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# INTERNATIONAL REVIEW

## OF THE RED CROSS



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# INTERNATIONAL REVIEW OF THE RED CROSS

## CONTENTS

JANUARY-FEBRUARY 1994  
No. 298

### FOLLOW-UP TO THE INTERNATIONAL CONFERENCE FOR THE PROTECTION OF WAR VICTIMS

- Editorial*: What is at stake ..... 3
- Nikolay Khlestov**: International Conference for the Protection of War  
Victims — What is to follow up the “follow-up”? ..... 6

### IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW

- Umesh Palwankar**: Measures available to States for fulfilling their  
obligation to ensure respect for international humanitarian law ..... 9

### IDENTIFICATION

- Entry into force of the amended version of Annex I to Protocol I,  
concerning technical means of identifying medical units and  
transports** ..... 27
- Protocol additional to the Geneva Conventions of 12 August 1949,  
and relating to the protection of victims of international armed  
conflicts (Protocol I): *Annex I — Regulations concerning identifi-  
cation (as amended on 30 November 1993)* ..... 29

## HISTORY OF HUMANITARIAN IDEAS

<b>Dr. Jean Guillermand:</b> The historical foundations of humanitarian action (Part I — <i>The religious influence</i> ).....	42
--	----

## INTERNATIONAL COMMITTEE OF THE RED CROSS

<b>Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects — <i>Statement of the ICRC to the General Assembly of the United Nations</i> (20 October 1993) (48th session, 1993 — <i>First Committee</i>)</b> .....	56
<b>Mines — <i>Introductory statement by the ICRC to the Council of Delegates</i> (Birmingham, 29-30 October 1993)</b> .....	61
News from Headquarters .....	66

## MISCELLANEOUS

Declaration by the Federative Republic of Brazil .....	67
Declaration by the Republic of Guinea .....	67
<b>States party to the Geneva Conventions of 12 August 1949 and to their Additional Protocols of 8 June 1977 (as at 31 December 1993)</b> .....	68

## BOOKS AND REVIEWS

El árbol de la vida ( <i>The Red Cross during the Spanish Civil War, 1936-1939</i> ) ( <i>Josep Carles Clemente</i> ) .....	78
Choices more ethical than legal — The International Committee of the Red Cross and human rights ( <i>David P. Forsythe</i> ) .....	81
Droit d'ingérence ou obligation de réaction? ( <i>The right to intervene or the obligation to react? What can be done to ensure respect for the rights of the individual in the light of the principle of non-intervention</i> ) ( <i>Olivier Corten</i> and <i>Pierre Klein</i> ) .....	83
<b>Addresses of National Red Cross and Red Crescent Societies</b> .....	91

## Follow-up to the International Conference for the Protection of War Victims

### *WHAT IS AT STAKE*

*On 1 September 1993, the participants in the International Conference for the Protection of War Victims adopted a declaration in which they solemnly pledged to respect and ensure respect for international humanitarian law in order to protect victims of war. To this end, they urged all States to take a series of measures designed to promote humanitarian law and strengthen compliance with its provisions.*

*Although the spirit of understanding that prevailed during the Conference and the constructive work it achieved are to be welcomed, the time has now come to take action on its recommendations. As the President of the ICRC emphasized in his closing address, "We all agree that our work will not stop with the adoption of the Final Declaration [...]. The peoples you represent [...] expect tangible results. There must be a follow-up to your deliberations".*

*One would like to believe that this concern to ensure proper follow-up expressed by many delegates during the Conference and echoed later in government circles and in the media reflects a desire on the part of the international community to put international relations on a moral footing, and to see it as an appeal for the reinstatement of standards deriving directly from international humanitarian law and international human rights law, which should govern relations between States and communities. One would like to believe that repeated violations of humanitarian law and the ravages caused by the increasing use of indiscriminate weapons, most of whose victims are civilians, have finally brought it home to States, international organizations and humanitarian agencies that a humanitarian mobilization to reject the unacceptable and restore the rule of law and reason is a matter of urgency.*

\* \* \*

What does "follow-up" imply? First of all, it calls for reflection on the responsibility of States to respect and ensure respect for humanitarian law, and on a series of legal and diplomatic steps designed to help them meet this obligation. It involves not only the introduction of measures to encourage States to respect humanitarian law but also the reinstatement of the law wherever it has been violated.<sup>1</sup> The need to safeguard the independent, apolitical and impartial nature of humanitarian work was another priority stressed during the Conference.

It is to be hoped that the meeting of the intergovernmental group of experts, which will be convened in 1995 by the Swiss government in accordance with the wishes of the Conference, will focus special attention on these fundamental issues.

In the long term, follow-up will require a two-pronged strategy. First, a preventive strategy is needed. Steps must be taken to speed up universal acceptance of humanitarian law and to encourage States to adopt legislation and other national measures designed to ensure that it is respected, to repress violations, and to spread knowledge of the law by publicizing it and including it in military training programmes. Secondly, there must be a strategy of coordination among States, intergovernmental bodies and humanitarian institutions. This means redefining their individual responsibilities, reaching a true consensus on the priorities to be applied to humanitarian aid, and arriving at an appropriate distribution of tasks in accordance with their respective mandates.

One of the main objectives of the ICRC, which was extensively involved in organizing the Geneva Conference, is to contribute to its follow-up in the years to come. The ICRC's plan of action is outlined in its Report on the Protection of War Victims, drawn up especially for the Conference. It must now study in greater depth each of the aspects of the Final Declaration and, with the help of government experts, come up with the tangible measures needed to pursue the two-fold strategy of prevention and coordination.

\* \* \*

Throughout 1994 the Review, as a forum for ideas, will report on these studies conducted within the ICRC and on any initiatives the

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<sup>1</sup> In this connection, see Umesh Palwankar, "Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law" (pp. 9-25 below).

*institution may be called upon to take; at the same time it will encourage the publication of general opinions on and specific analyses of the recommendations contained in the Final Declaration and ways of acting upon them.<sup>2</sup>*

*The forthcoming Review Conference of the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons will provide a unique opportunity to examine ways of adapting, supplementing or drafting provisions to remedy certain shortcomings in this Convention. The ICRC, which is devoting a great deal of time and effort to the problem of weapons having indiscriminate effects, in particular antipersonnel mines, will continue to make its voice heard;<sup>3</sup> it will pursue its efforts to prevent the damage caused by the excessive use of mines and regulate the use of new weapons, especially those capable of causing permanent blindness.*

\* \* \*

*It is to be hoped that this indispensable follow-up will not appear derisory in the face of all the horrors we have already witnessed this year. What can be done to overcome the doubts felt by many in this regard? First and foremost, human suffering transcends any feelings of doubt and must be dealt with at once. The ICRC learns this every day in the field. And then, nothing really worthwhile can be achieved without the firm resolve of all concerned with humanitarian action - primarily the States. The resolve to prevent violations, to coordinate action and to maintain dialogue; but also the resolve to build, and to try out different solutions. We are at a point where, to paraphrase Gaston Bachelard, "we must strive for the impossible if we are to attain the achievable".*

**Jacques Meurant**

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<sup>2</sup> See Nikolay Khlestov, "International Conference for the protection of war victims — What is to follow up the 'follow-up'?" (pp. 6-8 below).

<sup>3</sup> See the texts of the statements that the ICRC submitted to the United Nations General Assembly in October 1993 (pp. 56-60 below) and made before representatives of the Movement at the 1993 Council of Delegates (pp. 61-65).

*INTERNATIONAL CONFERENCE FOR THE PROTECTION  
OF WAR VICTIMS*

**WHAT IS TO FOLLOW UP THE “FOLLOW-UP”?**

**by Nikolay Khlestov**

The International Conference for the Protection of War Victims, held from 30 August to 1 September 1993 in Geneva, the “cradle” of humanitarian law, was an important event in international life. It gave an opportunity to diplomats of practically every nation not only to consider general issues of international humanitarian law, but also to discuss what to do in order to react adequately to the challenges of today, above all the escalation of armed conflicts and violations of international humanitarian law.

The growing scale of violations of humanitarian law in the modern world constitutes a threat to international security. It undermines trust in humanitarian law as such. It is a most destructive weapon that might place humanitarian values in question. It is self-evident that without such values mankind will never be humane.

The participants at the Conference — in fact a world forum — expressed their intention to restore the full authority of international humanitarian law. They denounced breaches of the law, with specific emphasis on such phenomena as “ethnic cleansing”. In its Final Declaration the Conference also urged all States to bring about respect for humanitarian law and, in particular, to ensure that war crimes are duly prosecuted and do not go unpunished. The Conference appealed to all States to make every effort to disseminate that law.

The most crucial provision of the Declaration is the one concerned with the need to make the implementation of humanitarian law more effective. On this issue a special clause was elaborated. During the drafting exercise it was referred to as the “follow-up”.

The Geneva Conference followed the example of the World Conference on Human Rights, held in Vienna last June, that adopted a declaration containing a section entitled "Follow-up". The International Conference of the Red Cross (Geneva, October 1986) in its Resolution V likewise appealed to States and National Red Cross and Red Crescent Societies to enable the ICRC to *follow up* the progress achieved in legislative and other measures taken for the implementation of humanitarian law; it also emphasized the necessity to gather and assess the said information and to report regularly to International Conferences of the Red Cross and Red Crescent on *the follow-up* to this Resolution.

This background illustrates the fact that the idea of having a "follow-up" was not spontaneous. It is based on the increasing desire to ensure respect for the rules of humanitarian law.

After a long series of consultations among delegations it was decided to call upon the Swiss government to convene an "open-ended" inter-governmental group of experts, which means that any country, irrespective of whether it is a party to humanitarian instruments, could send its experts to share in its work. The said group is to study practical means of promoting full respect for and compliance with humanitarian law, to make it more effective in all conflicts. It is to consider any suggestions and proposals in this regard and prepare its conclusions and recommendations in the form of a report to the States, to be submitted to the next International Conference of the Red Cross and Red Crescent.

As a rule, international supervision of the implementation of international law has two main components. First the extent to which national legislation and practice comply with international obligations is analysed and assessed on the basis of reports. Secondly, an examination is made of complaints and representations with regard to alleged violations of obligations. These two elements have to be borne in mind while considering "practical means of promoting full respect for and compliance with humanitarian law".

In the field of human rights, procedures and mechanisms, including fact-finding missions, special rapporteurs, etc., are established by organizations of the UN family. Recently the UN Commission on Human Rights took steps to set up an emergency mechanism dealing with gross and acute violations of human rights. Thus a new mechanism has appeared, i.e. special or emergency sessions of the Commission to consider situations in a specific country, as was the case with regard to the situation in the former Yugoslavia.

It does not seem necessary, however, to emulate the experience of other bodies while considering possibilities of making the implementation

of humanitarian law more effective, but to keep that experience in mind so that it can serve as a guidance for the work of the intergovernmental group of experts.

Of course, many questions could be raised as to the work of such a group and its results. For that reason the group must first of all outline its terms of reference and working methods. It could also:

- develop the reporting mechanism;
- consider terms of application of special procedures in the event of grave breaches of humanitarian law, with particular emphasis on the mechanism of the International Fact-Finding Commission provided for by Protocol I (Art. 90) additional to the 1949 Geneva Conventions on the protection of victims of war;
- consider the issue of penal sanctions in the event of grave breaches of humanitarian law;
- examine obstacles hindering the implementation of humanitarian law;
- study ways of making the role and protection provided by the ICRC to victims of war more effective;
- clarify the relationship between international humanitarian law and the national legislation of States.

At a later stage the group might deem it necessary that special procedures and, perhaps, bodies be created with a view to promoting the effective implementation of humanitarian law.

There may be other subjects and suggestions which could be presented by government experts for the benefit of humanitarian law and its application. The *International Review of the Red Cross* could serve as a focal point for the presentation of new approaches and ideas.

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# **Implementation of International Humanitarian Law**

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## **Measures available to States for fulfilling their obligation to ensure respect for international humanitarian law**

**by Umesh Palwankar**

### **Introduction**

The present study deals with one specific aspect of the whole issue of finding ways and means of improving respect for international humanitarian law, namely, implementation of the obligation, as contained in Article 1 common to the Geneva Conventions of 1949 and to their Additional Protocol I of 1977, to ensure respect for this law. It is based upon the premise that the interpretation of common Article 1, whereby the obligation to ensure respect for international humanitarian law implies that every High Contracting Party ought to take action with regard to any other High Contracting Party which does not respect this law, is uncontested. The study therefore does not discuss this issue, but rather identifies and briefly comments upon the various types of measures available to States in order to fulfil their obligation to ensure respect. The examples given for the various measures are merely illustrative and ought by no means to be considered as a judgement by the author regarding their justification in the light of the circumstances under which they were adopted.

### **General remarks**

The **main purpose** of this study is to identify, classify and briefly examine certain legal aspects of action that has been taken by States, in various contexts, in order to ensure respect for international law in general, and thereby provide a list of measures that States could consider

adopting, as appropriate, in order to fulfil to their obligation under common Article 1.

Accordingly, it does not dwell on a detailed analysis of the veritable legal nature of this obligation to ensure respect.<sup>1</sup> It should nevertheless be pointed out that in view of the almost universal ratification of the Geneva Conventions and the growing number of States party to their Additional Protocols, as well as the transcendence of humanitarian principles and hence *erga omnes* character of the obligation to respect them,<sup>2</sup> all States have the right to ensure that any other State respects customary humanitarian law, and all States party have the obligation to do so, under the strict terms of the Conventions and Protocol I, *vis-à-vis* any State party to these instruments.<sup>3</sup>

Common Article 1 imposes an obligation on the High Contracting Parties to act, but does not identify any specific course of action. There

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<sup>1</sup> For such an analysis, see *inter alia* Luigi Condorelli and Laurence Boisson de Chazournes, "Quelques remarques à propos de l'obligation des Etats de 'respecter et faire respecter' le droit international humanitaire 'en toutes circonstances'" in Christophe Swinarski (ed.), *Studies and essays on international humanitarian law and Red Cross principles* in honour of Jean Pictet, Martinus Nijhoff, Geneva-The Hague, 1984, pp. 17-36; Nicolas Levrat, "Les conséquences de l'engagement pris par les Hautes Parties Contractantes de 'faire respecter' les Conventions humanitaires" in Frits Kalshoven & Yves Sandoz (eds.), *Implementation of International Humanitarian Law*, Martinus Nijhoff, Dordrecht, 1989, pp. 263-296.

<sup>2</sup> "...since such an obligation does not derive only from the Conventions themselves, but from the general principles of humanitarian law to which the Conventions merely give specific expression". Military and paramilitary activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, *ICJ Reports*, 1986, paragraph 220. In the *Barcelona Traction* case, the International Court of Justice (ICJ) observed that States' obligations to the international community as a whole may be conferred by international instruments of a universal or quasi-universal character and that all States may be considered as having a legal interest in their observance. *Barcelona Traction Light and Power Company, Limited*, Judgment, *ICJ Reports*, 1970, paragraphs 33 and 34.

<sup>3</sup> See also Resolution XXIII of the *International Conference on Human Rights, Tehran, 1968*, which emphasizes that the obligation to ensure respect for the Conventions is incumbent even upon States that are not directly involved in an armed conflict. It should equally be noted that there have been neither reservations nor interpretative declarations with regard to Article 1. Nor has any State contested the validity of the appeals issued by the ICRC on the basis of that Article to all States party to the Conventions, in connection with the conflict between Iran and Iraq, in 1983 and 1984. Furthermore, both the General Assembly and the Security Council of the United Nations have referred to the obligation under Article 1, as for example in Security Council resolution 681 of 20 December 1990 concerning the Arab territories occupied by Israel, which, in paragraph 5, calls upon the High Contracting Parties to the Fourth Geneva Convention "... to ensure respect by Israel, the occupying Power, for its obligations under the Convention in accordance with Article 1 thereof" and in General Assembly resolution 45/69 of 6 December 1990 concerning the uprising (*intifada*) of the Palestinian people, which similarly, in paragraph 3, calls upon all States party to the Fourth Convention to ensure respect by Israel for this Convention in conformity with their obligation under its Article 1.

is no indication of how they should set about ensuring respect for international humanitarian law. It is primarily to fill that gap that the lawful means available have to be identified. A further reason for determining such means is the fact that, in order to make progress in the implementation of international humanitarian law, especially in the context of Article 1, it is necessary to go beyond the framework provided by international humanitarian law itself and to consider other options such as, for example, “humanitarian diplomacy”, which mainly involves States and the United Nations. Of course humanitarian action, in this particular context, then becomes implicated in politics, but the responsibility, both individual and collective, laid down in Article 1 does rest with States and thus necessarily involves politics.

It is worth pointing out at this juncture that the present study focuses upon measures to enable States to “ensure respect” for international humanitarian law by other States, in the sense of **restoring respect** for international humanitarian law by States which are violating it.<sup>4</sup> However, it ought to be borne in mind that States may also fulfil their commitment to ensure respect by way of measures designed to assist other States to respect the law, particularly in peacetime (and possibly during armed conflicts of long duration). Such measures include, for instance: providing legal advisers to assist in developing or adapting national legislation and penal codes for effective implementation of international humanitarian law and to train legal advisers within the armed forces; teaching international humanitarian law as part of any kind of military cooperation; holding regional and international seminars with the participation of States in order to debate the specific problems associated with respect for international humanitarian law; and helping to set up and update regional data banks (or a single international data bank) on the various aspects related to national measures and their implementation, which would be accessible to any State needing information.

The legally permissible measures available to third parties, i.e. States which are not party to an international or non-international armed conflict, to ensure respect for international law in the event of a breach of the law may be classified into four broad categories. The first of these is *measures to exert diplomatic pressure*. The second category is *coercive measures* that States may take themselves. The third comprises

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<sup>4</sup> As L. Condorelli and L. Boisson de Chazournes observe, this aspect (*vis-à-vis* other States) of the obligation to ensure respect relates to what is required of States in the face of violations of humanitarian law attributable to another State. *Supra* note 1, p. 26.

steps which States may take *in cooperation with international organizations*. The fourth category differs from the other three, in that it does not relate to measures aimed at restoring respect for international law by a State violating that law, but rather to that aspect of the obligation to ensure respect which confers on States the duty, moral in the very least, to contribute to assistance action undertaken in conformity with international humanitarian law. The measures in this case could be considered as *contributions to humanitarian efforts*.

Finally, insofar as international humanitarian law is concerned, it should be noted that, under the terms of Article 1 (“in all circumstances”, i.e. whenever international humanitarian law is applicable) and pursuant to Article 3 common to the Geneva Conventions, the obligation to ensure respect applies to both international and non-international conflicts.

