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Revue internationale de la Croix-Rouge

Débat humanitaire: droit, politiques, action

Revue fondée en 1869
et publiée par le
Comité international
de la Croix-Rouge
Genève

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of the Red Cross
Geneva

International Review of the Red Cross

Humanitarian Debate: Law, Policy, Action

Mission de la Revue internationale de la Croix-Rouge

La *Revue internationale de la Croix-Rouge* est un périodique publié par le Comité international de la Croix-Rouge (CICR) qui entend favoriser la réflexion sur la politique, l'action et le droit international humanitaires et, en même temps, renforcer le dialogue entre le CICR et les autres institutions ou personnes intéressées par l'humanitaire.

● La *Revue* est au service de l'analyse, de la réflexion et du dialogue sur l'humanitaire en temps de conflit armé et d'autres situations de violence collective. Elle porte une attention particulière à l'action humanitaire elle-même, mais elle entend également contribuer à la connaissance de son histoire, à l'analyse des causes et des caractéristiques des conflits – pour mieux saisir les problèmes humanitaires qui en découlent – et à la prévention de violations du droit international humanitaire. La *Revue* entend stimuler un débat d'idées.

● La *Revue* sert de publication spécialisée sur le droit international humanitaire, rédigée à la fois pour un public académique et pour un public général. Elle cherche à promouvoir la connaissance, l'examen critique et le développement de ce droit. Elle stimule le débat entre, notamment, le droit international humanitaire, le droit des droits de l'homme et le droit des réfugiés.

● La *Revue* est un vecteur de l'information, de la réflexion et du dialogue relatifs aux questions intéressant le Mouvement international de la Croix-Rouge et du Croissant-Rouge et, en particulier, à la doctrine et aux activités du Comité international de la Croix-Rouge. Ainsi la *Revue* entend-elle contribuer à promouvoir la cohésion au sein du Mouvement.

La *Revue* s'adresse à plusieurs publics à la fois, notamment aux gouvernements, aux organisations internationales gouvernementales et non gouvernementales, aux Sociétés nationales de la Croix-Rouge et du Croissant-Rouge, aux milieux académiques, aux médias et à toute personne spécifiquement intéressée par les questions humanitaires.

Mission of the International Review of the Red Cross

The *International Review of the Red Cross* is a periodical published by the International Committee of the Red Cross (ICRC). Its aim is to promote reflection on humanitarian policy and action and on international humanitarian law, while at the same time strengthening the dialogue between the ICRC and other organizations and individuals concerned with humanitarian issues.

● The *Review* is a forum for thought, analysis and dialogue on humanitarian issues in armed conflict and other situations of collective violence. While focusing particular attention on humanitarian action per se, it also strives to spread knowledge of the history of such activity, to analyse the causes and characteristics of conflicts – so as to give a clearer insight into the humanitarian problems they generate – and to contribute to the prevention of violations of international humanitarian law. The Review wishes to encourage the exchange of ideas.

● The *Review* is a specialized journal on international humanitarian law, intended for both an academic and a more general readership. It endeavours to promote knowledge, critical analysis and development of the law. Its also fosters the debate on such matters as the relationship between international humanitarian law, human rights law and refugee law.

● The *Review* is a vector for information, reflection and dialogue on questions pertaining to the International Red Cross and Red Crescent Movement and, in particular, on the policy and activities of the International Committee of the Red Cross. The *Review* thus seeks to promote cohesion within the Movement.

The *Review* is intended for a wide readership, including governments, international governmental and non-governmental organizations, National Red Cross and Red Crescent Societies, academics, the media and all those interested by humanitarian issues.

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Humanitarian Debate

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Un texte paraissant dans la *Revue* n'engage que son auteur. En publiant un article dans la *Revue*, ni la rédaction ni le CICR ne prennent position au sujet des opinions exprimées par son auteur. Seuls les textes signés par le CICR peuvent lui être attribués.

Texts published by the *Review* reflect the views of the author alone and not necessarily those of the ICRC or of the *Review*. Only texts bearing an ICRC signature may be ascribed to the institution.

Editorial

« Toute action humanitaire s'insère dans un contexte politique » écrit Jacques Freymond dans son ouvrage « Guerres, Révolutions, Croix-Rouge » (1976). Par conséquent, affirme-t-il, toute organisation humanitaire doit « définir une politique humanitaire valable dans le long terme, fondée sur une analyse approfondie de ce contexte politique, des traits caractéristiques d'une époque, de son climat social, de la structure des sociétés politiques, de l'interaction des forces profondes, du système politique mondial » (p. 77).

Il est peut-être utile de souligner ce que cet ancien vice-président du Comité international de la Croix-Rouge dit dans ce passage, et ce qu'il ne dit pas. Freymond rappelle que la réflexion sur « l'humanitaire » ne peut se dérouler en vase clos si l'on veut que l'action humanitaire atteigne son but. Atteindre son but signifie, dans le contexte qui nous intéresse – une situation de conflit –, être proche des victimes de la violence, améliorer leur sort et leur éviter d'autres souffrances. Mais cet « espace humanitaire » dont l'action humanitaire a impérieusement besoin est non seulement entouré par la politique, mais encore délimité par elle. Freymond, en fin connaisseur des relations internationales, ne prétend certainement pas que « l'humanitaire » doit se soumettre à la « politique », ou, pire encore, que l'action humanitaire peut valablement se substituer aux décisions qui ne peuvent être que politiques.

On peut donc considérer que, pour mieux remplir son contrat, « l'humanitaire » doit examiner et connaître l'environnement dans lequel il agit, afin que l'action en faveur des victimes puisse atteindre son but.

Ce premier numéro de la Revue internationale de la Croix-Rouge – International Review of the Red Cross *dans sa nouvelle*

forme est consacré au «Débat humanitaire». C'est à dessein que la rédaction a choisi un thème aussi large et a donc laissé une grande liberté aux auteurs dans le choix du sujet à traiter. Ce n'est probablement pas un hasard si la majorité des contributions aborde, d'une manière ou d'une autre, les rapports entre «l'humanitaire» et le «politique» et cherche des solutions aux problèmes concrets qui se posent dans ce contexte.

À travers ce débat humanitaire, la Revue *souhaite ouvrir un nouveau chapitre de son histoire. La* Revue *se donne une nouvelle mission et elle fait peau neuve. Néanmoins, elle ne trahit pas le mandat que Gustave Moynier, alors président du Comité international, avait confié au premier Bulletin, en 1869 : «Tout en servant au perfectionnement de l'œuvre [de la Croix-Rouge], il doit être un instrument de propagande en sa faveur.» Aujourd'hui, la* Revue *ne sert plus guère de moyen de communication au sein du Mouvement international de la Croix-Rouge et du Croissant-Rouge. En revanche, et plus que par le passé, elle souhaite servir de forum à des débats sur des questions d'intérêt humanitaire et, par la réflexion, contribuer à renforcer la cause des victimes de la guerre et d'autres formes de violence. Dans ce sens, la* Revue *entend être un, ou plutôt «le»* périodique de la politique, de l'action et du droit international humanitaires. *Elle restera, sous une autre forme qu'en 1869, un «instrument de propagande» en faveur de l'œuvre de la Croix-Rouge.*

Pour réaliser cet objectif, la Revue *souhaite ouvrir plus encore ses pages aux contributions de différentes disciplines au débat humanitaire. De toute évidence, la matière appelle une approche multidisciplinaire. Cette ouverture n'exclut pas que la rédaction continue d'accorder un intérêt particulier à une matière qui a toujours été l'un des points forts de la* Revue *: l'analyse du droit international humanitaire et la contribution à son développement. La rédaction souhaite consolider le rôle de la* Revue *en tant que publication spécialisée en droit international humanitaire, et qui fait référence.*

Pour réussir, la Revue *doit aussi devenir plus attrayante aux yeux des différents publics qu'elle vise: les milieux universitaires, les classes politiques nationales et internationales qui s'intéressent à l'humanitaire, le monde de la Croix-Rouge et du Croissant-Rouge, ou encore les personnes responsables de la sécurité intérieure ou extérieure*

de leur pays. Le lecteur jugera, après avoir lu ou parcouru l'un ou l'autre des articles de ce numéro, et de ceux qui vont lui succéder à un rythme trimestriel.

En conclusion, la Revue *souhaite créer un forum convivial pour promouvoir le débat entre les personnes qui se préoccupent de la cause humanitaire. Elle invite ses lecteurs à y prendre part d'une manière active. Le CICR et ses collaborateurs assumeront également leur rôle.* ■

Prenant pour point de départ le centième anniversaire des premières Conventions de La Haye (1899) et le cinquantième anniversaire des Conventions de Genève (1949), le numéro de juin 1999 développera quelques thèmes actuels touchant au droit international humanitaire moderne.

Le numéro de septembre 1999 sera consacré, notamment, à certaines des questions qui seront à l'ordre du jour de la XXVIIe Conférence internationale de la Croix-Rouge et du Croissant-Rouge (Genève, 31 octobre au 6 novembre 1999).

Il est entendu qu'un numéro consacré à un thème choisi contiendra également des articles sur d'autres sujets.

LA REVUE

A note from the Editor

"Toute action humanitaire s'insère dans un contexte politique."[1] *These words come from Jacques Freymond's 1976 book* Guerres, Révolutions, Croix-Rouge. *The author goes on to stress that every humanitarian organization must therefore define a long-term humanitarian policy based on an in-depth analysis of that political context, the main features of the time, the social climate, the nature of political structures, the interplay of major forces and the global political system.*

It may be useful to consider just what Freymond, a former Vice-President of the International Committee of the Red Cross, is saying in this passage – and what he is not *saying. He is pointing out that humanitarian issues cannot be considered in isolation if humanitarian action is to achieve its goal. In the context that concerns us – situations of conflict – attaining that goal means working close to the victims of violence in order to improve their plight and ease their suffering. However, the "humanitarian space" so vital to humanitarian action is not only set in a political environment but also delimited by that environment. As a major international relations expert, Freymond is certainly not suggesting that humanitarian work should be subject to political considerations. Still less is he saying that humanitarian action can be a valid substitute for decisions which necessarily lie in the political domain.*

Hence, if humanitarian agencies are to become more effective in fulfilling their mandate in aid of victims, they need to analyse and get to know the environment in which they are operating.

1 "All humanitarian action has its political context." (p. 77, ICRC translation)

This first issue of the Revue internationale de la Croix-Rouge – International Review of the Red Cross *in its new format is devoted to the "Humanitarian debate". The editor deliberately opted for a broad base so as to give contributors the freedom to write on topics of their own choosing. It is probably no coincidence that most articles address some aspect of the relationship between humanitarian and political action and seek answers to the practical problems arising in this area.*

It is intended that this debate on humanitarian issues will open a new chapter in the history of the Review, with a fresh set of aims and a different look. However, the Review is not abandoning the mandate given to the first Bulletin *in 1869 by Gustave Moynier, then Red Cross President:* "Tout en servant au perfectionnement de l'œuvre [de la Croix-Rouge], il doit être un instrument de propagande en sa faveur".[2] *These days, the* Review *no longer really serves as a communication channel within the International Red Cross and Red Crescent Movement. It now seeks more than ever to provide a forum for discussion on humanitarian issues and thereby to help promote the cause of victims of war and other forms of violence. In this respect, the* Review *aims to be a – or rather,* the *– journal of international humanitarian policy, action and law. It will remain – albeit in a different form to that of 1869 – a "promotional instrument" for the work of the Red Cross and Red Crescent.*

In order to achieve this goal, and since a multidisciplinary approach is plainly appropriate, the Review *intends to open its pages still further to contributions from circles that wish to take part in the humanitarian debate. The editor will nevertheless continue to give special attention to a subject which has always been one of the* Review*'s strong points: the study of international humanitarian law and contributing to its development. The editor wishes to consolidate the* Review*'s status as the specialized publication on international humanitarian law.*

2 "While helping to advance the work of the Red Cross, [the *Bulletin*] must also serve as a promotional instrument on its behalf." (ICRC translation)

If the Review is to succeed, it must also become more attractive to its various target readerships, whether academic institutions, national or international political circles concerned with humanitarian questions, the Red Cross and Red Crescent world or individuals responsible for the internal and external security of their country. Readers should make up their own minds after perusing the articles in this issue and those that will follow at quarterly intervals.

To sum up, the Review hopes to create an informal forum for debate between people interested in the humanitarian cause. Readers are invited to join the ICRC and its staff in actively contributing to this debate. ■

To mark the centenary of the first Hague Conventions of 1899 and the 50th anniversary of the Geneva Conventions of 1949, the June 1999 issue of the *Rewiew* will examine a number of topical themes relating to contemporary international humanitarian law.

The September 1999 issue will focus chiefly on certain topics on the agenda of the 27th International Conference of the Red Cross and Red Crescent, which will be held in Geneva from 31st October to 6 November 1999.

All issues devoted to a particular theme will naturally also contain articles on other subjects.

THE REVIEW

Un avenir pour le droit international humanitaire et ses principes ?

Peut-on être seul bon
dans un monde de méchants ?
MACHIAVEL

par
PAUL GROSSRIEDER

Si la fin de la guerre froide avait donné naissance à un monde sans guerre, le droit international humanitaire et ses principes seraient devenus caducs. Et le monde aurait dû se réjouir, si la fin de la partition idéologique du monde avait entraîné une période historique sans guerre. Hélas, ceux qui avaient annoncé une ère de paix ont dû déchanter. Aux empoignades entre Est et Ouest a succédé, après quelques courtes embrassades, une formidable débandade. Les nationalismes fanatiques, les exclusions ethniques, les affrontements religieux, et même un génocide ont embrasé l'Afrique, les Balkans et certaines républiques de la Communauté des États indépendants. Faut-il pour autant complètement désespérer des hommes ? La réponse d'une institution inspiratrice et défenseur du droit international humanitaire est négative. Le réalisme de ce droit et de ses principes, couplé avec un refus de l'inhumanité des conflits armés, entretient l'espoir. Mais l'action en faveur des victimes ne va pas sans

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efforts et sans conditions pour les différents acteurs de la violence. Avant d'en venir aux situations de conflit actuelles, un retour sur l'histoire de la mise en pratique et de l'évolution du droit international humanitaire et de ses principes peut aider la réflexion et éclairer le sens de nouvelles initiatives. Ce rappel historique aide à comprendre comment le CICR a su faire évoluer ses pratiques et le droit international humanitaire à différents moments de transition, et invite à un choix analogue pour le temps présent.

L'idée fondatrice

Trop souvent, l'idée humanitaire de la Croix-Rouge est banalisée et réduite à une action caritative, quelle qu'elle soit. Bien sûr, l'action humanitaire cherche à faire le bien, mais dans des contextes où «faire le bien» n'a rien d'évident. Ainsi, Henry Dunant dans *Un souvenir de Solferino*, en même temps qu'il est saisi par la cruauté des combats, avance une idée très originale: les victimes, *toutes* les victimes sont neutres. Une chose est commune à tous les blessés de guerre et c'est leur humanité. Tous sont des êtres humains et tous méritent le traitement dû à leur personne, qu'ils soient du camp allié ou du camp ennemi. «Ils n'appartiennent plus à un camp, mais peuplent un espace à la fois douloureux et bienheureux: l'espace neutre de la victime»[1]. Il ne s'agit plus seulement de soigner «mes» blessés parce qu'ils sont de mon camp, mais d'aider toutes les victimes parce qu'elles sont toutes des êtres humains. L'instrument de cette humanité partagée, même dans la guerre, sera la Croix-Rouge, qui inspirera les seules dispositions juridiques internationales applicables pour tous dans la guerre, le droit humanitaire. Ce droit prévoit que les acteurs de la guerre aient un même comportement à l'égard des blessés, des prisonniers et des populations civiles.

Les principes d'humanité du droit humanitaire sont en même temps ce qu'il y a de plus commun dans la rhétorique dominante des rencontres internationales, mais aussi ce qui est le plus oublié ou rejeté dans les formes actuelles de conflits. Un écart abyssal se creuse entre les déclarations et la réalité. Un peu comme si l'on affirmait d'autant plus fort les principes humanitaires que l'on est convaincu qu'ils ne s'appliquent pas aux guerres complexes d'aujourd'hui.

1 Jean-Christophe Rufin, *L'aventure humanitaire*, Gallimard, Paris, 1994, p. 50.

Visites aux prisonniers de guerre

Dans les conflits internationaux, depuis celui de 1914-1918, le Comité international de la Croix-Rouge (CICR) a cherché, et en général réussi, à visiter les camps de prisonniers de guerre. Il a aussi créé l'Agence internationale des prisonniers de guerre, devenue depuis l'Agence centrale de recherches. Les puissances détentrices ont en général admis que le CICR visite les prisonniers qu'elles détenaient. Parmi les plus grands échecs, retenons le non-accès aux prisonniers détenus par l'URSS durant la Seconde Guerre mondiale, ainsi qu'aux prisonniers soviétiques en Allemagne. Plus tard, le CICR n'a pas eu accès non plus aux prisonniers détenus au Viet Nam du Nord. Le principe est toujours le même: bien qu'ils soient membres d'armées ennemies, ces prisonniers ont droit à un traitement qui respecte leur dignité d'homme. Le même principe d'humanité aurait dû amener le CICR à se préoccuper des victimes du génocide nazi dès qu'il en a eu connaissance. Malgré tout, des délégués ont déployé des efforts considérables. Le délégué à Budapest, Friedrich Born, par exemple, a admirablement œuvré dans ce sens dans les limites de ses possibilités.

Visites aux détenus politiques

Soucieux de développer ses activités selon les principes du droit international humanitaire, le CICR a progressivement élargi ses visites aux détenus politiques et de sécurité dans des situations de tensions internes. Comme l'écrit Jacques Moreillon dans sa thèse *Le Comité international de la Croix-Rouge et la protection des détenus politiques*: «Le moteur essentiel – on pourrait presque dire «existentiel» – du CICR est son droit d'initiative humanitaire. [...] Quel que soit le statut des individus, le CICR a toujours vu l'homme à travers l'uniforme. Pour lui, le traitement de tout être humain ne doit en rien dépendre de sa condition juridique. En tout temps, en tout lieu, les souffrances inutiles doivent être évitées et la dignité de l'homme respectée» [2].

Le développement et l'adaptation de la pratique du CICR en faveur des détenus politiques se fonde toujours sur le principe du droit international humanitaire qui veut qu'en situation de conflit et de tension,

2 Jacques Moreillon, *Le Comité international de la Croix-Rouge et la protection des détenus politiques*, Institut Henry-Dunant/Éditions l'Âge d'Homme, Lausanne, 1973, pp. 231 – 232.

la victime a droit à la protection et à l'assistance, quelles que soient son origine et sa situation. Seuls sont pris en compte sa qualité de victime et son droit au respect dû à toute personne humaine. Pour montrer l'intérêt des visites aux détenus de sécurité, citons Jacques Freymond pour qui elles étaient «un des moyens les plus directement utilisables et les plus efficaces de freiner l'escalade de la violence. La victime «protégée» cesse d'être un instrument de la guerre pour devenir un témoignage que la conciliation est possible. La protection des droits des prisonniers politiques est une des premières conditions à des solutions négociées des grands problèmes devant lesquels se trouvent nos sociétés» [3].

Les mouvements de libération

Dans les années 70, la prolifération des mouvements de libération dans les régions colonisées par les puissances européennes a placé le CICR face à des questions très délicates. Les méthodes utilisées par certains d'entre eux – parfois de nature terroriste – compliquaient encore davantage le choix devant lequel se trouvait le CICR. La lecture du rapport d'un groupe d'études de l'Institut universitaire de hautes études internationales, dirigé par Jacques Freymond, sur le thème «Mouvements politiques armés et principes humanitaires» [4], fait saisir la grande tension qui régnait à l'époque quant à l'orientation à prendre. Une fois de plus, pour faire vivre le droit humanitaire et son esprit, le CICR se devait de l'adapter à des situations inédites qui s'écartaient des conflits armés connus jusque-là.

Le tournant pris à cette époque est d'une importance telle pour le CICR qu'il est utile de rendre compte des réflexions qui ont finalement conduit au Protocole II de 1977 [5], dont la signification pour le développement du droit international humanitaire est souvent sous-estimée. Le raisonnement sous-jacent à cette évolution est assez simple: le changement dans des formes de conflits armés doit conduire à une évolution des Conventions de Genève de 1949. Sans cela, l'universalité même des principes humanitaires pourrait être mise en cause. L'intransigeance à l'égard des mouvements de libération est considérée comme un piège, car elle pourrait nourrir

3 Jacques Freymond, «Violence et qualité de vie», in *Menschenrechte Föderalismus Demokratie*, Zürich, 1979, p. 140.

4 Jacques Freymond et Thierry Hentsch, «Limites à la violence», Genève, 1973.

5 Protocole additionnel aux Conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés non internationaux, adopté le 8 juin 1977.

l'extrémisme. Soucieux d'être reconnus, plusieurs de ces mouvements avaient pris contact avec le CICR et déclaré vouloir respecter les principes du droit international humanitaire. Cependant, en demandant une évolution de ce droit, le groupe d'études ne voulait, en aucune façon, faire l'apologie de la violence, d'où qu'elle vienne. Le rapport concluait qu'« un traitement humain de l'ennemi non seulement rehausse le prestige de celui qui le pratique, mais encore freine l'escalade des violences indiscriminées » [6].

Sur le plan politique, le CICR a argumenté que les contacts avec les mouvements de libération étaient du plus haut intérêt pour les États contre l'autorité desquels ceux-ci se dressaient, en particulier, lorsque des soldats d'une armée régulière tombaient aux mains de groupes rebelles.

Jacques Freymond, le responsable du groupe d'études, rappelle que le rapport a été « violemment critiqué par certains, favorablement accueilli par d'autres » [7]. Malgré ces difficultés, le CICR s'est lancé dans la négociation qui a abouti à la signature du Protocole II, qui contient toute la philosophie sur laquelle il s'est appuyé pour mener ses opérations durant la période des combats entre gouvernements et mouvements de libération. Le Protocole II est le résultat d'une volonté d'adapter le droit international humanitaire à de nouvelles formes de conflit.

Nouvelles formes de conflit

Il ne fait pas de doute que la plupart des conflits sont aujourd'hui entrés dans une phase nouvelle. Une évolution, surtout politique, serait nécessaire pour leur trouver une solution et il faudrait établir des normes humanitaires qui seraient acceptées par tous les acteurs des nouvelles formes de violence armée.

Dans une sorte de « nouveau Moyen-Âge », comme le suggère Pierre Hassner, l'ordre des traités de Westphalie, fondé sur la territorialité et la souveraineté des États, est mis en question[8]. Les États ne détiennent plus le monopole de la violence politique. À la différence des mouvements de libération, les groupes d'individus qui mènent des guerres aujourd'hui ne cherchent généralement pas à établir un ordre étatique. Ce sont des individus qui défendent une ethnie, une religion, des valeurs transnationales. Il n'en

7 Jacques Freymond, *Guerres, Révolutions, Croix-Rouge*, Institut universitaire de hautes études internationales, Genève, 1976, p. 111.

8 Pierre Hassner, *La violence et la paix*, Éditions Esprit, Paris, 1995.

reste pas moins que ces individus, comme les gouvernements qui répondent par les armes à leurs agressions, mènent bel et bien des guerres. Ces nouveaux acteurs ne sont pas de simples bandits de grand chemin. Ils s'en prennent, entre autres, à des puissances occidentales, à leur ordre et à leur système idéologique.

Certes, les nouveaux acteurs des conflits ne sont pas faciles à identifier. Leurs intentions politiques varient d'un contexte à l'autre. Parfois leur seul but est l'annihilation de l'ennemi. Parfois leurs motivations sont uniquement d'ordre économique. Mais il est certain aussi que les nouveaux conflits internes, extrêmement cruels, correspondent à la mise en place de nouveaux systèmes transnationaux, nationaux et régionaux. Derrière des comportements criminels se profilent des conflits de nature politique. Il n'y a donc pas de raison de les laisser se dérouler en dehors de tout principe humanitaire. Ou alors, il faudrait se résigner à l'abandon complet de l'exigence minimale d'humanité dans les conflits, qui a constamment inspiré le droit international humanitaire.

Face aux nouvelles formes de conflits armés, le CICR doit, comme dans les phases historiques antérieures, faire connaître et adapter le droit humanitaire à ces acteurs nouveaux, fussent-ils responsables d'actes terroristes. Comme à l'époque des mouvements de libération, une distinction doit être faite entre, d'une part, la nature – parfois inadmissible – de certaines actions et, d'autre part, le respect des principes humanitaires par toutes les parties engagées dans un conflit et le refus des attaques indiscriminées. Celles-ci, en fin de compte, ne sont dans l'intérêt de personne et ont pour seul effet d'alimenter l'engrenage de la violence. Le respect de l'esprit de Solferino est à ce prix.

Côté politique, le grand risque vient de la criminalisation pure et simple des acteurs de la violence par les régimes en place et par les puissances établies. Discréditer ainsi des acteurs aux revendications politiques certaines et réduire leurs initiatives à des actes criminels serait faire fi des principes du droit international humanitaire, qui serait menacé dans son essence même. Des réactions qui reposeraient uniquement sur l'aspect criminel de certains actes terroristes ne feraient qu'alimenter la violence et sonneraient le glas des principes humanitaires. Cependant, défendre les principes humanitaires dans les contextes conflictuels d'aujourd'hui, ce n'est pas du tout défendre l'utilisation de moyens et de gestes inacceptables. Il en va d'ailleurs de même pour toute riposte indiscriminée. Ce que le CICR doit rechercher, c'est

l'acceptation et le respect d'un minimum d'humanité dans les nouveaux contextes conflictuels, sans pour autant se mêler de juger la justesse de telle ou telle cause. Le retour à la guerre sauvage et totale ne ferait que créer une spirale sans fin de violence aveugle et indiscriminée, en dehors de toute règle préservant le principe d'humanité.

