Red Cross and Red Crescent Societies, the ICRC and the League, and members of the academic institutions and experts involved in humanitarian work.

At the opening ceremony, a message from the President of the Italian Republic was read to all participants and speeches were made by representatives of Liguria, the Province of Imperia and the city of San Remo, by Mr. Eric Suy, Director General of the

European Office of the United Nations and UN Secretary General's personal representative, by Mr. Keba Mbaye, judge at the International Court of Justice, by 1974 Nobel Peace prizewinner Sean McBride, and by the President of the International Institute of Humanitarian Law, Professor Jovića Patrnoćic.

Professor Patrnoćic recalled that the object of the Congress was to help representatives of organizations involved in humanitarian activities to reflect upon their contributions to the promotion and maintenance of peace and to gain a better insight into future prospects for humanitarian action, in order to improve its efficiency and impact.

The representatives of the specialized agencies of United Nations and of the inter-governmental and non-governmental organizations in turn took the floor, from the second day of the Congress onwards, to present their respective organizations' contributions to peace.

They all emphasized that over the past forty years the main objective of the community of nations and the organizations mentioned above had been the maintenance and the establishment of true peace based on international solidarity.

The number and variety of humanitarian activities undertaken to help the victims of natural disasters, the deterioration of the environment, poverty and famine, armed conflicts and other man-made disasters bore witness to the close link between respect for human rights and the establishment of true peace.

There was an urgent need to find appropriate means of alleviating the suffering caused by war, mass migration, the movement of refugees, economic depression and tensions caused by racial discrimination and exploitation in its many forms, but some organizations expressed the wish that closer attention also be given to examining the causes of these phenomena, so as to prevent them or at least be better prepared to cope with them.

The last day of the Congress was devoted to joint presentations by the Chairman of the Standing Commission of the International Red Cross, the ICRC, the League and the National Societies.

First Mr. Ahmed Abu Goura, Chairman of the Standing Commission of the International Red Cross, expressed the wish that mutual understanding, dialogue and a spirit of peace be furthered, especially among young people. It was the role of the International Red Cross and Red Crescent Movement to foster a firmer commitment by its members to the promotion of peace and greater solidarity.

The Vice-President of the ICRC, Mr. Maurice Aubert, recalled that the ICRC's attitude to the escalation of violence in many countries has been unrelentingly to urge States, peoples and combatants alike to respect international humanitarian law and to apply the Geneva Conventions and their Additional Protocols: this would ensure that there remained some haven of humanity between the parties to a conflict and enable a neutral intermediary such as the ICRC to accomplish its humanitarian task.

The alleviation of suffering and the achievement of respect for the victims were only indirect contributions to peace, but nevertheless remained tangible and realistic actions on the road to true peace.

The President of the League of Red Cross and Red Crescent Societies, Mr. Enrique de la Mata, emphasized the challenge represented by the Movement's action in favour of peace which should be supported with more considerable means. He recalled that the role of the Movement was to promote ideals and wondered whether the time had perhaps come for the Red Cross to update its working methods and focus its activities more closely on new needs arising throughout the world.

Several representatives of National Societies then took part in the general discussion, with reports that testified to the authenticity and variety of ways and means deployed in their respective countries to foster true peace. Some National Societies reiterated the importance of disseminating international humanitarian law first among their members, junior members and schools, and also in universities, the armed forces and the police.

Other National Societies considered that the Movement had valuable resources to draw from, which should be more widely used, especially nowadays when Red Cross and Red Crescent Societies in many countries were confronted with tasks of major importance, such as the reception of refugees and asylum seekers, the rehabilitation of delinquents and fringe groups, and the satisfaction of the basic needs of many destitute populations, in time of peace as well as war.

Several National Societies stated that it was not enough for the Red Cross and Red Crescent to struggle against the rise of prejudice and the spread of hate and violence, even among young children. It was essential to get to grips with some of the causes of conflicts and try and prevent their occurrence. A few National Societies hoped that the Movement would take a more active share

in the peaceful settlement of disputes and contribute to it according to its means and in compliance with its fundamental Principles.

A *Peace Ceremony* was held during the Congress at the Nobel Villa, during which the title of Honorary Member of the Institute was awarded to the Nobel Foundation.

The Prize awarded by the Institute for the promotion, dissemination and teaching of international humanitarian law was presented this year to Professor Kusumaatmadja Mochtar, Minister of Foreign Affairs of Indonesia. Two ICRC delegates, Mr. Roland Hammer and Mr. Paul Früh, were awarded *cum laude* certificates expressing the Institute's appreciation of the dissemination work they had accomplished in the field.