## Measures to exert diplomatic pressure

Generally speaking, such measures do not pose any problems from the legal point of view. They may take more or less the following five forms:

- a) *Vigorous and continuous protests lodged by as many Parties as possible with the ambassadors representing the State in question in their respective countries and, conversely, by the representatives of those Parties accredited to the government of the aforementioned State.*
- b) *Public denunciation, by one or more Parties and/or by a particularly influential regional organization, of the violation of international humanitarian law.*

One example would be the statement made by the United States to the Security Council on 20 December 1990 concerning the deportation of Palestinian civilians from the occupied territories: “We believe that such deportations are a violation of the Fourth Geneva Convention... We strongly urge the Government of Israel to immediately and permanently cease deportations, and to comply fully with the Fourth Geneva Convention in all of the territories it has occupied since June 5, 1967” (S/PV.2970, Part II, 2 January 1991, pp. 52-53). Similarly, resolution 5038/ES, of the Council of the League of Arab States, at its extraordinary session (Cairo, 30-31 August 1990), condemned, in its paragraph 1, “... the violation by Iraqi authorities of the provisions of international humanitarian law relative to the treatment of civilians in the Kuwaiti territory under Iraqi occupation”.

c) ***Diplomatic pressure on the author of the violation, through intermediaries.***

For instance, the steps that were taken by Switzerland to persuade the USSR, China and France to exert pressure upon the Arab States in the Zerka affair of 1970 when three civilian planes were hijacked by Palestinian movements.

d) ***Referral to the International Fact-Finding Commission (Article 90, Additional Protocol I) by a State with regard to another State, both of which have accepted the competence of the Commission.***

In fact, the very assertion, by a State which has declared its acceptance of the competence of the International Fact-Finding Commission, of its desire to approach that body, even if the State against which an enquiry is requested has not itself declared its acceptance, might prove a means of inducing the latter to accept the Commission's competence, at least on an *ad hoc* basis, and/or to take steps to suppress continuing violations of international humanitarian law. A refusal could be publicly regretted by States.

## **Coercive measures that States may take themselves**

The list that follows includes only measures available to States which are legally permissible in international law, and does not therefore take into consideration armed intervention undertaken unilaterally, i.e. without any reference to a treaty or custom, by a State or a group of States, as such intervention is not permitted under public international law and as no armed intervention can be based on international humanitarian law.<sup>5</sup>

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<sup>5</sup> Yves Sandoz, "It would indeed be unthinkable to see international humanitarian law, whose philosophy it is not to link its application to *jus ad bellum*, itself become a pretext for armed intervention", *Annals of International Medical Law*, No. 33, 1986, p. 47. See also the second and fourth preambular paragraphs in the Preamble to Protocol I additional to the Geneva Conventions. With regard to respect for human rights, "the use of force could not be the appropriate method to monitor or ensure such respect". Judgment, *Nicaragua v. United States of America*, *ICJ Reports*, 1986, paragraph 268. For an overview, with extensive references, of the prohibition of the use of force in international law, see International Law Commission: *Third report on State responsibility*, Chapter X.A. "The Prohibition of the use of Force" (Doc. A/CN.4/440/Add.1, 14 June 1991).

It should be pointed out here that the inadmissibility of the use of force by States is confined to unilateral actions (Article 2, paragraph 4, of the Charter of the United Nations) and hence is without prejudice to cases where the United Nations intervenes, pursuant to Articles 42 and 43, paragraph 1, of the Charter. Nor does it apply to the right of individual or collective self-defence (Article 51 of the Charter).

It would be useful at this stage to touch very briefly upon the legality, in international law, of the adoption of coercive (albeit unarmed) measures by States *vis-à-vis* other States. Practice shows that States employ a wide range of such measures in order to exert pressure on other States in retaliation for an act committed by the State against which they are directed. Such measures may be classified in two broad categories, namely retortion and unarmed reprisals.

**Retortion** refers to acts which are unfriendly, and even damaging, but intrinsically lawful, carried out in response to a prior act which might also be unfriendly but lawful, or internationally unlawful.

**Reprisals** are acts which are by their very nature unlawful but are exceptionally justified in the light of a prior unlawful act committed by the State at which they are directed. Thus the International Law Commission, which uses the term “countermeasures” to designate such acts, considers the initial illegality to constitute a circumstance which precludes the illegality of the response.<sup>6</sup>

The *lawfulness of the measures themselves*,<sup>7</sup> notably with regard to their content and implementation, is determined not only in terms of the

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<sup>6</sup> “The wrongfulness of an act of a State not in conformity with an obligation of that State towards another State is precluded if the act constitutes a measure legitimate under international law against that other State, in consequence of an internationally wrongful act of that other State” (ILC Draft Article 30 on State responsibility), *Yearbook of the International Law Commission*, 1979, vol. II, p. 115. For termination or suspension of the operation of a treaty as a consequence of its breach, see Article 60, paragraphs 1-4 of the Vienna Convention on the Law of Treaties. Also, Arbitral award in the case concerning the Air Service Agreement of 27 March 1946 between the United States of America and France, Decision of 9 December 1978, paragraph 81: “If a situation arises which, in one State’s view, results in the violation of an international obligation by another State, the first State is entitled, within the limits set by the general rules of international law pertaining to the use of armed force, to affirm its rights through counter measures”. *Report of Arbitral Awards*, Vol. XVIII, p. 417. For an exhaustive study see Frits Kalshoven, *Belligerent Reprisals*, Sijthoff, Leyden and Henry Dunant Institute, Geneva, 1971, 389 pp.

<sup>7</sup> This refers chiefly to reprisals. For jurisprudence dealing with the lawfulness of reprisals, refer to the “Naulilaa” and “Lysne” cases, Arbitral awards of 31 July 1928 and 30 June 1930 respectively, *Report of Arbitral Awards*, Vol. II, p. 1025 and p. 1056. Nevertheless, the considerations which follow also apply, by analogy, to measures of retortion which, although intrinsically lawful, should not however stray beyond the bounds of lawfulness. They must for instance respect the principle of proportionality in relation to the objective pursued. They may not be used for purposes other than to put a stop to the unlawful act which prompted them. However, neither practice nor case law provide any clear indications of the bounds of lawfulness of retortion. For details on lawfulness and related considerations with regard to retortion and countermeasures, see International Law Commission: *Third report on State responsibility*, Chapter I.B. “Retortion” (Doc. A/CN.4/440, 10 June 1991), and *Fourth report on State responsibility*, Chapter V. “Prohibited countermeasures” (Doc. A/CN.4/444/Add.1, 25 May 1992).

limits dictated by the demands of civilization and humanity, but also in terms of their aim. The aim is neither to punish (we are concerned with countermeasures, not sanctions) nor to seek compensation, but solely to oblige the State which is responsible for violating the law to stop doing so, by inflicting damage upon it, and to deter it from repeating the same offence in the future. Thus, in order to remain lawful, the coercive measures must:

- be directed against the State responsible for the unlawful act itself;
- be preceded by a warning to the State in question, asking it to stop the said act or acts;
- be proportional; all measures out of proportion with the act which prompted them would be excessive, and hence unlawful;
- respect fundamental humanitarian principles, as provided for in public international law and international humanitarian law, whereby such measures are forbidden against certain categories of persons;<sup>8</sup>
- be temporary and therefore cease as soon as the violation of the law by the State in question ceases.<sup>9</sup>

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<sup>8</sup> In conformity, *inter alia*, with Article 60, paragraph 5, of the Vienna Convention on the Law of Treaties. Furthermore, paragraph 4 of the same Article makes reservation for the specific provisions of each treaty applicable in the event of a breach. Under international humanitarian law, prohibitions of certain measures against protected persons are to be found in Articles 46, 47, 13(3) and 33(3) of the Four Geneva Conventions respectively and certain articles of Additional Protocol I, such as, for example, Articles 20, 51(6), 54(4). See also International Law Commission, *Fourth report on State responsibility*, Chapter V.C. "Countermeasures and respect for human rights" (A/CN.4/444/Add.1, 25 May 1992) wherein the rapporteur observes that "... humanitarian limitations to the right of unilateral reaction to internationally wrongful acts have acquired in our time... a degree of restrictive impact which is second only to the condemnation of the use of force" (paragraph 78). Among the examples he cites to support his observation, one finds the total blockade of trade relations with Libya declared in 1986 by the United States, which prohibited the export to Libya of any goods, technology or service from the United States with the exception of publications and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies strictly intended for medical purposes (paragraph 79).

<sup>9</sup> This condition ought equally to be read in the light of General Assembly resolution 2131 (XX) of 21 December 1965 on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, and resolution 2625 (XXV) of 24 October 1970 on the Declaration on Principles of International Law Concerning Friendly Relations Among States in Accordance with the Charter of the United Nations, both of which clearly condemn the use of economic and political force by States to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights or to secure from it advantages of any kind.

## Possible measures of retortion

*a) Expulsion of diplomats.*

For instance, during the hostages affair at the United States embassy in Tehran (1979-1980), the United States expelled some of the Iranian diplomatic personnel posted in Washington.

*b) Severance of diplomatic relations.*

Soon after the aforementioned decision, the United States broke off diplomatic relations with Iran.

*c) Halting ongoing diplomatic negotiations or refusing to ratify agreements already signed.*

The American Senate refused to examine the SALT II agreements, already signed by the USSR and the United States, following the invasion of Afghanistan (1979).

*d) Non-renewal of trade privileges or agreements.*

The United States decided, in 1981, not to renew its bilateral maritime agreement with the USSR and to introduce restrictions on the admission of its vessels to American ports as from January 1982, following the repression in Poland.

*e) Reduction or suspension of public aid to the State in question.*

As a reaction to militia killings and other human rights violations in Suriname, the Netherlands in December 1982 suspended implementation of a 10 to 15-year aid programme to that country.

## Possible unarmed reprisals

These include measures to exert economic pressure.<sup>10</sup> The aim is to hamper normal economic and financial relations, either by failing to

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<sup>10</sup> This expression seems the most appropriate to cover the whole range of such measures, rather than employing more restrictive terms such as "embargo", which strictly speaking only concerns exports, or "boycott" which, similarly, only relates to imports.

respect agreements in force or by way of decisions running counter to the rules governing those relations.

**a) *Restrictions and/or ban on arms trade, military technology and scientific cooperation.***

The European Communities took a series of decisions on 4 August 1990 with regard to Iraq which comprised, among others, an embargo on the sale of arms and other military equipment, and the suspension of all technical and scientific cooperation.

**b) *Restrictions on exports and/or imports to and from the State committing the violations; total ban on commercial relations.***

Following the invasion of Afghanistan (1979) the United States set up a grain embargo against the USSR; the European Communities imposed a total ban on imports from Argentina during the Falklands/Malvinas conflict (1982); the United States suspended commercial relations with Uganda in 1978 in reaction to violations of human rights.

**c) *Ban on investments.***

A ban on all new investment in South Africa was imposed by France in 1985, following a hardening of the repression associated with apartheid.

**d) *Freezing of capital.***

The European Communities decided to freeze Iraqi assets on the territory of the Member States (4 August 1990).

**e) *Suspension of air transport (or other) agreements.***

On 26 December 1981, the United States suspended the 1972 US-Polish Air Transport Agreement following the Polish government's repression of the Solidarity movement.

## **Measures in cooperation with international organizations**

### **Regional organizations**

In addition to decisions to take measures to exert economic pressure, such as those identified above, certain regional agencies, particularly

those active in the human rights field, may help in another way to promote respect for both human rights and international humanitarian law.<sup>11</sup> This has been the case of the European and Inter-American Human Rights Commissions.

In 1967, a complaint was lodged with the European Commission by the governments of Denmark, Norway, Sweden and the Netherlands against the government of Greece, accusing the latter of violations of the European Convention on Human Rights. As the case was not submitted to the Court, it was the Committee of Ministers which took a decision.

The two aforementioned Commissions have also undertaken fact-finding missions in the field and conducted private interviews with prisoners: the European Commission in Turkey (1986), and the Inter-American Commission during the civil war in the Dominican Republic (1965).

### United Nations

As mentioned above,<sup>12</sup> Article 1, by imposing an obligation on States, inevitably brings in politics. And one of the most important means at States' disposal, at the international level, is precisely the United Nations. Moreover, any effective attempt by a State to ensure respect for international humanitarian law, especially in the event of massive violations, would be difficult, if not impossible, without the political support of the community of States, and the United Nations is one of the most widely used vehicles for such support in the contemporary world. This is implicitly recognized in Article 89 of Additional Protocol I, which states: "In situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties undertake to act, jointly or individually, in cooperation with the United Nations and in conformity with the United Nations Charter".

The different types of measures which States may take in cooperation with the United Nations are listed below.<sup>13</sup>

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<sup>11</sup> In this connection, see Dietrich Schindler, "The International Committee of the Red Cross and Human Rights", *International Review of the Red Cross*, January-February 1979, No. 208, pp. 3-14.

<sup>12</sup> See *General remarks* following the introduction.

<sup>13</sup> For a recent study on this and related subjects, see also Hans-Peter Gasser, "Ensuring respect for the Geneva Conventions and Protocols: The role of Third States and the United Nations" in Hazel Fox and Michael M. Meyer (eds.) *Armed Conflict and the New Law*, vol. II "Effecting Compliance", The British Institute of International and Comparative Law, London, 1993, pp. 15-49.

***Measures decided by the Security Council***

***a) Unarmed countermeasures.***

Article 41 of the United Nations Charter lists a series of measures that the Security Council may decide to take if it determines the existence of one of the three situations referred to in Article 39, that is, any threat to the peace, breach of the peace, or act of aggression. An analysis of actual practice, however, reveals a certain reticence and an empirical approach on the part of the Security Council, which has not always found it necessary either to refer expressly to the articles on which it bases itself or to declare formally in the preamble or operative part of a resolution whether the situation in question corresponds to one of the three designated in Article 39.<sup>14</sup> Consequently, when the Security Council places itself in the context of Chapter VII of the Charter, it is implicitly acknowledging that it is in the presence of one of the three situations designated in Article 39. Moreover, the Security Council enjoys great latitude in its competence to classify situations, and "... it is very difficult to find a common guideline in its various resolutions that allows a coherent classification of the various situations enumerated in Article 39".<sup>15</sup> For example, in resolution 688 of 5 April 1991, the Security Council deemed that the repression of the Iraqi civilian population in Kurdish-populated areas threatened international peace and security in the region (paragraph 1).

The unarmed measures cited in Article 41 are complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Thus, from 1965 onwards, the Security Council adopted several decisions requesting member States to suspend all their trade relations with Southern Rhodesia.

***b) Use of armed force.***

It is generally accepted that all military countermeasures by a State are unlawful, and that the sole body competent to impose a sanction involving armed force today is the United Nations and in principle,

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<sup>14</sup> *La Charte des Nations Unies: Commentaire article par article*, Jean-Pierre Cot and Alain Pellet (eds.), Paris/Brussels, Economica/Bruylant, 1985, p. 651 ff.

<sup>15</sup> *Ibid.*, p. 654.

within that organization, the Security Council.<sup>16</sup> States may thus act on the Security Council's authorization to use force in order to ensure respect by a given State for its international obligations.

A typical example would be the action taken during the Gulf crisis as from 17 January 1991, in pursuance of Security Council resolution 678 of 29 November 1990.

However, as observed earlier, the Security Council enjoys great latitude in deciding which situations constitute threats to international peace and security. For instance, resolution 794 of 3 December 1992 stated that the human tragedy caused by the conflict in Somalia, and further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constituted a threat to international peace and security (preambular paragraph 3). Consequently, in order to stem violations of international humanitarian law, in particular the deliberate impeding of humanitarian assistance (paragraph 5), the Council decided that action be taken under Chapter VII of the Charter, which would include the use of all necessary means to establish a secure environment for humanitarian relief operations in Somalia (paragraphs 7, 8 and 10). This decision was to a large extent repeated in resolution 814 of 26 March 1993, using more or less similar terminology (heading of section B and paragraph 14, in particular). In this context, it would be useful to make the following observations. Although the aforementioned action, with allowance for the use of force, was decided upon by the Security Council with a view to ensuring respect for international humanitarian law in an armed conflict situation (provision of humanitarian assistance in this case), it was taken, firstly, on the basis of the United Nations Charter and not of international humanitarian law, and secondly, with the **primary** goal (and the **only one** permitted under Chapter VII of the Charter) of restoring (or maintaining, as the need may be) international peace and security. The lawfulness of the use of force in such circumstances is strictly limited to this goal, and **cannot be derived** from any rule or provision of **international humanitarian law**, not even Article 89 of Additional Protocol I, which calls upon States party to act, in cooperation with the United Nations and in conformity with its Charter, in situations of serious violations of that law. For international humanitarian law starts off from the premise that any armed conflict results in human suffering, and proceeds to elaborate a body of rules **meant precisely to alleviate this very suffering**. It would

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<sup>16</sup> *Supra* note 5.

indeed be logically and legally indefensible to deduce that that same law **itself allows**, even in extreme cases, for the use of armed force.<sup>17</sup> Enforcement measures would therefore **fall outside** the scope of international humanitarian law.

*Measures decided by the General Assembly*

*a) Implicitly authorized countermeasures.*

The General Assembly may more or less explicitly acknowledge that a State has not respected its obligations under the Charter, but without making any recommendation to member States to adopt countermeasures against it.

For instance, resolution A/RES/ES.6/2 adopted by the General Assembly at its sixth emergency special session, on 14 January 1980, strongly deplores the armed intervention in Afghanistan (paragraph 2), but makes no mention of the USSR. In such cases, there is nothing to prevent States from taking lawful countermeasures.

*b) Explicitly recommended countermeasures.*

The General Assembly may recommend that members (and sometimes even other States) adopt sanctions against a State whose conduct is qualified as contrary to the rules of the Charter.

A perfect example would be resolution A/RES/ES/9/1 of 5 February 1982, adopted at its ninth emergency special session on the situation in the occupied Arab territories. The resolution lists a whole series of measures to be applied against Israel: suspension of economic, financial and technological assistance and cooperation, severing of diplomatic, trade and cultural relations [paragraph 12 (c) and (d)] in order to isolate it totally in all fields (paragraph 13).

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<sup>17</sup> For this reason, international humanitarian law applies **equally** to all parties in an armed conflict situation, and **independently** of considerations relating to the **legality** of the use of force (Statements by the ICRC on the applicability of international humanitarian law to United Nations Peace-keeping Forces, 47th and 48th sessions of the General Assembly, 1992 and 1993 respectively). See also "Report on the Protection of War Victims" prepared by the ICRC for the International Conference for the Protection of War Victims, published in *International Review of the Red Cross*, No. 296, September-October 1993, at 3.1.3. In fact, if it were conceded that international humanitarian law does permit the use of armed force in order to put an end to violations of this law, then it could also be argued that any use of armed force which abides by international humanitarian law to the letter is thereby "legal" under that law, independently of the provisions of the Charter. This would be absurd, which is precisely one of the reasons why international humanitarian law **cannot (and must not) in any way be connected** with the legality of the use of force.