Les principes humanitaires aujourd'hui

Comme il l'a fait pendant les guerres de libération, c'est en fonction des situations, des circonstances et des informations dont il dispose que le CICR doit aujourd'hui faire des choix, qu'il doit distinguer, dans les violences armées, ce qui relève du droit commun de ce qui est du domaine de l'action politique et donc concerne le droit international humanitaire et ses principes. La tâche est plus ardue encore que durant la période de la guerre froide, lorsque la défense du droit humanitaire pouvait bénéficier d'une certaine instrumentalisation politique. Aujourd'hui, le CICR se trouve face à une conjoncture politique qui n'offre plus les mêmes occasions d'instrumentalisation de ce droit.

Il faut aussi que les États et les nouveaux acteurs de la violence armée soient sensibilisés à l'indispensable respect des principes humanitaires dans les phases actuelles de conflits, malgré l'immense difficulté et l'extrême complexité de ces situations. Les échanges bilatéraux et multilatéraux avec tous les acteurs concernés devraient s'intensifier et se multiplier, sous peine de perdre l'acquis du droit international humanitaire et de ses principes. Si la rhétorique humanitaire veut garder un sens, elle doit inclure ces nouvelles problématiques dans sa réflexion et dans son action. Cela concerne aussi bien les gouvernements que tous les acteurs qui contestent par les armes les systèmes nationaux et internationaux en place.

Au cours des évolutions historiques antérieures des formes de conflit, des pistes ont été trouvées pour sauvegarder concrètement le droit et les principes humanitaires ; il serait tragique que, face aux évolutions présentes, la société internationale régresse et cède de toutes parts à la tentation d'inhumanité.

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Abstract

A future for international humanitarian law and its principles?

by PAUL GROSSRIEDER

Before addressing the question raised in the title of his article, the author looks to the past and shows that the ICRC has been able not only to adapt international humanitarian law to new challenges but also to find new approaches to emerging humanitarian issues. This was the case, for example, when wars produced huge numbers of POWs, or when the plight of political detainees called for innovative action by the ICRC. The emergence of national liberation movements raised particularly difficult problems, but by and large satisfactory solutions were found within the existing humanitarian system. Today we are facing new forms of conflicts, with increasing involvement by non-State actors. After examining the nature of the challenges and discussing possible answers, the author concludes that it would be a tragedy if our time were unable to find a suitable response to them.

THE REVIEW

The role of humanitarian issues in international politics in the 1990s

by
ADAM ROBERTS

IN the 1990s, humanitarian issues have played a historically unprecedented role in international politics. They have been prominent mainly in relation to armed conflicts and the use of armed force, rather than other types of disaster whether natural or man-made. They have been frequently cited by States and international organizations as a basis for action regarding both civil and international wars. The experience of this expanded and largely unforeseen role raises questions for theorists and practitioners alike. It poses an intellectual challenge for those who believe that international politics is essentially about States' pursuit of power on the basis of interest; it also raises questions for those who believe that international humanitarian law and action can have a major impact, not just on particular conflicts and their effects, but on international politics generally.

There is nothing new about humanitarian issues featuring significantly in the conduct of international politics. In earlier decades of this century they played an important part in shaping popular and governmental reactions in many countries to such events as the two World Wars, the Spanish Civil War, and the Vietnam War. However, the way in which, in

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the 1990s, they have repeatedly had a central role, in relation to a rapid succession of crises from the Kurdish areas of Iraq in 1991 to Kosovo in 1998, has no obvious parallel in any previous period. Humanitarian issues may now be at the beginning of a phase of retrenchment, but they are not likely to disappear.

This paper does not attempt to provide an overall balance sheet of the considerable achievements and many failures of humanitarian approaches in the 1990s. Its purposes are more limited. The first section briefly discusses the changed role of international humanitarian law and action since 1989. The second explores the factors, some of which are rooted in considerations of power and interest, that have led to this increased role. The third goes on to outline six key areas in which the emphasis on humanitarian issues has resulted in innovations, all involving the United Nations. The final section suggests conclusions arising from experiences of the 1990s.

The changed role of humanitarian issues since 1989

The events of the 1990s have put into prominence both of the interconnected streams of international humanitarianism that are applicable to the problems posed by armed force: (1) the law of war, especially those aspects which seek to protect the victims of armed conflict (international humanitarian law); and (2) humanitarian action in the form of assistance to people in need during an emergency situation. Both these streams are related to, but in some ways distinct from, law and action in the field of human rights, not directly addressed here.

Law of war

Since 1990 there has been a heightened interest worldwide in the law of armed conflict, also known as international humanitarian law. A number of factors have contributed to this development: (1) The law of war was seen to have played a positive role in the 1991 Gulf War. Although its application was not free from controversy, it did provide useful guidelines for the conduct of coalition military action. (2) Several conflicts, and the reporting of them, have stimulated widespread public awareness of war crimes. (3) There has been growing concern about the huge extent of pointless destruction caused by anti-personnel mines.

The considerable attention paid to law of war issues by the anti-Iraq coalition in the conflict over Kuwait in 1990-91 was evidence not only of the salience of these issues, but also of the compatibility of human-

itarian law with military effectiveness. Indeed, attention to aspects of the law governing armed conflicts probably made a positive overall contribution to the coalition's choice of methods and tactics, and contributed to the revival of serious interest in this law among the armed forces of several coalition States.

At the end of the 1990s the overall picture of State participation in existing treaties on the law of war is far from bleak. Adherence to the Protocol I of 1977 (on international armed conflicts) additional to the 1949 Geneva Conventions illustrates the point. On 1 July 1988 there were 76 States Parties. At the end of 1998 there were 152, including all NATO members except France (which is considering ratification), Turkey and the USA.

In addition, between 1994 and 1997 four new agreements relating to the law of war were concluded which, having passed the necessary threshold number of parties, have entered into force. The first, not exactly part of the law of war as such but with an important bearing on the conduct of hostilities, is the 1994 UN Convention on the Safety of United Nations and Associated Personnel. This treaty was concluded in haste by the UN because of the lack of respect for peace-keepers and other international workers in a number of conflicts in the immediately preceding years, including in the former Yugoslavia. The very need for this treaty thus casts a sombre light on the role of humanitarian issues in the 1990s. Two new Protocols annexed to the 1980 Convention on Certain Conventional Weapons were concluded, addressing the use of blinding laser weapons (Protocol IV, 1995), and mines, booby-traps and other devices (Protocol II as amended, 1996). The latter was rapidly followed by the fourth of the new treaties, the 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

On some issues, the 1990s have seen remarkable developments in the form, not of new treaties, but rather of authoritative expositions of existing law. Two striking examples, both drawing on a wide range of sources and relating them to today's circumstances, are the San Remo Manual on International Law Applicable to Armed Conflicts at Sea (1994), and the ICRC/UN General Assembly Guidelines for Military Manuals and Instructions on the Protection of the Environment in Time of Armed Conflict (1994). In several areas, drawing up authoritative expositions of this type is more useful than trying to negotiate completely new agreements.

However, the main developments of the 1990s have been the result of a new international emphasis on implementation: on actions to

ensure that the law is observed and violations are punished. In the 1990s, as in earlier periods, implementation has been different in practice from what is envisaged in the conventions. Trials for "grave breaches" under the 1949 Geneva Conventions have remained a rarity, and the International Fact-Finding Commission set up in 1991/92 under the terms of Additional Protocol I has not been asked to do anything. On the other hand, the UN Security Council has established the International Criminal Tribunals for the former Yugoslavia (1993) and Rwanda (1994). Although they have encountered many difficulties, especially in arresting suspects and in getting witnesses to testify, they are evidence of a growing seriousness in the international community about implementing the law of war. Finally, 1998 saw the adoption of the Statute for the International Criminal Court.

An issue of particular concern is the policy of the United States. Despite the experiences of 1990-91 and the care with which it has approached such tasks as the writing of military manuals and rules of engagement, the USA is not formally a participant in most of the main law of war agreements of recent decades. In particular, the USA is not a party to Additional Protocol I; the 1995 Protocol on laser weapons; the 1996 Protocol on anti-personnel mines; the 1997 Ottawa Convention on anti-personnel landmines; and the 1998 Statute of the International Criminal Court. Although a non-party, it takes at least some of these accords more seriously than some States that are parties. The reasons for US non-participation go far beyond the obduracy of one single aged Senator, and call for careful analysis rather than uncomprehending condemnation.

Humanitarian action

The striking increase in the work performed by humanitarian bodies in relation to armed conflicts has been reflected in the increases in the budgets and field activities of the Office of the UN High Commissioner for Refugees (UNHCR), the World Food Programme (WFP), the European Community Humanitarian Office (ECHO), the International Committee of the Red Cross (ICRC), and countless NGOs; and in the increased involvement of UN and other peace-keeping forces in humanitarian action.

The expansion of UNHCR expenditure from the mid-1970s illustrates the point. The agency's budget, which depends primarily on voluntary donations by States, grew from 69 million US dollars in 1975 to $570 m. in 1989, $1,307 m. in 1993, to a peak of $1,430 m. in 1996. Since

then there has been significant retrenchment: expenditure in 1997 was $1,220 m., and the figures for 1998 and 1999 seem certain to be under $1,000 m. Large staff cuts are under way. Nonetheless, the huge expansion of the budget up to 1996, and its maintenance thereafter at a level far higher than in earlier decades, are evidence that States have been willing to put serious resources into taking action about at least some refugee problems.

Factors contributing to the centraly of humanitarian issues

What exactly has caused the remarkable increase in the centrality of humanitarian issues in international diplomacy in the 1990s? There are four main levels of explanation. They relate respectively to political belief systems, the role of the media, the interests of States, and the particular pressures of multilateral decision-making.

Humanitarianism and political beliefs

The end of the Cold War meant that the struggle between Western-style liberalism and Soviet-style communism, and all the variations and permutations of that struggle, ceased to have their old hold (which was in any case far from complete) on the minds of men and women around the world. The battle had been largely won by Western liberal and democratic ideas, but these did not themselves offer a guide to how to respond to many of the wars and civil wars of the post-Cold-War era. Humanitarianism could supply one possible basis for a response: a supplement to, if not a substitute for, a political ideology of liberal democracy.

Humanitarianism gained particular importance as a response to the many conflicts in which religious or ethnic identity was the apparent basis for murderous warfare. To proclaim the irrelevance of the minor differences between Serb and Croat, or Catholic and Protestant, or Muslim and Jew, was itself to say something important about the necessity for tolerance as a basis for human relations. This still left open, and unanswered, the hard question of where such humanitarianism leads: it is extremely difficult to make people live together when they have deep mutual antipathy, and security fears that are perfectly genuine. The problems of implementing the 1995 Dayton provisions for the return of refugees are evidence of the limits of efforts to treat all people as essentially equal on a largely humanitarian basis.

Media reporting of humanitarian crises

The capacity of the media (newspapers, radio and television) to report disasters as they happen has had profound effects on the actions of individuals and States. This is not just because the media can provide vivid information, but also because the very immediacy with which they do so serves as a reminder that nowhere on earth is beyond the reach of a response. In an age of instant mass communication, when some response to tragedy is often expected by informed and at the same time helpless citizens of States not directly involved, humanitarian action has become a natural part of the response.

Although media reporting is most often connected with the provision of humanitarian assistance, it has also contributed to the developing role of the law of war, or international humanitarian law. A fundamental reason for the emphasis in the 1990s on this body of law has been the scale, frequency, and vivid reporting of hideous war crimes. What is the point of having rules of restraint if they can be ignored with apparent impunity? Indeed, what is the point of calling ourselves civilized if we do nothing about cruelty and barbarism even when it is on our doorstep?

Humanitarian approaches as an easy way out for States

A third reason for the growing role of humanitarian issues is more sinister. When governments around the world are confronted with demands to take action about situations of extreme horror, humanitarian approaches are often the easiest way out. For example, faced with the prospect of massive refugee flows, taking some humanitarian action in or close to the country of origin (for example, by assisting in the maintenance of refugee camps) may be politically preferable to permitting refugees to settle permanently in one's own country. Supporting action by an NGO or an international organization may help to associate a donor government with good works, while reducing the risk to itself should things go wrong. Setting up an international criminal procedure may be less costly than sending troops in to stop the atrocities.

Tendency of institutions to agree on lowest common denominator

A fourth reason for the emphasis on humanitarian issues is that this is an age marked by a strong tendency of States to act multilaterally through international institutions. When States with different perspectives,

interests, fears and capabilities meet to discuss a particular crisis, it is easier for them to agree on an impartial humanitarian approach than to decide on a substantive policy to resolve the conflict. Time and again – over Somalia, the former Yugoslavia, Rwanda, and other crises – the UN Security Council could agree on humanitarian action even when it had no proposal as to how to end the troubles that had made such action necessary. Further, it could agree on a relatively low-risk strategy, when it would not have been able to agree on the much riskier course of military intervention to bring about a particular outcome.

Conclusion on the four factors

Major events have multiple and complex causes. There is no case for being reductionist and assuming that it is necessary to choose between the four types of causes (briefly outlined above) for the increased interest in humanitarian law and action. The last two factors in particular cast doubt on the idea that there is a fundamental departure from the system of sovereign States and power politics. None of the factors identified above as contributing to the increased interest in humanitarian law and action looks merely temporary. Even if the tendency towards humanitarian approaches to crises declines (and there is evidence that it is doing so), it will not disappear.

Six UN-related developments

The emphasis on humanitarian action in the 1990s has contained some new elements. Six are singled out here. Remarkably, the UN system, including some of the specialized agencies, has played a critically important role in respect of all of them.

The single greatest change in the international handling of humanitarian issues in the 1980s and 1990s has been the extensive involvement of UN bodies. Such involvement is not wholly new. The League of Nations Covenant stated in Article 25 that the members would encourage Red Cross activities. The UN Department of Humanitarian Affairs (set up in March 1992) and its successor have taken much further the process of encompassing humanitarian action within the ambit of the major international organization.

Humanitarian issues have featured especially frequently in resolutions of the UN Security Council. The word "humanitarian", used only very seldom in such resolutions in earlier decades, has occurred with unprece-

dented frequency in resolutions from 1990 onwards. These resolutions have addressed both humanitarian law (calling for its observance in ongoing wars, condemning violations, and authorizing action intended to stop violations) and humanitarian action (providing for emergency relief during wars, and for various humanitarian services).

A particular problem of UN involvement in humanitarian action is that the UN may have some degree of responsibility for the creation of humanitarian problems in the first place. This is most clearly so in the case of international economic sanctions, the use of which has expanded hugely in the 1990s. Affecting ordinary inhabitants (including children) more seriously than governments and armed forces, economic sanctions have turned the principles of the law of war on their head. They have also necessitated massive UN programmes (most notably in Iraq) to try to alleviate their cruellest and most pointless consequences.

The UN involvement in humanitarian issues has led to major failures as well as some impressive achievements. Not all of its many distinct elements have been coordinated with each other and, even when this has been the case, they have not necessarily worked harmoniously together. They are examined separately below.

Facing the challenge of civil wars

Civil wars, including internationalized ones, have long been a principal form of conflict. In the past there were many efforts to bring humanitarian law and action to bear on such wars. This was, for example, a major part of the international response to the Spanish Civil War (1936-9). However, the extent of the international community's humanitarian involvement in the civil wars of the 1990s has been unprecedented.

In the past, the law of war was conceived as applying, according to its terms, primarily to international armed conflicts between recognized States. Civil wars, especially those involving an ethnic or inter-communal dimension, have historically been the most difficult type of war to bring under legal or moral restraint. The very aims of parties in civil wars of this type often include trying to get part of the population out of the territory, and thus involve violations of fundamental principles of the law of war. In such circumstances, the crucial distinction between soldier and civilian is ignored; and the parties are particularly suspicious of humanitarian assistance activities.

Such civil wars call into question the idea, associated with the name of Jean-Jacques Rousseau, that war is only and exclusively a conflict between governments and their armies, and not at all a conflict between peoples. This idea has been one important philosophical basis of the development of humanitarian limitations in war. Where there is no acceptance of the fundamental principle of respect for civilians and non-combatants, it cannot be expected that there will be respect for humanitarian law, efforts and agencies.

In the 1990s, as a result of the UN's preoccupation with tackling civil wars and other cases of internal violence, peace-keeping forces have been dispatched, safety zones and refugee camps established, and sanctions and embargoes instituted. Certain new legal developments (especially the establishment of the Yugoslavia and Rwanda tribunals, and the 1997 anti-personnel landmines treaty) bring conflicts with a strong element of civil war within the formal ambit of a wide range of rules and implementation procedures. This emphasis on humanitarian responses to civil wars has given rise to some acute problems. Among the most serious have been problems of providing protection for: (1) civilians, prisoners and other potential victims; (2) humanitarian workers (expatriate and local); and (3) humanitarian activities. These problems, which have many dimensions, are explored at several points below.

There has also been concern that, at least in some civil wars, the availability of humanitarian assistance might actually prolong the hostilities. On rare occasions this might be a desirable outcome, if for example it enabled an attacked party to gain time to build up its forces. More often, any prolongation of a war is far from being an intended or acceptable consequence of humanitarian aid. Yet wherever there is a situation of near-anarchy and a large quantity of aid, it is inevitable that a proportion of that aid will fall into the hands of belligerents or feed their supporters. As a result, they may be saved from realizing the true cost and pain of the wars to which they are parties. Worse, many aid organizations will seek to conceal these embarrassing facts from their donors and political supporters at home. This issue has arisen with particular force in relation to some African conflicts, and has contributed to the retrenchment that has characterized approaches to humanitarian action since the high point of around 1995.

Establishing international tribunals as a response to war crimes

The establishment of the Yugoslavia and Rwanda tribunals was widely, and rightly, hailed as a landmark in the history of the law of armed conflict. Yet in these instances the UN Security Council reached its decisions partly on the basis of the lowest common denominator. Both these tribunals were created at times when ongoing violence and atrocities, widely reported in the media, had caused public concern and demands for action; when the international community had failed to agree on any strong measures, or indeed any definite policy with regard to the crisis; and when there was notable reluctance in many countries to risk their soldiers' lives in a cause in which they were not directly involved. The tribunals were in part a substitute for action.

The moves of the 1990s towards more systematic implementation of the law of war reached their logical conclusion with the opening for signature of the Rome Statute of the International Criminal Court on 17 July 1998. This instrument, which in one form or another had been under discussion at the UN for 50 years, appears to provide for a new system of international justice which could overcome some of the obvious weaknesses of relying on national courts or on ad hoc international tribunals. Further, the Statute breaks new ground in its definition of crimes, and in its application to civil wars. The ICC is envisaged as having jurisdiction over the crime of genocide, crimes against humanity, war crimes, and potentially also the yet-to-be-defined crime of aggression. However, early entry into force of the Rome Statute is improbable, because no fewer than 60 States Parties (an unusually high number) are required to bring it into effect; and many States are nervous because of the Statute's potential effects on their political or military leaders. At the Rome negotiations in June-July 1998 many States (and not just the USA) were concerned to limit the Court's powers of investigation, arrest and prosecution, in order to save their own military personnel or political leaders from being exposed to the risk of trial.

In addition to the international tribunals which have received so much attention, other methods of ensuring respect for the law of war have continued to be important in the 1990s. These include: (1) trials and court martials by national courts, which remain a principal form of legal implementation; (2) administrative action and internal inquiries by governments, a case in point being the episode in which the Canadian Airborne Regiment,

whose members had committed crimes in Somalia during UN operations, was disbanded on 5 March 1995; (3) military action by way of response to violations, as for example when crimes committed by Serb forces in Srebrenica and Sarajevo in 1995 led to NATO's Operation Deliberate Force bombing campaign against Serb military targets in Bosnia; and (4) refusal by third countries to offer a government any support, even when it has run into trouble, because it is perceived to have been involved in outrages.

The international tribunals mark an important advance in the implementation of international norms, but they face serious problems: in particular, there remains an unavoidable element of chance as to who is tried and who is not; and the Rwanda tribunal in particular has suffered from interference with witnesses and poor administration. So far, the only operative international tribunals have been set up in respect of countries within which there were serious grounds for doubt about the possibilities of fair trial. It is too soon to say whether the old and inadequate forms of implementation of the law of war have been decisively supplemented by something new and more effective.

Transformation of the refugee regime

A third key development of recent years has been the tendency to tackle refugee-producing situations at or near the source. Developments of the 1980s and 1990s, especially the increase in refugee numbers and the actions by States to prevent inflows of immigrants, have led to significant changes in the international handling of refugee issues. The roles of UNHCR and the UN Security Council in relation to refugees have included many changes and innovations; and questions relating to refugees have been of great importance generally in international relations in the 1990s.

In the past, many States recognized an obligation, derived from their own experiences and buttressed by international agreements, to accept refugees. Western States also had a political-strategic interest in those refugees whose presence was proof of the failures of communist systems. In the 1990s, the pattern is far from uniform, and some poorer countries have been willing to accept remarkable numbers of refugees. However, States have not generally reacted to crises, as they sometimes did in the past, by accepting large numbers of refugees.

The hardening of attitudes towards refugee influxes, coupled with a growing media-induced awareness of refugee-causing situations, has

had major political and military consequences. It causes feelings of guilt (especially in countries with traditionally liberal immigration policies), and strengthens the desire to take some other form of action to help. It contributes to a willingness in many countries to finance humanitarian action. It adds to political pressures to tackle refugee issues in or near the country of origin, for example by creating safe areas and semi-permanent camps, and providing for the return of refugees as part of a peace settlement. All these developments have pointed to the need for international action, not just through UNHCR and other agencies, but also through the UN Security Council.

Statistics on the number of refugees, and the extent of international activity in respect of them, do not support the simple picture of an inexorably rising tide of refugees in the post-Cold-War era. Two qualifications must be made to such a generalization: (1) The steady increase in the numbers of refugees actually began in the mid-1970s. While it intensified in 1989-93, it is by no means purely a post-Cold-War phenomenon. (2) Since 1993 there has been a significant decline in overall refugee numbers – caused by large-scale repatriations and by deterrent measures imposed by countries of destination. The idea that there is a single "global migration crisis" is overstated. Some causes of mass migrations in the 1980s were peculiar to the Cold War (e.g. from Afghanistan); and some causes of mass migrations in the 1990s were peculiar to the circumstances surrounding the end of the Cold War (e.g. flows resulting from the break-up of former communist States, especially the Soviet Union and Yugoslavia). However, other causes may be expected to persist even after the crises attendant upon the end of the Cold War subside. Many post-colonial and post-communist States have inherently fragile national identities, frontiers and institutions.

The changes in the handling of refugee issues, mainly in the 1990s, have included an increased focus by many agencies on preventive action, even within countries at war, to reduce the likelihood of massive refugee flows across borders; the extension by UNHCR of the categories of people it assists, principally to encompass the "internally displaced" i.e. those displaced within countries at war; the creation of safety zones, mainly under UN Security Council authorization, to reduce the likelihood of refugee outflows and to encourage return; the establishment of camps on the edges of countries at war; the authorization of military intervention, including by the UN Security Council, in refugee-producing situations; the granting by States of temporary protection to refugees rather than permanent

asylum; the growth of the practice of assisted, or in some cases forced, repatriation; and the concern with monitoring conditions following resettlement.

Taken together, the changes of the past two decades amount to the emergence of a radically transformed refugee regime aimed at preventing refugee flows and ensuring refugee return. The simple humanitarianism of granting asylum to refugees has given way to a complicated pattern of action containing many elements of uncertainty and insecurity. Some of the transformation has been open, deliberate, and formally accepted, including by the UNHCR Executive Committee and the UN General Assembly. However, none of these changes is wholly satisfactory or definitive.

Safety zones

"Safety zone" is an unofficial generic term used to cover a wide variety of attempts to declare certain areas off limits so far as military targeting is concerned. In contrast to "undefended towns" (a long-established term in the law of war), there is no assumption that safety zones are open for occupation by the adversary. The establishment of such zones in war-torn areas involves a combination of humanitarian law and action, and has been one of the central features of international responses to conflicts in the 1990s. Safety zones have included the "open relief centres" established on the basis of consent in Sri Lanka (1990-1996); the coalition-enforced "safe haven" in northern Iraq (in existence since 1991); the six UN-declared "safe areas" in Bosnia and Herzegovina (1993-95); and the "secure humanitarian areas" that the UN-authorized and French-led Operation Turquoise set out to create in western Rwanda (summer 1994).

The idea that certain areas should enjoy special protection, even in the midst of ongoing conflict, has long been reflected in the law of war. Article 23 of the 1949 First Geneva Convention (on the wounded and sick) provides for the establishment of "hospital zones and localities", normally by agreement between the belligerents. Articles 14 and 15 of the Fourth Convention (on civilians) develop these arrangements and provide for the establishment, by agreement between the belligerents, of "neutralized zones", to shelter wounded and sick combatants or non-combatants, and civilian persons who take no part in hostilities. Article 60 of Additional Protocol I adds a further provision for "demilitarized zones", also to be established by agreement between the belligerents.