In its *conclusions*, the Congress reaffirmed the definition of peace adopted by the Round Table of institutions that had won the 1978 Nobel Peace Prize, namely that "Peace is a dynamic set of relationships of coexistence and co-operation among and within peoples, characterized not only by the absence of armed conflict, but also by the respect for the human values set forth particularly in the Universal Declaration of Human Rights, with the concern to provide the greatest possible wellbeing for all".

The Congress also recalled that if humanitarian actions were aimed primarily at alleviating human suffering, they also strove to eliminate the causes of such suffering.

When carrying out humanitarian activities in the legal, social, cultural and material aid fields, all institutions concerned must co-ordinate their efforts.

The *Red Cross and Red Crescent Symposium*, chaired by the President of the ICRC, Mr. Alexandre Hay, included a detailed and very informative talk on the forthcoming International Red Cross Conference by Mr. Jacques Moreillon, Director General at the ICRC, who recalled the contribution of successive International Conferences to the life and activities of the Movement.

In this connection, the League Secretary General, Mr. Hans Hoegh, stressed the increased role, acknowledged by governments, of the Red Cross and Red Crescent within many local and national communities.

The discussion that followed enabled several representatives of National Societies to inquire into questions of procedure regarding the organization of the Conference and matters of substance concerning topics of current importance.

## BOOKS AND REVIEWS

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### VÖLKERRECHT IM DIENSTE DES MENSCHEN FESTSCHRIFT FÜR HANS HAUG \*

*(International law in the service of man —  
Studies and Essays in honour of Hans Haug)*

The *Mélanges* (miscellany of studies and essays) which the Faculty of Law in the University of St. Gallen has just presented to Professor Hans Haug on the occasion of his 65th birthday is a tribute which the academic world and the Red Cross particularly wished to pay to a person whose life has been entirely dedicated to the service of mankind. As we are reminded in the foreword by Federal Counsellor, Mr. Pierre Aubert, «few people have worked as hard as he has to improve our knowledge and understanding of international humanitarian law in time of armed conflict, the law of war and neutrality and the international protection of human rights».

Similarly, Mr. Henrik Beer, Emeritus Secretary General of the League of Red Cross and Red Crescent Societies, Mr. Jean-Jacques Gautier, former president (lately deceased) of the Swiss Committee Against Torture and Mr. Alexandre Hay, President of the ICRC, highlight in their messages, over and above his outstanding ability and kindly disposition, Professor Haug's considerable contributions to promoting humanitarian law and developing the Red Cross.<sup>1</sup>

The contributions which go to make up this publication perfectly mirror Professor Haug's main interests: international humanitarian law dominates, with articles on the incorporation into Swiss National Law of the Protocols additional to the Geneva Conventions, on the prohibition of terrorism in the Geneva Conventions, the protection of chaplains in humanitarian law, the Soviet concept of non-international armed conflict, international co-operation to put humanitarian law into effect and the delineation of *jus ad bellum* and *jus in bello*.

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\* Völkerrecht im Dienste des Menschen—Festschrift für Hans Haug; herausgegeben im Auftrag der Juristischen Abteilung der Hochschule St. Gallen von Yvo Hangartner und Stefan Trechsel, Verlag Paul Haupt Bern und Stuttgart, 1986, 422 S. (Articles in German, English and French). The work contains a list of Professor Haug's publications.

<sup>1</sup> We would mention that Mr. Hans Haug was not only a professor at the Faculty of Law in the Haute-Ecole of St. Gallen but was also Central Secretary and then President of the Swiss Red Cross, President of the Henry Dunant Institute, Vice-President of the Swiss Federation for Civil Defence, President of the "Institute for Latin American Research and Development Co-operation" of the University of St. Gallen and Vice-President of the Swiss Association for Foreign Policy. He is presently a member of the ICRC and President of the Swiss Committee Against Torture.

Certain aspects of human rights, plus the development of international penal law, are the subject of detailed studies. In particular we would mention the struggle against torture, which is of special concern to Mr. Haug.

Swiss foreign policy and neutrality are also analysed in their relationship to humanitarian work and the protection of human rights.

Finally, mention must be made of articles on two major subjects to which Professor Haug has already given much thought: the revision of the Statutes of the International Red Cross and the principle of the independence of the Red Cross.

This broad range of contributions penned by renowned experts from the academic world, by Swiss and foreign political figures and by leading people from the Red Cross and Red Crescent Movement provides a particularly rich reference work; it will be of use to all who are interested in the problems with which the law and the Red Cross must come to grips in the profound changes occurring in our times.