- c) *Besides resolutions requesting States to apply countermeasures, the Security Council, the General Assembly and the Secretary-General may be mobilized by member States to issue statements on the applicability of international humanitarian law and denounce violations which have been committed.*

The Security Council expressed concern with regard to attacks against the civilian populations in the Gulf in resolution 540 of 31 October 1983 on the situation between Iran and Iraq, which specifically condemned all “violations of international humanitarian law, in particular of provisions of the Geneva Conventions in all their aspects” and called for “the immediate cessation of all military operations against civilian targets, including city and residential areas” (paragraph 2); resolution 681 of 20 December 1990, in its paragraph 4, underlined the applicability of the Fourth Geneva Convention to the territories occupied by Israel; General Assembly resolution A/45/172 of 18 December 1990, concerning the situation of human rights and fundamental freedoms in El Salvador, referred to international humanitarian law; the Secretary-General made several appeals calling upon Iran and Iraq to release and repatriate all sick and wounded prisoners immediately (paragraph 40 of report S/20862 to the Security Council, 22 September 1989).

- d) *States may also use the public (denunciation) and confidential (in principle, discreet negotiations) procedures provided for in the Commission on Human Rights in order to bring pressure to bear on States to respect applicable international law. They may encourage references to international humanitarian law in the Commission and in the Sub-Commission.*

During their 1990 sessions, for example, both the Commission and the Sub-Commission mentioned international humanitarian law in the cases of Afghanistan, southern Africa, El Salvador and Israel.

- e) *States may encourage recourse by the United Nations to the services of special rapporteurs mandated to conduct enquiries into specific violations of international humanitarian law, taking the procedure already employed in the field of human rights as a model.*

In 1984, a report was prepared by experts designated by the Secretary-General to investigate the Islamic Republic of Iran’s allegations concerning the use of chemical weapons (S/16433, 26 March 1984); the Commission on Human Rights decided, in paragraph 4 of resolution 1993/2 A (19 February 1993) to appoint a Special Rapporteur

to investigate Israel's violations of the principles and bases of international law, international humanitarian law and specifically the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territory occupied by Israel since 1967.

- f) *States may also, through the Security Council and/or the General Assembly (within the limits set out in Article 96, paragraph 1, of the Charter), request the International Court of Justice to give an advisory opinion on whether an established fact — namely an alleged violation of international humanitarian law by a State or States party involved in a conflict — actually constitutes a breach of an international commitment undertaken by that State or those States.*

This is not equivalent to requesting the International Court of Justice to rule on the dispute underlying the armed conflict in question, which it would decline to do,<sup>18</sup> but rather on a more abstract question associated with the responsibility of States party to an international treaty.

## **Contribution to humanitarian efforts**

Such actions may take the form either of support for organizations involved in humanitarian assistance or of practical action to facilitate such assistance.

### **a) Support.**

States could provide financial and/or material support to permanent organizations such as the ICRC and UNHCR, and to *ad hoc* structures, such as that entrusted to Saddrudin Aga Khan for “Operation Salaam” in Afghanistan.

### **b) Practical action.**

States, particularly those in the region concerned, could make available their logistic (airports, ports, telecommunication networks) and medical (hospitals, personnel) infrastructures.

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<sup>18</sup> Interpretation of peace treaties, Advisory Opinion, *ICJ Report*, 1950, p. 72, where the ICJ states that it would not be in a position to express an opinion should the question put to it be directly related to the main point of a dispute actually pending between two States, so that answering the question would be substantially equivalent to deciding the dispute between the parties.

In the Falklands/Malvinas armed conflict (1982) for example, Uruguay, a neutral country sharing a border with Argentina, allowed wounded British military personnel to be repatriated by air from Montevideo, medical supplies for British hospital ships to transit through its territory (under the supervision of ICRC delegates) and Argentine prisoners to be repatriated and handed over to the representatives of their own authorities, also in Montevideo.<sup>19</sup>

## Protecting Powers

Finally, there exists the system of Protecting Powers which, as provided for in international humanitarian law, is essentially aimed at securing more effective respect for this law. Thus, a Protecting Power is a State mandated by one of the parties to a conflict to safeguard its interests in humanitarian matters *vis-à-vis* the other party or parties to the same conflict. Although it is true that the appointment of Protecting Powers rests with the parties to a conflict, third States could nevertheless encourage belligerents to have recourse to this system either by approaching them unilaterally with proposals to that effect or by activating interest within the United Nations.

## Conclusion

In a world characterized by increasing concern about violations of international humanitarian law, which in some cases are occurring on an unacceptably massive scale, the need for States to fulfil their obligation to ensure respect for this law has become both urgent and acute. As this study bears out, there do exist a wide range of measures available to them, measures that they have, on various occasions and in different contexts, adopted in the past. It is therefore up to them, as stated in the Final Declaration of the International Conference for the Protection of War Victims (30 August-1 September 1993), to make every effort to “ensure the effectiveness of international humanitarian law and take resolute action, in accordance with that law, against States bearing

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<sup>19</sup> For details, see Sylvie-Stoyanka Junod, *Protection of the Victims of Armed Conflict, Falkland-Malvinas Islands (1982): International Humanitarian Law and Humanitarian Action*, ICRC, Geneva, 1984, 45 pp.

responsibility for violations of international humanitarian law with a view to terminating such violations”.<sup>20</sup>

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<sup>20</sup> See Part II, paragraph 11 of the Final Declaration in *IRRC*, No. 296, September-October 1993, p. 380.

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## **Identification**

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### **ENTRY INTO FORCE OF THE AMENDED VERSION OF ANNEX I TO PROTOCOL I, CONCERNING TECHNICAL MEANS OF IDENTIFYING MEDICAL UNITS AND TRANSPORTS**

On the basis of Article 98 of 1977 Protocol I additional to the 1949 Geneva Conventions, and after consulting the States party to the said Protocol, in 1989 the ICRC called a meeting of technical experts to review Annex I (Regulations concerning identification) to this Protocol.

At the end of the meeting, which was held in Geneva in August 1990, the experts proposed a number of amendments. In accordance with the provisions of Article 98 of Protocol I, the ICRC requested the Swiss Confederation, depositary State of the Geneva Conventions and their Additional Protocols, to initiate the procedure laid down for inviting States party to adopt the proposed amendments. The main purpose of the latter was to incorporate into Annex I of Protocol I certain technical provisions already adopted by the competent international organizations.

To simplify matters, and bearing in mind that these amendments reflect the points of view of a large number of experts from many countries, the depositary suggested that instead of holding a diplomatic conference the amendments be adopted by correspondence. After consultation, the States party to Protocol I agreed to the suggested procedure. These same States were then asked to declare whether they accepted or rejected the amendments to Annex I to Additional Protocol I proposed by the technical experts in 1990.

On 21 October 1992, the Swiss Confederation informed the ICRC that, of the twenty-two States party to Protocol I which had replied, nineteen were in favour of the proposed amendments. Only Hungary, Jordan and Sweden had expressed reservations.

When more than two thirds of the High Contracting Parties *which replied* (Article 98, para. 3) had decided in favour of the amendments,

the latter would be considered to have been adopted at the end of a period of one year after the date on which they had been officially communicated by the Swiss Confederation to the States party, i.e. 30 November 1992, unless within that period a declaration of non-acceptance of the amendments had been communicated to the authorities by not less than one third of all the parties to Protocol I (Article 98, para. 4).

This one-year period ended on 30 November 1993 and, since no further declarations of non-acceptance of the amendments were communicated to the depositary during the period, *the amendments in the form proposed by the experts* are accepted and will enter into force on 1 March 1994 for *all parties* to Protocol I.\*

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\* With the exception of those parties which made reservations or declarations of non-acceptance during the one-year period, i.e. Sweden, which rejected the wording of *Articles 7 and 8* (former Articles 6 and 7), and Jordan, which wishes to retain the original wording of paragraph 1 (c) of Article 2 (formerly Article 1). Hungary has since withdrawn its reservation.

Protocol additional to the Geneva Conventions  
of 12 august 1949, and relating  
to the protection of victims  
of international armed conflicts  
*(Protocol I)*

**ANNEX I**

***REGULATIONS CONCERNING IDENTIFICATION***  
*(as amended on 30 November 1993)*

*NOTICE*

- (1) *New texts* are written in *italics*.
- (2) Existing texts *transferred* from one article to another are written in **bold**.
- (3) Article 1 of the proposed text is new, meaning that the numbering of all the other articles has changed (existing Article 1 is now Article 2, and so on). The changed numbering has also been taken into consideration in the references to other articles contained in some of the Annex's provisions.
- (4) Article 56 of Protocol I contains a reference to Article 16 of Annex I. This reference should now be to Article 17.

ANNEX I  
REGULATIONS CONCERNING IDENTIFICATION

Article 1 — *General provisions*

(New article)

1. *The regulations concerning identification in this Annex implement the relevant provisions of the Geneva Conventions and the Protocol; they are intended to facilitate the identification of personnel, material, units, transports and installations protected under the Geneva Conventions and the Protocol.*
2. *These rules do not in and of themselves establish the right to protection. This right is governed by the relevant articles in the Conventions and the Protocol.*
3. *The competent authorities may, subject to the relevant provisions of the Geneva Conventions and the Protocol, at all times regulate the use, display, illumination and detectability of the distinctive emblems and signals.*
4. *The High Contracting Parties and in particular the Parties to the conflict are invited at all times to agree upon additional or other signals, means or systems which enhance the possibility of identification and take full advantage of technological developments in this field.*

CHAPTER I  
IDENTITY CARDS

Article 2 — *Identity card for permanent civilian medical and religious personnel*

1. The identity card for permanent civilian medical and religious personnel referred to in Article 18, paragraph 3, of the Protocol should:
  - (a) bear the distinctive emblem and be of such size that it can be carried in the pocket;
  - (b) be as durable as practicable;
  - (c) be worded in the national or official language and, *in addition and when appropriate, in the local language of the region concerned;*
  - (d) mention the name, the date of birth (or, if that date is not available, the age at the time of issue) and the identity number, if any, of the holder;
  - (e) state in what capacity the holder is entitled to the protection of the Conventions and of the Protocol;

- (f) bear the photograph of the holder as well as his signature or his thumbprint, or both;
  - (g) bear the stamp and signature of the competent authority;
  - (h) state the date of issue and date of expiry of the card;
  - (i) *indicate, whenever possible, the holder's blood group, on the reverse side of the card.*
2. The identity card shall be uniform throughout the territory of each High Contracting Party and, as far as possible, of the same type for all Parties to the conflict. The Parties to the conflict may be guided by the single-language model shown in Figure 1. At the outbreak of hostilities, they shall transmit to each other a specimen of the model they are using, if such model differs from that shown in Figure 1. The identity card shall be made out, if possible, in duplicate, one copy being kept by the issuing authority, which should maintain control of the cards which it has issued.
  3. In no circumstances may permanent civilian medical and religious personnel be deprived of their identity cards. In the event of the loss of a card, they shall be entitled to obtain a duplicate copy.

*Article 3 — Identity card for temporary civilian medical and religious personnel*

1. The identity card for temporary civilian medical and religious personnel should, whenever possible, be similar to that provided for in Article 1 of these Regulations. The Parties to the conflict may be guided by the model shown in Figure 1.
2. When circumstances preclude the provision to temporary civilian medical and religious personnel of identity cards similar to those described in Article 2 of these Regulations, the said personnel may be provided with a certificate signed by the competent authority certifying that the person to whom it is issued is assigned to duty as temporary personnel and stating, if possible, the duration of such assignment and his right to wear the distinctive emblem. The certificate should mention the holder's name and date of birth (or if that is not available, his age at the time when the certificate was issued), his function and identity number, if any. It shall bear his signature or his thumbprint, or both.

FRONT

 <p>(space reserved for the name of the country and authority issuing this card)</p> <p><b>IDENTITY CARD</b></p> <p><b>PERMANENT</b> medical personnel for <b>TEMPORARY</b> civilian religious</p> <p>Name . . . . .</p> <p>Date of birth (or age) . . . . .</p> <p>Identity No. (if any) . . . . .</p> <p>The holder of this card is protected by the Geneva Conventions of 12 August 1949 and by the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) in his capacity as . . . . .</p> <p>Date of issue . . . . . No. of card . . . . .</p> <p style="text-align: right;">Signature of issuing authority</p> <p>Date of expiry . . . . .</p>	
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REVERSE SIDE

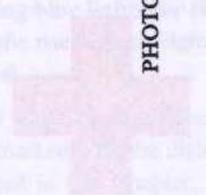
Height . . . . .	Eyes . . . . .	Hair . . . . .
Other distinguishing marks or information:		
. . . . . . . . . . . . . . .		
		
PHOTO OF HOLDER		
Stamp	Signature of holder or thumbprint or both	

Figure 1: Model of identity card (format: 74 mm x 105 mm)

## CHAPTER II

### THE DISTINCTIVE EMBLEM

#### Article 4 — *Shape*

The distinctive emblem (red on a white ground) shall be as large as appropriate under the circumstances. For the shapes of the cross, the crescent or the lion and sun\*, the High Contracting Parties may be guided by the models shown in Figure 2.



*Figure 2: Distinctive emblems in red on a white ground*

#### Article 5 — *Use*

1. The distinctive emblem shall, whenever possible, be displayed on a flat surface, on flags or in any other way appropriate to the lay of the land, so that it is visible from as many directions and from as far away as possible, and in particular from the air.
2. **At night or when visibility is reduced, the distinctive emblem may be lighted or illuminated.**
3. *The distinctive emblem may be made of materials which make it recognizable by technical means of detecting. The red part should be painted on top of black primer paint in order to facilitate its identification, in particular by infrared instruments.*
4. Medical and religious personnel carrying out their duties in the battle area shall, as far as possible, wear headgear and clothing bearing the distinctive emblem.

\* No State has used the emblem of the lion and sun since 1980.

### CHAPTER III DISTINCTIVE SIGNALS

#### Article 6 — Use

1. *All distinctive signals specified in this Chapter may be used by medical units or transports.*
2. *These signals, at the exclusive disposal of medical units and transports, shall not be used for any other purpose, the use of the light signal being reserved (see paragraph 3 below).*
3. **In the absence of a special agreement between the Parties to the conflict reserving the use of flashing blue lights for the identification of medical vehicles, ships and craft, the use of such signals for other vehicles, ships and craft is not prohibited.**
4. Temporary medical aircraft which cannot, either for lack of time or because of their characteristics, be marked with the distinctive emblem, may use the distinctive signals authorized in this Chapter.

#### Article 7 — Light signal

1. The light signal, consisting of a flashing blue light *as defined in the Airworthiness Technical Manual of the International Civil Aviation Organization (ICAO) Doc. 9051*, is established for the use of medical aircraft to signal their identity. No other aircraft shall use this signal. *Medical aircraft using the flashing blue light should exhibit such lights as may be necessary to make the light signal visible from as many directions as possible.*
2. *In accordance with the provisions of Chapter XIV, para. 4 of the International Maritime Organization (IMO) International Code of Signals, vessels protected by the Geneva Conventions of 1949 and the Protocol should exhibit one or more flashing blue lights visible from any direction.*
3. *Medical vehicles should exhibit one or more flashing blue lights visible from as far away as possible. The High Contracting Parties and, in particular, the Parties to the conflict which use lights of other colours should give notification of this.*
4. The recommended blue colour is obtained *when its chromaticity is within the boundaries of the International Commission on Illumination (ICI) chromaticity diagram defined by the following equations:*

green boundary	$y = 0.065 + 0.805 x;$
white boundary	$y = 0.400 - x;$
purple boundary	$x = 0.133 + 0.600 y.$

The recommended flashing rate of the blue light is between sixty and one hundred flashes per minute.

*Article 8 — Radio signal*

1. *The radio signal shall consist of the urgency signal and the distinctive signal as described in the International Telecommunication Union (ITU) Radio Regulations (RR Articles 40 and N 40).*
2. *The radio message preceded by the urgency and distinctive signals mentioned in paragraph 1 shall be transmitted in English at appropriate intervals on a frequency or frequencies specified for this purpose in the Radio Regulations, and shall convey the following data relating to the medical transports concerned:*
  - (a) call sign or other recognized means of identification;*
  - (b) position;*
  - (c) number and type of vehicles;*
  - (d) intended route;*
  - (e) estimated time en route and of departure and arrival, as appropriate;*
  - (f) any other information, such as flight altitude, guarded radio frequencies, languages used and secondary surveillance radar modes and codes.*
3. In order to facilitate the communications referred to in paragraphs 1 and 2, as well as the communications referred to in Articles 22, 23 and 25 to 31 of the Protocol, the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict, acting in agreement or alone, may designate, in accordance with the Table of Frequency Allocations in the Radio Regulations annexed to the International Telecommunication Convention, and publish selected national frequencies to be used by them for such communications. The International Telecommunication Union shall be notified of these frequencies in accordance with procedures approved by a World Administrative Radio Conference.

*Article 9 — Electronic identification*

1. The Secondary Surveillance Radar (SSR) system, as specified in Annex 10 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used to identify and to follow the course of medical aircraft. The SSR mode and code to be reserved for the exclusive use of medical aircraft shall be established by the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict, acting in agreement or alone, in accordance with procedures to be recommended by the International Civil Aviation Organization.

2. *Protected medical transports may, for their identification and location, use standard aeronautical radar transponders and/or maritime search and rescue radar transponders.*

*It should be possible for protected medical transports to be identified by other vessels or aircraft equipped with secondary surveillance radar by means of a code transmitted by a radar transponder, e.g. in mode 3/A, fitted on the medical transports.*

*The code transmitted by the medical transport transponder should be assigned to that transport by the competent authorities and notified to all the Parties to the conflict.*

3. *It should be possible for medical transports to be identified by submarines by the appropriate underwater acoustic signals transmitted by the medical transports.*

*The underwater acoustic signal shall consist of the call sign (or any other recognized means of identification of medical transport) of the ship preceded by the single group YYY transmitted in morse on an appropriate acoustic frequency, e.g. 5kHz.*

*Parties to a conflict wishing to use the underwater acoustic identification signal described above shall inform the Parties concerned of the signal as soon as possible, and shall, when notifying the use of their hospital ships, confirm the frequency to be employed.*

4. *Parties to a conflict may, by special agreement between them, establish for their use a similar electronic system for the identification of medical vehicles, and medical ships and craft.*

## CHAPTER IV COMMUNICATIONS

### Article 10 — Radiocommunications

1. *The urgency signal and the distinctive signal provided for in Article 8 may precede appropriate radiocommunications by medical units and transports in the application of the procedures carried out under Articles 22, 23 and 25 to 31 of the Protocol.*
2. *The medical transports referred to in Articles 40 (Section II, No. 3209) and N 40 (Section III, No. 3214) of the ITU Radio Regulations may also transmit their communications by satellite systems, in accordance with the provisions of Articles 37, N 37 and 59 of the ITU Radio Regulations for the Mobile-Satellite Services.*

Article 11 — *Use of international codes*

Medical units and transports may also use the codes and signals laid down by the International Telecommunication Union, the International Civil Aviation Organization and the *International Maritime Organization*. These codes and signals shall be used in accordance with the standards, practices and procedures established by these Organizations.