These treaty-proposed arrangements, used only occasionally, have limitations. They are based on the assumptions that the security zone is of limited area; that all combatants and mobile military equipment have been withdrawn; and that no acts of hostility will be committed there by the authorities or the population. They require consent, in most cases formal, between belligerents; they depend on complete demilitarization of the area, seldom achieved in practice; and they do not specify any arrangements for defending the areas or deterring attacks on them.

In the conflicts of the post-Cold-War period, there have been innovative attempts to create areas of special protection for victims and humanitarian bodies assisting them. Such areas have been variously called "corridors of tranquillity", "humanitarian corridors", "neutral zones", "protected areas", "safe areas", "safe havens", "secure humanitarian areas", "security corridors", and "security zones". The UN Security Council has been active in promoting such zones, and has itself used at least five of the above terms. UNHCR has promoted these concepts, and established two "open relief centres" in Sri Lanka, where local inhabitants could take refuge when they felt threatened by the conflict between government forces and Tamil rebels. The variety of the terminology reflects the wide range of forms that such areas can assume, and the absence of a standard legal concept.

Five features have characterized most of the areas of special protection actually established in the post-Cold-War period: (1) different nomenclature from that specified in the conventions has been used to describe them; (2) they have generally been proclaimed or supported by outside States and international bodies, especially the UN Security Council, rather than by the belligerents; (3) outside military forces have in most cases been responsible for protecting them; (4) a central concern has been with the safety of refugees, and the prevention of massive new population movements; and (5) military activity of one kind or another by local belligerents has generally continued within the areas.

The first major area of special protection in the post-Cold-War era was northern Iraq in the immediate aftermath of the 1991 Gulf War. Following a failed uprising which had been encouraged by the Western powers, huge numbers of people, mainly in northern and southern Iraq, had fled to the Iranian and Turkish borders. Starting on 17 April 1991, a military operation by American, British and French forces helped to establish a "safe haven" in Iraq north of the 36th parallel, enabling some 400,000 Kurdish refugees

who had fled to the Turkish border to return. The administration of assistance in the area was subsequently taken over by UN agencies. This "safe haven" has throughout its history been subject to military incursions, mainly by Turkish forces but also by the Iraqi army. Despite this, it has provided some modest degree of security.

The six "safe areas" in Bosnia and Herzegovina (1993-95) were established by the UN Security Council during an ongoing war, with the consent of the host government. They were supposed to protect the inhabitants of six towns from Bosnian Serb forces besieging them. The initial resolution (Security Council Resolution 819 of 16 April 1993) demanded "that all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile act". A second resolution (SC Res. 824, 6 May 1993) extended this attempt at protection to five additional threatened areas: Sarajevo, Tuzla, Zepa, Gorazde and Bihac. The geographical limits of most of the Bosnian safe areas were never defined. A further resolution (SC Res. 836, 4 June 1993) provided a notoriously complex and ambiguous framework for the crucial issue of the use of force in defence of the safe areas. For the UN and NATO, the problem of protecting the six "safe areas" was compounded by the fact that these were no neutral zones, but areas in which, and from which, Bosnian forces operated. The Serbs complained that the so-called "safe areas" were being used by the Bosnian Muslims to launch attacks against them, as in the case of the Bosnian offensive launched from Bihac in November 1994. Yet there was no serious possibility that the six areas could have been neutralized: neither the Bosnian government, nor the inhabitants, would have been willing to entrust their security to international forces. In July 1995 two of the "safe areas", Srebrenica and Zepa, were conquered by Bosnian Serb forces. The appalling atrocities committed in Srebrenica were an affront to the credibility of the UN and NATO, which subsequently took military action against the Serbs. NATO's Operation Deliberate Force bombing campaign, effective in other respects, was too late to save the thousands who had died in Srebrenica.

The mass killings in Rwanda in 1994 led to some belated and largely unsuccessful attempts to create safety zones. During the worst of the Hutu slaughter of Tutsis in April 1994 there was a failure even to present an option to the UN Security Council for dealing with the war on civilians. Eventually a resolution (SC Res. 918, 17 May 1994) decided on the

establishment of "secure humanitarian areas", all within the framework of the existing peace-keeping operation undertaken by the UN Assistance Mission for Rwanda (UNAMIR). No country provided troops. Then the Security Council (SC Res. 929, 22 June 1994) authorized France to establish the temporary Operation Turquoise in western Rwanda with the right to use force. In the event, the zone established by the French in the second half of 1994 was of more assistance to Hutus fleeing the new government in Kigali than to the Tutsi survivors. This only reinforced criticism of the whole UN role: no sanctuary areas for the Tutsis were established in Rwanda when needed.

Overall, the experience of safety zones suggests that, while ad hoc arrangements have advantages over treaty-based ones, establishing such zones, preventing military activity in them, and protecting them from external assault, is difficult and demanding. While many lives have been saved by the establishment of such areas, especially in Sarajevo through three harsh winters, they have only rarely provided a secure and enduring haven from the horrors of war.

Combining peace-keeping with the protection of humanitarian action

In several conflicts in the 1990s, peace-keeping forces have been mandated to offer protection to humanitarian workers and activities. UN peace-keeping operations and humanitarian operations might seem to be natural partners. Both take place in war-torn countries; both are committed to the principles of impartiality and neutrality; and both tend to be based on a deep-seated opposition to the use of force wherever possible. Many peace-keeping operations in the 1990s have had as central tasks assistance to, and protection of, humanitarian action. Yet combining peace-keeping and humanitarian action has proved extremely difficult. Peace-keeping operations are not well suited to the protection of humanitarian action.

In at least three crises of the 1990s, the Security Council temporarily abandoned attempts at combining peace-keeping and humanitarian action, and authorized more forceful military intervention. It did so in Somalia with the launching of the Unified Task Force (UNITAF) in December 1992, in Rwanda with the launching of Operation Turquoise in June 1994, and in Bosnia with Operation Deliberate Force in August-September 1995. It is no accident that the same pattern was repeated in three very

different situations. Protecting humanitarian action, and those it is designed to assist, generally requires a different mandate and force configuration from those used in peace-keeping operations. In short, it involves something more akin to war.

However, the logic of war conflicts at many points with the logic of humanitarian activities. War requires the concentration of forces, and avoiding exposed positions. Humanitarian action requires, in many cases, dispersal of workers and activities. The clash was evident in Bosnia in 1995: much humanitarian work had to be halted, and humanitarian workers (as well as peace-keepers) had to be withdrawn from exposed positions where they might be taken hostage, before NATO could take any systematic military action against Bosnian Serb targets.

A key issue is the metamorphosis of peace-keeping operations: how they can change into enforcement mode when circumstances so require; or, alternatively, how some other intermediary force can operate in situations where humanitarian activities and those being assisted require physical protection.

Humanitarian intervention

The 1990s have seen many cases of "humanitarian intervention" in its classical meaning of military intervention in a State, without the approval of the authorities, and with the purpose of preventing widespread suffering or death among the inhabitants. It is possible, for example, to view certain actions of outside powers in northern Iraq, Somalia, Rwanda and Haiti in this light. These cases were widely seen as evidence that the sovereign State may have to yield to priorities of humanitarian law and action. However, it is far from clear that the sovereign State is on its way out. Indeed, perhaps the main questions raised by all these cases are: (1) Having intervened, what exactly are outside military forces supposed to do? (2) Do the outside powers involved have sufficient interest and commitment to stay for the time it takes to secure fundamental changes in the political, economic and social order?

Conclusions from experiences of the 1990s

In the 1990s, a remarkable number of governments, organizations and individuals have climbed on to the humanitarian bandwagon. This is a tribute to its solid merits and political appeal. However, the bandwagon

is in danger of collapsing under the weight. Some difficult issues highlighted by the events of the 1990s are discussed below.

The limits of humanitarian approaches

In the 1990s, humanitarian approaches to conflicts have been exceptional in their prominence, and in the multiplicity and ingenuity of the forms they have assumed. Yet the experience of these years indicates that such approaches have strict limits. Many institutions involved recognize this point. The ICRC, actually more tough-minded than its public image might suggest, is a case in point. The truth is that in some circumstances humanitarian action may even prolong wars, and may fail to provide urgently needed protection, most obviously in cases of genocide. Even in conflicts where humanitarian organizations can usefully act, they must not allow their activities to become an excuse for governments to avoid hard policy decisions. Further, they know that even when they do act, their actions have inherent limits. A good example is the paradoxical fact that delegates of the ICRC, which is the body above all concerned with the development and dissemination of the law of armed conflict, cannot give evidence to courts about atrocities that they witness, as this would compromise the reputation for confidentiality and neutrality on which their right of access crucially depends.

Need for accountability

A particular weakness in much humanitarian work is the lack of full accountability. This is not simply a matter of ensuring that there are accurate and properly audited financial accounts (though that is in itself important), but also of ensuring that there is a full and honest assessment of the purposes and effects of humanitarian action, including with respect to such delicate questions as whether local forces were paid to provide protection, what proportion of deliveries actually reached the intended recipients, whether the assistance had any adverse effects, and whether in fact refugees have been able to resettle in the manner intended by outside powers and agencies.

Impartiality and neutrality in humanitarian action

Many humanitarian organizations working in conflict areas see the value of a reputation for neutrality and impartiality, but have experienced

difficulties in maintaining it. The difficulties have arisen from objective problems that are not likely to disappear. It is not easy to maintain a neutral and impartial stance in conflicts in which one party may have strong claims (including legal ones) to international sympathy and support. There may be practical obstacles to giving assistance impartially, i.e. on the basis of need alone. Any element of armed protection or intelligence cooperation further complicates the picture. Finally, a neutral and impartial stance is peculiarly hard to maintain in a situation in which humanitarian assistance is given by literally hundreds of organizations, many subject to political pressures and all encouraged to work out a division of labour among themselves.

The substantial rise in humanitarian activities in armed conflicts poses problems as well as opportunities for the various branches of the International Red Cross and Red Crescent Movement, including the ICRC. The very success of the central Red Cross idea of trying to offer humanitarian assistance to those in desperate need means that there are many bodies active in this field, some of which operate on a basis quite different from that of the ICRC. Whereas the ICRC stresses the absolute nature of the principles of impartiality and neutrality as the basis of its action, and has thereby earned access and trust around the world, other bodies put a different spin on these principles.

UN-based bodies in particular cannot take quite such a committed view of the principles of neutrality as between belligerents, and impartiality in the delivery of aid. This is not only because the UN Security Council may be sanctioning one party or supporting another, but also because within the UN there are pressures for humanitarian activities to fall more firmly under political direction, at least in the sense of complying with overall political priorities aimed at fostering international peace and security. Similarly, some NGOs involved in humanitarian aid may openly believe in commitment: in supporting one side in a conflict, especially if they consider that side to be a victim of aggression or to represent the best hope for the recognition of human rights. Some National Red Cross Societies are still, in the words of the 1863 Geneva Conference resolution, concerned above all to "supply relief to their respective armies". In some conflicts the ICRC may have difficulty in maintaining a strong reputation for impartiality and neutrality when it is associated in many minds with other bodies which have a different approach.

The adequacy or otherwise of the Red Cross principles of neutrality and impartiality is not a new issue. There has been revived interest in this matter in relation to the ICRC's role in past wars and crises. Books such as Dominique Junod's *The imperiled Red Cross and the Palestine-Eretz-Yisrael Conflict 1945-1952* (1996) and Caroline Moorehead's *Dunant's dream: War, Switzerland and the history of the Red Cross* (1998) have suggested that the Red Cross principles have necessarily involved in past practice some awkward or even shameful moral compromises. The matter has simply arisen in new forms because of the events of the 1990s, especially in the former Yugoslavia and Rwanda. In respect of both crises there was a strong body of opinion that, whether or not these principles were right for the ICRC, they were not good enough as a guide to the overall response of the international community.

The ICRC has been rethinking some key aspects of its approach. In the 1990s, it has been more willing than before to make public statements on certain unacceptable situations; and it has also engaged in public campaigns, for example on anti-personnel landmines. At the same time, it has sought to maintain its distinct identity, not least in its repeated statements that the process of coordination with other bodies has to have some limits. This caution is justified. The implication of this approach is that bodies such as the ICRC need to recognize, much more openly than they have done so far, that the principles they follow, including those of impartiality and neutrality, are not moral absolutes of universal value. Rather they represent one moral position among several possible moral positions, each of which has its own merits and defects.

The need for discrimination in humanitarian action

A key issue raised by recent disasters is discrimination. Should humanitarian organizations recognize openly that there are some conflicts in which they cannot usefully get involved – whether because their activities prolong the war, or because their workers are threatened and killed? In the history of humanitarian action, the idea of a universal obligation, of a duty to get involved in all conflicts, is relatively new. It poses problems which have in turn led to such decisions as that taken in Liberia in 1996 to scale down the involvement of humanitarian organizations in a conflict where they could achieve little. This decision was right, and indeed there was an argument for an even more radical withdrawal. The problem is that such

decisions must always be extremely difficult and contentious. The procedure by which they are reached needs to be defensible.

Physical protection

The involvement of humanitarian workers in civil wars in the 1990s has repeatedly raised the thorny issue of physical protection of such workers, of their activities, and of those whom they assist. The lack of physical protection, especially of those being assisted, was a critically important issue in Rwanda in 1994, in the camps in the Great Lakes region ever since then, in Srebrenica in 1995, and in various other conflicts, especially in Liberia and Sierra Leone. The killing of Red Cross workers in Chechnya on 17 December 1996 was a particularly shocking episode illustrating both the urgency and the difficulty of the whole question of protection.

For understandable reasons, individuals and organizations involved in humanitarian work have been reluctant to discuss the problem of protection. To get involved in physical protection risks running contrary to the three most basic principles of humanitarian action in armed conflict: neutrality, impartiality and humanity. Yet the problem will not go away. Discussion is not assisted by the fact that in the world of humanitarian organizations, the term "protection" refers to two very different things: (1) legal protection in the sense of a special status and certain rights provided for under the 1949 Geneva Conventions and their Additional Protocols (hence the key term "protected persons"); and (2) physical protection from attack.

In the past, humanitarian relief activities in armed conflict often took place against the background of an unspoken assumption that the States engaged in conflict would at the same time provide a degree of stability and security. No such comfortable assumption can be made in cases in which State authority has collapsed. Thus the problem of physical protection of humanitarian workers and activities is by nature extremely complex. There is not any single answer for all organizations and contingencies. The proposition that protection should be provided automatically, and should not be a matter for political decision in each case, is unrealistic. Even if such an approach were adopted by humanitarian organizations, it would be viewed with great scepticism both among countries expected to provide forces and equipment, and among Third World countries which are understandably nervous about any doctrine which might seem to undermine their sovereignty. The reality

is that different humanitarian organizations are bound to have different approaches to the matter of physical protection. This is mainly because of the different nature of their responsibilities.

For example, the ICRC is nervous about associating humanitarian activity with military protection and intervention. As Peter Küng, speaking for the ICRC, said in the Security Council discussion on protection for humanitarian assistance held in New York on 21 May 1997, armed action of various kinds might be needed, but armed protection of humanitarian activities could jeopardize their impartial status. This cautious attitude is particularly understandable in the light of the ICRC's core functions, which include visiting people in places of detention on all sides in a conflict. That clearly requires a high degree of consent, and respect for the Red Cross principles. This is not to suggest that the ICRC is dogmatic on the point. At times it has had to employ armed escorts; it is bound to rethink its position periodically in the light of disasters such as the one in Chechnya; and it recognizes that some other humanitarian bodies may take different positions from those of the ICRC.

UNHCR has different responsibilities, which include in many cases the establishment of refugee camps and the maintenance of order within them. These tasks do at times require the provision of physical protection, whether by locally recruited forces or those from distant lands. Thus it is not at all surprising that UNHCR's approach to the question of physical protection has differed from that of the ICRC. For different reasons, bodies such as Oxfam and *Médecins sans frontières*, less attached than the ICRC to absolute principles of impartiality and neutrality, have also on occasion called for military protection of both victims and humanitarian activities.

Some have suggested the necessity of a new legal agreement affording protection to ICRC and other humanitarian workers. It is doubtful whether this would be useful. Such workers already enjoy a considerable degree of legal protection under the 1949 Geneva Conventions and their Additional Protocols. Some humanitarian workers as well as peace-keepers also get a modest degree of formal legal protection from the 1994 Convention on the Safety of United Nations and Associated Personnel. The problem is not an absence of rules, but an absence of respect for them, and of willingness to back them up, if necessary with force.

Modes of advocacy of international humanitarian law

The repeated violations of the most basic rules of the law of armed conflict must induce caution about the extent of any achievements of the 1990s. One difficulty in getting respect for the law may derive from the very mode by which it is advocated. Presenting a vision of the law as simply a creation of Geneva, imposed on a somewhat reluctant and sinful world, does not do justice to its ancient and diverse origins, nor to the fact that much of the law reflects the interests and ethics of States and their armed forces. Likewise, presenting the implementation of the law as resting entirely with the new UN criminal tribunals does not do justice to the variety of modes of implementation. The unfortunate way in which humanitarian law has been advocated, and the occasional lack of understanding of the positions and policies of States, may have contributed to the USA's disenchantment with key contemporary developments in this law.

Indeed, the question has to be asked: should elements of restraint and decency in the conduct of war be seen as depending fundamentally on an international legal regime, or rather on a system of custom, honour, professional standards, and natural law? In recent years, many in the humanitarian field have been attracted by the idea of an expanding body of international law, armed at last with some teeth, enforced by supranational bodies, and gradually subduing the evil ways of selfish sovereign States and warlords. This vision is flawed. In particular, it may overestimate the willingness of States to submit their military activities to consideration by international bodies; and it may underestimate the importance of the State as one key means of implementing provisions of the law of war. Above all, it may neglect the extent to which the values underlying the law of war have to emerge from within States and armed forces, and can only to a very limited extent be imposed from without.

Humanitarianism in context

The events of the 1990s have challenged simple assumptions that the world is in the process of creating a more advanced international order. If there is, as some assert, an "international humanitarian order", it is one in which States and institutions have repeatedly adopted the language of humanitarianism only to abandon victims of armed conflict, as in Bosnia and Rwanda, to a dreadful fate.

Equally, events challenge any simple view that the world is transcending the system of States. In reality, in situations of conflict, States not only remain powerful, but are also often essential to securing a peaceful settlement. After a conflict a new local balance has to emerge, in which States and political forces in the area, including the belligerents themselves, are likely to play a key role. States should not necessarily be seen as operating on a lower moral plane than other actors. Governments seeking to address conflicts may make decisions on the basis of legitimate interests and moral principles which deserve respect even if they sometimes clash with humanitarian principles.

In the 1990s, humanitarian action and law have become more important parts of an international response to crises than ever before; and they are likely to remain so. Part of the reason why they have not had a major transformative effect on the conduct of international relations is that such approaches are in some measure a reflection of the reluctance of States to get involved more decisively in conflicts. Humanitarian approaches are not necessarily the opposite of those based on interest. Rather, they should be seen as one enduring part of international politics. To adapt Clausewitz, they can be a continuation of political intercourse with the admixture of other means.

All this is a plea, not for a single new approach by humanitarian bodies, but for complementing their technical and legal expertise with a heightened level of political and historical expertise, and a stronger culture of accountability. There have been too many elements of self-righteousness, self-delusion and ethnocentrism in some approaches to humanitarian advocacy and action. There is a need for more analysis of crises, drawing on political, strategic and area studies. There is also a need for a strong "institutional memory" and a culture of serious research in the humanitarian field. This is both because some of the dilemmas and opportunities that are faced are historically new, and because some of them are timeless. Ignorance is no excuse for repeating old mistakes or making new ones.

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Résumé

Le rôle des considérations humanitaires dans la politique internationale des années 1990

par ADAM ROBERTS

Selon l'auteur, les problèmes humanitaires résultant de conflits armés n'ont jamais joué un rôle aussi important dans les relations internationales qu'au cours de cette décennie. Les efforts entrepris pour répondre aux défis humanitaires sont devenus partie intégrante de la politique internationale proprement dite. Ils ont même contribué à trouver des réponses innovatrices à des problèmes de politique générale. Après avoir décrit différents facteurs à l'origine de cette «centralité» des considérations humanitaires, l'auteur examine à titre d'exemple six domaines qui illustrent cette évolution : l'intérêt accru pour les conflits internes, l'établissement de tribunaux pénaux internationaux, les nouvelles approches des problèmes posés par les réfugiés, le rôle des zones de sécurité dans des situations de conflit, les opérations de maintien de la paix et l'action humanitaire et, finalement, l'intervention humanitaire. Après avoir tiré des conclusions de l'analyse de ces problèmes, l'auteur appelle à mieux tenir compte des liens qui existent entre la politique internationale générale et l'action humanitaire.

LA REVUE

The challenges for humanitarian law and action at the threshold of the twenty-first century: An African perspective

by
Fasil Nahum

PERHAPS never in human history and seldom in modern times has mankind been so close to and yet so far from achieving its humanitarian objectives as it is now. This paradox arises mainly from the fact that humanity is once again at a crossroads. An exploration is therefore in order of the salient features of both this paradox and the challenges it poses for humanitarian law and action at the threshold of the twenty-first century.

In modern times no event has been more traumatic than the Second World War. Much more than the First World War, World War II brought about cataclysmic changes in all spheres of life and affected mankind as nothing had done before. The war years and their aftermath saw the demise of certain ideologies and the flourishing of others, the explosion of terrifying weapons, the collapse of existing systems and the formation of new States,

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the displacement of entire populations, and an attempt to normalize shattered economies and the lives of millions. At the end of that war it took the States meeting in Geneva only four months to come to agreement on the humanitarian agenda, and thus the Geneva Conventions of 1949 were born. Traumatic experiences, it seems, have a way of concentrating minds and making priorities clear. To the States assembled in Geneva, war and its consequences had become so distasteful that humanitarian objectives could easily be embraced on behalf of all mankind.

In contrast, the Diplomatic Conference that finalized the Protocols additional to the 1949 Geneva Conventions took four years, from 1974 to 1977, to reach a consensus.[1] In the quarter century between the Conventions and the Protocols, clarity of vision and the setting of priorities with respect to humanitarian objectives had given way to considerations of a political, economic and social nature. In particular, the bipolar ideological war, the final throes of the colonial era and the growing economic disparity between the poor and the rich had become the major concerns for States.

Today, a decade after the remarkable end of the Cold War and at the turn of the millennium, the fact that the humanitarian objective is seemingly not at the top of the international agenda makes one wonder whether the magic moment is again slipping away and mankind will have to go on painfully picking up the pieces of the numerous conflicts that continue to flare up around the world. If this is so – and unfortunately it seems to be the case so far – what will be the challenges for humanitarian law and action this time?

The constant objective

It is important not to lose sight of the main objective of humanitarian law and action, which is constant: the protection of victims and potential victims of conflicts and similar disasters.

The shifting configuration of world power at macro and micro levels, the rapid advances in science and technology that make yesterday's science fiction today's reality, and the fact that the information technology revolution has made the world exceedingly small, spectacular as they are, do not change this main objective. Nor do the major problems that arise in

1 See R. Kosirnik, "The 1977 Protocols: A landmark in the development of international humanitarian law", *IRRC*, No. 320, September-October 1997, p. 483.

connection with environmental, economic, population, political and socio-cultural developments. The victims and potential victims may change, the manner in which and the extent to which they are affected may vary, and problems of identification, access and delivery of aid may become more difficult and thus require different tactics and strategies, but the ultimate aim remains the same.

Thus the purpose of examining the new world at the threshold of the twenty-first century from the perspective of humanitarian law and action is not to find new objectives, but to serve humanity better by finding ways and means of achieving those already established.

Our era has seen the end of a certain world order characterized by a bipolar political struggle. The end of the Cold War has necessarily meant the beginning of a new world order and a different paradigm. This new world order, however, is not yet clearly defined. The change in paradigm seems to be a shift away from broad ideological confrontation towards a myriad of ethno-cultural micro-confrontations. The ongoing juxtaposition of peoples, their attempts to define and redefine themselves along ethnic, cultural, religious and similar lines and the concomitant struggle to establish appropriate political formations necessarily create conflict situations. The disintegration of large political entities and the emergence of new States, together with the unconventional manner in which today's conflicts are conducted and their internal nature, mean that constant re-examination is needed of the tactics and strategies that humanitarian law and action have to adopt in order to be relevant and effective.

Referring to tactics and strategies is not to suggest that the predicament humanity finds itself in is simple and easily resolved. The purpose of using these terms is on the one hand to make crystal clear the objective of humanitarian law and action, which is constant, and on the other hand to determine how to go about achieving that objective, which is the crux of the matter. Doing so, moreover, may require a new outlook, a different mindset or a qualitative change in mankind's approach to the problem. If this amounts to more than tactics and strategies, so be it.

The humanitarian balance-sheet

On the credit side of the balance-sheet of humanitarian law and action a number of major items can be set down. First and foremost is the issue of prescription. Prescription is crucial as it signifies the authoritative,

rational and sober affirmation of humanity's nobler values and raises legitimate expectations of compliance. The written prescriptions are in place. They have been carefully drafted and have the force of law. Thus there is no major problem to be tackled in that regard.

This statement, however, should be qualified in two important respects so as to avoid confusion. First, the substantial efforts being made to improve the legislation governing internal conflicts have not yet come to fruition. Indeed, the fine-tuning of humanitarian law in general has to be seen as an ongoing process. Secondly, international instruments adopted within the United Nations system to deal with humanitarian issues, particularly human rights and refugees, have to be considered as falling within the humanitarian sphere. And here more work of a specialized nature in terms of prescription can be expected. The point which can be emphatically made, however, is that the bottleneck today is not at the level of prescription.