*The Review*

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## CHARITY BUSINESS

### *Money and dreams*

Charity, like nostalgia, is no longer what it used to be. Good deeds have become a thing of the past—charity has become a question of marketing. Discretion is no longer fashionable: charity is show business!

The commercialization of humanitarian aid to the victims of conflicts and natural disasters, the determining role of the mass media and the recourse to modern administration and marketing methods are the main theme of the latest book by Bernard Kouchner, the founder of *Médecins sans Frontières* and presently honorary president of *Médecins du Monde*.\*

But the author's consideration is much more ambitious. This great humanitarian soldier of fortune, "a crusader for charity", "a volunteer worker for solidarity" has spent twenty years at the scene of famine and war, "meeting others", as he is wont to say, from Biafra to El Salvador via Viet Nam and the Sahel. A man of action who thinks about what he is doing, he presents us with his thoughts on the Third World, famine in the world, human rights, humanitarian organizations, associations and their activities, and voluntary service. This has provided us with a rich, happily penned book, full of images and anecdotes, accompanied by observations forged from experience.

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\* Bernard Kouchner, *Charité-Business*, Le Pré aux Clercs, Paris, 1986, 274 p. FF. 89.

Moreover, like its author, the work is direct, generous, incisive and tender, idealistic and realistic, slightly provocative and always captivating. A master of his craft, Kouchner has the gift for ellipsis and the well-turned phrase. From the start, he gives the impression of a man of action who “does first things first” without claiming to change the course of history and especially without having any illusions about mankind. A humanist, he is ashamed of mankind. Minorities? He is on their side while being perfectly aware that they can become the oppressors. Human rights? “A constant struggle—even a reluctant one—to keep tuned into what others think, without expectations, thanks or medals”. Democracy? Imperfect but indispensable. The Third World? It “seems to be sandwiched between charity and exclusion”... “Manipulated, twisted, adapted to what its users want, the very concept of the Third World gives rise to mistrust or infatuation and remains singularly blurred”.

However, Kouchner refuses to moan about the fate of the world and, more specifically, that of the indigent countries. He is not out to create a revolution to change the course of events and refuses to categorize people into those in favour of the Third World and those against. He is indifferent to the claim that *charity* is right-wing and *solidarity* is left-wing!

Kouchner has chosen to be on hand where suffering calls, to speak out and attempt to find remedies along democratic lines. Although food aid and emergency medical aid are indispensable they are not enough. The remedy? Economic and social development, yes, but not by a single, stereotype approach imported from abroad; rather it should be a collection of various remedies adapted to the local situation and the needs of the people. It is not enough that help take the form of charity; it must help re-establish a country's natural harmonic balance and help the inhabitants to help themselves. The local farmers must be assisted in tilling their land by supplying them with water, tools, fertilizer, know-how, manpower and volunteer workers.

Selfless volunteer workers like Kouchner with no vested interests. The author has had occasion to gauge the worth of voluntary work and has devoted some very fine passages to the philosophy of giving. Examining the teachings of the Church, Christian ethics, the arguments of philosophers and liberal and Marxist notions, the author traces the development of the concept of charity from St. Paul's idea of charity based on love of our fellowmen to the idea of charity as a hard-headed business enterprise.

While paying fervent tribute to the work of many voluntary associations and to the spirit of solidarity which non-governmental organizations seek to encourage, Kouchner also reveals “the hidden face of charity”—“guilt-ridden charity” which takes the form of giving to the Third World or offering expiatory alms to victims of natural disasters and then hastening... to forget about them. Wars, natural disasters? It is up to the Red Cross, doctors and voluntary workers to help—that is what they are there for! Moreover, although aid in the form of donations may be first

and foremost a financial outlay in the expectation of an intangible return, “an investment of optimism and spirituality”, such aid does not rule out the quest for power or attempts at buying it. This might explain the proliferation of humanitarian associations engaged in a kind of “charity war” heightened by the impact of visual shocks. Visual images create popular support for a cause (quite often unconnected with the importance of the event or its historical significance); the unbearable scenes ensure that the fund-raising campaign will be profitable.

Such fund-raising methods, says Kouchner, have become an irresistible trend which nowadays call upon the most sophisticated techniques (marketing, mailing, couponing, phoning); this gives rise to fierce rivalry amongst humanitarian associations and fuels “an aggressiveness which speaks volumes about the fragileness of kindly feelings”. The verdict is harsh: woe betide the associations which have not accepted the law of the humanitarian market place. “Use the media or get out!”