Article 12 — *Other means of communication*

When two-way radiocommunication is not possible, the signals provided for in the International Code of Signals adopted by the *International Maritime Organization* or in the appropriate Annex to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used.

Article 13 — *Flight plans*

The agreements and notifications relating to flight plans provided for in Article 29 of the Protocol shall as far as possible be formulated in accordance with procedures laid down by the International Civil Aviation Organization.

Article 14 — *Signals and procedures for the interception of medical aircraft*

If an intercepting aircraft is used to verify the identity of a medical aircraft in flight or to require it to land in accordance with Articles 30 and 31 of the Protocol, the standard visual and radio interception procedures prescribed by Annex 2 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, should be used by the intercepting and the medical aircraft.

CHAPTER V  
CIVIL DEFENCE

Article 15 — *Identity card*

1. The identity card of the civil defence personnel provided for in Article 66, paragraph 3, of the Protocol is governed by the relevant provisions of Article 2 of these Regulations.
2. The identity card for civil defence personnel may follow the model shown in Figure 3.

FRONT

	<p>(space reserved for the name of the country and authority issuing this card)</p> <p style="text-align: center;"><b>IDENTITY CARD</b> for civil defence personnel</p> <p>Name . . . . .</p> <p>Date of birth (or age) . . . . .</p> <p>Identity No. (if any) . . . . .</p> <p>The holder of this card is protected by the Geneva Conventions of 12 August 1949 and by the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) in his capacity as . . . . .</p> <p>Date of issue . . . . . No. of card . . . . .</p> <p style="text-align: right;">Signature of issuing authority</p> <p>Date of expiry . . . . .</p>
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REVERSE SIDE

<p>Height . . . . .</p>	<p>Eyes . . . . .</p>	<p>Hair . . . . .</p>
<p>Other distinguishing marks or information:</p> <p>. . . . .</p> <p>. . . . .</p> <p>Weapons . . . . .</p>		
<p>PHOTO OF HOLDER</p>		
<p>Stamp</p>	<p>Signature of holder or thumbprint or both</p>	

Figure 3: Model of identity card for civil defence personnel (format: 74 mm × 105 mm)

3. If civil defence personnel are permitted to carry light individual weapons, an entry to that effect should be made on the card mentioned.

**Article 16 — International distinctive sign**

1. The international distinctive sign of civil defence provided for in Article 66, paragraph 4, of the Protocol is an equilateral blue triangle on an orange ground. A model is shown in Figure 4:



Figure 4: Blue triangle on an orange ground

2. It is recommended that:
- if the blue triangle is on a flag or armlet or tabard, the ground to the triangle be the orange flag, armlet or tabard;
  - one of the angles of the triangle be pointed vertically upwards;
  - no angle of the triangle touch the edge of the orange ground.
3. The international distinctive sign shall be as large as appropriate under the circumstances. The distinctive sign shall, whenever possible, be displayed on flat surfaces or on flags visible from as many directions and from as far away as possible. Subject to the instructions of the competent authority, civil defence personnel shall, as far as possible, wear headgear and clothing bearing the international distinctive sign. At night or when visibility is reduced, the sign may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.

CHAPTER VI  
WORKS AND INSTALLATIONS CONTAINING  
DANGEROUS FORCES

Article 17 — *International special sign*

1. The international special sign for works and installations containing dangerous forces, as provided for in Article 56, paragraph 7, of the Protocol, shall be a group of three bright orange circles of equal size, placed on the same axis, the distance between each circle being one radius, in accordance with Figure 5 illustrated below.
2. The sign shall be as large as appropriate under the circumstances. When displayed over an extended surface it may be repeated as often as appropriate under the circumstances. It shall, whenever possible, be displayed on flat surfaces or on flags so as to be visible from as many directions and from as far away as possible.
3. On a flag, the distance between the outer limits of the sign and the adjacent sides of the flag shall be one radius of a circle. The flag shall be rectangular and shall have a white ground.
4. At night or when visibility is reduced, the sign may be lighted or illuminated. It may also be made of materials rendering it recognizable by technical means of detection.



Figure 5: *International special sign for works and installations containing dangerous forces*

# **The historical foundations of humanitarian action**

**by Dr. Jean Guillermand**

After nearly 130 years of existence, the International Red Cross and Red Crescent Movement continues to play a unique and important role in the field of human relations.

Its origin may be traced to the impression made on Henry Dunant, a chance witness at the scene, by the disastrous lack of medical care at the battle of Solferino in 1859 and the compassionate response aroused in the people of Lombardy by the plight of the wounded. The Movement has since gained importance and expanded to such a degree that it is now an irreplaceable institution made up of dedicated people all over the world.

The Movement's success can clearly be attributed in great part to the commitment of those who carried on the pioneering work of its founders. But it is also the result of a constantly growing awareness of the conditions needed for such work to be accomplished. The initial text of the 1864 Convention was already quite explicit about its application in situations of armed conflict. Jean Pictet's analysis in 1955 and the adoption by the Vienna Conference of the seven Fundamental Principles in 1965 have since codified in international law what was originally a generous and spontaneous impulse.

In a world where the weight of hard-hitting arguments and the impact of the media play a key role in shaping public opinion, the fact that the Movement's initial spirit has survived intact and strong without having recourse to aggressive publicity campaigns or losing its independence to the political ideologies that divide the globe may well surprise an impartial observer of society today.

Such a phenomenon can be explained only by the fact that Dunant's explicit motivations must have touched a profound chord, calling forth a powerful, universal and timeless response. This raises with an acuteness

more clearly recognized today a problem which concerns the very conscience of mankind and which, if it is to be properly understood, must be examined in a long-term historical perspective.\*

## PART 1

### The religious influence

Among the original motivations that gave rise to the Movement founded by Dunant, the religious and especially the Christian one is the most immediately perceptible, suggested not least by the similarity between the Movement's expressed altruistic ideal and the attitude required of Christ's disciples.

Henry Dunant, who was also an active member of the Young Men's Christian Organization, made no effort to hide his religious convictions.

Discussing the subject in 1899, Gustave Moynier stressed that the Committee of Five was created by "a group of men firmly devoted to the evangelical faith". He added that the invitations sent by the Swiss Federal Council to the constituent Diplomatic Conference in 1864 were addressed mainly to Christian States — with the exception of Turkey, which in any case had not replied.

Although the Movement was founded by dedicated Christians and sanctioned by nations which had long been converted to Christianity, it would be wrong to attribute this concurrence to a tradition of non-discriminatory international charitable action on the part of the Church. Over the centuries the Church's attitude has been equivocal on this particular point and in practice its position in the world has even led it to take stands far removed from its original precepts.

Taken literally, the teachings of the gospel were uncompromisingly simple regarding worldly considerations. No exception was to be made to the golden rule "Thou shalt love thy neighbour as thyself"<sup>1</sup> (Matthew

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\* The scope of this article may appear somewhat confined, since only the root causes and motivations most common to the countries which gave the Red Cross its initial form and content have been taken into account. This choice must obviously not be construed as reflecting a judgement upon (and even less a dismissal of) ways of thinking to be found in other parts of the world which, while remaining true to their own philosophies and beliefs, have accepted and adopted the Movement's principles in a truly universal community of spirit.

<sup>1</sup> ἀγαπήσεις τὸν πλησίον σου ὡς σεαυτόν.

22:39; Mark 12:31; Luke 10:27), nor was it to be applied only to the community of believers as was the case with an identical commandment in the Old Testament (Leviticus 19:18). Luke related the parable of the Good Samaritan (10:25) to illustrate the universal nature of this principle, and Jesus, having praised the peacemakers in the Beatitudes, carried it a step further by asking his disciples to love their enemies as themselves: "Love your enemies. Do good to them that hate you".<sup>2</sup> (Luke 6:27).

In Greek the verb *agapan*, used by all evangelists to refer to brotherly love, has a stronger meaning than the verb *philein* employed by the Greek philosophers. The former carries the additional connotation of compassion and respect for the dignity of others and applies especially to enemies.

Despite this distinction, the literal application of the evangelical precepts raised the question whether the first disciples should take part in warfare and even whether they should be present in armies.

The first Fathers of the Church held very clear-cut positions as to what attitude should be adopted. In 211, Tertullian, commenting on the execution of a Christian who had been enrolled in the Roman army and had refused to wear a ritual crown after the celebration of a pagan ceremony, stated the principle of incompatibility between the duties of a soldier and a Christian:

"And will the son of peace go to battle, whom it will not befit even to go to law?"<sup>3</sup>

Other examples of this incompatibility and the refusal it entailed, with all the accompanying risks, are widely known, namely those of the great military saints at the end of the third century, in the days of persecution by Diocletian.

Saint Maurice, together with other Christian members of the Theban Legion he commanded, was executed in Agaunum towards 290 for refusing to hold sacrifices to the emperor and fight the Bagaudae, insurgent Christian peasants whom he had been ordered to exterminate. Bishop St. Eucherius of Lyons paid tribute to him in his record of the events, ascribing a profession of faith to him that echoes the views of Tertullian:

"Behold, we bear arms and yet we do not defend ourselves, for we prefer to be killed rather than kill, and to perish blameless rather than live by doing evil."<sup>4</sup>

<sup>2</sup> ἀγαπάτε τοὺς ἐχθροὺς ὑμῶν, καλῶς ποιεῖτε τοῖς μισοῦσιν ὑμᾶς,

<sup>3</sup> "Et proelio operabitur filius pacis, cui nec litigare conveniet?", *De corona*, 11, 1.

<sup>4</sup> "Tenemus, ecce, arma et non resistimus, quia mori quam occidere satis malumus, et innocentes interire, quam noxii vivere praeoptamus", *Passio Acaunensium martyrum*, 9.

It was also for refusing to make sacrifices in veneration of the emperor and failing to comply with orders to persecute Christians that Saint George and Saint Sebastian, dignitaries in the Roman army, were martyred during the same era.

The Church's position regarding the army and war changed in the fourth century, after the Christian religion had been officially recognized by the Edict of Milan (313), and especially in the wake of the barbarian invasions. It appeared legitimate at that time to protect people from the invaders' cruelty, and if need be to take up arms in their defence.

Early in the fifth century, Saint Augustine, who witnessed the arrival of the Vandals in North Africa, came to define the concept of just war, a concept which was to have a lasting impact:

"Wars may be called just when they are waged to punish unjust acts".<sup>5</sup>

Later, in 418, when the prefect Bonifacius asked him how he could reconcile his Christian faith with a military calling, Saint Augustine wrote:

"So then be a peace-maker even when warring, that by overcoming those whom you conquer, you may bring them the advantages of peace".<sup>6</sup>

This position, which reconciled the Christian faith with acts undertaken in the defence of good causes, was the dominant one throughout the Middle Ages. The initial notion of just war later evolved, eventually giving rise to the concept of holy war and the Christian combatant as a soldier of Christ, and culminating in the long episode of the Crusades and the creation of orders of knighthood. To give one's life fighting to defend Christian victims, and if necessary to take enemy lives, was considered a true act of charity and the most perfect expression of faith. The advocate of the Second Crusade, Saint Bernard of Clairvaux, thus wrote to the Knights Templars in 1128:

"In truth, a soldier of Christ fights for his sovereign without a care, fearing neither the sin of exterminating enemies nor the danger of being violently killed. For it is not a crime to take lives or give one's own for Christ; indeed it is deserving of the greatest glory: the one gives you to Christ, the other gives you Christ".<sup>7</sup>

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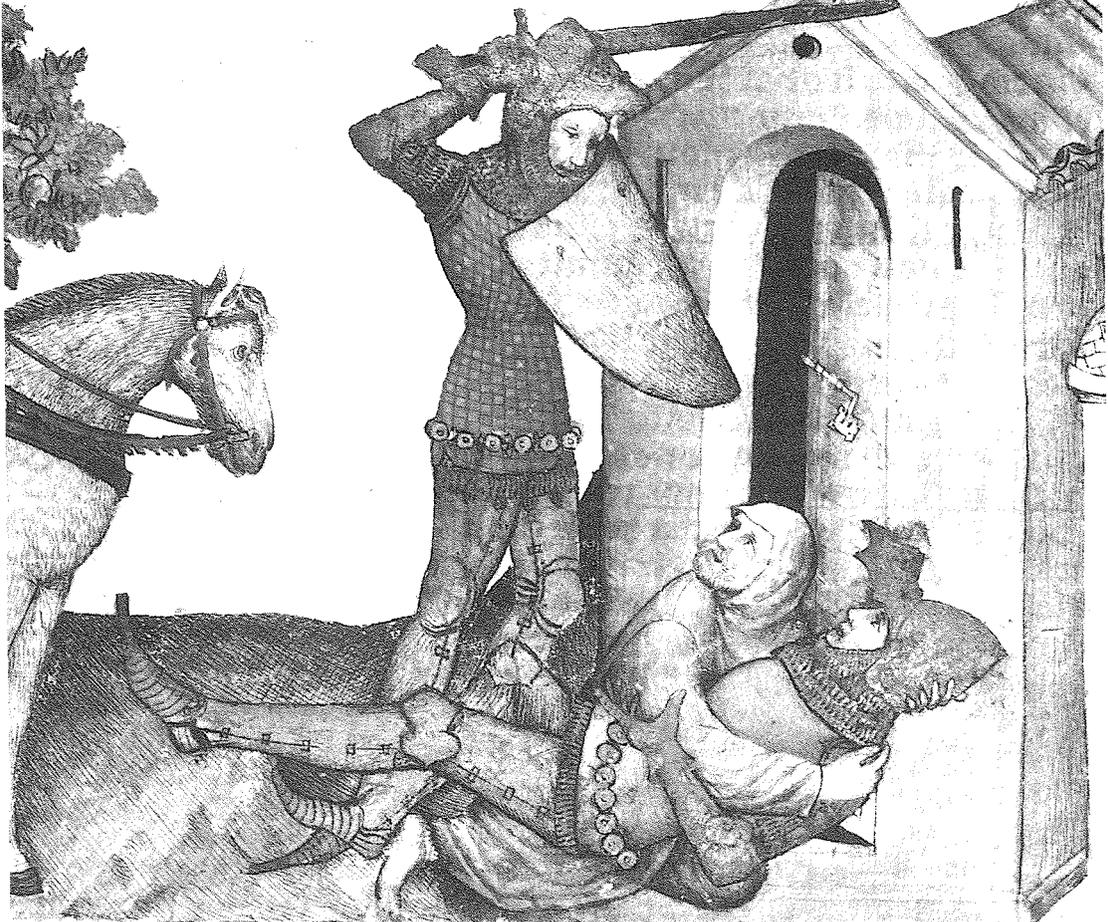
<sup>5</sup> "Justa bella solent definiri quae ulciscuntur injurias", *Quaestionum in Heptateuchum*, VI, 10.

<sup>6</sup> "Esto ergo etiam bellando pacificus, ut eos quos expugnas, ad pacis utilitatem vincendo perducas", *Epistola CLXXXIX*, 6.

<sup>7</sup> "At vero christi milites securi praeliantur praelio Domini sui, nequaquam metuentes aut de hostium caede peccatum, aut de sua nece periculum: quandoquidem mors pro Christo vel ferenda, vel inferenda, et nihil habeat criminis, et plurimum gloriae mereatur: Hinc quippe Christo, inde Christus acquiritur", *De laude novae militiae*, III, 4.

et del frere et tieze  
 at quil li abir tot  
 . et cil se stant en  
 se .

que la pouz uos ne pour autre ne remia  
 dra. Car il matant messet quil abien de  
 femme mort. Et lors li recort sus. et le ueut  
 feuz par mi la teste. Et caligronant se mee



e se recort mie de  
 cors prant son frere

entre deus et dit qe sil est lui mes tant  
 hardi quil mete en lui main. qe il est

*The violence of the world of chivalry is counterbalanced by Cistercian spirituality*

In the Cistercian-inspired "Quest for the Holy Grail" which ends the series of legends of the Knights of the Round Table, the heroes Bohort and above all Galahad incarnate the Christian ideal of selflessness, the opposite of human passion. In this illustrated episode from a fifteenth-century manuscript, Bohort, seriously wounded by his brother Lionel whom he refuses to fight, is saved by an old hermit who places himself between the two brothers and thus gives up his life. The combatant's renunciation and the death of the peaceable believer both echo the self-sacrifice of Christ.

(National Library Photographic Service, Paris, Manuscript fr. 343, fol. 47+)

The troops derived great strength from this reassurance. But for men who, in the midst of action, could not always refrain from being carried away by violence, it could potentially lead to excesses contrary to the proclaimed ideal. The sacking of Jerusalem in 1099 provided a particularly shocking example of this, according to accounts given by the Christians themselves. However, allowance must be made for the brutal atmosphere of the times, when victory asserted through sheer might was the acknowledged criterion of champions of good causes. The individual exploits of the knights celebrated in mediaeval romances, where the religious element is ever present, offer the same mixture of violence and magnanimity.

Towards the end of the Middle Ages theologians took pains to redefine the concept of a just war as it applied to Christians.

In the thirteenth century, Saint Thomas Aquinas significantly included a long discussion of war in a chapter devoted to charity in his *Summa Theologica*. Along the same lines as Saint Augustine, he stated that three basic criteria underlay a just war:

“I answer (to the questions brought up by war) that, in order for a war to be just, three things are necessary.

First, the authority of the sovereign by whose command the war is to be waged (...).

Secondly, a just cause is required, namely that those who are attacked should be attacked because they deserve it on account of some fault.

Thirdly, it is necessary that the belligerents should have a right intention, so that they intend the advancement of good, or the avoidance of evil”.<sup>8</sup>

The most delicate point of the argument concerned the soldiers’ “right intention”, of which the innumerable wars that continued to plague mediaeval Christendom provided scant evidence indeed.

Drawing on the work of Scholastic thinkers, Catholic theologians later attempted to make the meaning of this concept more clear. In the sixteenth century, the Dominican friar Francisco de Vitoria and Francisco Suárez, a Jesuit, devoted themselves in particular to defining the duties of victors with respect to the vanquished.

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<sup>8</sup> “Respondeo dicendum quod ad hoc aliquod bellum sit justum, tria requiruntur.

Primo quidem, auctoritas principis, sujus mandato bellum est gerendum...

Secundo, requiritur justa causa: ut scilicet illi qui impugnantur propter aliquam culpam impugnationem mereantur (...).

Tertio, requiritur ut sit intentio bellantium recta: qua scilicet intenditur vel ut bonum promoveatur, vel ut malum vitetur”, *Summa Theologica, Secunda Secundae. Quaestio 40*.