The plethora of organizations working within and around the humanitarian sphere is amazing. There has never been a better time for the mushrooming of humanitarian agencies in the field and support institutions elsewhere. The human resources available, the prospects for funding and the heightened public concern shown via the mass media and popular organizations is quite encouraging.

The United Nations Economic and Social Council has registered an enormous number of international non-governmental organizations of various types that are active in the humanitarian area, as broadly defined. To these can be added many more non-governmental organizations recognized by States' domestic law. In terms of financial resources, it has been reported that "the internationally engaged financial resources for humanitarian issues and inter-linked peace-keeping activities are up to 12 billion US dollars, an astonishing growth from 3 billion US dollars only some ten years ago". The report goes on to state: "World and governments' mindfulness for humanitarian issues seem to grow even more".[2]

On the debit side of the balance-sheet, however, are the constant images of horrific brutality and incomprehensible outrages inflicted on innocent children, women, the elderly, the sick and the suffering. Wanton

2 J. TOMAN, *A few remarks on present humanitarian issues*, Unpublished report for an expert meeting organized by the Henry Dunant Institute, Geneva, 9-10 March 1998, p. 22.

disregard for and senseless destruction of ecosystems necessary for the sustenance of life are commonplace. Moreover, this is directly and deliberately caused by the inhumanity of man to man. Instead of such intolerable situations being brought under control, they intensify and spread like contagious diseases. Like resistant viral and bacterial strains and incurable diseases, they defy humanitarian prescriptions and institutions and continue to cause havoc for mankind. The number of conflicts worldwide has increased from 39 in the late 1980s to 55 today. In the same ten-year period the number of refugees has also soared from 20 million to about 50 million.[3] With the shift from international to internal conflicts, the number of internally displaced persons has also risen to unprecedented levels. Moreover, whereas 30 years ago it was combatants who bore the brunt of military operations, owing to the unconventional nature of today's conflicts it is civilians, i.e. mothers and children, the elderly and the sick, who make up the majority of victims.[4] This is the contradiction that has to be understood if an effective humanitarian approach is to be developed.

Beyond the clear-cut items on the credit and debit side of the balance-sheet of humanitarian law and action, what makes our entry into the twenty-first century hazardous are the many unknown quantities that have to be entered in the account books.

Globalization

One very obvious development that followed the end of the Cold War is globalization, and its handmaid regionalization. Globalization emerges most clearly as an economic reality. Raw materials, finished products, funds, commodities such as minerals, petroleum and the like in current or future markets are moved around in the international marketplace as never before. They are bought and sold instantly in centres such as New York, London and Tokyo. At the push of a button huge transactions take place and profits and losses occur in astronomical figures. The resulting boom and doom scenarios affect whole regions and threaten economic and political stability.

Regionalization groups States and economies together and, without entirely doing away with the strong competitive spirit of individual

3 UNHCR, *The state of the world's refugees 1997-98: A humanitarian agenda*, Oxford University Press, 1997, p. 2.

4 *Ibid.*, pp. 2 and 22.

members within each region, raises the economic and semi-political or political confrontation among regions to higher levels. Currently the tripolar regionalization of Western Europe, America and East Asia is particularly noticeable, and the ineffective regionalization of other parts of the world is just as obvious.

Globalization, as seen through the Uruguay trade rounds which established the World Trade Organization, the drive for world economic integration, the intellectual property agreement and so forth, has become a major force to be reckoned with. Beyond economics and politics, globalization has far-reaching implications for humanitarian law and action. The expansion of the media, new methods of production and consumption and other related factors have the effect of enhancing the globalization of cultural values. This is generally a favourable development for humanitarian law and action, which firmly uphold and propagate the universality of the principles on which they are founded.[5] What must be ensured is that the globalization of cultural values assigns them their proper place and their due share.

However, humanitarian law and action have to prepare for and even anticipate the failure of globalization and regionalization, which can lead to the economic and political weakening of States. The globalization and regionalization of cultural values can also prompt strong resistance based on the determination to conserve particular values. Where these processes do not meet great expectations of equality or prosperity, the reaction can realistically be expected to lead to violence and conflict.

So far violence and conflict are at the micro level, with small but nevertheless terrifying eruptions here and there. The ethnic cleansing in the former Yugoslavia, the genocide in the Great Lakes region of Central Africa and the fratricidal struggle in Afghanistan all point both to the inadequacy of the previous global macrosystems and to the failure of the embryonic new world order. If these conflicts were just problems of transition from one order to the other, terrible as they are they would be but a fleeting moment in the history of humanity. But they are not. There is more.

5 The humanitarian principles on which the International Red Cross and Red Crescent Movement is founded were confirmed by the 20th International Conference of the Red Cross (Vienna, 1965) as humanity, impartiality, neutrality, independence, voluntary service, unity and universality. As correctly pointed out by Jean Pictet in *The Fundamental Principles of the Red Cross: Commentary*, Henry Dunant Institute, Geneva, 1979, p. 10, these humanitarian principles are expressions of humanity's "long-term wisdom, indifferent to the ebb and flow of popular opinions and ideologies of the moment".

In every corner of the world there are what have come to be known as "forgotten conflicts", unspent fires whose live embers are deceptively covered with ash. A little breeze would fan them into further carnage and destruction.

Where globalization is seen from below as an economic zero-sum game whereby the rich get richer at the expense of the poor who get poorer, violence and conflict become inevitable. Most forgotten conflicts smoulder against the background of globalization. If the phenomenon is seen as a new dimension of age-old laissez-faire capitalism, driven by profit and profit alone on the side of the entrepreneur, the underprivileged will inevitably find ways and means of trampling on each other. Obviously, the consequences do not end there. Depending on factors such as historical connections, geographical proximity and cultural and ethnic affinities, as well as communication and transportation possibilities, whole communities are constantly migrating and resettling in distant lands. And they generally come burdened with their poverty and other problems.

Moreover, many of these forgotten conflicts, like newer ones, are acquiring new characteristics. Observers and humanitarian organizations increasingly refer to "anarchic conflicts".[6]

These disorganized struggles, involving many armed factions, are generally a murderous free-for-all, with not even a minimum semblance of order or the most tenuous chain of command. Under such circumstances central governments fall victim to the process of State disintegration. Unbridled carnage and destruction hold sway; the civilian population and civilian property become legitimate targets and suffer the worst effects. The distinction between criminal elements and other members of society becomes confused and confusing. In this situation, the more urgent the need for humanitarian action, the more difficult – if not impossible – it becomes to deliver the necessary assistance.

A holistic approach

The eve of the twenty-first century is as good a time as any in human history to take stock of the humanitarian situation and arrive at conclusions that allow the taking of pre-emptive measures to limit the suffering of humanity. Even though, owing to the fluidity of the emerging world

6 See *Armed conflict linked to the disintegration of State structures*, Preparatory document of the International Committee of the Red Cross for the First Periodical Meeting on International Humanitarian Law organized by the Swiss government, Geneva, 19-23 January 1998.

order, it is difficult to foresee its full import, it is obviously here to stay. In addition to the marked trend towards globalization and regionalization, it may be anticipated that the opportunities for self-determination arising from the redefinition of peoples at micro levels and resistance to the values of globalization will increase humanitarian problems in the foreseeable future.

A holistic approach to the immediate future of humanity that seriously addresses the humanitarian objective would be the preferred solution. After all, mankind has progressed significantly in this area in terms of legal prescriptions. Now sufficient will has to be generated to ensure their effective application. The globalization and regionalization that are being put in place with great effort would serve humanity better and for much longer if a holistic approach were adopted in discussing basic issues.

Such a holistic approach to problems will naturally involve difficult decisions in terms of value trade-offs. A detailed analysis of such trade-offs is beyond the scope of this paper, but by way of conclusion two major issues can be outlined:

• the encouragement of maximum self-determination of peoples, by whatever means, versus minimum public order and security in society is one such trade-off that will continue to tax the intelligence and problem-solving capacity of humanity;

• increased globalization of cultural values versus the promotion of parochial values, as these affect humanitarian issues, is another major item on the agenda. For instance, the problem of the emblem(s) of the International Red Cross and Red Crescent Movement may be considered as a sub-item here.

The humanitarian dialogue envisaged cannot be a closed shop. It would have to involve, in an ongoing process, decision-makers and potential victims as well as the international humanitarian community. Such a dialogue would be neither simple nor quickly achievable, but can be timely. It would require all the acumen that its leaders could muster, but the attempt and hopefully the result would be well worth the effort.

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Résumé

Les défis pour le droit et l'action humanitaires à l'aube du XXIe siècle : une perspective africaine

par FASIL NAHUM

Après avoir examiné les différents défis qui se posent à « l'humanitaire » à l'aube du XXIe siècle, notamment en Afrique, l'auteur constate que, même si la codification des règles humanitaires est bien avancée, les violations du droit sont toujours endémiques. Le bilan est donc peu réjouissant. Toutefois, il ne s'agit pas de changer d'objectifs, mais bien plutôt de trouver les moyens de mieux les atteindre. La mondialisation des rapports internationaux peut avoir de profondes conséquences sur l'action et le droit humanitaires, pour autant qu'elle tienne compte de la régionalisation qui doit se développer en parallèle. La politique humanitaire doit être prête à intervenir quand l'échec de la mondialisation engendre de nouveaux conflits. L'auteur conclut en appelant les pouvoirs politiques à adopter, face aux défis humanitaires, une approche qui prenne en compte tous les facteurs (« approche holistique »). Le dialogue humanitaire ne peut pas se dérouler « en vase clos ».

LA REVUE

Faire mieux accepter le Comité international de la Croix-Rouge sur le terrain

par
JEAN-DANIEL TAUXE

À quoi ressemble ce «terrain» de nos jours? Une première évidence s'impose en cette fin de XXe siècle marquée par une multitude de conflits aux caractéristiques très diverses: peu d'entre eux sont considérés comme des conflits internationaux. Pourtant, de nombreux foyers de tensions interétatiques subsistent dans le monde ou se développent à l'occasion de l'émergence de nouveaux États. Par ailleurs, bien des conflits internes sont influencés par de nouveaux paramètres parfois non reconnus du point de vue juridique. Ce sont précisément ces conflits que nous examinerons dans cet article.

Le déclin de l'autorité et de la légitimité de nombreux États entraîne une fragmentation des pouvoirs, l'effondrement des pouvoirs publics et, parfois, des situations très chaotiques dans lesquelles personne ne peut être responsabilisé et où nul n'est en mesure de restaurer un minimum d'ordre. Cette tendance pourrait se renforcer à l'avenir, car de plus en plus d'États émergent sur la scène internationale. Les Nations Unies comptaient 108 États membres en 1963, 144 en 1983 et 189 en 1998. Beaucoup d'entre eux sont faibles et instables. Par ailleurs, le droit des peuples à disposer d'eux-mêmes

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dérive vers des tendances perverses: chaque «ethnie», chaque «peuple» rêve plus ou moins confusément de s'ériger en État-nation, sur des bases essentiellement identitaires, et ce processus de morcellement semble n'avoir pas de fin.

Les conflits ne sont plus l'expression d'une confrontation globale entre superpuissances. Jusqu'en 1989, de nombreux affrontements étaient des conflits internes «internationalisés», en ce sens que même lorsque leurs causes étaient très locales, ils étaient alimentés – sur les plans idéologique, financier et militaire – par les deux blocs. Ils étaient ainsi, du moins en partie, structurés de l'extérieur, ce qui pouvait avoir à la fois pour effet de les entretenir, mais permettait aussi de les contenir. Aujourd'hui, au contraire, nous avons affaire à des guerres civiles où les facteurs locaux sont prédominants, en apparence sans intervention politique externe. Cette apparence est trompeuse car d'autres facteurs externes ont souvent une influence déterminante sur la tournure que prennent les conflits. C'est le cas notamment dans des contextes comme l'Angola, l'ex-Yougoslavie, la Colombie, la région des Grands Lacs en Afrique, la Sierra Leone et le Libéria, où l'influence des aspects économiques et identitaires prédomine. Trop souvent, la seule réponse politique est d'essayer de contenir géographiquement ces situations, à l'instar d'une escouade de pompiers.

Les guerriers ont repris la place des soldats

Force est de constater qu'il est parfois devenu très difficile d'établir une distinction entre combattants et non-combattants. Le droit international humanitaire étant en bonne partie fondé sur cette distinction, ce phénomène pose problème. À cela s'ajoute le fait que les belligérants, autrefois soutenus par des puissances extérieures, doivent maintenant trouver localement les moyens de poursuivre leurs activités militaires. Une nouvelle économie de guerre se développe, basée sur le «banditisme militaire», où les comportements criminels et guerriers sont si inextricablement mêlés qu'ils deviennent difficiles à dissocier. Ces comportements, très prédateurs pour les populations civiles, sont parfois liés aussi au trafic de drogue, d'armes ou de pierres précieuses à l'échelle planétaire, et à des intérêts économiques souvent clairement identifiables car ils sont liés au contrôle des ressources énergétiques. Ce sont bien là, à nos yeux, les nouveaux vecteurs des conflits modernes.

Dans certains contextes, les chaînes de commandement, attributs des armées traditionnelles, sont remplacées par des structures décisionnelles

beaucoup plus difficiles à identifier. La hiérarchie et la discipline s'estompent et l'on a le sentiment d'avoir affaire à des groupes armés éclatés, sans idéologie précise, sans objectif militaire défini, «sans foi ni loi», n'ayant pas la moindre idée de ce qu'est le droit de la guerre, probablement parce que ce droit émane d'un univers qui n'a que peu de points communs avec celui dans lequel ces groupes évoluent. Que l'on ne s'y méprenne pas: ces groupes ont leurs propres règles et leurs codes d'honneur et ils ne sont pas totalement imperméables à certains principes élémentaires d'humanité. Mais nous devons admettre que pour ce type de combattants, pour qui leur arme est un instrument de travail et un signe de reconnaissance sociale, l'approche du Comité international de la Croix-Rouge (CICR) doit se diversifier.

Faisant un retour en arrière de quelques siècles, le phénomène des conflits privés réapparaît, souvent sous la forme de grand banditisme, de milices armées commanditées par des entreprises ou des gouvernements, ou défendant leurs propres intérêts. Cette privatisation des conflits inquiète mais ne surprend guère dans l'ère de la mondialisation et de la prédominance de plus en plus marquée de l'économique sur le politique.

Les conflits «identitaires»

Les formes que prend cet autre type de conflit contemporain sont également en contradiction avec les fondements même du droit international humanitaire. Dans un schéma classique, une armée combat une autre armée avec l'idée d'un gain politique ou territorial et les civils ne subissent que ce que les militaires et le droit des conflits armés appellent les dommages collatéraux (ou dommages incidents), certes parfois considérables. Rien de tel dans nombre de conflits actuels, souvent appelés «conflits identitaires», où les civils sont les cibles premières des belligérants. Lorsque l'on poursuit une politique de «purification ethnique», il n'est pas forcément primordial de mettre hors de combats les troupes ennemies: il peut être plus simple et suffisant de tuer, de violer et de brûler les habitations pour terroriser les populations civiles et les faire quitter les régions visées. D'ailleurs, dans cette logique, les victimes idéales sont celles qui devraient être les mieux protégées par le droit humanitaire, parce qu'elles sont les plus vulnérables et les moins à même de se défendre. Dans ce type de situations de conflit, on préférera s'en prendre en priorité aux femmes et aux enfants. Ce n'est pas par méconnaissance du droit ou des principes élémentaires d'humanité que l'on tue sauvagement, c'est par haine. Haine sou-

vent d'autant plus forte qu'elle est motivée par la peur de l'autre et dirigée contre des voisins, des gens avec qui l'on a cohabité longtemps et que l'on connaît bien. Faire de la diffusion opérationnelle pour obtenir l'accès aux victimes dans ce type d'environnement constitue un vrai défi pour le CICR. Il faut pourtant y parvenir car il s'agit de mieux faire accepter l'institution.

L'acceptabilité du CICR et l'accès aux victimes sont menacés

Lorsque le respect dû aux victimes des conflits n'est pas compris, les acteurs humanitaires se voient refuser l'accès à ceux qui ont besoin d'aide. Aujourd'hui, par exemple, les dangers encourus par les délégués du CICR sont sans commune mesure avec ceux rencontrés par leurs prédécesseurs, il y a une quinzaine d'années, dans des situations plus classiques. Parce qu'ils sont des témoins gênants, parce que leur action est un frein ou tend à contrecarrer les objectifs des combattants, parce qu'ils sont riches dans des pays pauvres, les délégués sont trop souvent considérés comme des cibles parfaitement légitimes par les prédateurs de l'humanitaire.

Comment secourir et protéger les victimes dans de telles conditions ?

1. Établir et entretenir un dialogue avec tous les acteurs de la violence et se faire connaître d'eux

La spécificité du CICR doit résider dans sa capacité à établir et à entretenir un réseau de contacts non seulement avec les acteurs officiels et reconnus, mais également avec tous ceux, plus clandestins ou niés, qui agissent directement ou indirectement sur les événements.

• Le CICR doit mieux identifier et reconnaître les nouveaux acteurs directs et indirects des conflits armés actuels, notamment dans les pays où les structures s'effondrent car ce sont eux qui influencent ces situations.

• Le CICR devra sortir de son isolement «diplomatique» sur le terrain. Il lui faudra établir des contacts dans la société civile et ne pas se contenter de traiter avec les structures officielles. Il est nécessaire que les démarches s'adressent non seulement aux responsables politiques et militaires, mais aussi à tous les interlocuteurs susceptibles d'intervenir et d'influencer les crises.

• Dans les contextes où la violence est d'origine ethnique, il est vital d'être en contact avec les acteurs, qu'ils soient décideurs ou exécutants, afin d'élaborer des normes minimales qui s'inspirent de l'article 3 commun aux quatre Conventions de Genève de 1949 et du Protocole II de 1977 et qui soient acceptables pour tous, dans le contexte culturel local. Leur acceptation précède en fait toute action humanitaire.

• Le CICR doit élaborer de nouvelles méthodes d'approche et de persuasion face à ces acteurs et trouver un message qui améliore le sort des victimes. Pour ce faire, il est indispensable de mieux comprendre les motivations et les intérêts des parties impliquées dans le conflit.

2. Faire respecter le droit dans les situations non couvertes par le droit international humanitaire

Ni le droit international ni les législations nationales ne sont aujourd'hui en mesure de fournir des réponses adéquates aux problèmes qui se posent dans des situations de chaos ou de conflits identitaires. Rappelons que dans ces contextes la déliquescence du pouvoir permet aux intérêts privés dont le seul objectif est le profit à court terme plutôt que le bien commun de se placer au premier plan. Le champ est alors libre pour un renforcement des systèmes et réseaux parallèles, où le recours au droit classique risque de n'avoir que peu d'effets. La réalité du terrain prouve qu'il ne suffit pas dans ces circonstances de rappeler les règles et obligations émanant du droit international humanitaire – qui d'ailleurs ne s'applique pas aux situations de troubles ou de violence interne. Le CICR doit donc s'adapter le plus rapidement possible à ces contextes nouveaux en constante évolution et formuler son message d'une autre manière, plus appropriée aux circonstances.

Par ailleurs, et conséquence logique pour certains, le rôle des organisations humanitaires devient essentiel pour pallier les carences politiques et matérielles provoquées par la désagrégation des corps constitués et des services publics et pour faire face aux conséquences désastreuses qui en découlent pour les populations concernées. Force est de constater, sur la base des expériences des dix dernières années, que les organisations humanitaires ne sont pas en mesure de combler un tel vide.

Les stratégies choisies par le CICR

Même s'il n'existe pas de stratégie spécifique face à ce genre de dilemme, quelques possibilités sont toutefois envisageables:

• L'examen d'approches non juridiques fondées sur des normes éthiques ancrées dans la coutume, qui pourraient être invoquées dans les situations non couvertes par le droit international humanitaire (cela devrait rester une exception et non constituer la règle).

• La diffusion systématique de la connaissance du droit humanitaire et de ses principes, selon un message simplifié et adapté à chacun des destinataires et aux différentes cultures.

• L'examen d'approches visant à instaurer des pratiques commerciales responsables qui tendraient à minimiser les risques de conflits.

• Le soutien à tout processus tendant à mettre un terme à l'impunité pour les crimes de guerre et les crimes contre l'humanité.

Conclusion

Dans les situations qui ne sont pas directement couvertes par le droit international humanitaire – en l'absence d'éléments constitutifs d'un conflit armé, international ou non – le CICR se doit d'agir car les besoins humanitaires qui en découlent sont considérables.

L'initiative humanitaire doit alors s'appuyer sur cet ensemble de règles universellement reconnues et fondées sur l'éthique qui protègent les victimes contre l'excès de violence et contre l'abus du pouvoir. Ne commettons cependant pas l'erreur de croire que la seule invocation du droit sera suffisante. La présence sur le terrain et l'action dans la proximité restent indispensables pour assurer une protection minimale des victimes contre la violence.

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Abstract

What can be done to increase the acceptability of the ICRC in the field?

by JEAN-DANIEL TAUXE

The author begins by observing that most conflicts today are non-international in character and do not follow the pattern of classical warfare. Indeed, they are marked by a decline in State monopoly on the use of force and by the proliferation of private players who resort to violence for reasons that more often than not are linked to economic interests. At the same time, many of these conflicts are ethnic in origin and are particularly cruel in that the killing and displacement of civilians are not incidental but are the main object of the violence. The author doubts whether in such situations classical international humanitarian law provides adequate tools for influencing the behaviour of the "fighters" (who have replaced combatants, with their rights and duties under the laws of war). He pleads for an imaginative approach, based on general and universally accepted ethical rules and on action in the field, close to the victims.

THE REVIEW

The theory and practice of neutrality: Some thoughts on the tensions

by
Larry Minear

At the end of the first decade of the post-Cold War era, the most oft-recurring theme of debate among humanitarian organizations concerns the interplay between politics and humanitarian action. During the Cold War, the politicization of humanitarian action by the superpowers, which worked its way through the humanitarian activities of associated multilateral and non-governmental organizations as well, was accepted largely without public discussion.[1] The waning of East-West tensions has occasioned overdue scrutiny regarding the interface between the political and the humanitarian spheres.

In fact, the deathly silence of the Cold War on these issues has been replaced by the deafening hubbub of the Nineties. The politics of humanitarian action has become a favourite theme of intergovernmental

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1 For an account of efforts by U.S. NGOs to examine the political dimensions of humanitarian action, see Larry Minear, *Helping people in an age of conflict: Toward a new professionalism in voluntary humanitarian assistance*, InterAction, New York, 1988.

debate and international conferences, books and journal articles, news items and opinion pieces, graduate theses and undergraduate essays.[2] Armchair critics now regularly ventilate the view that humanitarian activities are expressions of the political will (or spinelessness) of governments, and that aid widens disparities among groups within conflicted societies, contributes to criminality, exacerbates tensions, and prolongs conflicts. Their observations are often of little help to aid workers who must function in the highly politicized settings of today's armed conflicts.

In the current confused and confusing debate about whether the delivery of urgent life-saving assistance and the protection of fundamental human rights can and should be kept separate from the political sphere, the International Committee of the Red Cross (ICRC) is playing an indispensable and unique role. It is contributing to the debate about the politics of humanitarian action both by virtue of the clarity of its doctrine, which is reinforced by its recognized place in international humanitarian law, and by its humanitarian activities in today's myriad conflicts. As the debate sharpens, the ICRC is itself a greater subject of interest and scrutiny.[3] In particular, the tensions between theory and practice experienced by the ICRC, especially with respect to neutrality, warrant reflection.

As regards doctrine, the ICRC works tirelessly to clarify the relationships for itself and for others between humanitarian action and politics. It does so in periodic articles and discussions in the *International Review of the Red Cross*[4] and in other publications.[5] The opening up of the *Review* in recent years to articles by outsiders and its use to stimulate debate

2 For a recent review of some of the issues and perspectives in the debate, see "The Emperor's new clothes: Charting the erosion of humanitarian principles", *Disasters*, Special issue, Vol. 22, No. 4, December 1998.

3 In recent years, several major studies of the ICRC have appeared. These include John F. Hutchinson, *Champions of charity: War and the rise of the Red Cross*, Westview, Boulder, 1996; Michael Ignatieff, *The warrior's honor: Ethnic war and the modern conscience*, Metropolitan Books, New York, 1997; Nicholas O. Berry, *War and the Red Cross: The unspoken mission*, St. Martin's Press, New York, 1997; and Caroline Moorhead, *Dunant's dream – War, Switzerland and the history of the Red Cross*, Harper Collins, London, 1998. There had been an interlude of several decades since David P. Forsythe's *Humanitarian politics: The International Committee of the Red Cross*, Johns Hopkins, Baltimore, 1977.

4 See e.g. François Bugnion, "Red Cross law", *IRRC*, No. 308, September-October 1995, pp. 491-519; Denise Plattner, "ICRC neutrality and neutrality in humanitarian assistance", *IRRC*, No. 311, March-April 1996, pp. 161-179; and David P. Forsythe, "The International Committee of the Red Cross and humanitarian assistance: A policy analysis", *IRRC*, No. 314, September-October 1996, pp. 512-531.