A pessimist? Certainly not. It suffices to hear Kouchner speak of his comrades-in-arms, crusaders for humanity, the last of the romantics, “guilelessly dangerous, relentless in the pursuit of justice, capable of anything for the sake of others and all united in rejecting heartlessness”. There are moments of tenderness when he touches upon the dangers of emergency missions in Beirut or El Salvador and when he pays homage to all those miracle workers, all the volunteers, young people, the jobless shunted off into early retirement and the pensioners who are presently flocking towards the humanitarian organizations.

And what activity can conjure up such visionary dreams as humanitarian work?

Kouchner shares with us his experience of the war in Biafra when he worked in emergency medical teams for the ICRC. He tells us why he was induced to speak out about the horrors he witnessed and how the idea came to him at that time to set up *Médecins sans Frontières*.

Hold one’s tongue or speak out? That’s the fundamental question in humanitarian aid. Should one remain silent when one’s conscience is outraged? Or should one speak out at the risk of no longer being allowed to give aid? A fundamental question to which the author does not give a precise answer. Speak out, yes, because “certain atrocities cannot be left unspoken”. But “it is not a matter of speaking out willy-nilly”! What matters to him is that non-governmental organizations, humanitarian associations—whether, like the Red Cross, they act jointly with governments, or act independently—repeatedly remind governments that they have a responsibility towards the victims of armed conflicts just as they have a responsibility to raise living standards. It is the author’s hope that these associations, such as Amnesty International, the International Red Cross, *Médecins sans Frontières* and *Médecins du Monde*, will be sufficiently on the alert so as not to be taken over and become the tools of governments.

At any rate, he is certain that States will never be able to handle all aspects of life and that “people who show their solidarity through volunteer work will be manning the outposts for a long time to come”.<sup>1</sup>

Jacques Meurant

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## HUMANITARIAN LAW AND INTERNAL CONFLICTS

### *The achievements of the Law*

The adoption of Article 3 common to the four Geneva Conventions of 1949 was hailed as a great victory of the humanitarian spirit: for the first time positive law contained a provision which submitted a national phenomenon—internal conflicts—to international law and granted minimum humanitarian protection to the victims of such conflicts.

How was this success achieved? Who were its originators and architects? How did Article 3 stand up to the test of the new situations which emerged between 1950 and 1970? And what has been the contribution of Protocol II additional to the Geneva Conventions, relative to the protection of victims of non-international armed conflicts?

In her book *Droit humanitaire et conflits internes*,<sup>2</sup> Rosemary Abi-Saab attempts to answer all these important questions and to trace the origin and development of legal provisions relative to internal conflicts.

In effect, this entails nothing less than describing and analysing the historical and juridical process through which humanitarian principles have gained ascendancy over State sovereignty and, in some cases, arbitrary political action. The advance was slow and laborious, and the work itself was often cast into doubt by the great changes of our time. Its accomplishment testifies, however, to the efforts made by the ICRC, the International Conferences of the Red Cross and certain States to ensure that through a progressive codification of humanitarian principles, the greatest possible protection is given to the victims of all armed conflicts.

The first two chapters of the book deal with the inception and development of such legislation, from the nineteenth century to the adoption of Article 3 common to the 1949 Geneva Conventions. In those pages we discover Francis Lieber and Gustave Moynier, whose pioneering efforts were of crucial importance; a new light is also thrown upon the initiatives of National Societies such as the American Red Cross, which submitted a

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<sup>1</sup> The author has attached as an annex a draft charter for the protection of medical missions. It suggests that the same protection be extended to the medical personnel of non-governmental medical associations as that granted in the Protocols additional to the Geneva Conventions to the medical personnel of Parties to conflicts and of National Societies. An interesting line of thought which might be examined in one of the forthcoming issues of the *Review*.

<sup>2</sup> Rosemary Abi-Saab, *Droit humanitaire et conflits internes—Origines et évolution de la réglementation internationale*, Henry Dunant Institute, Editions A. Pedone, Geneva, Paris, 1986, 280 pp., FF 120.

draft international convention on the application of the law of war in times of civil war to the International Red Cross Conference of 1912.

The author skilfully shows how, through action taken by humanitarian organizations (such as ICRC activities from 1917 to 1919 and during the Spanish civil war) and under pressure from the International Red Cross Conferences of 1912, 1924, 1938 and 1948, the very principle of extending humanitarian protection to the victims of internal conflicts was gradually accepted by the governments and eventually became embodied in Article 3 common to the 1949 Geneva Conventions.