For Vitoria, moderation in victory became the third rule, replacing the right intention:

“Third canon: When victory has been won and the war is over, the victory should be utilized with moderation and Christian humility, and the victor ought to deem that he is sitting as judge between two states, the one which has been wronged and the one which has done the wrong, so that it will be as judge and not as accuser that he will deliver the judgement whereby the injured state can obtain satisfaction, and this, so far as possible, should involve a minimum of suffering and misfortune for the aggressor state, the offending individuals being chastised within lawful limits”.<sup>9</sup>

Without using the term of neutrality, Suárez nonetheless states that non-combatants should be safe from reprisals:

“It is implicit in natural law that the innocent include children, women, and all unable to bear arms”.<sup>10</sup>

With the sixteenth century came the Reformation. In view of the extreme level of violence rapidly reached in confrontations, the Reformers felt impelled to adopt a position on the lawfulness of war.

Repeating the earlier episode between Saint Augustine and the prefect Boniface, in 1526 Luther devoted a whole treatise to the topic “*Can soldiers be in a state of grace?*” (*Ob Kriegsleute auch ynn selgem Stande seyn künden*) in reply to a question put to him by the knight Assa von Kramm, an officer of the elector of Saxony.

After the encouragement he had given the year before to the brutal repression of the Peasants’ Revolt, Luther, invoking the repeated exhortations of Paul and Peter in their Epistles (Romans 13, I Peter 2), reaffirms the duty of obedience to authorities, whose divinely appointed mission it is to combat evil. But the conviction that it is not sinful to carry out the bloody repression of evil goes hand in hand with the certainty that in doing so one is acting in accordance with God’s will. If there is any doubt concerning the conformity of the one with the other, God’s will must prevail. In the name of personal responsibility, Luther argues for the first time that in such cases men have a duty to disobey.

<sup>9</sup> “Tertius canon: Parta victoria et confecto bello, oportet moderate et cum modestia christiana victoria uti et oportet victorem existimare se iudicem sedere inter duas Respublicas - alteram, quae laesa est, alteram quae injuriam fecit, non tanquam accusator, sed tanquam iudex, sententiam ferat, qua satisfieri quidem possit Reipublicae laesae, sed quantum fieri poterit, cum minima calamitate et malo Reipublicae nocentis, castigatis nocentibus quantum licuerit”, *De jure belli*. 60. *Tres belligerandi canones*.

<sup>10</sup> “Innocentes sunt quasi naturali jure pueri, mulieres, et quicumque non valent arma sumere”, *Disputatio XIII. De caritate*, VII, 10.

“For a soldier must carry with him and in him the certainty and consolation that he has a duty and an obligation to act as he does. For he must be sure that he is serving God and be able to say: it is not I who strikes, stabs and slaughters, but God and my sovereign, at whose service I put my body and my hands (...).

A second question: what do I do if my sovereign is wrong to wage war?

Answer: if you are absolutely sure that he is wrong, then you must fear and obey God rather than men (Acts 4) (...).

But, you say, my sovereign forces me, takes my life and withholds my money, salary and pay (...).

Answer: that is a risk you must also take, and for the sake of God let perish that which must perish (...)”.<sup>11</sup>

Invoking the same scriptural texts, Calvin professes a similar opinion to Luther’s. Recognizing that the power of sovereigns is based on divine right, he holds that just wars are inspired by God. However, if the sovereign’s will differs from that of God, he shows no hesitation to recommend disobedience of temporal authorities, giving precedence to God’s will.

In Chapter XVI of *The Institution of Christian Religion*, first published in French in 1541, he thus writes:

“But in that obedience which we have determined to be due to the authorities of governors, this is always to be excepted yea chiefly to be observed, that it do not leade us away from obeying of hym, to whose will delices of al kinges ought to be subject, to whose decrees all theys commaundementes ought to yelde, to whose majesty theys marces ought to be submitted (...) I know how great and how present peril hangeth over this constancie, bicause kings do most displeasantly suffer themselves to be despited (...).

“But sith this decree is proclaimed by y heavenly harald Peter. That we ought to obey God rather than men, lat us comfort our selves with this thought, that we then performe that obedience which the lord

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<sup>11</sup> Wenn es sol ja ein kriegs man mit sich und bey sich haben solch gewis und trost, das ers schuldig sey und müses thun, damit es gewis sey, das er Gott drynnen diene und komme sagen: Nie schlecht, flucht, würet nicht ich, sondern Gott und mein Fürst, welcher diener gytz mein hand und leib ist.

Ein ander frage: Wie, wenn mein herr unrecht hette zu kriegem? Antwort: Wenn du weisst gewis, das er unrecht hat, so soltu Gott mehr furchten und gehorchen denn menschen, Acto. 4., Ja, sprichstu, mein herr zwingt mich, nymt mir mein lehen, gibt mir mein gelt, lohn und sold nicht; Antwort: Das, mchtu wagen und umb Gotts willen lafen faren, was da feret.

requireth, when we suffer anye thing rather whatsoever it be, than Swarne from godlinesse".<sup>12</sup>

Basically the Reformers, like the Catholic theologians before them, provided those who waged so-called just wars with moral comfort.

Nevertheless, the right to disobey when the lawfulness of a war was in doubt represented a fundamental departure from the past. Sovereigns could not require obedience to orders contrary to the will of God, from whom their power derived and to whom all men owed submission. Soldiers were held personally responsible for fathoming God's will, making it their sole guide. In his Epistle to the Romans (13:5) to which the two great Reformers referred, Paul stresses that obedience to authorities must not be motivated by the fear of punishment but by the dictates of one's conscience (*syneidesis*). And it was a soldier's conscience that had to provide him with the necessary strength to oppose action contrary to his Christian faith, even at the cost of his life.

The Reformation has sometimes been blamed for its role in undermining the principle of unconditional obedience to authority. What was undeniably a call to the individual conscience gave rise to a trend of thought whose influence affected not only the devout but was ultimately instrumental in freeing the minds of all.

In the sixteenth century, however, only the religious aspect of conscience was concerned, in the individual's direct dialogue with God. The brutality of war was not in itself questioned nor were men called upon to disobey on humanitarian grounds.

The wars of religion rapidly demonstrated that the opposite in fact was true. The certainty, equally strong on both sides, that each was fighting for the triumph of good led them to carry out unspeakable atrocities, and neither the Protestants' passionate search to understand God's design nor the generous theoretical speculations of Catholic theologians were able to prevent countless acts of violence from dramatically contradicting the doctrine of love to which all were nominally committed.

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<sup>12</sup> "Mais en l'obéissance que nous avons enseignée estre deuë aux superieurs, il y doit avoir tousjours une exception, ou plustost une reigle qui est à garder devant toutes choses. C'est, que telle obeissance ne nous destourne point de l'obeissance de celuy, soubz la volonté duquel il est raisonnable que tous les desirs des Roys se contiennent: et que tous leurs commandements cedent à son ordonnance, et que toute leur haultesse soit humiliée et abaissée soubz sa majesté (...).

Je scay bien quel dangier peut venir d'une telle constance que je la requierz icy (...). Mais puisque cest edit a esté prononcé par le celeste herault S. Pierre, qu'il fault plustost obeir à Dieu que aux hommes (Actes, 4), nous avons à nous consoler de ceste cogitation, que vrayement nous rendons lors à Dieu telle obeissance qu'il la demande, quand nous souffrons plustost toutes choses, que declinions de sa sainte parolle."

The wars that ravaged Europe during the following centuries, including the Thirty Years' War, the wars waged by Louis XIV and the Napoleonic campaigns, evinced the same sense of helplessness.

In the nineteenth century the Catholic Church once again attempted to enforce the calls for moderation which had been constantly reiterated since Saint Thomas Aquinas. Neo-Thomism found expression in the works of the Jesuit theologian Luigi Taparelli d'Azeglio, in particular his voluminous *A theoretical essay on natural law based upon facts (Saggio teoretico di Dritto naturale appoggiato sul fatto)*, published from 1840 to 1843.

Drawing on the lessons of the past and appealing to the conscience of Christian Europe, Taparelli called for the setting up of an international order to govern the relations between nations. It was to be based on the principle of love ("principio di amore"), which had been sadly disregarded during the previous centuries and was especially needed in wartime.

In his essay on international benevolence in times of war (Book VI, Chapter IV), Taparelli devotes a lengthy discussion to the special laws of war, referring to the three criteria established by Saint Thomas Aquinas and his successors: the patronage of a legal authority, a just cause and moderation in the conduct of war. The latter is discussed in relation to the recent great conflicts and include some astonishingly modern recommendations concerning the use of certain weapons:

"Indeed, what aims does society pursue (through war)? To restore order through the use of force. In the first place, therefore, everything that is unable to offer resistance must be spared: thus the pointless destruction of dwellings and the indiscriminate slaughter of old people, women and children constitute barbarous excesses in war, since such punishment was undeserved (...).

"Once they have surrendered their weapons and declared their intention to cease fighting, even soldiers deserve pity from civilized peoples, and respect as well when they have surrendered out of duty and not cowardice (...).

"The very obligation which nations have to avoid causing unnecessary suffering forbids them the use of certain means of extermination whose effects could not be prevented or controlled at will so as to inflict damage at the very place where resistance is being shown. To spread disease, poison water sources and make use of other insidiously lethal devices are means that make no distinction as to when they strike, just as they make no distinction between armed and unarmed persons".<sup>13</sup>

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<sup>13</sup> "E infatti, qual è l'intento sociale? ridurre colla forza all'ordine. Dunque in primo luogo, tutto ciò che non può far resistenza, non deve distruggersi: ed ecco tolta la devastazione inutile delle case, la strage confusa di vecchi, donne, fanciulli, eccessi di barbara guerra: se pure alcuni di costoro non avessero individualmente meritata tal pena (...).

Taparelli acknowledges that a universally recognized international authority is necessary to ensure respect for these principles. Pointing to what he considers the harmful role played by the Reformation, which, by introducing the right to disobey, contributed to the decline of the traditional concept of temporal authority, he proposes re-establishing the pope's temporal authority in this area as the only solution.

It is interesting to note that during the same period an English theologian named James Martineau, likewise dealing with the excesses of war in the mid-nineteenth century, reaffirmed the Protestant point of view concerning war in a sermon given in Liverpool in 1855. (The sermon was republished and distributed to British soldiers in 1914.) Just wars are lawful, he states, since their cause transcends the natural feeling of revulsion caused by killing an enemy.

“Wounds inflicted, wounds received by men acting as the organs of a higher personality, and inspired by a sense of fidelity and honour to a power that has a right to wield them at its will, are not the same things as cuts in the private flesh made upon their own account, not debasing the giver, and glorifying the suffering to the receiver.

The objection is often brought against the morality of war, that the soldier is not the principle in the quarrel, but hires himself to kill, without regard to the rectitude of the cause. The remark appears to me essentially unjust in two respects. He does not hire himself out to kill; killing is not the end of an armed force, but only the possible means by which it may enforce its defence of right. As well might you say that the surgeon exists for the sake of wounding”.

In 1526 Luther had already used a similar metaphor - that of a surgeon performing an “act of love” [ein Werck der Liebe] for his patient, even at the cost of being brutal.

There is a pathetic aspect to these repeated attempts by clergymen from Saint Augustine onwards to sanctify a deed which continues, to the great misfortune of humankind, to taint relations between societies if not human nature itself.

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Perfino il soldato al momento che, rendendo le armi, si dichiara risoluto a cessar dalle offese, diviene fra popoli umani oggetto di commiserazione e, se cede per dovere et non per codardia, ancor di rispetto (...).

La stessa legge di evitare un male non necessario vieta tra le nazioni l'uso di certi mezzi di sterminio, dei quali l'arte non potrebbe arrestare o maneggiare gli effetti a norma degl'intenti suoi, drizzandone il danno precisamente colà d'onde parte la resistenza. Propagare il contagio, avvelenar le acque et simili altre invenzioni mortifere sono mezzi che non discerneranno tempo da tempo, né armato da inerme”, Lib. VI, Cap. IV, *Doveri internazionali nello stato ostile*.

Religious thinking, which can thus again be observed in the nineteenth century, may well have inspired military leaders to act with commendable moderation — besides salving their consciences with sometimes adverse effects — but even amongst Christian nations it never led to a universally recognized form of international regulation.

It does not seem to have had any real influence on the birth of the Red Cross in 1863 and 1864, although the support of individual Christians and Christian nations was undeniably in keeping with their convictions and traditions.

Outside Christendom its influence may even have been negative, particularly owing to the choice of emblem. Although in the minds of the Movement's founders, the red cross on a white ground represented an heraldic design devoid of religious connotation (the Swiss flag with its colours reversed), this choice was at first paradoxically a hindrance to the adoption of the Geneva Convention by Muslim countries. The problem was particularly evident in the 1877 Russo-Turkish war in the Balkans, which led, for reasons of expediency and contrary to the initially adopted principle of the unity of the emblem, to the recognition of the red crescent as the emblem of Muslim countries.

The symbol thereby adopted (an attribute of the ancient moon deities) had in fact been established long before it became associated with Islam.

The truth is that both religions of the Book could lead their followers to come to the help of the afflicted and the destitute.

Like Christianity, Islam taught believers to be compassionate. It had also been faced with the problem of reconciling its basic tenets with the demands of life on earth. An analogy may be found between Christianity's difficulties of interpretation and the ambiguities which have characterized attempts to define Islam's attitude towards war and especially the question of how to treat the vanquished.

In a study published in 1980, Yadh ben Achour analysed the teachings of the Koran and the Sunna with regard to this problem.<sup>14</sup> The translator of the most clearly explained French version of the Koran, Si Hamza Boubakeur, also discussed at length in his commentaries the circumstances which preceded or accompanied the writing of the suras during the warring period.<sup>15</sup>

The recommendations revealed in the Koran may be found in the suras which refer to the difficult battles that the Prophet had to wage against

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<sup>14</sup> "Islam and international humanitarian law", *International Review of the Red Cross*, No. 215, March-April 1980, pp. 59-69.

<sup>15</sup> *Le Coran, Traduction et Commentaires*, 2 volumes, Paris, 1985, vol. I.

his opponents after he took refuge in Medina in 622. Although it is a combatant's duty to fight to the end for the triumph of Truth (Sura II, Verse 190), the problems faced by believers after their victory at Badr in 624, and even more so after their defeat at Uhud in 625, led to a determination to refrain from being carried away by violence.

After Badr, the captives on the defeated side had almost been executed, as requested by several disciples. The solution finally adopted — their release in exchange for a ransom — is condemned in Sura VIII, not because it was a gesture of excessive clemency but rather because it indicated greed for worldly goods:

“A prophet may not take captives until he has fought and triumphed in his land. You seek the chance gain of this world,<sup>16</sup> but God desires for you the world to come. He is mighty and wise”.

The Sura IX, known as the sura of repentance, extols the merits of a benevolent attitude towards those who for various reasons have not yet awakened to the Truth:

“If an idolater seeks asylum with you, give him protection so that he may hear the word of Allah, and then convey him to a safe place. For the idolaters are ignorant men”.

Following the battle of Uhud, the Prophet had to resist the temptation of taking severe measures of retaliation against the captives after he discovered the mutilated body of his uncle Hamza. It is at this point in the narrative, in the last verses of Sura XVI on patience and forgiveness, that the final revelation is given:

“Be patient, then. God will grant you patience. Do not grieve for the unbelievers, nor distress yourself at their intrigues. Allah is with those who keep from evil and do good works”.

Islam's expansion through a long series of conquests was doubtlessly marred by a degree of violence in no way inferior to that of Christian

<sup>16</sup> مَا كَانَ لِنَبِيِّ أَنْ يَكُونَ لَهُ رِيسَةٌ حَتَّى يَجْزِيَنَّ فِي الْأَرْضِ تُرِيدُونَ عَرَصَ الدُّنْيَا وَاللَّهُ يُرِيدُ الْآخِرَةَ وَاللَّهُ عَزِيزٌ حَكِيمٌ ﴿١٦﴾

<sup>17</sup> وَإِنْ أَحَدٌ مِنَ الْمُشْرِكِينَ اسْتَجَارَكَ فَأَجِرْهُ حَتَّى يَسْمَعَ كَلِمَ اللَّهِ ثُمَّ أَبْلِغْهُ مَأْمَنَهُ ذَلِكَ بِأَنَّهُمْ قَوْمٌ لَا يَعْلَمُونَ ﴿١٧﴾

<sup>18</sup> ” وَأَصْبِرْ وَمَا صَبْرُكَ إِلَّا بِاللَّهِ وَلَا تَحْزَنْ عَلَيْهِمْ وَلَا تَكُ فِي ضَلَاتٍ مِمَّا يَمْكُرُونَ ﴿١٨﴾ إِنَّ اللَّهَ مَعَ الَّذِينَ اتَّقَوْا وَالَّذِينَ هُمْ مُحْسِنُونَ ﴿١٩﴾

warfare, but the comparison is often favourable to the Muslims. The clemency shown by Saladin when he reconquered Jerusalem in 1187 stands in stark contrast with its sacking by the Crusaders in 1099. As with the Christians, the Muslims' conduct in fact often strayed from the ideal shared by both religions, but the excesses committed on each side owe nothing to religious doctrine. Yadh ben Achour concludes his analysis of the texts by stating that "nothing in the Koran or the Sunna would appear to be contrary to international humanitarian law".<sup>19</sup>

This convergence, which appears when the facts are examined, sheds some light on the limited power of religious movements to influence their followers' behaviour in the accomplishment of acts which call into question the basic tenets of their faith, and on the ambiguity of that power. Although the generous impulses of forgiveness and kindness are certainly kindled by faith, they are contingent on considerations of an even higher order and the faithful cannot be blamed for holding their beliefs as more precious than worldly values and indeed than life itself, theirs and those of others included. In addition, the formidable dualities of spiritual purity versus worldly compromise and of individual attitudes versus the weight of the community make it a difficult and often dangerous practice to allow religious thought to intrude upon the running of societies.

In themselves, religious motivations are insufficient to explain the emergence of the Red Cross.

(To be continued)\*

Jean Guillermand was born in 1921 in Lyon, where he became a Doctor of Medicine in 1946. He served as medical officer (specializing in pulmonary tuberculosis) in various hospitals of the Armed Forces Medical Corps in France and North Africa from 1951 to 1974, when he was put in charge of hospital management at the Corps' Central Directorate.

Apart from his military career, from 1943 he participated on several occasions in the activities of the French Red Cross, where he held the position of administrator, representing the Ministry of Defence, from 1981 to 1983.

Dr. Guillermand has published a number of works on the history of medicine, including Vol. I of the *Histoire de la Médecine aux Armées* (Lavauzelle, 1982), and a history of the nursing profession, whose proceeds went to the French Red Cross (France-Sélection, 1988 and 1992). He is also the author of an article entitled "The contribution of army medical officers to the emergence of humanitarian law", which appeared in the July-August 1989 edition of the *IRRC*.