5 See e.g. Jonathan Moore (ed.), *Hard choices: Moral dilemmas in humanitarian intervention*, Rowman & Littlefield, Lanham, Boulder, New York, Oxford, 1998.

well beyond the Red Cross and Red Crescent Movement represent a major contribution.[6] ICRC staff also devote substantial time and energy to briefing members of the UN Security Council and to workshops disseminating humanitarian law among diplomats and military officials. The ICRC participates in many international conferences and has sponsored numerous meetings, including the Wolfsberg Humanitarian Forums, in which the issue of humanitarian action and politics has loomed large.[7]

In explaining its approach, which emphasizes the need to protect the independence of humanitarian action from political intrusion, the ICRC distinguishes itself from other humanitarian organizations that embrace a different paradigm. United Nations aid organizations have endorsed key ICRC tenets, affirming, for example, that "humanitarian assistance must be provided in accordance with the principles of humanity, neutrality, and impartiality".[8] Yet the UN system and NGOs that collaborate with UN agencies situate humanitarian activities for the most part within a broader political framework. Unlike the ICRC, many of them embrace explicitly political tasks such as addressing the underlying causes of suffering, including ethnic tensions, racism, conflicts over resources, warlordism and criminality, and, above all, war and injustice. The alternate paradigm has comparative advantages as well as disadvantages vis-à-vis the ICRC's approach.

For its part, ICRC doctrine has remarkable consistency, virtually irrespective of where it is articulated and by whom. I have witnessed that consistency in interviews with ICRC officials at the UN in New York and Geneva and in conversations in Belgrade and Zagreb, Baku and Gali, Phnom Penh and San Salvador.[9] ICRC staff participating in coordination meetings of the UN's Inter-Agency Standing Committee and the NGO Steering Committee on Humanitarian Response are not only clear in explaining the

6 The decision reached in 1998 by the ICRC, the International Federation of Red Cross and Red Crescent Societies, and the Swiss Red Cross to rejuvenate the Henry Dunant Institute and to make it a resource for the wider humanitarian community is also a promising development.

7 The now annual Wolfsberg Humanitarian Forums, hosted by the ICRC, have drawn together governments, UN officials, and NGOs for reviews of such concerns.

8 UNGA res. 46/182, 19 December 1991. Some of the tensions between humanitarian principles and other aspects of UN operations are examined in the UN Inter-Agency Standing Committee, "Respect for humanitarian mandates in conflict situations", United Nations, New York, 1996.

9 The views of ICRC officials and of other actors in post-Cold War conflicts are reflected in the publications of the Humanitarianism and War Project, which are listed at and available from the website www.brown.edu/Departments/Watson_Institute/H_W.

ICRC's own position about cooperating with other institutions; they also perform a major service by helping other institutions to clarify their own stances. In this ongoing dialogue on the essentials of humanitarian action, the ICRC is acquitting itself admirably of its task as custodian of international humanitarian law.

In one specific area, however, the ICRC has failed to convey its distinctive approach with clarity: the principle of neutrality. That principle – that the Red Cross "may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature"[10] – is surely the least self-evident and most problematic of the Movement's seven cardinal tenets. At the same time, it is altogether central to understanding whether in highly politicized surroundings the ICRC can in fact remain non-political.

The corpus of ICRC doctrine on the issue of neutrality is well established. "Red Cross institutions must beware of politics as they would of poison, for it threatens their very lives", wrote one of the organization's major thinkers, Jean Pictet, 20 years ago. "Indeed, like a swimmer, [the ICRC] is in politics up to its neck. Also like the swimmer, who advances in the water but who drowns if he swallows it, the ICRC must reckon with politics without becoming a part of it." The ICRC seeks to retain and protect its moral force by refusing to be drawn into highly charged political issues. "One cannot be at one and the same time the champion of justice and of charity. One must choose, and the ICRC has long since chosen to be a defender of charity".[11]

The ICRC's effort to insulate itself hermetically from the political terrain on which it operates has created a widespread impression of political naiveté. "I have my doubts, looking at the array of conflicts in which humanitarian relief is called for today", observed Emma Bonino, European Commissioner for Humanitarian Affairs, in a September 1998 panel discussion, "that being neutral is still at all possible, or indeed ethically just". Can

10 The Fundamental Principles of the International Red Cross and Red Crescent Movement, Principle of neutrality, see e.g. *Handbook of the International Red Cross and Red Crescent Movement*, 13th ed., Geneva, 1994.

11 Jean Pictet, *The Fundamental Principles of the Red Cross*, Henry Dunant Institute, Geneva, 1979, pp. 56, 59, 60. For a discussion of the similarities and differences between the paradigms of the ICRC and other humanitarian organizations, see Larry Minear, "Terms of engagement with human need", *The Ecumenical Review*, Vol. 24, No. 1, January 1990, pp. 4-16.

and should humanitarian agencies be neutral?, she asks. As such agencies themselves would have it, "[s]hould they be unable to distinguish right from wrong, the aggressor from the victim, the killers from the dead bodies? What absurd wisdom could call for this organized ethical confusion?" Such a forceful critique from such a knowledgeable actor reflects the sentiments of others as well.[12]

True to form, representatives of the ICRC were present on the same panel to express their own point of view. "Neutrality does not necessarily mean keeping quiet", countered Francis Amar. Conversely, "[n]eutrality most certainly does not mean denouncing all parties in the same terms, implying that each has committed as many violations as the other".[13] Yet the ICRC's recurrent claim to functioning apolitically is treated these days with increasing disbelief, even outright dismissal. "Doesn't Pictet's swimmer swallow an occasional mouthful of water?" people ask. Swimmers from other humanitarian organizations, as well as Olympic – or Olympian – judges, have their doubts. In the view of two of my own colleagues, "humanitarianism as conceived by the ICRC and other classical apolitical actors is a fiction that impedes the kind of effective response that their mandates dictate and their oratory espouses".[14]

From the swimmer's battle with stormy waters also flows a perceived ICRC quiescence in confronting governments with violations of international law. "Neutrality (...) is indeed a form of discipline we impose upon ourselves", continues Jean Pictet, "a brake applied to the impulsive urges of our feelings. A man who follows this arduous path will discover that it is rare in a controversy to find that one party is completely right and the other completely wrong. He will sense the futility of the reasons commonly invoked to launch one nation into war against another".[15] Better, the reasoning goes, that humanitarian organizations that are dependent for access to civilian populations upon the consent of governments steadfastly maintain their distance from any and all political controversies. After all, the purpose of the Red Cross, explains another venerable thinker, Jacques Moreillon,

12 The occasion was a panel discussion on "Is neutrality still possible?", Conference on Humanitarian Aid Challenges in the New Millennium sponsored by the Conrad N. Hilton Foundation (29 September 1998). The other panelists were ICRC official Francis Amar and the author.

13 Francis Amar, "Neutrality: A Red Cross perspective", pp. 3-4.

14 S. Neil MacFarlane and Thomas G. Weiss, *Political interest and humanitarian action*, forthcoming.

15 Pictet, *op.cit.* note 11, p. 53.

is "to help and not to condemn. It must be able to help victims everywhere, which implies moderation in its criticisms(...) Can one really claim to help and to condemn in the same country?"[16]

Obscured in the debate on the possibility of neutrality is the extent to which ICRC praxis is more dynamic and engaging than its theory. At the operational level, where food and medicine must be delivered and civilian populations protected, the interaction between the humanitarian and the political spheres is much more multifarious and interpenetrative than ICRC doctrine would appear to acknowledge. The view from the field is both more fascinating and more instructive than the constructs offered in the pages of the *International Review of the Red Cross* and around the tables at Wolfsberg. The real meaning of neutrality is tested where international humanitarian law and principle encounter the real-world dilemmas in the field.

In fairness, ICRC thinkers themselves are not as doctrinaire as their strongly articulated doctrines might suggest. Jean Pictet affirms that principles are not an end in themselves but rather a means to the end of assisting suffering people, an assertion reiterated by the ICRC interlocutor on Emma Bonino's panel. "The ICRC most assuredly does not believe its principles and working methods to be more important than the human suffering which it has the duty to relieve", responded Francis Amar to her critique. "The purpose of neutrality is action."[17] Yet the standpoint of the theoreticians never really fully acknowledges the pragmatism that the ICRC employs day in, day out in its field operations. Nor would those who elaborate ICRC doctrine be fully comfortable with the view expressed by one ICRC head of delegation that "the ICRC never says 'never' ".

As understood by ICRC delegates confronted by egregious violations of international humanitarian law in the world's hotspots, neutrality means not political *naiveté* but rather political *savoir faire*. "Only if you're politically savvy can you be politically neutral", says one seasoned ICRC field manager. Hardly a burden, neutrality is instead viewed as truly liberating. Since no belligerent is beyond reproach, neutrality allows criticism of whatever side requires it. The swimmer does not reach his destination by

16 Jacques Moreillon, "Different perceptions of the same event", *IRRC*, No. 257, March-April 1987, p. 144. He was commenting on the suspension of the government delegation of the Republic of South Africa at the 25th International Conference of the Red Cross, a decision which stimulated considerable debate about intersections between humanitarian and political action.

17 Amar, *op. cit.* note 13, p. 4.

flailing against the waves but rather by understanding the political undertows and outwitting the destabilizing crosscurrents. In conflict zones the ICRC does not function in a political vacuum: it makes prudential calculations and takes political consequences into account. Its principled approach, rather than being the polar opposite of pragmatism, involves its own form of pragmatism. Not pragmatism but rather opportunism is the antithesis of the ICRC's principled approach to the hard choices confronting its own and all practitioners of the humanitarian imperative.

ICRC practitioners are also clearer than the theoreticians in Geneva about the relevance of principle itself to the agency's day-to-day operations. Many in UN and other aid agencies view principle itself as an albatross, tying their hands and impairing their ability to deal with unprincipled belligerents. ICRC delegates often see the situation in quite different terms. One recalled an encounter with a general in the Yugoslav conflict, to whom she had appealed in 1993 for access to a besieged civilian population on grounds of international law and humanitarian principle. "We know your principles", the general said sharply, "and we will make you change them". "We believe in our principles", she countered. "They've been good for 125 years."[18]

To be sure, neutrality requires avoiding political controversies that would undermine the ICRC's work. Yet the organization is anything but neutral as regards the victims, whom it aggressively defends, in private and, when it deems necessary, in public. "We don't give a damn about greater Serbia", says an ICRC veteran of the former Yugoslavia and Cambodia, "but we do get exercised about ethnic cleansing and rape as a tactic of war". "How you treat women in Afghanistan is *your* business", notes another ICRC practitioner in a hypothetical conversation with the Taliban. "How *we* treat them in *your* hospital is *ours*."

In the past ten years, the ICRC has become noticeably more outspoken in criticizing the policies of governments and insurgents that create civilian suffering. Its support of a convention banning the production of anti-personnel landmines and its clarification of its own policy on economic sanctions confirm that the organization is being more consequential about addressing the political dimensions of its humanitarian concerns. Its cham-

18 This incident is cited in a section called "Dealing with belligerents who defy international humanitarian law", in Larry Minear, Jeffrey Clark, Roberta Cohen, Dennis Gallagher, Iain Guest, and Thomas G. Weiss, *Humanitarian action in the former Yugoslavia: The U.N.'s role 1991-1993*, Watson Institute, Providence, RI, 1994, p. 78.

pioning of a new international criminal court represents the latest ICRC initiative to address a political issue as a result of its impact on the welfare of civilian populations. The agency's effort to clarify its policy on advocacy itself exemplifies the extent to which it is revising its traditional ways of operating in the interest of meeting the special challenges posed by post-Cold War conflicts. Other humanitarian organizations have been less reflectively inclined and slower to change.

The ICRC's frequent pronouncements eschewing political considerations have led to various interpretations. One observer has concluded that aid agencies such as the ICRC resolve the tension between their non-political public personas and the highly political issues they confront "by telling two moral stories, one in public, the other in private". The public story "preserves the neutrality of the organization and avoids attributing political responsibility for the disaster, war or conflict in which it is intervening. The private message is more political: it is directed to governments, donors, and sympathetic journalists and does point the finger of blame".[19] Another observer finds the out-front theory and behind-the-scenes activities of the ICRC so dissonant as to suggest that the organization has a secret and highly political mission involving "nothing less than the sabotage of war".[20] The real issue, in my judgement, is not whether it is possible for the ICRC to function as a neutral actor in highly politicized landscapes. It is such an actor and it does so function. The critical issue is rather whether its approach is more effective than the route taken by organizations that follow a different paradigm. My own sense is that the ICRC's methodology may indeed correlate more closely with effectiveness, although data to support this judgement remain inadequate and other variables need to be assessed.

As the international community takes stock of developments in the half-century since the adoption of the Geneva Conventions of 1949, the work of the ICRC deserves to be more intimately understood and more highly valued. Given the comparative advantages relative to other humanitarian actors that the ICRC has demonstrated in today's primarily internal armed conflicts, its activities themselves deserve expansion. As humanitarian action becomes more highly politicized, the ICRC's work also merits protection against politicization by the very governments that simultane-

19 Michael Ignatieff, "The stories we tell: Television and humanitarian aid", in Moore, *op. cit.* note 5, p. 296.

20 Berry, *op. cit.* note 3.

ously ask more of the organization and push it into political thickets. While neutrality is possible for the ICRC, it remains unattainable for humanitarian organizations that function with different operational principles and self-understandings.

The international community therefore needs a more effective ICRC, as well as more effective performance by other humanitarian agencies that situate their work as part and parcel of a more explicitly political task.

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Résumé

Théorie et pratique de la neutralité : réflexions sur les tensions

par LARRY MINEAR

L'auteur de cet article s'intéresse au concept de la neutralité de l'action humanitaire. Il examine les tensions qui peuvent surgir entre la théorie et la pratique, et pose un regard particulier sur la position du CICR. La neutralité, au sens des Principes fondamentaux du Mouvement international de la Croix-Rouge et du Croissant-Rouge, impose le devoir de « s'abstenir de prendre part aux hostilités et, en tout temps, aux controverses d'ordre politique, racial, religieux et idéologique ». Le CICR a toujours poursuivi cette ligne de conduite qu'il considère fondamentale pour le succès de son activité humanitaire, même si pour d'autres la neutralité est un obstacle. L'auteur constate que l'usage que le CICR fait de ce principe est en fait plus dynamique et politiquement plus fin qu'on ne le pense généralement. Une réflexion permanente sur le concept clé de la neutralité est nécessaire, mais il ne faut pas oublier que ce qui est bon pour le CICR ne l'est pas nécessairement pour d'autres organisations internationales, qu'elles soient gouvernementales ou non.

LA REVUE

Peace-making and the prevention of violence: The role of governments and non-governmental organizations

by
JAN EGELAND

WE are living through a time of uniquely contradictory trends. The post-Cold-War era may be summed up for many by one sentence: there is less immediate threat, but much more insecurity than ever before. We no longer fear a superpower-driven Third World War, but are increasingly concerned with growing social tension and conflict, not to speak of the environmental crises which are looming on the horizon.

The paradoxes and contrasts of our time are manifold:

- fewer international wars, but more internal strife than previously;
- more democracies, but also more weak States with power vacuums breeding anti-democratic movements;
- more international cooperation, but also more aggressive nationalism and xenophobia;
- a declining number of international refugees, but more displaced people than ever before; and
- more rich and affluent people than ever before, especially in Latin America and Asia, but also more people living in abject poverty at a time when there is less international assistance available for the growing number of vulner able societies in need of aid.

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In the 1990s, conflict, violence, arms proliferation and internal strife are the most serious obstacles to development and equitable economic growth, and are also the cause and the consequence of social injustice.

It is against this background that we have to discuss new forms of partnership whereby intergovernmental organizations, individual governments and non-governmental organizations (NGOs) collectively rise to the challenges posed by violence, complex emergencies and intra-State conflicts. Whereas during much of the Cold War period governments, United Nations agencies, development banks and NGOs tended to pursue separate paths and strategies in attempting to alleviate the effects of conflicts, the new trend is for an integrated, holistic approach, combining a multiplicity of methods. There is increasing recognition that the sources of violence and social strife are complex and multifaceted, and call for a cooperative approach involving governments, intergovernmental organizations and NGOs.

All democratic countries have an obligation to improve their ability to respond when democratic and peace-oriented initiatives require urgent support. Our joint ability to provide flexible, speedy and effective assistance to those holding humanity's first line of defence will also determine our ability to safeguard our own collective security.

Faced with these enormous challenges, will the International Committee of the Red Cross (ICRC), the United Nations and individual governments have to fight a losing battle for sufficient resources before they can take action? Not necessarily: experience shows that funds are increasingly available for programmes aimed at building peace and preventing violence.

The challenge of internal strife

It is important to bear in mind that internal strife and so-called "intra-State conflicts" pose a set of challenges which are significantly different from those associated with "traditional" conflicts between States. Widespread violence in contemporary societies may be of a purely criminal nature, but is nonetheless rooted in poverty, deepening social inequalities and ineffective law enforcement. Violence may also be caused by political, ideological or even cultural factors. Or it may, as in Colombia today, stem from a combination of all three.

Such conflicts have a number of distinctive features:

- they frequently take place in situations of anarchy where there is little or no source of authority;

- they often involve a number of parties with varying degrees of strength and control over territory;
- the chain of command within such groups is often unclear;
- complex cultural, economic, and social causes make such conflicts seem intractable;
- international human rights law and humanitarian law are often ignored to an even greater extent than in international armed conflicts;
- the civilian population is often directly targeted, the distinction between combatants and non-combatants is often non-existent, and the resulting human suffering is boundless;
- intra-State conflicts are frequently linked to alleged "ethnic" divisions or other markers of identity defined by "conflict entrepreneurs" who derive personal or group gain from fomenting strife.

Let there thus be no doubt: internal conflict or strife is not only the most frequent form of violence today but also the most complex, difficult and dangerous environment to operate in. To try to approach and resolve such internal conflicts with a mindset focused on international conflicts is futile. A classic trap would be to accept the definition of a conflict laid down by many "conflict entrepreneurs" themselves. If we treat them as we would treat parties in international armed conflicts, we might end up endorsing their attempts to achieve legitimacy by recognizing and encouraging extremists.

Small-arms transfers

The unrestrained proliferation of hundreds of millions of small arms is one of the major causes of violent death and large-scale human rights abuse. The flood of post-Cold-War light weapons transforms minor incidents into massacres and makes small-scale group tensions escalate into wars. An estimated 90 per cent of casualties in contemporary conflicts – mostly children, women and other civilians – are caused by arms that can be carried by an individual. Studies by the ICRC and other agencies demonstrate how demobilization and reconciliation efforts are frustrated by the fact that these inexpensive and sturdy weapons fall into the wrong hands at the wrong time. In the absence of a concerted effort to control and limit the production and transfer of small arms there will be little progress in settling existing wars and complex emergencies and avoiding future ones.

The Norwegian Red Cross and Norwegian Church Aid, representing two large non-governmental movements, have joined forces with the Oslo International Peace Research Institute and the Norwegian Institute on International Affairs in launching an international effort to study, control and limit global small arms transfers. The project has received financial assistance from the Norwegian Ministry of Foreign Affairs.

The ultimate aim of this project is to form the widest possible coalition of like-minded governments and NGOs in a drive to control and limit the transfer of small arms to areas and communities where they are likely to incite conflict, violence and human rights abuses. A meeting of international experts was organized jointly by the ICRC and the Norwegian Red Cross in May 1998. Given the vast scale of the problem, the goals will be progressively specified as the campaign and the coalition build up. It is important to realize that this process will be very different from the successful effort to promote a treaty imposing a total ban on anti-personnel landmines, which was negotiated in Oslo during September 1997 and adopted by more than a hundred governments in Ottawa in December 1997.

So far the greatest breakthrough in the effort to limit small arms proliferation was the moratorium on production, import and export for the next three-year period signed on 30 September 1998 in Abuja, Nigeria, by the Heads of State of the 15 member countries of the Economic Community of West African States (ECOWAS). The Norwegian initiative on small arms helped in many ways to secure governmental and non-governmental support for the moratorium in West Africa and among arms-exporting countries.

Criteria for third-party intervention

Increased awareness about the way intra-State conflict differs from traditional wars has prompted a rethinking of traditional "State-centric" approaches to internal conflicts and, in particular, reconsideration of the role of governments seeking to intervene in such conflicts. What are the opportunities for governments or NGOs to play an informal "third-party" role in a conflict situation – either as facilitators or as mediators? In what way, for example, can a small country like Norway contribute to conflict resolution and peace-making in internal conflicts?

On the basis of experience gained with peace-facilitation in the Middle East, Central America, the Balkans and elsewhere, the author sees

five fundamental preconditions for effective intervention by third parties:

- The intervening country must be perceived by all sides as having no national interest in the conflict apart from its interest in an impartial settlement and in the promotion of human rights. The third party must gain the trust and confidence of the parties to the conflict.
- There must be a national political consensus within the third country allowing for its long-term use of the necessary political, diplomatic and economic tools to facilitate the peace process in question.
- The third country must have the necessary experience, expertise and ability to maintain the momentum of its involvement.
- Substantial foreign economic assistance must be available with sufficient discretionary funds to finance, if necessary, the negotiations and reconciliation programmes ("venture capital for peace").
- The third party must be capable of drawing upon and making use of the flexible networks of NGOs.

The role of NGOs

The advantages of involving NGOs are many. First of all, these organizations have local expertise and links with local actors. They are often able to gain access to areas of conflict where official representatives should not or cannot go. The warring factions generally regard NGOs as impartial humanitarian do-gooders, and this makes them effective as operating partners in peace initiatives.

In Norway, non-governmental groups often prove to have the best access to people in need and networks that can be mobilized quickly. Many of the larger NGOs have long experience of working with government agencies and are knowledgeable about government requirements, specifications and budget procedures, but maintain their ability to operate in a very flexible manner. Decisions can be decentralized, and operations can be jump-started. NGOs are often able to track down key personnel of whose existence the government may not even be aware. Considerable resources can be deployed, often within hours.

Altogether NGOs frequently display impressive creativity in solving practical problems, and play an important role in paving the way for the implementation of conflict-resolution measures.

However, as we all know, there are all too many examples showing that real-life operations do not always run as smoothly as this. Perhaps the greatest obstacle lies in the inherent lack of coordination between the

various agencies and organizations involved in such undertakings. Part of the problem is that NGOs and governments traditionally have different cultural and institutional mindsets, and sometimes different objectives. Governments inevitably tend to focus on "large" and longer-term macro issues, while NGOs tend to gravitate to more socially based, shorter-term micro issues. Furthermore, governments may see their main function in a conflict as contributing to an overall agreement between warring parties – to bring peace to a region even if this sometimes involves rather doubtful compromises, for example granting amnesties to those responsible for human rights abuses. NGOs, on the other hand, tend to look at the weak spots and the consequences of peace agreements – how equitable they are, how they impact on minorities, whether human rights are protected – and, importantly and controversially, they campaign to have those responsible for human rights abuses tried and punished for their crimes.

In contemporary conflict situations media interest has often led to a high level of international awareness of a given conflict, which has subsequently prompted a series of parallel and often completely uncoordinated initiatives for dealing with it. It is not at all unusual for hundreds of international NGOs to be present in a conflict zone. Many of these agencies are very small. Their level of competence, such as knowledge of the region in which they are working, varies.

The situation is, however, not ideal on the intergovernmental side either. UN agencies can also prove to be fairly uncoordinated. There are numerous examples of situations where the military and the humanitarian agencies occupy isolated worlds although they are working in the same area.

All in all, the result of such lack of coordination is at best that scarce resources are not used to optimum effect. At worst, the variety of international activities can lead to situations where a number of different, well-meaning agencies and organizations nullify each other's work.

Improving NGO-government cooperation

There are a number of ways in which the capabilities of NGOs and governments can be more effectively harnessed:

- institutional mechanisms for cooperation or consultation, both in the field and at headquarters, can be made more effective;
- policy and strategies in key areas can be more closely coordinated, or at least a dialogue can be established;

- both NGOs and governments need to acknowledge the importance of the others' role in conflict resolution and peace-building; and
- NGOs and governments need to work together to play a more active part in cases of intra-State conflict, for example by taking preventive measures, improving humanitarian coordination, and contributing to greater international preparedness.

Achieving this coordination and cooperation will require an attitude of give-and-take on the part of both governments and NGOs. There will be times when it is difficult to reach a common position, and times when NGOs and governments will have to agree to disagree.

In Norway, a model of cooperation with NGOs has been developed that has proved effective in many of these problem areas.

Norwegian cooperation with NGOs in crisis situations

In 1991, in the wake of the Kurdish refugee crisis, the Norwegian Emergency Preparedness System (NOREPS) and the Norwegian Resource Bank for Democracy and Human Rights (NORDEM) were established. These are flexible standby mechanisms for humanitarian, human rights and conflict-related work, for the benefit of UN agencies and the International Red Cross and Red Crescent Movement. The system draws upon voluntary organizations, government institutions and academic circles, and is coordinated by the Ministry of Foreign Affairs.

There are more than 20 Norwegian NGOs receiving government support for humanitarian assistance, conflict prevention and human rights activities in nearly a hundred countries. Over the years, tens of thousands of Norwegians have acquired field experience from working with these organizations or with the government development cooperation agency NORAD. Furthermore, it is estimated that the number of Norwegians who have taken part in UN peace-keeping operations is now equivalent to more than one per cent of the population (some 55,000). Several hundred of these experts have agreements with their respective employers and can be rapidly deployed for conflict-prevention operations.

Through NOREPS and NORDEM more than 1,500 relief workers, human rights advisers, peace mediators and observers have been dispatched to more than 30 countries in Africa, Asia, Latin America, Europe and the Middle East, at the request of UN agencies, new democracies or parties to armed conflict. The personnel in question include full-time facilita-

tors of inter-community contacts across the old front lines in Cyprus and the Middle East, staff for the "truth commissions" in South Africa and Guatemala, police detectives for the International Criminal Tribunals for Rwanda and the former Yugoslavia, mine-clearance specialists for Angola and northern Iraq, human rights advisers for Ethiopia and Eritrea, and human rights observers for Hebron in the West Bank.