In the following chapters, Mrs. Abi-Saab's main aim is to bring back to life the debates which took place at the 1949 Diplomatic Conference on the ICRC's draft text relative to internal conflicts, and at the same time analyse the provisions in detail. We thus rediscover, face to face, the supporters of the idea that all the Conventions should be applicable in *all* armed conflicts, as advocated by the ICRC following the International Red Cross Conference held in Stockholm in 1948, and the opponents, who were in the majority, anxious to give a restrictive definition to non-international armed conflicts and thereby limit the field of application of the proposed legislation.

The only possible solution was a compromise: the adoption of Article 3 guaranteeing a minimum of humanitarian protection and leaving open the possibility of providing for a greater degree of protection through specific agreements is undoubtedly a significant step forward, but the text as a whole is not free from shortcomings: the definition of internal conflict is vague, the fields of material and personal application are limited, substantive rules are insufficient, and no provision is made for a system of monitoring the application of the Conventions.

The author gives a prominent place to the ICRC's efforts to overcome or by-pass those obstacles (especially because since the 1950s, it has been increasingly called upon to take action in situations of internal disturbances) and to go deeper into the legal aspects of the issue by learning from its practical experience.

With the help of well-chosen examples, the author shows how the ICRC makes effective use of the arms at its disposal: the first, a means of concrete action, consists in carrying out assistance operations which are more readily accepted by the parties concerned and are a kind of "open sesame" for protection activities; the second, of a legal nature, is the ICRC's right of humanitarian initiative. The ICRC achieved notable results during the armed unrest in Guatemala, Nicaragua and Lebanon, as well as during the conflicts in Cuba, Algeria, Biafra and Yemen, since its right of initiative opens more doors than would any mention of legal provisions, in this case Article 3. However, the increase in the number of new conflict situations and the necessity of having the parties' consent before being able to implement humanitarian law in internal conflicts made it imperative to enact new legislation granting greater protection. This meant extending the field of application of Article 3 and the content of existing legislation.

The author then demonstrates that, as they already had done before 1949, the International Red Cross Conferences (Vienna, 1965, and Istanbul, 1969) acted as veritable pressure groups in favour of extending the legislation then in force. Their action was echoed by the United Nations which, as of 1968, took a special interest in the question of human rights in armed conflicts. That marked the beginning of a new phase in the humanitarian campaign which was to lead to the adoption of Protocol II in 1977.

In view of the legal complexity of the subject of internal conflicts and its political repercussions, tracing the origin of Protocol II might seem to be attempting the impossible. And yet the author manages, with a logical and systematic approach, to unravel the intricacies of its evolution.

She first of all sets the scene, presenting and evaluating the forces in the field, in particular the representatives of Third World countries and national liberation movements, as well as drawing attention to the political standpoints of the various protagonists.

The author then tackles the substance of Protocol II, analysing in turn the work on the definition of non-international armed conflict, the material and personal fields of application, safeguard clauses, general and specific material protection and measures of enforcement.

She leads us confidently through the maze of amendments and counter-amendments, tracing the evolution of the views of the blocs and groups present at the Conference, which is also the evolution of the texts under discussion, not forgetting to draw useful comparisons between the latter and the provisions of Article 3 or those of the ICRC's initial draft.

This painstaking analysis enables us to understand better why the "simplified" Protocol II of 1977 did not retain the prohibition of unnecessary suffering, of treacherous conduct and of reprisals, and did not grant protection to the enemy placed *hors de combat*. Mrs. Abi-Saab remarks, not unjustifiably, that in the political context of the 1970s no ambitious project had any chance of being adopted: the new States which had just broadened the international community were certainly open to the ideas of humanitarian law and its progress, but their internal fragility forced them to tread cautiously. As a consequence, the bastion of State sovereignty proved to be just as impregnable as in 1949—if not even more so.

The author also finds that "by proposing a draft far too reminiscent of the regulations applicable in international conflicts, the ICRC opted for an approach based on the principles of the law of war, whereas the protection envisaged was essentially of a humanitarian nature. The States would undoubtedly have been readier to accept an approach based on respect for human rights in all circumstances".

Nevertheless, these shortcomings cannot obscure the progress made, such as the more extensive protection granted to the civilian population and to the medical services, the ban on inflicting collective punishment on persons belonging to the adverse party, etc. The main achievement lies in

having been able to provide for the compulsory application of a minimum of humanitarian rules in situations covered by Protocol II. However, as in the case of Article 3, the conditions in which an armed conflict, within the meaning of Article 1 of Protocol II, is considered to exist must not be subject to the findings and acknowledgement of the government concerned, but must be independent of its will. And it is well known that on this point States rarely see eye to eye.