<sup>19</sup> Yadh ben Achour, *op. cit.*, p. 69.

\* The bibliography related to the present article will appear at the end of Part II, to be published in March-April 1994.

# **International Committee of the Red Cross**

*GENERAL ASSEMBLY OF THE UNITED NATIONS  
(48th Session, 1993)  
First Committee*

## **CONVENTION ON PROHIBITIONS OR RESTRICTIONS ON THE USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS**

### **Statement by the ICRC**

*(20 October 1993)*

#### **1. The importance of the Review Conference of the 1980 Convention**

We are grateful to the Government of France for having called for a conference to review the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects.

The Review Conference for the 1980 Convention is an important event, as it provides the opportunity, for the first time since that Convention entered into force in 1983, for States to make an assessment of its impact and to decide whether it needs to be amended in order to be more effective.

It may be recalled that work on the Convention was initiated at a conference of government experts which was convened by the ICRC and which met for several weeks in 1974 in Lucerne and again in 1967 in Lugano. It was on the basis of the extensive work done by this conference that States were able to discuss specific proposals during the United Nations Conference that held several sessions between 1978 and 1980.

The preparatory work for the 1980 Convention consisted in background studies and lengthy discussions on many different types of

weapons, including not only the weapons that are now regulated in the Protocols to the Convention but also small-calibre projectiles, blast and fragmentation weapons and a number of “future weapons”, including laser weapons, microwave devices and infra-sound devices.

The final result was a modest treaty which in many respects was the result of various compromises. A number of issues that were brought up by States were not covered in the treaty, in several cases because it was felt to be premature or because further research needed to be done in order to establish whether a specific treaty regulation would be appropriate. The form of the treaty, namely a Convention and annexed Protocols, was chosen intentionally to enable States to add further Protocols relating to different weapons and thus take into account new weapons developments. The treaty now has three Protocols, the first on Non-Detectable Fragments, the second on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices and the third on Prohibitions or Restrictions on the Use of Incendiary Weapons.

The forthcoming Review Conference is a unique opportunity to take stock of the use of conventional weapons in the world today, to consider whether the present treaty adequately answers the existing problems and to look more carefully at the likely development of new types of weapons. There are an increasing number of local conflicts in which the various parties involved have access to the weapons available on the market and in which those weapons are unfortunately largely used in an indiscriminate manner.

In view of this trend, States could consider whether the very limited restriction of the use of weapons in the 1980 Convention as it now stands is really sufficient.

The 1980 Convention is a humanitarian law treaty in that it regulates or prohibits the *use* of weapons, not the trade in or ownership of them. However, the two subjects are closely linked, for if the use of certain weapons needs to be restricted or prohibited because of their unacceptably cruel or indiscriminate effects, States also need to consider prohibiting the manufacture and export of these weapons.

## **2. Issues that could be considered during the Review Conference**

### **2.1 The scope and implementation of the 1980 Convention**

An issue that requires careful thought is the fact that the present Convention formally applies only to international armed conflicts,

although the majority of conflicts are internal. For example, in addition to the tremendous immediate suffering caused by the laying of mines during internal armed conflicts, we are witnessing the large-scale social and economic damage that many countries are undergoing as a result.

Another aspect of importance for an effective treaty is the means of implementation that it provides. This, however, is noticeably lacking in the present Convention.

## **2.2 Modifications to the existing Protocols**

The Review Conference will enable States to assess whether the provisions of the existing Protocols are in fact adequate.

In this respect, the problem that is causing the greatest concern to the international community is, as already indicated, that of mines, the use of which is currently regulated in Protocol II. The ICRC cannot but approve of the desire to find an effective solution to the appalling situation that the massive and indiscriminate use of mines has created. In April 1993, the ICRC held a symposium on anti-personnel mines which studies the problem from a number of different angles, including the care needed by mine-blast victims, the actual effects of the present use of mines, the technical characteristics of mines, mine-clearance, the trade in mines, and the existing law and its shortcomings. In January 1994, the ICRC will be convening a meeting of military experts to study in greater detail the military utility of different types of mines and to consider possible alternative systems. The April 1993 symposium made a number of recommendations and noted that Protocol II has important shortcomings even if it were respected. It concluded that, for it to be effective, serious thought could be given to altogether prohibiting the use of certain types of mines. On this question, it is hoped that the January 1994 symposium will clarify the relevant elements to be taken into account from the military standpoint.

The ICRC hopes that the valuable work accomplished during these symposia will be taken into full account during the Review Conference, as it is essential that the solutions eventually agreed to by States are both realistic and genuinely effective.

## **2.3 Possible additional Protocols**

As the Convention has been structured to enable the adoption of new Protocols, States could consider the possible regulation of existing weapons that are not yet included in it.

However, as mentioned above, States adopted this structure in particular in order to be able to take into account the development of new weapons. States are in fact under an obligation to assess whether the use of a weapon under development would in some or all circumstances violate international humanitarian law. Given the abundance of problems that already plague the world, it may seem esoteric to spend time discussing possible prohibitions of weapons that have not yet appeared on the battlefield. However, as we well know, once a weapon is fielded it is very difficult to stem its proliferation and widespread use. It makes sense, therefore, to dedicate a little time to taking preventive steps that would save enormous problems at a later stage.

It was with this intention that the ICRC held a series of expert meetings between 1989 and 1991 on the subject of blinding weapons. The reports of those meetings have now been published in one volume in English, and publications in French and in Spanish will be available in the early months of 1994. The ICRC was prompted to convene these meetings by reports concerning the development of certain types of laser weapons which, when used against persons over a range of about a kilometre, would result in permanent and incurable blindness. The meetings provided highly specialized technical and medical information and, on this basis, the majority of experts from legal and governmental backgrounds thought that a treaty regulation would be advisable.

There could also be more general discussion, in the light of humanitarian law standards, of trends in future weaponry such as the different types of directed energy weapons that are currently being researched. Such a discussion took place during the conference of government experts of 1974 and 1976, although the participants recognized that it was premature to think of specific treaty regulations for weapons that are only at the research stage.

### **3. The role of the ICRC**

In view of its internationally recognized mandate to work for the application and development of international humanitarian law, the ICRC considers it important that it be able to participate fully in the work of the Review Conference, including its preparatory meetings. The importance of our mandate in relation to the 1980 Convention was specifically acknowledged in paragraph 5 of resolution 47/56 adopted by the United Nations General Assembly on 9 December 1992 and which recognizes "the potential of the International Committee of the Red Cross to consider

questions pursuant to the Convention". In particular, the ICRC is able to provide appropriate documentation, including the results of work on the effects of weapons that has been undertaken since the adoption of the treaty. Given our first-hand knowledge of the reality of armed conflicts, as well as our long experience in the development of international humanitarian law treaties and the specialized expert meetings that we have convened, we believe that our input would be of particular value.

The ICRC hopes that States that have not yet done so will ratify or accede to the said treaty as quickly as possible, as to date only 39 States are party to it. A wider participation in the treaty should help ensure that the discussions and results of the forthcoming Review Conference are as effective as possible. The ICRC sincerely hopes that States will take the opportunity offered by this Review Conference to work towards the most effective solutions in accordance with the spirit and the purpose of international humanitarian law, which is to allievate as far as possible the suffering caused by armed conflict.

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*COUNCIL OF DELEGATES  
(Birmingham, 29-30 October 1993)*

## **MINES**

### **Introductory statement by the ICRC (29 October 1993)**

The immense problems created by the indiscriminate laying of mines are now beginning to be recognized. ICRC surgeons have for some time reported that some of the worst injuries they see are caused by mines, and it was our Medical Division that decided it was essential to study this problem thoroughly from all relevant angles. As a result, in April 1993 the ICRC organized a multidisciplinary symposium on antipersonnel mines. The symposium gathered information on the present use of mines and the humanitarian and social consequences of such use, the trade in mines, the technical characteristics of mines, mine clearance, the professional military use of mines and the legal situation. The symposium was attended not only by specialists in these fields, but also by a representative of the International Federation of Red Cross and Red Crescent Societies, a number of non-governmental organizations that had begun to take a serious interest in the problem and some journalists. As a result, there is now more information available on the various problems caused by mines. More important, the efforts undertaken by interested persons to draw the attention of governments to the need for action have begun to bear fruit: several governments have declared a moratorium on their mines exports, the United Nations has just adopted a resolution setting up a fund for demining operations, and possible further restrictions on the use of mines will be discussed in 1994 during a United Nations conference which will review a treaty on the use of conventional weapons.

However, these measures are only the very first steps in addressing an immense and multifaceted problem. It is estimated that there are about 100 million mines scattered in many countries and that hundreds of civilians fall victim to them every day. The result is human suffering on a huge scale. Entire communities are affected, and vast areas of land are no longer habitable or accessible for agricultural purposes.

The major problem is that mines generally remain active for decades after they have been sown, continuing to wreak havoc long after the conflict is over. Indeed, casualties are still occurring from mines that were laid during the Second World War. The problem has therefore been in existence for quite some time, but the damage created by the use of mines has now taken on enormous proportions for a number of reasons. One of the most important of these is the fact that modern mines are generally made of plastic, are small and light and can be sown thousands at a time. Moreover, the fact that they are very cheap and widely available has meant that they have been used in large numbers, and usually indiscriminately, by all parties in the numerous conflicts of recent decades. The situation is getting worse daily as the practice continues. It is said that in the former Yugoslavia alone mines are being planted at a rate of several thousand a week. The situation is similar in many other ongoing conflicts.

The problem is exacerbated by the fact that it is extremely difficult to remove mines. Modern plastic mines are virtually undetectable and their removal is a painstakingly slow and very dangerous operation. For example, it has been estimated that with present methods it could take more than 4,300 years to clear 20% of the land in Afghanistan. In ten months of demining operations in Kuwait following the Gulf war, 84 specialists were killed. A number of areas are so difficult to clear that they have simply been cordoned off and cannot be used again.

The tragic result of this situation is that the civilian victims of mines are likely to become more numerous. For example, although peace has returned to Cambodia there are 200-300 new casualties caused by mines every month, and the number of civilian victims of mines rose sharply in Afghanistan after the end of the conflict when refugees attempted to return to their homeland.

A disaster of this magnitude requires concerted action by as many dedicated persons as possible and on a global scale. The International Red Cross and Red Crescent Movement therefore has much to offer. The ICRC has drafted a resolution in consultation with the Federation which reflects what we believe the different components of the Move-

ment could do to try to prevent and alleviate the suffering caused by mines.

First of all, the immediate medical care and surgery that mine victims need are of a specialized nature and require both extensive resources and expertise. Further, as most mine victims have to undergo amputation, they will need to be individually fitted with prostheses by specialists and trained to use them. Most countries affected by mines, however, simply do not have the means to give this essential care. Although the ICRC provides surgical treatment for about 20,000 war wounded every year and runs 29 orthopaedic centres in 14 countries, it is well aware that this is by no means sufficient, for the demand is far greater. Amputees require specialized care throughout their lifetime and their prostheses have to be regularly replaced. And we should not forget the emotional upheavals suffered by these victims and the difficulties many of them face in returning to normal life.

National Red Cross and Red Crescent Societies and their Federation are in a position to do much for mine victims, in particular by providing personnel and resources for immediate medical treatment, rehabilitation and long-term care. This is a task that National Societies are particularly well-qualified to perform; it would meet an enormous need which is for the most part neglected and is likely to remain so.

In addition, National Societies could raise general awareness of the issue so that greater resources are given by others. Although it is known that the presence of mines creates enormous problems, both for their victims and for the social and economic life of the country concerned, reliable information is hard to come by and is rarely in the form of hard data. More precise information would provide a clearer indication of the real extent of the needs. It would be useful if National Societies could try to obtain such data, in relation to their own countries if they have a mines problem or in relation to other countries where their personnel are working.

The other urgent need is to try to avoid mine incidents where possible. One approach that can have an immediate effect is to set up mine-awareness programmes, in which specialists teach the population how to recognize the probable presence of mines and how to avoid mined areas. The ICRC and some other organizations run a number of programmes of this type, which do reduce, although they cannot eliminate, the chances of people falling victim to mines. Such activities could be further extended. However, we have been told that in some places people continue to venture knowingly into mined areas as they

absolutely have to collect firewood, graze their animals, etc. for their families' survival. Awareness programmes will therefore never replace the need to clear minefields. However, as demining operations are both highly specialized and dangerous, this would not be an appropriate activity for the Movement to undertake.

The most effective means of prevention would of course be to stop the sowing of the mines that create these immense problems. Under international law, the use of mines is currently regulated by the general rules of humanitarian law that prohibit the use of weapons which by their nature have indiscriminate effects or cause excessive suffering. These rules also specify that weapons may not be used in an indiscriminate fashion. Moreover, there is a specific set of regulations governing the use of mines in Protocol II of a 1980 United Nations Convention entitled "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects". The ICRC had in fact prepared the way for this treaty by holding a conference of government experts which met for several weeks in Lucerne in 1974 and again in Lugano in 1976. The results of this conference formed the basis of discussions at the United Nations Conference that adopted the 1980 treaty. The Convention prohibits the indiscriminate use of mines and the use of remotely-delivered mines unless their location is recorded or they are fitted with a neutralizing mechanism, requires the recording of all pre-planned minefields, and encourages cooperation at the end of hostilities to clear mines. However, to date only 39 States are party to this treaty and its provisions have not generally been observed. The problem is exacerbated by the fact that officially the Convention applies only to international armed conflicts, although the majority of today's conflicts are internal, and it does not include any implementation mechanisms. Protocol II to the 1980 Convention, which regulates the use of mines, also has certain shortcomings in practice even if it were to be followed. However, despite these imperfections, the number of civilian victims would be dramatically reduced if its provisions were respected. We therefore urge National Societies to try to persuade their governments to ratify this treaty, if they have not yet done so, and of course to train their armed forces to behave in conformity with its provisions.

The 1980 treaty will be the subject of a review conference at the United Nations and preparatory meetings are due to take place early next year. The ICRC will be holding another meeting of experts on mines in January 1994 which will look carefully at the military use of mines and possible alternative systems. The results of this meeting will be of

importance when the time comes to discuss possible modifications to the Protocol on mines. Several non-governmental organizations are pressing for a total ban on the use and manufacture of antipersonnel mines or even of all mines. This would certainly be the ideal way of preventing mine injuries, but it is likely to be very difficult to achieve, at least in the short-term. There are also a number of other pitfalls that could well materialize should this solution be sought to the exclusion of others. Another possibility is to prohibit the use of mines that do not automatically self-destruct or self-neutralize after a given period of time. It may be easier to achieve agreement on this point, but it has its own difficulties. The ICRC's wish is to achieve reasonably quickly the most effective possible solution which will be actually implemented by States and which will, therefore, yield practical results. The ICRC has therefore intentionally refrained from taking a position on the option to be adopted, as it is not at present evident which is the most effective solution that could be implemented in practice. However, we have indicated to States our desire to participate in the review conference process in order to work towards the best achievable outcome.

National Societies can support this effort by impressing on their governments the seriousness of the problem and the fact that the forthcoming review conference of the 1980 Convention offers a unique opportunity to consider modifications that would render the treaty a more effective instrument against the indiscriminate use of mines. National Societies could also stress the importance of the ICRC's participation in the review conference, given the work we have done on this subject and our first-hand experience of armed conflicts around the world.

The combined efforts of our Movement can make a vital contribution to alleviating the serious problems that have been created by the widespread use of mines. We propose that the subject be submitted for discussion at the 26th International Conference of the Red Cross and Red Crescent, so that we can take stock of the progress achieved and the measures that still remain to be taken.

## NEWS FROM HEADQUARTERS

At its meeting of 7 and 8 December 1993, the ICRC Assembly took note of the departure of **Professor Marco Mumenthaler**. Elected a member of the ICRC in 1989, for personal reasons Professor Mumenthaler did not seek to have his mandate renewed.

In addition, the Assembly conferred honorary membership on **Mr. Pierre Languetin**, who had reached retirement age.

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### CORRIGENDA

*JULY-AUGUST 1993 — No. 295*

**Anti-Personnel Mines** by Gerald C. Cauderay,  
Page 275. *The objective in laying minefields*, lines 12-17.

The quotation by Col. C. Sloan referred to by A.P.V. Rogers only contains the paragraphs a), b) and c) in italics.

The following two paragraphs as follows:

“Anti-personnel mines are also used to protect military positions and installations or to prevent access to a locality, village of particular region.

Unfortunately, it is also a fact that anti-personnel mines are sometimes laid to prevent the civilian population from leaving a region or from having access to arable land, pastoral areas and ricefields”

are wrongly in italics, as they are not part of the said quotation, but they should be in Roman characters, as they are part of G. C. Cauderay’s text.

## **Miscellaneous**

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### **Declaration by the Federative Republic of Brazil**

On 23 November 1993 the Federative Republic of Brazil made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission.

The Government of the Federative Republic of Brazil declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to enquire into allegations by such other Party, as authorized by Article 90 of Protocol I additional to the Geneva Conventions of 1949.

The Federative Republic of Brazil is the **thirty-seventh** State to make the declaration regarding the Fact-Finding Commission.

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### **Declaration by the Republic of Guinea**

On 20 December 1993 the Republic of Guinea made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission.

The Government of the Republic of Guinea declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to enquire into allegations by such other Party, as authorized by Article 90 of Protocol I additional to the Geneva Conventions of 1949.

The Republic of Guinea is the **thirty-eighth** State to make the declaration regarding the Fact-Finding Commission.

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**STATES PARTY TO THE GENEVA  
CONVENTIONS OF 12 AUGUST 1949  
AND TO THEIR ADDITIONAL PROTOCOLS  
OF 8 JUNE 1977**

*as at 31 December 1993*

Below the *Review* gives the lists, drawn up in chronological order as at 31 December 1993, of the States which have become party to the Geneva Conventions of 12 August 1949 during the past ten years (1984-1993) and of all the States party to Protocols I and II additional to the Geneva Conventions of 12 August 1949, adopted on 8 June 1977.

- **Table I, States party to the Geneva Conventions of 12 August 1949**, is divided into five columns. The first column gives a serial number for easy reference, the second gives the State's name, the third shows the official date of registration and the fourth indicates the form of official act (R = ratification; A = accession; S = declaration of succession) received by the depositary, the Swiss Federal Council, and the date on which it came into effect. The last column, headed "Remarks", indicates whether the official act was accompanied by any reservations or declarations, using the State's own designation thereof. The list of States party to the Conventions begins with No. 152, thus taking into account the 151 States which had become party to the Conventions in previous years (listed in the *ICRC Annual Report* for 1992, pp. 166-170).
- **Table II listing the States party to the Protocols of 8 June 1977** is presented in much the same way, except that the numbering of States party to the Protocols is divided into two columns; the first gives the number of States party to Protocol I and the second that of States party to Protocol II.