In addition to its contributions through NOREPS and NORDEM, Norway has attempted to contribute, behind the scenes and on the parties' own terms, to several peace processes. The best-known example is perhaps the facilitation of the Middle East peace process and the negotiation of the Oslo agreements. Norway has also taken an active part in initiatives to settle conflicts in Guatemala, the former Yugoslavia, South Africa, Sudan, the Caucasus and Sri Lanka.

Long-term efforts to settle conflicts

The ICRC, more than any other international humanitarian institution, has received the following message from its work on the battlefield: When internal tension has escalated into actual fighting, it will be a long-term and uphill effort to restore real peace, whatever the quality of the mediation effort and the strength of international pressure. Fresh misconceptions and causes of hatred easily come to compound existing ones, and people are slow to forget.

Let us remember, however, that conflict resolution does not imply that people should stop disagreeing. Conflict in the form of disagreement is the normal state of affairs in societies all over the world. What we should try to stop – or, even better, not allow to start – is violent conflict. The aim of good conflict management should be to transform attempts to settle disputes through violence into peaceful procedures for seeking a compromise. Democratic elections and the (re)introduction of popular participation in politics is one way to achieve this end.

Lasting peace requires sound and equitable economic development, in particular in the domains of housing, public health care, employment, etc. It also requires social development. After a civil war, enemies have to live together again. To make this a viable proposition, the social patterns of conflict must be transformed into patterns of coexistence. This again must take place not only at a high political level, but among ordinary people in every village and town.

NGOs can make important contributions, as they can act as facilitators between communities that have become polarized by conflict. At the grass-roots level, voluntary groups have been able to encourage old enemies to work on joint projects, fostering dialogue and thus helping to resolve disputes at the local level.

The case for preventive action

As mentioned at the beginning of this paper, we are living in a time of global transition marked by contradictory tendencies. Authoritarian regimes are giving way to more democratic forces and international cooperation is increasing, but at the same time these positive trends are being countered by aggressive nationalism and brutal ethnic, social and religious strife. The ecological challenges are daunting, and in the present situation of persistent and extreme global inequality one-fifth of the world's population remains in abject poverty. In this era of the information revolution, the wealthy part of the world can no longer close its eyes to these realities. We are thus faced with new opportunities as well as new threats.

The current world security system was designed in the aftermath of the Second World War. Largely based on nuclear deterrence and aimed at avoiding a nuclear showdown between the superpowers, it served those purposes well. But it did not prevent the eruption of numerous local and regional conflicts. A major war was avoided, but not smaller wars.

Future efforts to guarantee peace and security should increasingly centre on solving problems before they escalate into crisis or conflict. In view of the many demands being made on scarce resources, focused preventive action is the most efficient way to meet tomorrow's challenges to collective security. Preventive measures require early action if they are to be effective. International assistance can preserve peace, save lives and protect human rights and democracy – if it reaches vulnerable communities in time. Too often we have stood by as passive observers while unique opportunities were lost because the necessary resources were not mobilized in time. One particularly appalling example is the endless brutality against civilians in the Great Lakes region of Central Africa. Too often, response mechanisms have proved to be inadequate to meet the early needs of embattled democracies or of troubled and disaster-prone communities.

There is, fortunately, a growing awareness among peace mediators and facilitators, as well as among governments in the North and the

South, that humanitarian operations undertaken by the ICRC, international governmental organizations and NGOs are one of the most important preventive forces in existence. Effective and impartial humanitarian action builds bridges in war-torn societies, decreases tension and helps avoid long-term bitterness.

At the same time, both the ICRC and the parties to numerous conflicts have come to realize that the International Committee can facilitate peace talks and promote the work of the mediators. In many conflict areas the ICRC has gained the confidence of the parties because of its impartial delivery of humanitarian services, and has thus become the obvious choice for providing logistic support for the peace process.

Concluding remarks

In conclusion, what lessons can be learned from experience in attempting to facilitate the restoration of peace in intra-State conflicts on different continents and under different circumstances?

First, there can be no real peace unless the parties themselves – both the leaders and the population at large – are willing to make the necessary effort to reach a settlement. Lasting peace cannot be imposed from abroad. This kind of commitment to peace by the parties themselves seems finally to have emerged in Guatemala. The reason why there is still no real peace in Bosnia-Herzegovina, Sudan or Sri Lanka is that in each of these contexts at least one of the parties is not yet interested in pursuing peace on terms that appear legitimate to the outsider.

Secondly, even when warring parties are willing to make peace, an inadequate mediation mechanism and the absence of discreet channels for contacts may thwart the most noble ambitions. In the Middle East, as in Guatemala, agreements could be concluded only after years of continual, low-key contacts and through the availability of tailor-made facilities.

Thirdly, international diplomacy is surprisingly unprepared in terms of providing the personnel, expertise and material support necessary for the effective facilitation of a peace process. The strength of the Norwegian model of cooperation between governmental agencies, NGOs and academic institutions lies in the fact that it has increased our ability to make the appropriate tools for a mediation process available immediately. Such tools may range from experts on the separation of military forces and constitutional lawyers to emergency relief personnel and financial assistance.

There is, in short, scope for creative alliances between governments, the United Nations, the ICRC and NGOs. Countries like Norway are willing to play an active and constructive role in conflict resolution in partnership with the United Nations and its members. Our experience shows that cooperation between governments and NGOs offers major advantages. Although both can operate effectively on their own in intra-State peace-making efforts, there are many circumstances in which cooperation between the two is mutually beneficial.

Perhaps only one in a hundred efforts to achieve peace will be successful. Still, it will be worth the effort. As the students of Paris said in 1968: "Be realistic, demand the impossible".

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Résumé

Rétablissement de la paix et prévention de la violence: le rôle des gouvernements et des organisations non gouvernementales

par JAN EGELAND

L'auteur rappelle d'abord que la période de l'après-guerre froide est certes caractérisée par l'absence de guerres à l'échelle internationale. En revanche, l'insécurité n'a jamais été aussi grande dans certaines régions du monde que de nos jours. Pour preuve, il évoque la recrudescence des conflits internes, ainsi que la prolifération et la disponibilité des armes de petit calibre. Se référant aux expériences vécues dans différentes situations de conflit, l'auteur souligne le rôle que peuvent jouer les ONG non seulement dans la recherche d'une solution négociée mais encore, et surtout, dans la prévention du recours à la violence. Les activités du CICR et de certaines Sociétés nationales de la Croix-Rouge sont tout particulièrement mises en évidence.

LA REVUE

Conflits armés, prévention et santé publique

par
Rémi Russbach

Notre siècle a débuté dans une certaine euphorie car on ne voyait dans les découvertes scientifiques et les innovations techniques que des moyens d'améliorer les conditions de vie des hommes et de libérer ceux-ci peu à peu des contraintes de la nature. Après la Première Guerre mondiale, au moment de la création de la Société des Nations, on n'osait pas imaginer la possibilité d'une Seconde Guerre mondiale. Dans ce contexte, la Conférence médicale de Cannes décida, en 1919, de réorienter les priorités des Sociétés nationales de la Croix-Rouge [1].

Nées dans l'esprit des sociétés de secours aux blessés de guerre, elles allaient se consacrer aux priorités du moment, celles de l'après-guerre. Outre la lutte contre les maladies de l'époque – la tuberculose, le typhus, les maladies vénériennes et le paludisme – les Sociétés nationales de la Croix-Rouge et du Croissant-Rouge se donnaient pour objectif d'une part, d'établir une législation et une administration efficaces de la santé publique et d'autre part, de normaliser les statistiques relatives à la santé publique, afin de pouvoir identifier et suivre les épidémies.

Rémi Russbach, docteur en médecine spécialisé en pédiatrie, a été médecin-chef du CICR de 1977 à 1994. Il est vice-président de la Société internationale de médecine de catastrophe et membre fondateur de la « *Geneva Foundation* pour la protection de la santé dans la guerre ».

1 Roger Durand, *La Conférence médicale de Cannes, 1er au 11 avril 1919*, Société Henry Dunant, Genève, 1994, pp. 61-64.

Par la suite, dans le domaine de la santé, l'amélioration des conditions d'hygiène, les vaccinations, les antibiotiques, les médicaments anti-cancéreux et les techniques d'anesthésie et de chirurgie ont permis de considérablement réduire la morbidité et la mortalité chez ceux qui en ont bénéficié. Cependant, de nombreuses populations n'ont pas eu accès à ces progrès et vivent encore dans des situations très dangereuses pour la santé (pauvreté, violence, famine, manque d'eau potable et de conditions d'hygiène minimum), ce qui accroît le fossé entre les nantis et les démunis.

En cette fin de siècle, l'optimisme vis-à-vis de l'avenir a été sérieusement érodé et a même cédé le pas à une certaine morosité. Non seulement la guerre et la violence sont revenues au premier plan de l'actualité, mais encore les progrès techniques qui, dans un sens positif, nous ont libérés de nombreuses contraintes, ont par ailleurs engendré des menaces nouvelles pour l'humanité tant dans le domaine des armes de destruction massive que dans celui des atteintes à l'environnement dans un monde dont on découvre les interactions et les limites. Dans ce sens, la catastrophe de Tchernobyl a engendré une prise de conscience nouvelle : nous sommes tous sur le même bateau et, pour notre propre sécurité, nous avons avantage à participer «généreusement» aux actions de prévention des catastrophes nucléaires dans les pays qui n'ont plus les moyens d'assurer la sécurité de leurs installations. Cette solidarité obligée, même si elle est teintée d'égoïsme, n'en est pas moins positive pour la communauté internationale et devrait s'étendre à d'autres situations qui représentent une menace pour l'humanité.

La violence, dont la guerre est l'expression majeure, a aussi des effets contaminants bien au-delà des frontières de son foyer de départ. La charge que représentent les réfugiés pour les pays hôtes, et le coût de la lutte contre le terrorisme sont des exemples, parmi d'autres, de cette contamination extra-frontalière. La prévention de la violence mériterait d'être placée au premier rang des priorités politiques afin d'éviter d'engloutir des ressources gigantesques dans la sécurité tant individuelle que collective, au détriment des actions préventives primaires.

Notre époque est unique dans l'histoire par le fait que vivent simultanément, et à quelques heures de distance, des populations de l'âge du bronze, du Moyen-Âge et de l'ère post-industrielle. Il n'est pas étonnant que ces différences engendrent certains problèmes de communication malgré l'évolution exponentielle de ce domaine. Si les élites des pays pauvres peuvent avoir aujourd'hui un niveau de vie comparable à celui des pays riches,

ce n'est pas le cas de leurs populations, dont une grande partie ne peut pas jouir d'un environnement compatible avec la santé, par manque d'accès aux ressources les plus indispensables.

Nous sommes donc dans un monde bipolaire à deux vitesses où les écarts se creusent et représentent à moyen terme un problème de violence et d'insécurité qui risque de coûter très cher à l'humanité si rien n'est fait pour en éradiquer les causes. Bien que nous soyons tous plus ou moins conscients de cette situation, la majorité des gens ne se sent pas appelée à réagir, soit parce qu'elle pense qu'il s'agit d'un problème qui la dépasse et qu'il y a des spécialistes pour cela, soit par simple fatalisme face à des problèmes dont l'immense complexité peut engendrer un découragement paralysant.

Nous pensons cependant que ce fatalisme est dangereux et qu'une plus grande énergie devrait être consacrée à l'étude approfondie de ces questions, afin d'y trouver des réponses pendant qu'il est encore temps d'agir. Que ce soit dans le domaine économique ou politique, il est frappant de constater que très peu de matière grise est consacrée à l'analyse prospective qui devrait déboucher sur une stratégie à long terme. En effet, l'orientation politique actuelle est plutôt le profit immédiat ou les élections prochaines, que l'avenir des générations futures, que nous sommes en train d'hypothéquer sérieusement à cause de notre négligence.

C'est dans ce contexte que nous tentons dans cet article, en tant que professionnels de la santé, d'apporter une contribution à cette réflexion en nous fondant sur une méthodologie qui a permis de soigner, de prévenir et même d'éradiquer certaines maladies qui constituaient des fléaux de l'humanité. En éclairant les problèmes de l'humanité dans l'optique de la santé, on pourra peut-être mobiliser de nouvelles énergies parmi ceux qui sont impliqués dans les professions de santé et donner un nouveau souffle à ceux qui ont perdu l'espoir d'influer sur notre avenir à tous. Une énergie accrue doit être consacrée à la définition de priorités communes à tous les être humains, lesquelles devraient transcender certaines des priorités actuelles, comme la productivité, le rendement et le *cost-efficiency*. Ces dernières n'ont de valeur que si elles ne sont pas une fin en soi, et ne devraient être qu'un moyen de réaliser notre objectif prioritaire – donner à chacun la possibilité d'être en bonne santé au sens large que lui donne l'Organisation mondiale de la santé (OMS) : « La santé est un état complet de bien-être physique psychique, et social ». C'est d'ailleurs surtout quand on la perd que l'on réalise la priorité qu'est la santé, car en son absence toutes les autres valeurs perdent de leur importance.

Nous prendrons pour point de départ l'article 25 de la Déclaration universelle des droits de l'homme de 1948, qui affirme: «Toute personne a droit à un niveau de vie suffisant pour assurer sa santé, son bien-être et ceux de sa famille, notamment pour l'alimentation, l'habillement, le logement, les soins médicaux, ainsi que pour les services sociaux nécessaires...» Nous rappellerons ensuite quelques notions essentielles sur la santé publique, les conflits armés et l'action humanitaire, avant de proposer une classification des mesures préventives qu'il s'agit de renforcer et d'harmoniser pour atteindre notre objectif. Enfin, nous essaierons de définir le rôle que pourraient jouer les individus et les organisations que préoccupent ces problèmes, notamment le Mouvement international de la Croix-Rouge et du Croissant-Rouge, en participant à l'établissement des bases de ce qui pourrait devenir un nouveau «contrat social international» pour le XXIe siècle. Un tel contrat, centré sur la santé, valeur encore universellement reconnue, aurait plus de chance d'aboutir à un consensus universel que s'il était orienté vers d'autres valeurs essentielles, comme la paix, les droits de l'homme et l'environnement qui, en raison d'une certaine dénaturation politique, ont perdu leur image positive universelle.

La santé publique

La santé publique est ce que nous faisons collectivement dans une société pour établir les conditions grâce auxquelles les gens pourront être en bonne santé. *A contrario*, il s'agit d'une série de mesures que peut s'imposer une société pour éviter que les gens ne vivent dans des conditions à haut risque ou nuisibles pour leur santé individuelle ou collective.

Ces mesures de protection qui peuvent se concrétiser sous forme de lois ou de règles doivent, pour être efficaces, être expliquées, généralement acceptées et volontairement appliquées. Cela ne va pas sans conséquences pour les individus qui doivent céder une partie de leur liberté pour le bien de la collectivité. En effet, la liberté de prendre des risques pour sa santé relève d'un choix personnel et philosophique entre le plaisir présent et le risque à long terme. La société ne peut pas respecter cette liberté individuelle si celle-ci débouche sur une mise en danger de la santé d'autrui, ou si les risques que nous prenons pour nous-mêmes aujourd'hui constitueront demain une charge pour la collectivité.

Les spécialistes de la santé publique, en collaboration avec les milieux politiques, ont réussi ces dernières décennies à obtenir des résultats

dans de nombreux domaines en dépit de traditions et de mauvaises habitudes si profondément enracinées dans nos sociétés qu'elles semblaient immuables. Le tabagisme et l'alcool au volant illustrent bien cette constatation. Qui aurait imaginé, il y a 10 ans, qu'on ne fumerait plus dans les bureaux de New York ! Par analogie, qui imagine aujourd'hui que la mortalité urbaine par violence va diminuer dans dix ans aux États-Unis, à la suite des actions en justice intentées à Chicago et à La Nouvelle-Orléans contre des commerçants qui ont vendu des armes à des délinquants et qui ont de ce fait participé indirectement à la mort de nombreux innocents !

La stratégie de la santé publique consiste tout d'abord à identifier, sur la base de statistiques, les problèmes prioritaires qui sont responsables des maladies et des accidents les plus fréquents, et d'analyser leur coût pour la société. On procède ensuite à une étude de tous les facteurs en amont du problème, et de toutes les actions qui pourraient être entreprises pour diminuer les facteurs de risques. On fixe également des indicateurs, c'est-à-dire des points de repère mesurables qui permettent de suivre de façon objective les résultats des actions préventives. Il s'agit ensuite de passer à l'action en présentant aux décideurs des données objectives sur un problème de santé identifié, ainsi qu'une palette de propositions concrètes d'actions à entreprendre pour améliorer la situation. C'est sur ces bases qu'il faudra informer l'opinion publique, susciter son intérêt et obtenir son adhésion, avant de se lancer dans l'action proprement dite. Celle-ci est, en effet, un processus à long terme, qui ne peut aboutir sans un large consensus sur l'importance du problème à résoudre.

Si une majorité d'individus admet la gravité des problèmes de santé sur lesquels nous pourrions avoir un impact tangible, trop d'entre eux n'agissent pas en conséquence et ont une attitude ambiguë. Rares sont ceux qui sont ouvertement auto-destructeurs, mais nombreux sont ceux qui ne sont pas prêts à sacrifier le plaisir immédiat à un avenir de toute façon incertain. L'attitude des autorités reflète cette ambiguïté : les mesures pratiques qu'elles mettent en œuvre sont souvent incomplètes et laissent des échappatoires justifiées par le respect des libertés individuelles. Par exemple, alors que la vitesse est limitée à 130 km/h, pourquoi est-il permis de vendre des voitures capables de dépasser les 200 km/h ?

Pourquoi ne taxe-t-on pas plus les cigarettes afin de pouvoir financer le traitement des cancers du poumon qui coûtent si cher à la communauté ? D'une part, il est bien que la communauté laisse aux individus

la liberté de choix mais d'autre part, il est regrettable qu'elle ne protège pas mieux les individus immatures, qui n'ont pas la possibilité de résister et qui sont vulnérables à la tentation des excès destructeurs.

Parmi les obstacles qui ralentissent ou paralysent la mise en œuvre des mesures préventives de santé publique, on ne peut pas négliger l'influence que peuvent exercer d'importants intérêts financiers sur les milieux politiques. On ne peut pas nier l'effet prédateur de certaines pratiques commerciales et financières, qui visent uniquement le rendement immédiat, quitte à hypothéquer sérieusement l'avenir de l'humanité. Mais il y a aussi, heureusement, des hommes d'affaires assez éclairés et astucieux pour orienter leur production vers de nouveaux produits très rentables, qui vont contribuer à diminuer les risques d'accidents ou de maladie des consommateurs – par exemple, les ceintures de sécurité et le système de freinage ABS pour protéger les automobilistes, les aliments à faible teneur en cholestérol pour protéger les hypertendus et les boissons sans alcool bon marché pour protéger les jeunes de l'alcoolisme.

Malgré ses ambiguïtés et son côté dérangeant, la santé publique a tout de même permis d'obtenir des résultats encourageants dans bien des domaines et garde devant elle un immense champ d'action, notamment dans les domaines de la violence et de l'abus des drogues.

Les conflits armés

Les conflits armés, comme les orages, n'éclatent pas dans un ciel serein. Ils sont annoncés par de nombreuses prémices qui, par accumulation et interrelations, aboutissent à l'explosion. Les principaux facteurs à l'origine des guerres sont la mauvaise répartition des ressources – qui entraîne le sous-développement –, la misère, la surpopulation, l'injustice et l'absence de démocratie, auxquelles on peut ajouter l'exclusion et le chômage dans les sociétés trop compétitives. Le faible taux d'éducation, l'intolérance religieuse et le tribalisme constituent des risques supplémentaires. Selon l'importance de ces critères de risque, on peut pratiquement suivre la «chronique d'une guerre annoncée», mais il est souvent déjà trop tard pour intervenir [2].

Les conflits armés internationaux qui opposent des armées nationales classiques et structurées sont devenus très rares ces dernières décennies.

2 Les crises du Kosovo et de l'Algérie sont des exemples types de situations où tous les éléments d'un conflit armé étaient réunis plusieurs années avant que la violence n'éclate.

La guerre qui opposa l'Irak à l'Iran en 1978 fut l'une des dernières du genre. Les conflits types d'aujourd'hui sont des conflits internes et chroniques dont les enjeux, d'une grande complexité, sont un mélange d'intérêts économiques, ethniques et religieux. Lorsque le monde était réparti entre deux superpuissances, la majorité des mouvements combattants étaient parrainés par l'un des deux blocs rivaux qui pouvaient, s'ils en avaient la volonté, exercer un certain contrôle sur leurs protégés et sur leurs méthodes de combat.

Ce n'est plus le cas aujourd'hui dans des situations où règnent l'anarchie et le chaos, et dans lesquelles la limite entre guerriers et bandits est difficilement perceptible. De plus, l'absence de responsables crédibles rend toute négociation très aléatoire faute d'interlocuteurs ayant un réel pouvoir décisionnel. Dans ces situations, où le chantage et la violence sont le langage commun, les civils sans armes sont mis en danger par ceux-là mêmes qui sont censés les protéger. Ils tentent de survivre dans la crainte permanente et l'insécurité sans avoir accès aux denrées indispensables pour préserver leur santé.

Contrairement aux guerres classiques, dans lesquelles les militaires étaient les plus exposés, ce sont les civils qui sont les premières victimes des conflits armés actuels. Leurs droits, qui sont définis dans les Conventions de Genève, sont régulièrement et systématiquement bafoués. Ce ne sont pas les balles perdues ni les effets directs ou collatéraux des armes qui représentent pour eux le plus grand péril, mais le fait que les biens indispensables à leur survie sont pillés ou séquestrés pour assurer la subsistance des combattants qui vivent à leurs dépens. Outre le pillage, les récoltes sont détruites, les systèmes d'adduction d'eau sont sabotés, les voies de communication sont bloquées et des villages sont incendiés à titre de représailles. Sans sécurité, sans nourriture, sans eau potable, sans abris, sans ressources et sans système de santé, ces populations subissent une augmentation de la morbidité et de la mortalité telle qu'elles peuvent être menacées de disparition [3].

Les interventions humanitaires

De tous temps, des gestes de solidarité, de compassion et de charité ont permis de secourir des êtres humains en situation de détresse. Devant la misère intolérable, l'homme, qui a la capacité naturelle de

3 Exemples : les Dinkas du sud du Soudan et, dans une certaine mesure, les Timorais et les Tibétains.

s'identifier à son prochain, ressent une forte émotion qui le pousse à agir. Cette faculté d'identification peut disparaître temporairement dans les guerres idéologiques, religieuses ou ethniques, car l'ennemi est diabolisé au point qu'on ne lui reconnaît plus la qualité d'être humain. C'est dans de telles situations que la présence de volontaires étrangers, qui prennent des risques en apportant leur aide, peut revêtir une signification symbolique essentielle en rappelant certaines valeurs humaines au milieu du chaos. Même si les gestes humanitaires n'ont pas toujours été accomplis de façon purement désintéressée, ce sont des gestes qui font honneur à l'humanité et qui compensent d'autres gestes moins glorieux.

Depuis les années 70, de nombreuses organisations humanitaires non gouvernementales (ONG) se sont développées et ont complété l'action du Comité international de la Croix-Rouge (CICR) sur le terrain des conflits armés. Ces organisations, qui étaient au début farouchement indépendantes, généreuses et spontanées, se sont peu à peu structurées et professionnalisées. Étant donné les besoins énormes des victimes de la guerre, qui n'ont pas diminué au cours des deux dernières décennies, ces organisations, aujourd'hui financées à 80 % par des fonds gouvernementaux [4], interviennent sur les lieux des grandes catastrophes, en complément des services étatiques locaux, débordés ou anéantis. Les grandes organisations spécialisées des Nations Unies, qui ont tendance à devenir plus opérationnelles [5], peuvent agir dans un pays en collaboration avec les autorités locales, mais il leur est souvent difficile d'œuvrer dans des zones non contrôlées par un gouvernement. En effet, les gouvernements reconnus ne veulent pas renoncer à la sacro-sainte souveraineté nationale, même s'ils n'ont plus aucun moyen d'agir dans certains de leurs territoires. Les organisations onusiennes peuvent collaborer étroitement avec des ONG et même financer certaines de leurs actions.

Dans les conflits armés dont on parle sur la scène internationale, les ONG sont en mesure de couvrir une grande partie des besoins des populations accessibles, grâce à leur savoir-faire et aux dons spontanés de ceux qui, émus par les images télévisées, se sont montrés solidaires dans la période de crise aiguë. Cependant, quand les populations touchées se trouvent dans des

4 S. Forman et R. Parhad, *Paying for essentials: Ressources for humanitarian assistance*, document préparé pour la réunion au Pocantico Conference Center of the Rockefeller Brothers Fund, 11-12 septembre 1997.

5 HCR, UNICEF, OMS, PNUD, OCHA.

zones d'insécurité, coupées du reste du monde, ou lorsqu'elles continuent à souffrir une fois la crise aiguë passée, il est impossible aux organisations non gouvernementales, comme aux autres, de répondre aux besoins les plus élémentaires des victimes, soit parce qu'elles n'y ont pas accès soit parce qu'elles manquent de moyens dès lors que les situations ne font plus la une des médias.