The history of legislation relative to internal conflicts is dominated by the interaction of two major tendencies: a progressive one, represented by the International Conferences of the Red Cross, which encourage the ICRC to persevere in its efforts to provide greater protection to the victims, as well as by the ICRC itself through its practical work; the other, a conservative tendency, is that of the Diplomatic Conferences and the majority of States, whose reticence can be explained by the curbing considerations of national sovereignty. It is a good thing that the curb seems to be loosening.

In short, the book we are presenting is equally fascinating for historians and for jurists; it has a rich bibliography, a detailed index and useful diagrams illustrating the legislative history of the various provisions of Protocol II.

J.M.

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## REFUGEE MOVEMENTS

This study \* aims to present the different aspects (political, legal and geographical) of the current refugee problem and to outline practical solutions for the present and the future.

The authors first of all set out their overall approach to the problem, providing very recent figures which demonstrate its full extent. Their sources are based mainly on the "Fact sheet" published by the information division of the United Nations High Commissioner for Refugees (UNHCR) and on governmental and non-governmental publications available at the UNHCR documentation centre, of which they were in charge.

The authors then proceed to dispel the confusion surrounding certain concepts. They make a distinction, for instance, between "population movements" and "refugee movements", explaining that the fundamental difference between the two notions is that, unlike migrant persons, refugees can under no circumstances call on their natural protector, i.e. their state of origin, to meet its international responsibility by granting them diplomatic protection. The main reason for this is that refugees are defined as persons fleeing their country of origin because of some political, social, religious, ethnic or racial conflict (including armed conflict). To this list should be added territorial disputes, famine and internal power struggles. The experience of the past few decades has demonstrated the usefulness of

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\* Jovića Patrnoć, Zidane Mériboute, *Refugee movements*, International Institute of Humanitarian Law, Collected publications, San Remo, 1986, 55 pages.

customary rules and international treaties (the 1951 Convention and its 1967 Protocol, the 1969 Convention of the Organization of African Unity, the 1949 Geneva Conventions), which aim to provide solid legal bases for the protection of refugees.

The authors give particular attention to the problems posed by refugees in countries of asylum. In a poor country, they put considerable strain on its economy, social welfare services and the labour market. The rich countries make their position clear by declaring that economic recession imposes stringent limits on their ability to receive and absorb refugees.

In the following part of their study, the authors make a systematic analysis of the regional aspect of refugee movements: four distinct sections deal in turn with Africa, South-East Asia, the Middle East (this section is mainly concerned with the issue of Palestinians in Lebanon, with detailed explanations of the mandates of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) and the UNHCR) and Central America. In each section, the authors put forward general considerations on the main causes of refugee movements and on the legal principles which might be invoked for the refugees' protection.

Next they examine the historical, legal and political situation in the refugees' countries of origin and the administrative and economic efforts made by countries of asylum, in particular with regard to their ways of dealing with the influx of refugees.

The authors' approach to the problem and to the structure of the different sections is deliberate: in their view, it enables them to meet the need of certain international organizations to have an overview of the main aspects (especially statistical) of large-scale refugee movements today.

The final chapter is devoted to a few general remarks on the possible and conceivable solutions. The authors feel that additional efforts on the part of the international community, the richest countries in particular, would not only improve the situation of refugees in countries of asylum, but also prevent other such movements by helping eradicate one of their causes, namely poverty and misery.

The study contains a series of notes and a selected bibliography on refugee movements, based for the most part on documents available at the UNHCR documentation centre.

The scope of this work and the information it provides make it indispensable to every student, researcher or international civil servant interested in recent refugee problems.

M.Z.

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## THE 1985 YEARBOOK OF THE INTERNATIONAL INSTITUTE OF HUMANITARIAN LAW

The International Institute of Humanitarian Law recently published its 1985 Yearbook \* containing a wide range of studies and essays on a

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\* International Institute of Humanitarian Law, *Yearbook 1985*, San Remo, 1986, 260 p. (Articles in English and French).

number of highly topical issues of humanitarian law. The latest developments in this law are analysed in articles dealing with a variety of problems: fight against torture, status of refugees, detention of refugees and asylum-seekers, present-day migrations, protection of journalists, status and treatment of deserters, etc.

The choice of subjects for the Yearbook faithfully reflects the objectives which the International Institute of Humanitarian Law set itself when it was founded in San Remo in 1970: to defend, reaffirm and develop international humanitarian law and to promote all initiatives aimed at putting it into application.

The publication is also intended as a reference work, for it reproduces and comments on official United Nations documents and other international instruments concerning refugees, the fight against torture, protection of migrant workers and their families, etc.