Under "Remarks" in the sixth column the abbreviation "Int. Comm." indicates whether the State concerned has accepted the competence of the International Fact-Finding Commission by making the declaration provided for in Art. 90, para. 2, of Protocol I.

- **Table III gives a chronological list of States which have made the declaration provided for under Article 90 and thereby accepted the competence of the International Fact-Finding Commission** (with date of declaration).
- **Table IV gives a summary of the data contained in the first three tables.**

**TABLE I**  
**States party to the Geneva Conventions**  
**of 12 August 1949**

*(as from 1984)*

	OFFICIAL DATE OF REGISTRATION	TYPE OF ACT RECEIVED	REMARKS
<b>1984</b>			
152 Cape Verde	11 May	A	
153 Belize	29 June	A	
154 Guinea	11 July	A	
155 Western Samoa	23 August	S—as from 1.1.62	
156 Angola	20 September	A	Reservation
157 Seychelles	8 November	A	
<b>1985</b>			
158 Comoros	21 November	A	
<b>1986</b>			
159 Saint Kitts and Nevis	14 February	S—as from 19.9.83	
160 Equatorial Guinea	24 July	A	
161 Antigua and Barbuda	6 October	S—as from 1.11.81	
<b>1989</b>			
162 Kiribati	5 January	S—as from 12.7.79	
<b>1991</b>			
163 Bhutan	10 January	A	
164 Maldives	18 June	A	

INTERNATIONAL REVIEW OF THE RED CROSS

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	OFFICIAL DATE OF REGISTRATION	TYPE OF ACT RECEIVED	REMARKS
165 Namibia*	22 August	S—as from 21.3.90	
166 Brunei	14 October	A	
167 Latvia	24 December	A	
<b>1992</b>			
168 Slovenia	26 March	S—as from 25.6.91	
169 Turkmenistan	10 April	S—as from 26.12.91	
170 Kazakhstan	5 May	S—as from 21.12.91	
171 Croatia	25 August	S—as from 8.10.91	
172 Myanmar	25 August	A	
173 Kyrgyzstan	18 September	S—as from 21.12.91	
174 Bosnia- Herzegovina	31 December	S—as from 6.3.92	
<b>1993</b>			
175 Tajikistan	12 January	S—as from 21.12.91	
176 Estonia	18 January	A	
177 Czech Republic	5 February	S—as from 1.1.93	
178 Slovak Republic	2 April	S—as from 1.1.93	
179 Moldova	24 May	A	
180 Azerbaijan	1 June	A	
181 Armenia	7 June	A	
182 The former Yugoslav Republic of Macedonia	1 September	S—as from 8.9.91	
183 Georgia	14 September	A	
184 Andorra	17 September	A	
185 Uzbekistan	8 October	A	

**On 31 December 1993, 185 States were party to the Geneva Conventions of 12 August 1949.**

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\* Namibia: Instruments of accession to the Geneva Conventions and their Additional Protocols were deposited by the United Nations Council for Namibia on 18 October 1983. The depositary State advised the ICRC that the said accession to the Conventions has now become void. In an instrument deposited on 22 August 1991, Namibia declared its succession to the Geneva Conventions, which were previously applicable pursuant to South Africa's accession on 31 March 1952.

**TABLE II**  
**States party to the Protocols of 8 June 1977**

PROTOCOL			OFFICIAL DATE	TYPE OF ACT		REMARKS
I	II		OF REGISTRATION	RECEIVED		
<b>1978</b>						
1	1	Ghana	28 February	R		
2	2	Libya	7 June	A		
<i>Date of entry into force of the Protocols: 7 December 1978</i>						
3	3	El Salvador	23 November	R		
<b>1979</b>						
4	4	Ecuador	10 April	R		
5	5	Jordan	1 May	R		
6	6	Botswana	23 May	A		
7		Cyprus	1 June	R		Protocol I only
8	7	Niger	8 June	R		
9	8	Yugoslavia	11 June	R		Declaration
10	9	Tunisia	9 August	R		
11	10	Sweden	31 August	R		Reservation; Int. Comm.
<b>1980</b>						
12	11	Mauritania	14 March	A		
13	12	Gabon	8 April	A		
14	13	Bahamas	10 April	A		
15	14	Finland	7 August	R		Declaration; Int. Comm.
16	15	Bangladesh	8 September	A		
17	16	Laos	18 November	R		
<b>1981</b>						
18		Viet Nam	19 October	R		Protocol I only
19	17	Norway	14 December	R		Int. Comm.
<b>1982</b>						
20	18	Rep. of Korea	15 January	R		Declaration
21	19	Switzerland	17 February	R		Reservations; Int. Comm.
22	20	Mauritius	22 March	A		
23		Zaire	3 June	A		Protocol I only
24	21	Denmark	17 June	R		Reservation; Int. Comm.
25	22	Austria	13 August	R		Reservations; Int. Comm.

INTERNATIONAL REVIEW OF THE RED CROSS

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26	23	Saint Lucia	7 October	A	
27		Cuba	25 November	A	Protocol I only
<b>1983</b>					
28	24	Tanzania	15 February	A	
29	25	United Arab Emirates	9 March	A	Declaration Int. Comm.
30		Mexico	10 March	A	Protocol I only
31		Mozambique	14 March	A	Protocol I only
32	26	Saint Vincent and the Grenadines	8 April	A	
33	27	China	14 September	A	Reservation
34	28	Congo	10 November	A	
35		Syria	14 November	A	Protocol I only; Declaration
36	29	Bolivia	8 December	A	Int. Comm.
37	30	Costa Rica	15 December	A	
<b>1984</b>					
	31	France*	24 February	A	Protocol II only
38	32	Cameroon	16 March	A	
39	33	Oman	29 March	A	Declaration
40	34	Togo	21 June	R	Int. Comm.
41	35	Belize	29 June	A	
42	36	Guinea	11 July	A	Int. Comm.
43	37	Central African Rep.	17 July	A	
44	38	Western Samoa	23 August	A	
45		Angola	20 September	A	Protocol I only; Declaration
46	39	Seychelles	8 November	A	Int. Comm.
47	40	Rwanda	19 November	A	
<b>1985</b>					
48	41	Kuwait	17 January	A	
49	42	Vanuatu	28 February	A	
50	43	Senegal	7 May	R	
51	44	Comoros	21 November	A	
52	45	Holy See	21 November	R	Declaration
53	46	Uruguay	13 December	A	Int. Comm.
54	47	Suriname	16 December	A	
<b>1986</b>					
55	48	Saint Kitts and Nevis	14 February	A	

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

MISCELLANEOUS

56	49	Italy	27 February	R	Declarations; Int. Comm.
57	50	Belgium	20 May	R	Declarations; Int. Comm.
58	51	Benin	28 May	A	
59	52	Equatorial Guinea	24 July	A	
60	53	Jamaica	29 July	A	
61	54	Antigua and Barbuda	6 October	A	
62	55	Sierra Leone	21 October	A	
63	56	Guinea-Bissau	21 October	A	
64	57	Bahrain	30 October	A	
65	58	Argentina	26 November	A	Declarations
	59	Philippines	11 December	A	Protocol II only
<b>1987</b>					
66	60	Iceland	10 April	R	Reservation; Int. Comm.
67	61	Netherlands	26 June	R	Declarations; Int. Comm.
68		Saudi Arabia	21 August	A	Reservation
69	62	Guatemala	19 October	R	
70	63	Burkina Faso	20 October	R	
<b>1988</b>					
71	64	Guyana	18 January	A	
72	65	New Zealand	8 February	R	Declarations; Int. Comm.
73		Dem. People's Rep. of Korea	9 March	A	Protocol I only
74		Qatar	5 April	A	Protocol I only; Declaration; Int. Comm.
75	66	Liberia	30 June	A	
76	67	Solomon Islands	19 September	A	
77	68	Nigeria	10 October	A	
<b>1989</b>					
78	69	Gambia	12 January	A	
79	70	Mali	8 February	A	
80		Greece	31 March	R	Protocol I only
81	71	Hungary	12 April	R	Int. Comm.
82	72	Malta	17 April	A	Reservations; Int. Comm.
83	73	Spain	21 April	R	Declarations; Int. Comm.
84	74	Peru	14 July	R	
85	75	Liechtenstein	10 August	R	Reservations; Int. Comm.

INTERNATIONAL REVIEW OF THE RED CROSS

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86	76	Algeria	16 August	A	Declarations; Int. Comm.
87	77	Luxembourg	29 August	R	Int. Comm.
88	78	Côte d'Ivoire	20 September	R	
89	79	Bulgaria	26 September	R	
90	80	Russia	29 September	R	Declaration; Int. Comm.
91	81	Belarus	23 October	R	Int. Comm.
<b>1990</b>					
92	82	Ukraine	25 January	R	Declaration; Int. Comm.
93	83	Czech and Slovak (F.R.)	14 February	R	
94	84	Barbados	19 February	A	
95	85	Yemen	17 April	R	
96	86	Romania	21 June	R	
97	87	Canada	27 September	R	Reservations; Declarations; Int. Comm.
98	88	Paraguay	30 November	A	
<b>1991</b>					
99	89	Germany	14 February	R	Declarations; Int. Comm.
100	90	Uganda	13 March	A	
101	91	Djibouti	8 April	A	
102	92	Chile	24 April	R	Int. Comm.
103	93	Australia	21 June	R	Declarations Int. Comm.
104	94	Maldives	3 September	A	
105	95	Malawi	7 October	A	
106	96	Brunei	14 October	A	
107	97	Poland	23 October	R	Int. Comm.
108	98	Latvia	24 December	A	
<b>1992</b>					
109	99	Slovenia	26 March	S—as from 26.6.91	Int. Comm.
110	100	Turkmenistan	10 April	S—as from 26.12.91	
111	101	Brazil	5 May	A	Int. Comm.
112	102	Kazakhstan	5 May	S—as from 21.12.91	
113	103	Madagascar	8 May	R	Int. Comm.
114	104	Croatia	11 May	S—as from 8.10.91	Int. Comm.
115	105	Portugal	27 May	R	
116	106	Kyrgyzstan	18 September	S—as from 21.12.91	
117	107	Egypt	9 October	R	Declaration

MISCELLANEOUS

118	108	Zimbabwe	19 October	A	
119	109	Bosnia- Herzegovina	31 December	S—as from 6.3.92	Int. Comm.
<b>1993</b>					
119*	109*	Tajikistan	12 January	S—as from 21.12.91	
120	110	Estonia	18 January	A	
121	111	Czech Republic	5 February	S—as from 1.1.93	
	112	Greece	15 February	A	
122	113	Slovak Republic	2 April	S—as from 1.1.93	
123	114	Moldova	24 May	A	
124	115	Armenia	7 June	A	
125	116	Burundi	10 June	A	
126	117	Albania	16 July	A	
127	118	The former Yugoslav Rep. of Macedonia	1 September	S—as from 8.9.91	Int. Comm.
128		Colombia	1 September	A	
129	119	Georgia	14 September	A	
130	120	Uzbekistan	8 October	A	

**On 31 December 1993, 130 States were party to Protocol I and 120 to Protocol II.**

**Thirty-eight States had accepted the competence of the International Fact-Finding Commission.**

\* Following the dissolution of the Czech and Slovak Federative Republic and the creation on 1 January 1993 of the Czech Republic and of the Slovak Republic, the numbering of States party to the Conventions and Protocols has been modified accordingly.

Note. *Palestine*: On 21 June 1989, the Swiss Federal Department of Foreign Affairs received a letter from the Permanent Observer of Palestine to the United Nations Office at Geneva informing the Swiss Federal Council “that the Executive Committee of the Palestine Liberation Organization, entrusted with the functions of the Government of the State of Palestine by decision of the Palestine National Council, decided, on 4 May 1989, to adhere to the Four Geneva Conventions of 12 August 1949 and the two Protocols additional thereto”.

On 13 September 1989, the Swiss Federal Council informed States that it was not in a position to decide whether the letter constituted an instrument of accession, “due to the uncertainty within the international community as to the existence or non-existence of a State of Palestine”.

**TABLE III**  
**List of States having made the declaration**  
**provided for under Article 90 of Protocol I**  
*(INTERNATIONAL FACT-FINDING COMMISSION)*

1. SWEDEN	(on 31 Aug. 1979, at the time of ratification)
2. FINLAND	(on 7 Aug. 1980, at the time of ratification)
3. NORWAY	(on 14 Dec. 1981, at the time of ratification)
4. SWITZERLAND	(on 17 Feb. 1982, at the time of ratification)
5. DENMARK	(on 17 June 1982, at the time of ratification)
6. AUSTRIA	(on 13 Aug. 1982, at the time of ratification)
7. ITALY	(on 27 Feb. 1986, at the time of ratification)
8. BELGIUM	(on 27 Mar. 1987)
9. ICELAND	(on 10 Apr. 1987, at the time of ratification)
10. NETHERLANDS	(on 26 June 1987, at the time of ratification)
11. NEW ZEALAND	(on 8 Feb. 1988, at the time of ratification)
12. MALTA	(on 17 Apr. 1989, at the time of accession)
13. SPAIN	(on 21 Apr. 1989, at the time of ratification)
14. LIECHTENSTEIN	(on 10 Aug. 1989, at the time of ratification)
15. ALGERIA	(on 16 Aug. 1989, at the time of accession)
16. RUSSIAN FEDERATION	(on 29 Sept. 1989, at the time of ratification)
17. BELARUS	(on 23 Oct. 1989, at the time of ratification)
18. UKRAINE	(on 25 Jan. 1990, at the time of ratification)
19. URUGUAY	(on 17 July 1990)
20. CANADA	(on 20 Nov. 1990, at the time of ratification)
21. GERMANY	(on 14 Feb. 1991, at the time of ratification)
22. CHILE	(on 24 Apr. 1991, at the time of ratification)
23. HUNGARY	(on 23 Oct. 1991)
24. QATAR	(on 24 Sept. 1991)
25. TOGO	(on 21 Nov. 1991)
26. UNITED ARAB EMIRATES	(on 6 Mar. 1992)
27. SLOVENIA	(on 26 Mar. 1992, with declaration of succession)
28. CROATIA	(on 11 May 1992, with declaration of succession)
29. SEYCHELLES	(on 22 May 1992)
30. BOLIVIA	(on 10 Aug. 1992)
31. AUSTRALIA	(on 23 Sept. 1992)
32. POLAND	(on 2 Oct. 1992)
33. BOSNIA-HERZEGOVINA	(on 31 Dec. 1992, with declaration of succession)
34. LUXEMBOURG	(on 12 May 1993)
35. MADAGASCAR	(on 27 July 1993)
36. THE FORMER YUGOSLAV REP. OF MACEDONIA	(on 1 Sept. 1993, with declaration of succession)
37. BRAZIL	(on 23 Nov. 1993)
38. GUINEA	(on 20 Dec. 1993)

TABLE IV  
Totals

I. NUMBER OF STATES MEMBERS OF THE UNITED NATIONS <sup>1</sup> .....	184
II. 1949 GENEVA CONVENTIONS	
States party <sup>2</sup> .....	185
— Ratifications .....	60
— Accessions .....	73
— Declarations of succession .....	52
III. 1977 ADDITIONAL PROTOCOLS	
A. PROTOCOL I:	
1. States party <sup>2</sup> .....	130
— Ratifications .....	49
— Accessions .....	71
— Declarations of succession .....	10
2. Declarations under Article 90 (see Table III) .....	38
B. PROTOCOL II:	
States party <sup>2</sup> .....	120
— Ratifications .....	45
— Accessions .....	65
— Declarations of succession .....	10

STATES MEMBERS OF THE UN OR PARTIES TO THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE, NOT BEING PARTY TO THE 1949 GENEVA CONVENTIONS

Eritrea, Lithuania<sup>3</sup>, Marshall, Micronesia, Nauru

<sup>1</sup> New admissions in 1993:  
19.01.93 Slovak Republic and Czech Republic; 08.04.93 The former Yugoslav Republic of Macedonia; 28.05.93 Monaco and Eritrea; 28.07.93 Andorra.

<sup>2</sup> R = ratification; A = accession; S = declaration of succession.

<sup>3</sup> Party to the 1929 Geneva Conventions (sick and wounded; prisoners of war).

## **Books and reviews**

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EL ÁRBOL DE LA VIDA  
(*The tree of life*)  
*The Red Cross during the Spanish Civil War*  
1936-1939

The latest book by Josep Carles Clemente, an historian well known to the Spanish Red Cross, examines the activities of the Spanish Red Cross and the ICRC during the Civil War which ravaged Spain from 1936 to 1939.

After briefly outlining the origin of the international and national Red Cross institutions, the role of the emblem and the development of humanitarian law, the author takes a look at the scant legal protection extended at the time to the victims of civil wars.

Then, in a chapter entitled "From peace to war", the author describes the consequences for the Spanish Red Cross of the proclamation of the Second Republic in April 1931: the appointment of a new directorate, modification of the Society's statutes and a change in its activities. The Society thereupon concentrated mainly on helping the victims of the social conflicts which broke out in several parts of Spain; from 1934 onwards, it set up many first-aid posts and had 18 hospitals and 214 ambulances.

The Spanish Red Cross was particularly active at the time of the "October Revolution" of 1934 which left more than 1,300 people dead and 3,000 wounded; its work was much appreciated by the government and the Society itself was developing in a satisfactory manner.

However, the Civil War broke out in July 1936. Shortly after, at the end of the month, Professor José Giral whom the President of the Republic, Manuel Azaña, had just appointed head of government, dismissed the President of the Spanish Red Cross, General Burguete, and replaced him with Dr. Aurelio Romeo Lozano.<sup>2</sup>

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<sup>1</sup> Josep Carles Clemente, *El árbol de la vida — La Cruz Roja en la guerra civil española, 1936-1939*, ENE Publications, Publicidad SA, Madrid, 1993, 252 pp.

<sup>2</sup> In this connection, the author points out that the account given by André Durand in his book, *History of the ICRC — From Sarajevo to Hiroshima*, of the dismissal of General Burguete differs from that provided by Dr. Juan Morata Cantón who was Secretary General of the Spanish Red Cross during the Civil War. According to André Durand, whose account is based on an interview between General Burguete and Etienne Clouzot in 1936, "... about a hundred militiamen invaded the office of the President,

Dr. Lozano, who took over from General Burguete, was a member of the National Republican Party; born in 1880, he had been Director of the Municipal Institute for Paediatric Nursing in Madrid since 1926. As President of the Spanish Red Cross, in July 1936 he appointed the Society's new Central Committee; it was composed of eight members, six of whom belonged to left-wing parties and two had no party-political affiliation.