Le contexte dans lequel se déroulent les grands drames consécutifs à la violence est, par définition, hautement politisé. Cette politisation inévitable fait que chaque action est interprétée politiquement, même si elle ne vise qu'à secourir des victimes innocentes. Il est très difficile pour des belligérants qui refusent la qualité d'êtres humains à leurs ennemis – non seulement aux combattants, mais aussi à leurs familles – de comprendre ce que sont la neutralité et l'impartialité. Il est cependant possible, avec beaucoup de patience et de persuasion, de faire comprendre le statut de neutralité que les Conventions de Genève confèrent aux blessés, aux prisonniers et aux populations civiles ne participant pas aux hostilités.

Par analogie, il est également très difficile de faire en sorte que ceux qui apportent l'aide humanitaire soient respectés, surtout si celle-ci est aussi distribuée aux victimes neutres dans le camp ennemi. Le préalable indispensable est que cette aide soit strictement dirigée vers les victimes et ne soit pas utilisée par les groupes armés comme support à leur intendance. Cela soulève d'immenses difficultés pratiques, car, dans des circonstances où les armes font la loi et où le pillage est devenu une routine, les humanitaires risquent de perdre la vie s'ils n'obtempèrent pas aux pressions des groupes armés. Il est de plus en plus courant de voir des groupes armés créer volontairement des situations dramatiques chez les civils de leur propre camp, ceux-ci devenant les appâts d'une aide humanitaire qu'ils vont utiliser à des fins militaires [6]. On a constaté que l'aide humanitaire était parfois utilisée pour mettre en œuvre une politique de déportation de populations civiles, ou manipulée par les autorités [7].

Quelques organisations humanitaires n'ont pas pu supporter d'être les témoins d'atrocités commises sur le terrain sans en faire part à l'opinion publique. Il s'ensuit que ces organisations ont dû abandonner les victimes dont elles s'occupaient [8]. D'autres organisations, dont le CICR, ont choisi de se taire

6 S.Brunnel, *Géopolitique de la faim*, le Seuil, Paris, 1998.

7 J.C. Ruffin, *Le piège, quand l'aide humanitaire remplace la guerre*, Éditions J.C. Lattès, Paris, 1986.

8 Exemple : le départ de Médecins sans frontières d'Éthiopie en 1985.

pour pouvoir rester auprès des victimes. Ces deux approches: *parler* ou *se taire* sont complémentaires, car les victimes sont soignées et l'opinion publique est informée, mais elles sont incompatibles, car l'on ne peut pas parler et rester auprès des victimes. Les Conventions de Genève donnent des droits et des devoirs au personnel sanitaire. Celui-ci doit être respecté par les belligérants, mais il doit se cantonner dans son rôle et accomplir sa tâche selon des règles d'éthique et de déontologie qui sont précisées dans ces Conventions [9].

Mesures préventives

Les mesures préventives que nous tenterons d'analyser et de classer ne concernent pas uniquement le personnel médical, car leur mise en œuvre nécessite la participation des hommes politiques et d'experts dans de nombreux domaines – juristes, militaires, économistes, sociologues, psychologues, historiens et spécialistes en communication. Les résultats issus des travaux de ces experts doivent être communiqués à l'opinion publique et aux hommes politiques dans un langage rigoureux et clair, débouchant sur des propositions pratiques.

Nous classerons ces mesures préventives en trois catégories principales: prévention primaire, secondaire et tertiaire. Pour des raisons de clarté, nous diviserons chacune de ces catégories principales en deux sous-catégories: mesures à prendre à froid (en dehors de la période du conflit) et à chaud (pendant le conflit).

Prévention primaire

1. La *prévention primaire à froid* vise essentiellement à éviter la survenue d'un conflit armé international ou interne. C'est un processus permanent qui est la responsabilité première des États et qui est au centre des activités des Nations Unies, en particulier du Conseil de sécurité. Cependant, ce processus implique la participation de nombreuses organisations gouvernementales et non gouvernementales laïques ou religieuses, ainsi que le soutien de l'opinion publique et des médias. Les militants pacifistes ont pour rôle de faire pression sur les autorités et de leur rappeler l'importance du problème.

L'apport des universités et de nombreux experts dans des domaines aussi variés que les sciences politiques, l'histoire, la philosophie, l'ethnologie, la

9 A. Alma Baccino, *Manuel des droits et devoirs du personnel sanitaire lors des conflits armés*, CICR-Ligue, Genève, 1982.

sociologie, l'économie et les sciences militaires est indispensable pour traiter un problème aussi complexe. Les spécialistes de la santé, qui jouent un rôle essentiel dans la prévention tertiaire (voir par. 5 et 6), peuvent contribuer à cette prévention primaire en mettant à la disposition des décideurs d'une part et des chercheurs d'autre part des données objectives sur l'impact réel de la guerre, non seulement sur la santé des populations directement touchées, mais aussi sur celle de la communauté internationale dans son ensemble [10]. Ces éléments peuvent être de précieux arguments pour convaincre les décideurs de la nécessité de consacrer toute l'énergie nécessaire à la prévention des conflits armés, dont les conséquences sont plus graves que tout ce que l'on imagine habituellement [11].

Les accords sur le démantèlement des armements stratégiques rentrent aussi dans les mesures de prévention primaire, au même titre que la lutte contre le trafic d'armes.

2. La *prévention primaire à chaud* consiste à mettre fin au plus vite aux hostilités en cours. La médiation entre les belligérants est du ressort des gouvernements, des Nations Unies et des organisations gouvernementales régionales. Les problèmes de santé sont souvent le premier sujet sur lequel un dialogue peut s'établir entre les belligérants. Les évacuations de blessés, les rapatriements sanitaires, la fourniture de médicaments et de matériel chirurgical, et les vaccinations sont en effet des questions qui peuvent être discutées entre médecins issus de chaque partie. Les négociations sur des problèmes techniques peuvent favoriser une reprise du dialogue entre les belligérants sur le plan politique. Il convient donc d'associer les spécialistes de la santé à la diplomatie préventive [12].

Prévention secondaire

3. La *prévention secondaire* rassemble toutes les mesures qui tendent à limiter les horreurs de la guerre. L'essentiel de ces mesures est contenu dans le droit international humanitaire. Les règles du droit de La Haye fixent des limites aux méthodes de combat et à l'usage des armes, et protègent les biens culturels et l'environnement. Le droit de Genève protège ceux

10 Exemples: le développement, durant le conflit cambodgien, de souches résistantes de paludisme et de tuberculose, qui se sont ensuite disséminées.

11 Dans ce sens, la *Geneva Foundation* pour la protection de la santé dans la guerre s'est donné pour but d'objectiver toutes les conséquences de la guerre sur la santé.

12 K. M. Cahill, *Preventive diplomacy*, Basic Book and The Center for International Health and Cooperation, New York, 1996.

qui ne prennent pas part aux hostilités actives (les blessés de guerre, les naufragés, les prisonniers de guerre et les populations civiles), le personnel sanitaire et les installations sanitaires.

La prévention secondaire à froid consiste principalement à développer ce droit, à obtenir des États qu'ils adhèrent aux principaux traités, et à établir des mécanismes de contrôle et de sanctions à l'encontre des contrevenants. Il s'agit également de rappeler aux gouvernements l'engagement qu'ils ont pris en adhérant aux conventions humanitaires de diffuser le droit humanitaire auprès des membres des forces armées, de la police et du grand public, de faciliter la mise en place de mécanismes de vérification des faits et de rendre efficace la poursuite pénale des violations, soit par des tribunaux nationaux soit par un tribunal international. Le droit international doit aussi être mis à jour et adapté aux nouvelles réalités du terrain, en évitant cependant de mettre en cause les acquis antérieurs.

Un autre élément de la prévention secondaire consiste à réduire la quantité d'armements dans les zones à risque (ou à limiter ou arrêter les exportations d'armes vers ces pays), et à lutter efficacement contre la fabrication, le transport et le trafic des armes interdites.

L'ensemble de ces mesures préventives est du ressort des hommes politiques et des juristes. Toutefois, chacun peut, à son niveau, contribuer à faire connaître le droit existant afin d'éviter les réactions émotionnelles qui se manifestent lors de chaque situation de crise. Celles-ci mènent à de nouvelles propositions d'action ne tenant pas compte de ce qui existe déjà mais qui n'est malheureusement pas assez connu ni appliqué par les États.

Le personnel de santé, de par sa proximité avec la population, est tout particulièrement bien placé pour faire connaître le droit international. Il peut même transmettre aux juristes et aux hommes politiques des informations originales et précises sur certains problèmes que rencontrent les victimes de la guerre et qui sont mal couverts par les Conventions. Les constatations que les chirurgiens font sur les effets des armes doivent être utilisées pour déterminer si ces armes n'ont pas des effets assimilables à celles qui sont déjà interdites [13].

4. La *prévention secondaire à chaud*, pendant le conflit même, consiste surtout à rappeler aux belligérants les obligations qui découlent du droit international humanitaire. Le personnel médical est souvent appelé à

13 *The medical profession and the effects of weapons*, Rapport du Symposium de Montreux, Comité international de la Croix-Rouge (éd), Genève, 1996.

négocier directement avec les groupes armés pour obtenir la protection des blessés, des ambulances et des installations sanitaires. Dans de nombreux cas, les parties au conflit acceptent les démarches du personnel médical si elles réalisent qu'il s'agit de respecter des règles universellement reconnues et qu'il est difficile d'obtenir le même résultat par la voie hiérarchique.

Prévention tertiaire

5. La *prévention tertiaire* consiste à préparer les autorités locales et tous ceux qui, en temps de conflit armé, devront agir de manière à limiter la morbidité et la mortalité des populations atteintes.

À froid, il s'agit principalement de mettre sur pied un dispositif comprenant d'une part, du personnel spécialement formé pour affronter les problèmes de santé spécifiques aux situations de conflits armés, et d'autre part une structure matérielle et logistique capable de répondre à une situation d'urgence. Il s'agit de prévoir les scénarios probables afin de pouvoir se préparer à répondre au mieux aux problèmes prioritaires.

Même s'il est fréquent que les structures locales se disloquent en cas de conflit, des professionnels locaux préparés à affronter une telle situation de crise pourront jouer un rôle irremplaçable s'ils sont intégrés dans le dispositif d'urgence international. La formation des intervenants se fonde sur les expériences acquises par ceux qui ont dû affronter les problèmes de santé en situation de conflit armé. Ces problèmes peuvent être divisés en deux catégories : le traitement des victimes des armes de guerre d'une part, qui nécessite des connaissances spécifiques (chirurgie de guerre, traitement des irradiés, des gazés, des intoxiqués, etc.) et d'autre part, les mesures de santé publique qu'il faudra mettre en œuvre malgré les nombreuses contraintes imposées par la situation (accès aux victimes, sécurité, conditions de travail précaires, etc.).

6. L'efficacité de la *prévention tertiaire* à chaud dépendra de la qualité du dialogue qui pourra être instauré avec les autorités locales qui ont le pouvoir effectif. Il s'agira de rappeler aux combattants les règles qu'ils sont censés respecter pour que des populations ne soient pas mises dans des situations incompatibles avec la survie. Si les autorités ont décidé de déplacer des populations, il faudra obtenir d'elles que ces déplacements se fassent en tenant compte de la situation en matière de sécurité, et d'accès à l'eau potable et à la nourriture, ainsi que dans des conditions d'hygiène acceptables. Il faudra aussi négocier l'accès des services de santé et des organisations

humanitaires aux victimes. Sans lui, en effet, aucun secours efficace n'est possible. Le personnel médical joue souvent un rôle décisif dans ce type de négociation, qui est essentiel. Parmi les mesures préventives tertiaires à chaud, l'accent doit être mis sur celles qui visent spécifiquement à prévenir les mutilations dues aux mines antipersonnel: d'abord l'information de la population sur les précautions à prendre, et ensuite le déminage.

À chaud, il faudra aussi prévenir les épidémies en améliorant les conditions d'hygiène et en lançant des campagnes de vaccination partout où cela est possible, car les guerres actuelles tuent beaucoup plus par maladie que par blessure [14].

Quelques commentaires

Cette classification en six groupes de mesures préventives ne tient pas compte des zones désertiques, dans lesquelles aucune action préventive n'est entreprise. On peut constater un grand nombre d'acquis dans chacune de ces catégories. Cependant, si l'on se place du côté des victimes, on remarque que les résultats pratiques de ces mesures restent très insuffisants, car des millions d'individus sont exposés chaque jour à des risques majeurs pour leur santé et échappent à toute protection. Il n'existe pas encore à notre connaissance d'indicateur scientifique, une sorte de baromètre qui permettrait d'objectiver et de suivre l'évolution des atteintes à la santé dues à la violence et à la guerre dans le monde. C'est là une lacune qu'il faut combler si l'on veut mesurer l'impact des mesures actuelles et les progrès futurs de la prévention.

Le témoignage de ceux qui interviennent dans la prévention tertiaire à chaud et qui sont en contact direct avec les autorités et les populations atteintes sert aujourd'hui d'indicateur approximatif, mais ceci est insuffisant pour pouvoir objectiver la situation. Ce qui manque actuellement c'est la vision d'ensemble qu'assureraient une revue systématique et une évaluation objective de tous les éléments du faisceau des mesures préventives existantes. Cette vision globale pourrait être obtenue en renforçant les liens entre les différents intervenants et en harmonisant leurs interventions. Parallèlement, il faudra imaginer les mesures complémentaires nécessaires pour combler les lacunes du système. Une telle démarche nécessite un effort

14 M. L. Garenne and R. Coninx, « Effects of the civil war in central Mozambique and evaluation of the intervention of the International Committee of the Red Cross », *Journal of Tropical Pediatrics*, vol. 43, 1997, pp. 318-323.

concerté de tous ceux qui sont impliqués dans le processus de la prévention et qui, tout en gardant leur rôle spécifique, doivent situer leur action dans le processus global pour en accroître l'efficacité. En effet, le cloisonnement des intervenants qui, souvent, ignorent les actions des autres, se traduit par une fragmentation de l'action qui nuit à la réalisation harmonieuse de l'ensemble du processus et qui est à l'origine de nombreuses confusions des genres.

L'idéal vers lequel il faut tendre, sans espérer de résultats immédiats, est le succès de la prévention primaire qui rendrait inutiles tous les autres échelons de la prévention. Éviter tous les conflits armés étant aujourd'hui une utopie, il reste nécessaire d'améliorer la prévention secondaire et de faire en sorte que, si des conflits surviennent, leurs effets sur la santé soient limités en renforçant les règles de comportement des belligérants et les mécanismes de contrôle et de sanctions.

On ne peut pas non plus négliger la prévention tertiaire qui consiste à préparer ceux qui devront réparer les dégâts si les préventions primaires et secondaires échouent.

Il ne faut pas non plus que ceux qui doivent prévenir les guerres ne fassent pas tous les efforts nécessaires, au prétexte que les effets de la guerre vont être atténués par ceux qui sont responsables d'y remédier [15]. Une meilleure gestion des désastres ne doit donc pas conduire à une diminution de la vigilance de ceux qui sont responsables de les prévenir. Si l'on prend pour exemple la question des mines antipersonnel, il est évident que l'interdiction totale de fabriquer des mines, de les transporter et de les poser est un moyen radical de prévenir les mutilations provoquées par ces armes aveugles. Cependant, il est évident que cette interdiction [16], même si elle était acceptée par tous les gouvernements – ce qui est loin d'être le cas aujourd'hui – n'empêchera pas le trafic illégal des mines ni leur fabrication clandestine pendant de nombreuses années. Il faut donc continuer à rappeler aux militaires l'obligation qu'ils ont d'enregistrer les champs de mines et de déminer avant de quitter les lieux, à mettre l'accent sur les dangers à long terme des mines non détectables et non périssables, à informer les populations des précautions à prendre en cas de risque de mines, à déminer et à former des chirurgiens et des prothésistes, afin qu'ils puissent soigner les victimes [17]. Il ne faudrait pas

15 Dans ce sens, on notera l'ambiguïté de l'embargo doublé d'une action humanitaire internationale, par exemple en Haïti. R. Tardif, *Regard sur l'humanitaire, une analyse de l'expérience haïtienne dans le secteur santé entre 1991 et 1994*, Hartmattan, Montréal/Paris, 1997.

que le processus d'éradication totale qui s'est enclenché grâce à une grande mobilisation émotionnelle ne devienne un alibi pour abandonner ou assouplir les mesures qui sont en aval de l'interdiction totale et qui restent indispensables. Il faut donc attendre que la prévention primaire soit totalement efficace avant de renoncer aux autres degrés de la prévention.

Ceux qui agissent dans le cadre de la prévention à chaud, que ce soit dans la médiation, le contrôle des armements, ou la négociation quotidienne avec les autorités politiques et militaires, ainsi que ceux qui font de la prévention tertiaire sur le terrain, sont en contact direct avec la réalité de tous les jours. Ils ont une position privilégiée pour découvrir les failles du système. Ils possèdent une expérience unique qui, à notre avis, n'est pas assez exploitée par ceux qui agissent à froid. Si ceux qui s'occupent à froid de la prévention des conflits, du développement et de la mise en œuvre du droit international humanitaire ou de la préparation des dispositifs sanitaires avaient plus de contacts avec ceux qui ont l'expérience de la réalité à chaud, ils obtiendraient certainement de meilleurs résultats.

L'un des écueils majeurs de la prévention est que les groupes dissidents ne se sentent souvent pas astreints au respect des conventions internationales. Lorsqu'ils se battent au nom de groupes ethniques ou religieux contre des forces gouvernementales liées par le droit international humanitaire, un déséquilibre est créé, qui finit souvent par le mépris général des règles. Cette attitude est justifiée par des considérations de réciprocité, alors même que les Conventions de Genève précisent que le non-respect par la partie adverse ne légitime pas une violation des obligations par l'autre partie [18]. Cependant, certains mouvements armés peuvent être poussés à déclarer leur intention de respecter les Conventions. Ils espèrent ainsi obtenir un soutien matériel des gouvernements qui ont besoin de cette déclaration pour faire accepter l'assistance par leur opinion publique.

Conclusion

Malgré tous les progrès techniques et les efforts déployés jusqu'ici, on constate qu'il y a encore énormément à faire dans le domaine

16 Convention sur l'interdiction de l'emploi, du stockage, de la production et du transfert des mines antipersonnel et sur leur destruction, du 18 septembre 1997. Signée actuellement par 70 États et ratifiée par 51 États.

17 R. M. Coupland, *War wound of limbs: surgical management*, Butterworth/Heinemann, Oxford, 1993.

18 Voir, par exemple, la Ire Convention de Genève du 12 août 1949, art. 46.

de la prévention des conflits armés et de leurs conséquences sur la vie et la santé de millions d'innocents.

Les trois degrés de prévention avant et durant les conflits devront être encore développés et mis en œuvre simultanément et en harmonie. Il nous paraît impératif, pour atteindre cet objectif, d'améliorer notre méthodologie, notamment en créant des liens et des échanges entre les différents acteurs de la prévention. La méthodologie qui a fait ses preuves dans le domaine de la santé publique, et qui a permis d'éradiquer la variole et de maîtriser de nombreux autres fléaux de l'humanité, devrait inspirer ceux qui s'emploient à prévenir la violence et les conflits armés. Nous avons besoin de professionnalisme dans l'approche systématique des problèmes et de leurs conséquences, laquelle doit se fonder sur les expériences acquises. Une analyse de tous les mécanismes débouchant sur les conflits armés, et par conséquent sur les atteintes à la santé des populations et des individus, permettra de progresser et d'imaginer de nouvelles réponses, adaptées aux réalités contemporaines.

L'OMS, qui s'est déjà préoccupée des effets de la violence sur la santé [19], nous paraît être l'organisme le plus à même de coordonner cette stratégie. Elle pourrait inclure systématiquement dans son bilan annuel une rubrique relative aux effets des conflits armés sur la santé mondiale, comme cela se fait pour les grandes endémies. Cela donnerait aux gouvernements et à l'opinion publique une vision objective de ce gigantesque problème de santé publique et contribuerait à susciter une volonté politique forte d'améliorer la situation.

La responsabilité d'obtenir des résultats dans ce domaine n'est pas réservée à quelques experts ou hommes politiques. Il s'agit plutôt d'une responsabilité collective qui engage notre avenir à tous et que chacun doit assumer dans la mesure de ses moyens, soit en agissant directement soit en poussant les autorités politiques à donner une priorité absolue à la prévention de la violence et des conflits armés dont les conséquences touchent toute l'humanité. Une participation plus active des professionnels de la santé au processus de prévention de la violence et des conflits armés permettrait d'améliorer l'impact de cette prévention. En effet, ces personnes ont acquis une certaine crédibilité en raison d'une part, de leur contact direct avec ceux qui souffrent et d'autre part, en vertu de leurs compétences professionnelles en matière de prévention.

19 Quarante-neuvième Assemblée mondiale de la Santé, Résolution WHA29.25, *La prévention de la violence : une priorité pour la santé publique*, Genève, 1996.

Les organisations humanitaires et le Mouvement international de la Croix-Rouge et du Croissant-Rouge, qui a jusqu'ici démontré sa capacité d'adaptation aux nouvelles réalités, doivent également se mobiliser pour donner à cette prévention la priorité qu'elle mérite.

Seule une volonté politique forte de la communauté internationale permettra de réunir les moyens nécessaires pour obtenir des résultats. Ce message a déjà été lancé par de nombreuses personnalités, dont Jan Eliasson qui fut le premier sous-secrétaire général des Nations Unies pour les affaires humanitaires : « La prévention des conflits est un impératif moral dans le monde d'aujourd'hui. C'est une nécessité économique aussi bien pour les pays directement impliqués que pour la communauté internationale à cause du prix exorbitant de la guerre. C'est une nécessité politique pour la crédibilité de la coopération internationale, en particulier pour les Nations Unies. »

La création d'un point de rencontre pour tous les acteurs de la prévention à ses différents niveaux nous paraît constituer une mesure pratique relativement simple qui permettrait de combiner les acquis, de cerner les lacunes et de définir la stratégie globale à long terme qui fait défaut actuellement malgré les nombreuses activités ponctuelles en cours.

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Abstract

Prevention, armed conflict and public health

by Dr RÉMI RUSSBACH

The author points out that while a number of serious diseases have been eradicated in the recent past, most people in the world still have no access to basic health services. He argues that public health efforts should be given new priorities. War is of course a scourge which has not been eradicated, despite its immense impact on the state of health of entire populations. The author suggests that the same efforts should be undertaken to prevent armed conflict from breaking out and public health from deteriorating. He discusses a number of ways in which health personnel might contribute to such preventive action. Doctors, nurses and other health professionals are particularly well qualified to participate in such efforts as they are close to those who are affected by war.

THE REVIEW

The humanitarian-development gap

by
Jonathan Moore

AMONG the major issues arising from humanitarian action is the separation or, if you wish, the unrealized symbiosis between emergency relief assistance and sustainable development. What lies between these traditional realms can be called rehabilitation (for lack of a better term; more about semantics below) and is most often experienced in crisis-prone countries stunted by poverty and torn by conflict. There are currently over 30 such countries in the grip of situations that the United Nations calls "complex emergencies". These emergencies have multiplied owing to the concurrence of a number of factors including the end of the Cold War, the outbreak of previously inhibited ethnic hostility, weapons proliferation, the advancement of information technology, the erosion of inviolate sovereignty, the stubbornness of under development, and the snail's pace of democratization.

The middle ground of rehabilitation is very messy. It is characterized by fragility, inexperience, anxiety, confusion and political myopia. The interdependency of emergency life-saving and livelihood-building, the need for follow-on social and economic progress to prevent the squandering of humanitarian assistance, is not reflected by a natural dynamic of mutual reinforcement in the policies and programmes of the international

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community and the recipient governments. To the contrary, humanitarian and development organizations tend to compete with one another for money, turf and credit, almost more as adversaries than collaborators. The rhetoric of partnership is put to shame by the reality of competition among those involved. This makes it all the more difficult to meet the huge challenges in these countries: rebuilding physical and social infrastructure, reintegrating returning populations, strengthening grass-roots governance and civil society, maintaining security while developing a justice system, reconciliation – all of which must be addressed simultaneously.

To understand better the reasons for this situation and how it might be improved, it is helpful to consider three fundamental points. The first is the powerful difference generally obscured between humanitarian aid and rehabilitation. The former is politically popular, well financed, largely implemented by outsiders, relatively quick and relatively easy. The latter is politically dubious, inadequately funded, essentially carried out by recipients, takes longer, and is more difficult.

The second basic point is that there are inadequacies in the language used to categorize these evolving circumstances which can lead to confusion rather than greater clarity, keeping in mind that semantics are open to manipulation and certain interests are served more by uncertainty than agreement. The term humanitarian means at its root the characteristics of human beings, both good and bad. But it has come to refer to the more attractive aspects of the species, the more virtuous and selfless, the 'better angels of our nature'. The word no longer covers the petty, ignoble and demonic. "Humanitarianism" accordingly means doing good works, being compassionate, behaving like the good Samaritan. Deriving from this positive conceptualization of human nature are the norms of international humanitarian law codified in the Geneva Conventions of 1949 and their two 1977 Additional Protocols, which protect non-combatants amidst armed conflict.

In a programmatic context, humanitarian aid became consonant with the relief of human suffering: food, tents, medicine and protection. Later, amidst talk of a continuum and the growing recognition that there had to be some strategy and action to go beyond treating symptoms and to address root causes, the international community began using the label "humanitarian" in a less restricted context. Now the so-called humanitarian agencies, some of which have been involved in rehabilitation activities for

a long time and are perhaps planning more, are using a less restrictive definition, one encompassing development (although hopefully not all the way to including some of our nastier qualities).