Lastly, a large part of the Yearbook is devoted to the Institute's recent activities, more specifically to the 11th Round Table (September 1985) whose main topic was the relation between guerrilla warfare, terrorism and humanitarian law.

As Mr. A. Hay, President of the ICRC, states in his foreword to the Yearbook, over the past fifteen years the ICRC and the San Remo Institute have striven, in a spirit of constructive co-operation, to diminish the evils of war and other man-made disasters. This publication is intended as yet another contribution towards a veritable humanitarian mobilization.

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## News and Reviews

*Hunger and socio-economic problems in the Third World, especially in Africa, refugees and terrorism are topics of constant concern to the international community and are the current subject of comment and analysis in a large number of periodicals.*

*The Review has selected a few of these for the benefit of its readers:*

● The third issue of **League**, which is a quarterly publication produced by the League of Red Cross and Red Crescent Societies, contains a series of articles on the problem of refugees. The journal describes the situation of millions of refugees, displaced persons and asylum seekers throughout the world and reviews the international and regional instruments adopted by the international community to protect these persons "living in limbo land". *League* then goes into a number of ways in which National Societies assist refugees. It also includes an article on the work done by the ICRC's Central Tracing Agency and by the new department set up within the League to promote and coordinate National Society programmes in favour of refugees.

In an interview granted to *League*, J.-P. Hocké, United Nations High Commissioner for Refugees and former Director of Operations at the ICRC, clearly states his decision to act:

“UNHCR was established—like the Red Cross—to ease the suffering of mankind. We shall be judged by what we do... If we don't act, people will not only suffer but it will cost the international community more—since disaster and tragedy will have been permitted to get deeper and deeper. So the only answer is to act”.

This issue of *League* also contains an interesting article on the consequences, from a humanitarian standpoint, of industrial or nuclear accidents and reports on the activities of various National Societies.

● **Etudes polémologiques**, the periodical published by the French Institute of Peace Studies (*Hôtel National des Invalides, 75 007 Paris*), devotes its 38th issue (2nd quarter of 1986) to a series of studies on *terrorism*, including articles on international legal cooperation in matters related to terrorism (by *J. Patrnogic* and *Z. Meriboute*), on the legal implications of policies adopted for the repression of terrorism (by *D. Fontanaud*) and on various aspects of terrorism generally.

● In its September 1986 issue, **Le Monde diplomatique** (*monthly publication, 7 rue des Italiens, 75427 Paris Cedex 09*) publishes an article entitled “Le grand bazar de la charité” (“The Great Charity Bazaar” by *Ch. Condaminés*), which goes into the question of development aid given by non-governmental organizations. The article's basic argument is similar to the view put forward by *Bernard Kouchner* (see the summary of his book in this issue of the Review), demonstrating that in this third decade of development assistance NGOs may be compelled to adopt a show business approach and apply the techniques of marketing. This is the way to ensure that charity actually “sells”, especially in an emergency. According to the author, the many existing humanitarian organizations will prove all the more successful in “selling” their image if they ask fewer questions about the causes of poverty and the means of eradicating it. For as soon as development is involved, complications arise and charity gets lost in a maze of politics, culture, economy and demography. The conclusion is that rather than attempting to change the world, “keeping it as it is, is already more than enough!”

● **AMPS—Information** is the official publication of the World Social Prospects Association created in 1976 to study and promote, on the social level, the objectives laid down in United Nations resolutions concerning the establishment of a new world economic order.

This year's fourth issue focuses mainly upon the Association's plans for the future. Noting the aggravation of economic and social problems throughout the world, the Association deems it increasingly necessary to completely re-appraise the values and conception of development and enable Third World countries to take a full share in the decision-making process and strategies affecting the future of the international community as a whole. Several articles make interesting reading in this connection, for instance the creation by the Association of an “International Famine Research Fund”, the food policies of African and Asian countries and the consequences of urban expansion throughout the world (*Published by the World Social Prospects Study Association, Palais des Nations (UNITAR), Geneva*).