However, the National Defence Junta in Burgos, headed by General Miguel Cabanellas Ferrer, established a Red Cross Society in the territories under the junta's control. This Society, which was independent of the National Society in the Republican zone, was placed under the presidency of Fernando Suárez de Tangil y Angulo, the Count of Vallellano. Born in 1886, a lawyer, Vice-President of the *Cortes* from 1933 to 1935 and a close associate of General Emilio Mola Vidal, one of the junta's military leaders, he set up a Central Committee for this other Spanish Red Cross, composed of eight members favourable to the junta.

The Spanish Civil War was raging; summary executions and the imprisonment of political opponents, or even mere suspects, were widespread. The news reaching the ICRC was extremely alarming. It decided to send one of its delegates, Dr. Marcel Junod, to Spain and he arrived in Barcelona on 29 August 1936, met the Governor and discussed with him the problem of hostage executions by both parties.

The next day he went to Madrid, where he met Dr. Lozano and President Giral. They agreed to his suggestion for an exchange of hostages with the junta through the ICRC, thus authorizing the ICRC to send two delegations to Spain:

- one to the Republican zone, i.e. to Madrid and Barcelona;
- the other to the zone under the control of the junta, i.e. to Burgos and Seville.

Junod then decided to go to the Nationalist-held zone; in order to do so, he had to return to Barcelona, cross the border into France, travel along the Pyrenees and re-enter Spain via St. Jean-de-Luz. He was received by a delegation of the Nationalist-formed Spanish Red Cross led by its President, the Count of Vallellano, who took him to Burgos and introduced him to the President of the National Defence Junta, General Miguel Cabanellas. After two hours of discussions, Junod persuaded him to sign a document in which he formally took note of the agreements reached with the "Red Cross of Madrid" and undertook to accept relief supplies from foreign Red Cross Societies, to respect the Geneva

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General Burguete, and forced him at gunpoint to sign a letter of resignation" (page 319 of the English version of André Durand's book); Dr. Cantón, quoted by Clemente on pages 49-51 of his book, says that he went with Dr. Haro to the headquarters of the Spanish Red Cross, showed General Burguete the government's order for him to resign and the General did so without any intervention by the militia. Clemente believes that this is the correct version of the facts.

Convention and to allow women and children to be evacuated on condition of reciprocity.

In Geneva, the ICRC set up a Commission for Spanish Affairs which met for the first time on 26 August 1936 and thereafter almost on a daily basis; it coordinated all activities in behalf of the victims of the Spanish Civil War.

The author then goes on to give a detailed description, accompanied with statistics, of the activities of the two coexisting Spanish Red Cross Societies, one in the Republican zone and the other in the Nationalist zone; both of them took part in the 16th International Conference of the Red Cross in June 1938 in London.

The next chapter, "Activities of the Red Cross during the War of Spain", recounts Dr. Junod's efforts to persuade both parties to the conflict to respect the red cross emblem and gives examples of allegations of violations put forward by both sides throughout the war.

He describes the setting up of ICRC delegations in the two zones; the development of international relief activities thanks to the backing of governments and National Societies; the creation of neutral zones to protect the civilian population against bombardment and the establishment of tracing offices in all the country's main cities and towns.

Clemente dwells particularly on exchanges, mediation efforts and humanitarian assistance; for instance, he gives an account of the steps taken by Dr. Junod to arrange for the release and transfer of some one hundred women held by the opposing side and the evacuation of children stranded in holiday camps in enemy territory.

However, the ICRC delegates were regularly confronted with the problem of hostage-taking by both sides and their representations to prevent this were largely in vain. On the other hand, the ICRC did succeed in having some well-known people held by the opposing parties exchanged, for example, Arthur Koestler for Josefina Gálvez, the wife of a Nationalist airman.

In other cases, such as the siege of the Alcázar of Toledo, the fighting prevented the ICRC from evacuating civilians even though it had managed to negotiate consent for an evacuation. Similarly, the ICRC was not allowed to evacuate the women and children among the Nationalists besieged in the sanctuary of Santa María de la Cabeza (Jaen province, near Andújar), despite its negotiations on the spot with both parties. On the other hand, the ICRC did succeed in having small groups of members of the International Brigades and Nationalist militiamen exchanged and, during the siege of Madrid, it was authorized to evacuate 4,000 people to Valencia.

Little by little, and with considerable persistence, the ICRC delegates obtained permission to visit prisoners detained in both camps.

In addition, the delegates strove to protect civilians from bombardment by assembling them in neutral zones and, at the end of the war, they organized relief activities for those who had fled to take refuge in France.

The book, which is richly illustrated with numerous photographs, has an appendix reproducing thirteen documents from the Spanish Archives.

Dedicated to the delegates of the ICRC who worked in Spain during the difficult years of the Spanish Civil War and to the members of the Commission for Spanish Affairs which was set up at ICRC headquarters, this work is not only a contribution to history but also a tribute to all those, Spaniards and foreigners alike, the famous and the less famous, who devoted themselves to alleviating the suffering of the victims of a particularly cruel war.

*Françoise Perret*

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### CHOICES MORE ETHICAL THAN LEGAL

#### *The ICRC and human rights*

David Forsythe, an American political scientist from the University of Nebraska, has written extensively on Red Cross matters. Judging by its title, his most recent publication on the ICRC and human rights will command the attention of all those who are interested in knowing more about the ICRC and its policy.\*

This publication is timely because the Vienna Conference on Human Rights has challenged us all to give renewed thought to the relationship between the international protection of human rights and international humanitarian law.

In the first part of his paper the author sets out to demonstrate that humanitarian law is nothing other than international law for the protection of human rights in situations of armed conflict. Thus the author argues that “consistent with its tradition from 1863 of humanitarian help to victims of war, [the ICRC] works for what can be rightly termed fundamental human rights recognized in general international law”. Then follows an enumeration of human rights which are covered by the ICRC’s protection and assistance activities, both under the Geneva Conventions and outside their scope of application. At this level of abstraction nobody will take issue with such an analysis. As the author rightly points out, the ICRC itself has in recent times increasingly drawn attention to its own contribution to the realization of fundamental human rights. The author fails, however, to mention that several essential aspects of humanitarian law — and

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\* David P. Forsythe, “Choices More Ethical than Legal: The International Committee of the Red Cross and Human Rights”, in *7 Ethics & International Affairs* (1993) 131-151.

thus of the ICRC's activity — are definitely outside the domain covered by human rights law. The most obvious and also the most important of these are the rules known as "the Law of The Hague", i.e. regulations governing the conduct of military operations and rules on weapons and on their use.

The author then focuses on the extent to which humanitarian law influences or conditions the ICRC's operations. He vehemently denounces what he considers the exaggerated emphasis given to legal considerations. In his view, law should be treated as "a mostly background factor": it is "distinctly secondary to policy". If this is meant to underline that achieving compliance with international legal obligations is essentially a political affair, then it is difficult to object. But to treat humanitarian law as "soft law, to be implemented — or not implemented — by diplomats, politicians, and soldiers as part of world politics" seems to be a singular underestimation of the role and the power of law. It is strange to read that ICRC delegates do not use legal arguments when trying to achieve results in a situation where humanitarian law is applicable. While they may not often resort to technical legal language in their dealings with the powers that be, their requests will always be based on legal authority. If necessary, the delegate will not fail to pin down the government's formal responsibility to comply with obligations it is legally bound to fulfil. This is true with regard to what the author calls "procedural law", such as the delegate's right to act, and to substantive standards which the parties to an armed conflict have to respect. A delegate would be neglecting his duty if he failed to take advantage of legal arguments when such arguments may bring about an improvement in the victims' situation.

In the second part of his paper the author discusses various problems raised by some of the ICRC's operations, such as those conducted in the Middle East, in El Salvador and in Somalia. In particular, he analyses at some length the difficult question of whether ICRC delegates should continue visiting detainees in a given country, even if they do not have access to all of them or are allowed to visit them only after a certain period of time following their arrest or capture. A difficult question indeed. The Geneva Conventions give the ICRC the unconditional right to visit in their places of detention all persons deprived of their freedom in connection with an armed conflict, without setting any time limit. If a party to an armed conflict does not comply with its commitment to allow such access, the delegates have to determine the proper course of action while taking into account what they are actually allowed to do in other fields to assist the victims. Has the ICRC always taken the right decision? Scholarly studies, as the author suggests, may be useful in replying to this question, in particular by setting criteria for the evaluation of an ICRC operation. But it is hardly appropriate to say that, in El Salvador, "the ICRC was party to an agreement [concerning visits after an 8-day period] under which torture and mistreatment definitely occurred on a regular basis". The responsibility for discharging legal obligations lies with the parties to the armed conflict and not with the ICRC.

Finally, a comment on a footnote: Forsythe regrets the absence, in the *International Review of the Red Cross*, of controversial contributions. I hope that this book review will be further evidence to the contrary.

David Forsythe's study gives some insight into the way the ICRC fulfils its mandate under the Geneva Conventions. However, many questions remain unanswered and some of the answers are unconvincing.

*Hans-Peter Gasser*

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## THE RIGHT TO INTERVENE OR THE OBLIGATION TO REACT?

*What can be done to ensure respect for the  
rights of the individual  
in the light of the principle of non-intervention*

The book by Olivier Corten and Pierre Klein entitled *The right to intervene or the obligation to react? What can be done to ensure respect for the rights of the individual in the light of the principle of non-intervention* was published in 1992 by Bruylant.<sup>1</sup> Although the right to intervene has ceased to be newsworthy, the issue, or at least the specific aspects addressed by the authors, remains of major interest to jurists.

The work's two main sections illustrate the lines of thought of Mr. Corten and Mr. Klein. The first part deals with "permission in principle for an unarmed reaction" and the second with "prohibition in principle of an armed reaction". Questions as fundamental as the definition of constraint, the meaning of the notion of reserved domain, and the conditions governing the legality of reprisal measures are examined in the opening chapters. The second part considers the legal grounds for resorting to force in the light of recent resolutions of the United Nations Security Council and General Assembly. In this connection, it is worth reading the authors' analysis of Security Council resolution 688 which, they conclude, did not constitute a legal basis for the operation conducted by troops of several western States in Iraqi Kurdistan. The final chapter deals with the right of peoples to self-determination.

Although the book is concerned more with *jus contra bellum* than with international humanitarian law, the latter receives due mention in the introduction. The authors maintain that there is an obligation to react, deriving explicitly

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<sup>1</sup> Olivier Corten and Pierre Klein, *Droit d'ingérence ou obligation de réaction? Les possibilités d'action visant à assurer le respect des droits de la personne face au principe de non-intervention*, Emile Bruylant, Brussels, 1992, 283 pp. (*Collection de droit international*).

from Article 1 common to the four 1949 Geneva Conventions and Article 1, para. 1, of 1977 Additional Protocol I,<sup>2</sup> whenever the rights guaranteed in Article 3 common to the Conventions are violated, “and particularly in the event of large-scale infringement of these rights” (p. 6).

The work also makes frequent reference to the right to humanitarian assistance. In this connection the authors regret that Security Council resolution 688 does not explicitly affirm the right of the population of certain parts of Iraq to receive humanitarian aid and the corresponding obligation on the part of the Baghdad government not to arbitrarily reject this (p. 234). Furthermore, they stress that, if the civilian population’s right to receive assistance is recognized, a State which accepts the existence of this right can no longer claim that the fate of its own people comes within the reserved domain of its domestic jurisdiction. A State which refuses to abide by this obligation to assist its own people may be subjected to the entire range of measures of unarmed reprisal and retaliation — it being clearly understood that unilateral armed measures are ruled out (p. 244 *ff.*). It is perhaps surprising that the relevant passages do not examine the provisions of the Geneva Conventions and their Additional Protocols which, in situations of armed conflict, require the warring parties to authorize relief actions which are humanitarian, impartial and conducted without any adverse distinction in behalf of the civilian population when it lacks the basic essentials for survival.

As regards other aspects dealt with in the book, we feel that the authors have greatly clarified the situation in coming to the conclusion that unlawful intervention is an act of coercion that takes place in the reserved domain (see p. 78).

This highly detailed and precise work should be read by all who are interested in knowing the exact meaning and practical advantages of the concept of the “right of intervention”. The book covers all the possibilities afforded by international law in response to human rights violations, possibilities that may have been obscured by the controversy surrounding this ambiguous concept.

*Denise Plattner*

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<sup>2</sup> Contrary to what the authors state on p. 4 of their book, the Additional Protocols have no common Article 1. The provision in question is Article 1, para. 1, of Protocol I.

## ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Angola Red Cross, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ANTIGUA AND BARBUDA — The Antigua and Barbuda Red Cross Society, P.O. Box 727, *St. Johns*.
- 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, Wiedner Hauptstrasse 32, Postfach 39, 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 Crescent Society, 684-686, Bara Magh Bazar, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 93, Dondukov Boulevard, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa*, Ontario K1G 4J5.
- CAPE VERDE — Red Cross of Cape Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA — Red Cross Society of China, 53, Ganmian Hutong, 100 010 *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO — Congolese Red Cross, 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 — Red Cross Society of Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CROATIA — Croatian Red Cross, Ulica Crvenog kriza 14, 41000 *Zagreb*.
- CUBA — Cuban Red Cross, Calle Prado 206, Colón y Trocadero, *Havana 1*.
- CZECH REPUBLIC — Czech Red Cross, Thunovská 18, 118 04 *Praha 1*.
- DENMARK — Danish Red Cross, 27 Blegdamsvej, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Red Crescent Society of Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, Av. Colombia y Elizalde Esq., *Quito*.
- EGYPT — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, Apartado Postal 2672, *San Salvador*.
- ESTONIA — Estonia Red Cross, Lai Street, 17, EE001 *Tallin*.
- 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. P.O. Box 168, 00141 *Helsinki 1415*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMANY — German Red Cross, Friedrich-Erbert-Allee 71, Postfach 1460, 5300 *Bonn 1*.
- GHANA — Ghana Red Cross Society, Ministries Annex Block A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 551, *St George's*.
- GUATEMALA — Guatemalan Red Cross, 3.<sup>a</sup> Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUINEA — Red Cross Society of Guinea, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Red Cross Society of Guinea-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.

- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.<sup>a</sup> Calle, 1.<sup>a</sup> y 2.<sup>a</sup> Avenidas, *Comayagüela*.
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, 1367 *Budapest St. Pf. 121*.
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New Delhi 110001*.
- INDONESIA — Indonesian Red Cross Society, Jl. Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN, ISLAMIC REPUBLIC OF — 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, I-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, 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 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LATVIA — Latvian Red Cross Society, 28, Skolas Street, 226 300 *Riga*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LITHUANIA — Lithuanian Red Cross Society, Gedimino Ave 3a, 2600 *Vilnius*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, 2014 *Luxembourg*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, 101, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MALTA — Malta Red Cross Society, 104, St. Ursula Street, Valletta, *Malta*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, avenue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, D.F.*
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulaanbaatar*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Mozambique Red Cross Society, Caixa Postal 2986, *Maputo*.
- MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.
- NAMIBIA — Namibia Red Cross Society, P.O.B. 346, *Windhoek*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217, *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O. Box 28120, 2502 KC *The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*.
- 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's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. 0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Caminos del Inca y Av. Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima 100*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND (The Republic of) — 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 Romania, Strada Biserica Amzei, 29, *Bucharest*.
- RUSSIAN FEDERATION — The Russian Red Cross Society, Tcheremushkinski Proezd 5, 117036 *Moscow*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.
- SAINT KITTS AND NEVIS — Saint Kitts and Nevis Red Cross Society, Red Cross House, Horsford Road, *Basseterre*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries*.

- SAINT VINCENT AND THE GRENADINES — Saint Vincent and the Grenadines Red Cross Society, P.O. Box 431, *Kingstown*.
- SAN MARINO — Red Cross of San Marino, Via Scialoja, Cailungo, *San Marino 470 31*.
- SAO TOME AND PRINCIPE — Sao Tome and Principe Red Cross, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SEYCHELLES — Seychelles Red Cross Society, P.O.B. 52, *Mahé*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House, 15 Penang Lane, *Singapore 0923*.
- SLOVAKIA — Slovak Red Cross, Grosslingova 24, 81446 *Bratislava*.
- SLOVENIA — Red Cross of Slovenia, Mirje 19, 61000 *Ljubljana*.
- SOLOMON ISLANDS — The Solomon Islands Red Cross Society, P.O. Box 187, *Honiara*.
- SOMALIA (Somali Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — The South African Red Cross Society, Essanby House 6th Floor, 175 Jeppe Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN — Spanish Red Cross, Rafael Villa, s/n, (Vuelta Ginés Navarro), El Plantío, 28023 *Madrid*.
- SRI LANKA — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27 316, 102-54 *Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, 3001 *Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA, UNITED REPUBLIC OF — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku' Alofa*.
- TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY — The Turkish Red Crescent Society, Genel Baskanligi, Karanfil Sokak No. 7, 06650 *Kizilay-Ankara*.
- UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UKRAINE — Red Cross Society of Ukraine, 30, ulitsa Pushkinskaya, 252004 *Kiev*.
- UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- UNITED STATES OF AMERICA — American Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- VANUATU — Vanuatu Red Cross Society, P.O. Box 618, *Port Vila*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado 3185, *Caracas 1010*.
- VIET NAM — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a*.
- YUGOSLAVIA — Yugoslav Red Cross, Simina ulica broj 19, 11000 *Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

NEW PUBLICATION

**Hans-Peter Gasser**

**INTERNATIONAL HUMANITARIAN LAW**  
*AN INTRODUCTION*

This 92-page book is intended for a wide range of readers: jurists and law students seeking an introduction to international humanitarian law, lecturers preparing a two- or three-hour course on the subject, government officials who have to learn something about this body of law or about Red Cross affairs, and staff of National Red Cross and Red Crescent Societies. Mr Gasser's aim is to provide a succinct yet comprehensive outline of international humanitarian law in a style that is clear and accessible to the general reader.

This text was initially published as Chapter IV of Professor Hans Haug's work

**HUMANITY FOR ALL**

*The International Red Cross  
and Red Crescent Movement*

Henry Dunant Institute, Geneva  
Paul Haupt, Bern, Stuttgart, Vienna,  
1993

*International humanitarian law — an introduction* is available from the ICRC's Public Information Division in *English, French and German* at the price of eight Swiss francs.

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

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

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

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

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

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

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

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

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

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

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

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# INTERNATIONAL REVIEW

## FOLLOW-UP TO THE INTERNATIONAL CONFERENCE FOR THE PROTECTION OF WAR VICTIMS

*What is at stake*

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**Measures available to States for  
fulfilling their obligation to ensure respect  
for international humanitarian law**

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*Protocol additional to the Geneva Conventions  
of 12 August 1949, and relating to  
the protection of victims  
of international armed conflicts*

**(Protocol I)**

**Annex I — Regulations concerning identification**  
*(as amended on 30 November 1993)*

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**Indiscriminate weapons**

*Statements by the ICRC*

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**The historical foundations of humanitarian action**  
*Part I — The religious influence*