## ADDRESSES OF NATIONAL SOCIETIES

- AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Pulī Hartal, *Kabul*.
- ALBANIA (Socialist People's Republic of) — Albanian Red Cross, 35, Rruga e Barrikadavet, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, Boulevard Mohamed V, *Algiers*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206 Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, 3 Gusshausstrasse, Postfach 39, A-1041, *Vienna 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Cross Society, 684-686, Bara Magh Bazar, Dhaka-17, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, Chaussée de Vleurgt 98, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (People's Republic of) — Red Cross of Benin, B.P. No. 1, *Porto Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar No. 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10/12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURMA (Socialist Republic of the Union of) — Burma Red Cross Society, Red Cross Building, 42, Strand Road, *Rangoon*.
- BURUNDI — Burundi Red Cross, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henry-Dunant, P.O.B. 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 95 Wellesley Street East, *Toronto, Ontario M4Y 1H6*.
- CAPE VERDE (Republic of) — Cruz Vermelha de Cabo Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHILE — Chilean Red Cross, Avenida Santa María No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA (People's Republic of) — Red Cross Society of China, 53, Gannien Hutong, *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO (People's Republic of the) — Croix-Rouge congolaise, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Croix-Rouge de Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Calzada 51, Ciudad Habana, *Habana 4*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovska 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjöld's Allé 28, Postboks 2600, 2100 *København Ø*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, Calle de la Cruz Roja y Avenida Colombia, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, *San Salvador*, Apartado Postal 2672.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A, Box 168, 00141 *Helsinki 1415*.
- FRANCE — French Red Cross, 17, rue Quentin-Bauchart, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMAN DEMOCRATIC REPUBLIC — German Red Cross of the German Democratic Republic, Kaitzerstrasse 2, DDR 8010 *Dresden*.
- GERMANY, FEDERAL REPUBLIC OF — German Red Cross in the Federal Republic of Germany, Friedrich-Ebert-Allee 71, 5300, *Bonn 1*, Postfach 1460 (D.B.R.).
- GHANA — Ghana Red Cross Society, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GUATEMALA — Guatemalan Red Cross, 3.<sup>a</sup> Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.<sup>a</sup> Calle, 1.<sup>a</sup> y 2.<sup>a</sup> Avenidas, *Comayagüela D.M.*
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, *Budapest 1367*. Mail Add.: 1367 *Budapest 5, Pf. 121*.
- ICELAND — Icelandic Red Cross, Noatun 21, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New Delhi 110001*.
- INDONESIA — Indonesian Red Cross Society, II Jend Gatot Subroto Kar. 96 Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Baghdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon 1-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, St. John's Gate, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyeongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San-Dong, Choong-Ku, *Seoul 100*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat, *Kuwait*.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, P.B. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, P.O. Box 226, *Monrovia*.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, C.P. 404, *Luxembourg 2*.
- MADAGASCAR — Malagasy Red Cross Society, 1 rue Patrice-Lumumba, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Mahati Magandhi Road, *Blantyre* (P.O. Box 30080, Chichiri, *Blantyre 3*).
- MALAYSIA — Malaysian Red Crescent Society, National HQ, No. 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, Avenue Gamal Abdel Nasser, *Noouakchott*.

- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Colonia Polanco, *México 10 DF*.
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217, *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O.B. 28120, *2502 KC The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*. (P.O. Box 12-140, *Wellington North*.)
- NICARAGUA — Nicaraguan Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory Rd., P.O. Box. 764, *Lagos*.
- NORWAY — Norwegian Red Cross, Drammensveien 20 A, *Oslo 2*. Mail add.: *Postboks 2338, Solli, Oslo 2*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Zona 1, Panamá*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216 esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Camino del Inca y Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of the Socialist Republic of Romania, Strada Biserica Amzei, 29, *Bucarest*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.
- SAN MARINO — Red Cross of San Marino, Comité central, *San Marino*.
- SÃO TOMÉ AND PRÍNCIPE — Sociedade Nacional da Cruz Vermelha de São Tomé e Príncipe, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6 Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, 15, Penang Lane, *Singapore 0923*.
- SOMALIA (Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — The South African Red Cross Society, 77, de Villiers Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN — Spanish Red Cross, Eduardo Dato, 16, *Madrid 28010*.
- SRI LANKA (Dem. Soc. Rep. of) — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN (The Republic of the) — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27316, *102-54 Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, *3001 Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA — Tanzania Red Cross National Society, Upanga Road., P.O.B. 1133, *Dar es Salaam*.
- THAILAND — The Thai Red Cross Society, Paribatra Building, Chulalongkorn Hospital, *Bangkok 10500*.
- 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, Trinidad, West Indies*.
- 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 KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X 7EJ*.
- U.S.A. — American Red Cross, 17th and D. Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- U.S.S.R. — The Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., I. Tcheremushkinskii proezd 5, *Moscow, 117036*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado 3185, *Caracas*.
- VIET NAM (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Bà-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN ARAB REPUBLIC — Red Crescent Society of the Yemen Arab Republic P.O. Box 1257, *Sana'a*.
- YEMEN (People's Democratic Republic of) — Red Crescent Society of the People's Democratic Republic of Yemen, P.O. Box 455, Crater, *Aden*.
- YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Brentwood Drive, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.