The third underlying point is the psychology of both the enormous nature of the challenge and the inadequate response to it. The prodigious difficulty of the task facing the international community – UN agencies, NGOs, "bilateral" efforts on behalf of and in league with the afflicted societies – in attempting to treat wounds, heal emotions and build capacity into something capable of improving chances for survival, is profoundly underestimated. This is because the scale of that task truly staggers the imagination, because it can be debilitating to admit the big troubles and the long odds involved, and because we are unwilling to commit the means needed to get the job done. Almost subconsciously our perceptions and policies are oversimplified and downsized in order to prevent us being intimidated or overwhelmed and to permit the illusion that what we are providing is enough. Of course there is a cost in not recognizing the enormity of the endeavour: with insufficient will and resources that endeavour will fail. And when real progress is not achieved quickly, then those involved not only become frustrated but also angry and cynical, more inclined to cast blame and less to practise patience, wisdom and mutual respect needed to bridge the humanitarian-development gap.

At the local level, there are many obstacles and shortcomings in the rehabilitation and transitional programmes being run by international organizations, programmes which can link the forward part of humanitarian aid to the early part of development efforts. Among these obstacles are the chaotic multiplicity of needs, programmes and entities involved; the natural institutional resistance to role demarcation and coordination of those on the ground, whether multilateral, bilateral or national; the weakness of bodies, mechanisms or procedures designed to achieve complementarity; the disinclination of outside parties to invest responsibility in the indigenous ones (despite the former's protestations to the contrary), thus missing the opportunity for a common and integrated strategy based on internal culture, politics and capacity rather than on interests and controls imposed from without; and the accompanying mentality that looks for solutions rather than progress. Humanitarian agencies do not design their work adequately to meet long-term goals; development organizations fail to design theirs to deal with fragile and volatile circumstances. But most of the problems here come

from outside, from the donor capitals and from the upper reaches of the UN family.

It is difficult to criticize the donors: they hold the purse strings, they have many other problems and they cannot do everything. Moreover, though gratifying in some instances it can be counterproductive to bite the hand that feeds you. But they are the heart of the matter in bridging the gap we are discussing. Although the individual national donors have good intentions, they are too often stymied politically. Their unexceptionable rhetoric continues but remains unmatched by action. It masks reality and serves as a substitute for addressing it.

Part of the problem donors have in dealing with transitional societies is that there is a virtual contradiction between the requirements for this kind of assistance and their own stubborn habits: an impatient, short-term mentality; a focus on band-aid measures instead of steps to address the root causes of problems; too much emphasis on their own interests and techniques rather than relying on local resources; and a misplaced passion for "instant democracy". Another difficulty is the void between officials at the lower bureaucratic levels and in the field – whose job it is to know what they are doing and with whom, to comprehend the specifics and to take practical action – and those at higher political levels in capitals, people whose incentive-and-reward system emphasizes the need to accommodate other interests and priorities and to deal with macropolicies for which details simply get in the way.

Donors tie their aid to domestic economics and domestic politics in ways ranging from the bothersome to the deplorable, but this is neither new or surprising and it pervades foreign aid rather than being particular to the link between emergency and development support. Rehabilitation assistance aimed at effecting a transition from fierce crisis to a viable future remains politically unsalient. It is not as simple, striking or gratifying as dispatching relief aid, or cruise missiles for that matter. And even structural adjustment, macro economic reform, trade balances, reserve levels, debt relief, capital investment and long-term loans (the business of the bankers and finance ministries), however difficult, has more history, priority and control and less risk and uncertainty behind it.

The donors thus do not provide the cooperation, discipline or coordination so vital for rationalizing the middle ground we are discussing. Nor do they give the matter the priority it requires. This applies both to the

donors themselves and to the multilateral agencies whom they fund and who must respect their wishes. The top UN leadership, its Secretariat departments and the governing bodies for its funds, programmes and specialized agencies simply do not receive a forceful and persistent message from the donor community to the effect that they must stop their quarrelling and competition and work together for the good of the whole. The recent effort at UN reform was promoted by donors who (except when it came to down-sizing and down-funding) eventually abandoned their support for serious consolidation and coordination of the major units of the UN system responsible for countries in the grip of complex emergencies. The opportunity was lost for role allocation and mutual reinforcement. Dissonance, self-interest, competition and the ambition to do too much individually are largely unfettered. There is no shared view which is active and operationalized of a common whole, insufficient leadership to provide it, and therefore little inclination to attain it. To some degree, this is everybody's quandary, but it is above all the donors who are responsible for the problem of the humanitarian-development gap and who are the best hope for its solution.

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Résumé

L'écart entre l'humanitaire et le développement

par JONATHAN MOORE

L'auteur de cet article se penche sur les liens qui existent entre l'assistance dans des situations d'urgence et d'autres formes d'assistance, notamment les réponses aux «situations d'urgence complexes». Il examine certains des obstacles qui font qu'il est si difficile, dans la pratique, de passer de l'assistance d'urgence à une aide à moyen terme (réhabilitation). Après avoir souligné le rôle important qu'ils devraient jouer dans ces efforts, il appelle les donateurs à mieux assumer leurs responsabilités.

LA REVUE

The politics of the political/humanitarian divide

by
DANIEL WARNER

"[T]o live ethically, we must think and act politically." [1]

"[H]umanitarian endeavour and political action must go their separate ways if the neutrality and impartiality of humanitarian work are not to be jeopardized...."[2]

"Even though operating in highly politicized circumstances, humanitarian action does not have to be political." [3]

THERE has been a recent growth in "humanitarian affairs". Whether it be in the budgets of organizations specializing in humanitarian matters,[4] the labelling of conflicts as humanitarian crises, concern about humanitarian action, or even the creation of the post of Under-Secretary-General of the United Nations in the new Office for the Coordination of Humanitarian Affairs, there is no question that the word "humanitarian" is much in evidence today as a

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1 Melissa Orlie, *Living ethically, acting politically*, Cornell University Press, Ithaca, 1997, p. 169, cited in David Campbell, "Why fight: Humanitarianism, principles and post-structuralism", *Millennium: Journal of International Studies*, Vol. 27, No. 3, 1998, p. 519.

2 Cornelio Sommaruga, President of the ICRC, Statement to the UN General Assembly, 20 November 1992, *IRRC*, No. 292, January-February 1993, p. 52. This opinion was recently reiterated when the President said: "the ICRC has strongly advocated the creation of a humanitarian space, thereby emphasizing the need to leave room for independent humanitarian action in situations of conflict". See Cornelio Sommaruga, "Humanitarian action and peace-keeping operations", *IRRC*, No. 317, March-April 1997, p. 179.

3 Larry Minear and Thomas G. Weiss, *Humanitarian politics*, Headline Series, Foreign Policy Association, No. 304, April 1995, p. 17.

4 For example, the budget of the United Nations High Commissioner for Refugees went from just over US$ 500 million in 1989 to over US$ 1 billion in 1993 and beyond.

descriptive term for certain events and activities. At first glance this seems a favourable development. Concern for "humanitarian affairs" – like concern for human rights – appears to indicate a progressive move towards greater attention to individuals and to their personal safety. Like motherhood and apple pie, greater attention to "humanitarian affairs" is something no one should be against.

Indeed, the word "humanitarian" has become associated with all that is humane and positive. Like human rights,[5] it implies helping those in need. In the case of humanitarianism specifically, and to distinguish it from human rights, this need has been constructed around helping victims. Humanitarian action may, for example involve helping victims of natural disasters, as in the recent operations in Central America. Our concern here, however, is more specifically with helping victims in times of armed conflict. It is important to remember that international humanitarian law comprises the laws of war. So the humanitarianism we are focusing on is specifically linked to violence. Without war, there would be no humanitarian law; without war, there would be no humanitarian space.

What is the relationship between this humanitarian space and war? If we assume that war and violence are extensions of the political, then we understand the traditional description of humanitarian space as an area separate from the political, and that this separation is a critical ideological concept that is fundamental to organizations like the International Committee of the Red Cross (ICRC). Impartiality, neutrality and independence are predicated on separating the humanitarian from the political. One acts within the humanitarian space in the midst of, but separate from, the political. In this sense, humanitarian law represents a beacon of hope, order and civility within the barbarity of violence and chaos. The very fact that there can be humanitarian law in a situation such as war is seen as one of the crowning achievements of recent history. To have rules within the breakdown of accepted norms crystallizes man's efforts to overcome his base instincts.

Greater concern for humanitarian affairs would seem to represent an important opening of space for human values and, at the same time, a closing or limiting of the space for other less benign activities. Increasing

5 For a discussion on human rights somewhat similar to this article's perspective on humanitarianism, see Daniel Warner, "An ethics of human rights: two interrelated misunderstandings", *Denver Journal of International Law and Policy*, Vol. 24, No. 2/3, Spring 1996, pp. 395-415.

the humanitarian space has inherent implications for the political and the relationship between them. It seems obvious that space can never be ever-expanding. Therefore, if humanitarian space is increased, or at least concretized, there is less space for the political/violent. The separation of the humanitarian from the political has implications for the occupation of a bounded area. Again, who could be against the expansion of humanitarian space and the limiting of the political/violent?

In order to re-examine this position, and to show why one might be against the extension of humanitarian space, it is necessary to go back to the fundamental premise on which the preceding arguments are based. The separation of the humanitarian from the political involves a long tradition in Western political thought and touches upon basic assumptions about who we are and how we live.[6] From Thucydides to Hobbes, from Machiavelli to Weber, Niebuhr, Morgenthau and Kissinger, there has been a Realist political tradition with deep religious undertones and important political ramifications.[7] The basis of this tradition, perhaps best expressed in the theology of St Augustine, is the notion of a fallen world and the separation of that fallen world from the City of God.[8] Because this world is fallen, the tradition goes, man is limited in what he can achieve without divine assistance. Any human action without intervention, therefore, must be limited in its scope and bound up in the necessarily "messy" affairs of that which is inherently fallen and evil.[9]

In other words, according to the Realist tradition politics must be dirty. Decisions such as the fire-bombing of Dresden and the atomic bombing of Nagasaki and Hiroshima are typical examples of what politicians must do. Ethicists study these cases under the title "the problem of dirty hands".[10] Any political action in this world, say the Realists, must be tainted since the very arena in which the action is taking place is fallen.

6 I have briefly discussed this in a book review in *Refugee Abstracts*, Vol. 10, No. 1, March 1991, pp. 66-68.

7 A very readable recent presentation of Realism's modern manifestation is Michael Joseph Smith, *Realist thought from Weber to Kissinger*, Louisiana State University Press, Baton Rouge, 1986.

8 For a wonderful engagement with St Augustine, see William Connolly, *The Augustinian imperative: A reflection on the politics of morality*, Sage Publications, Newbury Park, 1993.

9 Witness the title of a conference hosted in Britain in April 1998: "Principled aid in an unprincipled world".

10 See Michael Walzer, "Political action: The problem of dirty hands", *Philosophy and Public Affairs*, No. 2, 1973, pp. 160-180.

And, according to this world view, within this fallen world humanitarianism becomes a tiny, possible opening which much be kept separate from the political. For humanitarianism, unlike the political, does not involve national interest or power. Humanitarianism is a space that, while not quite divine, is separate from the "messy" affairs of the fallen world. In addition, the greater the interest in humanitarian affairs and the greater the space this occupies, the smaller the space for the political, given the zero-sum game we mentioned before. As Adam Roberts has noted in another context but mirroring this line of reasoning: "The increase in humanitarian efforts in the 1990s contained many elements of idealism, not least a hope that it was part of a larger process whereby the sovereignty of states would take second place to the human rights of citizens".[11]

All this seems rather obvious and is contained in the assumptions of most of the writing on the political/humanitarian divide. One has only to read books like *Humanitarianism under siege: A critical review of Operation Lifeline Sudan* by Larry Minear and several colleagues or *Humanitarian politics by* Larry Minear and Thomas Weiss to sense the authors' ferocious determination to stem the tide of political incursion into the humanitarian space.[12] The separation between the humanitarian and the political is sacrosanct; the Realist tradition underlies almost all writing on the humanitarian/political divide. And even if one gets behind simplistic notions of aid agencies stereotyped as non-political, one is left with unsophisticated arguments about how and why the humanitarian becomes involved in the political, such as the following.

In reality, humanitarian actors are deeply involved in the political sphere. To do their work, aid personnel and human-rights monitors usually require the permission of political authorities, which include entry visas and residency visas and permits. Relief programmes need duty-free entry for supplies, permission to exchange foreign currency, and authorization to communicate regularly and freely with their respective headquarters. Particularly essential – but also especially sensitive – in times of armed conflict, aid agencies need access to distressed populations.[13]

11 Adam Roberts, *Humanitarian action in war: Aid, protection and impartiality in a policy vacuum*, Adelphi paper No. 305, 1996, p. 7.

12 "International ethics do matter, although politics inevitably influence the contents of humanitarianism." See Thomas Weiss and Larry Minear, "Do international ethics matter? Humanitarian politics in the Sudan", *Ethics & International Affairs*, Vol. 5, 1991, p. 214.

13 Larry Minear and Thomas G. Weiss, *op. cit.*, note 3, p. 13.

But what would happen if we began from non-Realist assumptions? That is, what would happen if we began from the assumption that this world is not fallen, and that politics does not exist in a tainted environment? In other words, what if we began from the assumption that the political is not inherently evil, and that the humanitarian should not (cannot) be separated from the political? Or, more to the point, what would happen if we examined the notion that it is a very political move to separate the political from the humanitarian, and that Realism has its own politics?

Philosophically first, and then practically, this is a line of reasoning that has been taken up recently by more and more scholars. Much of the current post-structuralist research in international relations has attacked Realism, pointing out that it is a very particular way of looking at the world which was formed at a particular moment for a particular purpose.[14] Rereadings of many of the canons in international relations such as the works of Hobbes[15] and Machiavelli[16] have opened up new possibilities in a number of areas, but the humanitarian/political divide has not yet been properly problematized.[17]

In order to contribute to a rethinking of that divide, I would like to suggest some of the reasons why there has been a growth in interest in humanitarian affairs. Rather than the positive reading of the increased attention to humanitarianism which I gave at the beginning of this article in terms of increased concern for personal safety, I would like to suggest that the recent rise in interest in humanitarian affairs is an abnegation of

14 Indeed, there is an abundant literature by scholars rereading certain texts to try to show that Thucydides, Hobbes, etc. were not that negative in what they saw in this world, and that modern Realism was part of a religious/political position specific to the United States and tied to its foreign policy positions in the 20th century. A good example of the latter would be John Vasquez, *The power of power politics: A critique*, Frances Pinter, London, 1983.

15 See Cornelia Navari, "Hobbes and the Hobbesian tradition in international thought", *Millennium: Journal of International Studies*, Vol. 11, No. 3, 1982, pp. 203-221, or Richard Flatham, *Thomas Hobbes: Skepticism, individuality and chastened politics*, Sage Publications, Newbury Park, 1993.

16 See R.B.J. Walker, "The prince and 'the pauper': Tradition, modernity, and practice in the theory of international relations", in James Der Derian and Michael J. Shapiro (eds.), *International/Intertextual relations: Postmodern readings of world politics*, D.C. Heath and Co., Lexington, MA, 1989, pp. 25-48.

17 Special mention should be made of the *Emerging Political Complexes Discussion Group* in England and David Campbell's paper, *op. cit.*, note 1. See also the excellent article by Jenny Edkins, "Legality with a vengeance: Famines and humanitarian relief in 'complex emergencies'", *Millennium: Journal of International Studies*, Vol. 25, No. 3, 1996, pp. 547-575.

responsibility by those in power. That is, instead of admitting that civil wars or outbreaks of violence such as the situations in the African Great Lakes region, Sudan, Afghanistan and Chechnya are very political activities, these outbreaks are termed humanitarian crises in order to avoid hard decisions about what to do. Organizations like the ICRC or the Office of the United Nations High Commissioner for Refugees (UNHCR) are then sent in to manage the crisis in "Band-Aid", palliative operations that avoid the root causes of the problem and often lead to uncompromising situations, such as dealing with guerrillas in refugee camps.

Humanitarian organizations are not equipped to handle political crises such as civil wars or the collapse of governments. Because "political" organs such as the United Nations General Assembly and the Security Council are unwilling or unable to deal with these situations, a political move has been made to call the situations "humanitarian" and to involve relief organizations in political crises.[18] Indeed, as Roberts notes, "Numerous Security Council resolutions since 1989 have addressed humanitarian issues arising from armed conflicts. (...) One reason for the UNSC's astonishing attention to humanitarian issues is that, in a 15-member body, it is easier to reach agreement on the lowest common denominator of humanitarianism than on more partisan or risky policies".[19]

Within this policy vacuum, the humanitarian space given to those organizations is inherently limited since the abnegation of responsibility allows a mixture of activities to take place at the same time. Innumerable discussions about differences between peace-building, peace-making and peace-enforcement highlight the unfortunate situations in which organizations like the ICRC find themselves today when their humanitarian space is not clearly defined. Complex emergencies also call for complex responses, with the humanitarian community playing a limited role. Humanitarian space has traditionally been a limited space within given parameters. If those parameters disappear or are not clear, the humanitarian space does not expand automatically. In fact, without the parameters, that space becomes more diffuse and may even disappear. Part of the re-examination of the humanitarian/political divide is a re-examination of the zero-sum

18 This is a simple answer to Adam Roberts' question: "Has the increased emphasis of governments on humanitarian action been an abdication of serious policy-making?" See Roberts, *op. cit.*, note 11, p. 9.

19 *Ibid.*, p. 15.

game assumption that the growth of humanitarian space limits the political/violent.

For example, if one examines much of the current literature on complex emergencies, as Jenny Edkins argues,[20] one enters into systemic analyses of the relationship between human rights violations and violence. That is, one enters into monocausal arguments that can lead certain complex emergency theorists to suggest that aid may in fact be allowing, if not producing, famine. Without going into the details of the argument, what we wish to emphasize here is that attempts to systematize the causes of conflict often lead to dichotomies similar to the Realist paradigm we pointed to earlier. And an organization like the ICRC which begins from a set of principles based on many of those dichotomies may find itself in situations where its efforts are counterproductive for those it is trying to help. In this sense, upholding humanitarian principles is a political move that may undercut the ethical basis of the organization's activities.

That is, by accepting the humanitarian/political divide and accepting mandates for operations called "humanitarian", organizations like the ICRC may in fact be working against their own objectives. Paradoxically, a practical conclusion of the situation we have described is that it may be necessary to limit humanitarian space and reduce humanitarian activities. Our argument is that if the root causes of the conflicts are properly addressed and "response-ability" [21] developed, then when conflicts arise humanitarian organizations will have limited functions.[22]

For example, for an organization like UNHCR to be involved in root cause alleviation is to go beyond its major protective function. The fact that the political/economic root causes are not being addressed by the proper organs does not justify expansion of the humanitarian space. As we have argued, diffusing the humanitarian space may cause it to disappear, not to expand. For, as in the case of UNHCR, increasing the humanitarian space

20 Jenny Edkins, *op. cit.*, note 17.

21 Responsibility understood here as being able or willing to respond, a distinction I owe to G.M. Dillon.

22 There is an interesting convergence here between conservatives who see little use for humanitarian activities and want to reduce the budgets of humanitarian organizations and all multilateral organizations and those who want to reduce humanitarian activities and put the political in the forefront by strengthening the political organs of multilateral diplomacy. The fact that both parties want humanitarianism to be reduced does not mean that their ultimate aims or understandings of politics should be confused.

gives rise to illusions because of the considerable differences between expectations and capacities, and may prove to be counterproductive to helping victims. Indeed, UNHCR, after an important period of expansion, has begun to scale down its space and to return to its primary objective, namely protection, perhaps indirectly recognizing that it had become a victim of its own success through bureaucratic overreach.

The expansion of the humanitarian space, we would argue, has not been helpful. Although this is counterintuitive, we have tried to show why it is so. The political move of focusing attention on the humanitarian has shifted attention away from the politics at the heart of conflicts and deflected responsibility for some kind of resolution from the proper organizations. It is always difficult for an organization to refuse a mandate, or to say that a particular problem is not its business. The ICRC has tried valiantly to remain within its basic principles, and to remain faithful to its limitations. Nonetheless, the general increase in humanitarian activity has drawn the ICRC into situations in which its limited, specific mandate has been called into question. That limited role is not the subject of this reflection. Rather, we are concerned here with the original problem of when and where humanitarian organizations are called in. We look forward to the day when the heads of humanitarian organizations will throw the ball back into the court of the proper political organs in a political gesture of self-denial that we feel will be helpful to the victims of abuse.

Those are the "pre-original political decisions", and a firm denial of the Realist tradition. For if this world is not fallen, then the ethical can exist, although the decisions will not necessarily be based on some overarching principles and traditions etched in stone. To recognize that the ethical and the political cannot be separated is to recognize the difficulties inherent in living in this world.[23] Much of the writing on humanitarianism is filled with a dangerous idealism of other-worldly dimensions. While people like Robert McNamara can be criticized for ordering bombing raids from Monday to Saturday and then peacefully going to church on Sunday, idealists can work in the same fallen world from Monday to Saturday and attend the same church on Sunday, for they live in a similar Realist world. Idealism and Realism are different sides of the same coin. If we are to move

23 This argument was developed in Daniel Warner, *An ethic of responsibility in international relations*, Lynne Rienner Publishers, Boulder and London, 1991.

away from the bombings, then we must also move away from the idealism. The separation of the humanitarian from the political is part of a world in which both have specific places through a very particular relationship. Reducing the divide between the two opens up a whole host of new possibilities.

Again, and to be perfectly clear, this reasoning is not meant to deny concern for victims or the difficult ethical/political decisions involved in trying to help. Rather, it is intended to initiate a new debate about the proper relations between people categorized as victims and those people or organizations trying to assist. The categorization of certain activities as humanitarian and others as political with their radical separation has not been helpful for the resolution of conflicts and the eventual targeted aid to victims. A small step in rethinking that categorization would be to understand the ontological nature of the categories and the political moves made to separate the two spheres.

For example, questions faced by the ICRC operationally such as: "Should aid be given to populations which are either supporting aggressors or which are unable to keep aid from aggressors?" are intimately tied to political realities. Helping victims in these situations belies the impartiality and neutrality of visiting prisoners, for example, although choosing not to testify about human rights violations once again places the political in the forefront. The decision not to testify about human rights violations is a very political decision, given legal conventions outlawing certain behaviour. The ICRC has clearly chosen to place certain priorities above others.

These types of operational decisions show the limitations of the political/humanitarian divide and the politics of humanitarian activities. Given the increasing number of those activities, greater transparency in discussing the nature of the decisions would be to everyone's benefit. In order to achieve that, a recognition of the politics behind the political/humanitarian divide is a first step which should include a re-examination of what humanitarian can mean. For to re-examine the political/humanitarian divide is not to suggest that there is no space for humanitarian activities. Rather, it is to place the humanitarian squarely within the political, and in so doing to offer greater possibilities not just to victims, but ultimately for a reduction in the number of victims. In order to do that, humanitarianism must be reinvigorated, politically. And this reinvigoration paradoxically includes the implosion of the political/humanitarian divide and the eventual circumscription of humanitarian activities. ●

Résumé

La politique de la séparation du politique de l'humanitaire
par DANIEL WARNER

L'auteur constate que les acteurs politiques sur la scène internationale portent un intérêt croissant à «l'humanitaire» et, notamment, à ce qu'il est convenu d'appeler «l'espace humanitaire», un espace qui serait clairement séparé du «politique». Cette distinction entre l'humanitaire (qui est «bon») et le politique (qui est «mauvais») est-elle justifiée? – D'une part, il n'est guère possible de poursuivre une activité humanitaire sans affronter des problèmes éminemment politiques. D'autre part, tout en soulignant l'importance du rôle des organisations humanitaires – apporter protection et assistance aux victimes de conflits –, l'auteur rappelle les limites de leurs activités. Il déplore que l'attention du public et des milieux politiques pour l'action humanitaire affaiblisse la volonté de s'occuper des causes du conflit. Le postulat d'une séparation rigide entre l'humanitaire et le politique doit être revu.

LA REVUE

The law of internal crisis and conflict

An outline prospectus for the merger of international human rights law, the law of armed conflict, refugee law, and the law on humanitarian intervention

by
Tom Hadden
and
Colin Harvey

THE relationship between international human rights law and the international law of armed conflict is a long-standing issue.[1] For many years the two were widely regarded as distinct areas. And there are still some who continue to think of international humanitarian law, as it is usually termed,[2] as an entirely separate discipline. The most recent *Handbook of Humanitarian Law in Armed Conflict*[3], for example, makes no reference at all to human rights law. The prevailing view, however, is that human rights law and the law of armed conflict are complementary in that both are applicable in most situations of internal or international conflict. This is reflected in the statutes of the international tribunals established to deal with war crimes in the former Yugoslavia and Rwanda and of the International Criminal Court, which give them jurisdiction over serious violations both of human rights law – as crimes against

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1 There is a huge range of literature on this and many other issues discussed in this article; references will be made only to those from which a relevant point is derived directly.

2 In this article the term "humanitarian law" will be reserved for the law governing humanitarian intervention; the rules in the Geneva Conventions and Protocols will be referred to as the "law of armed conflict".

3 D. Fleck (ed.), *The Handbook of humanitarian law in armed conflicts*, Oxford University Press, Oxford, 1995.

humanity – and of the Geneva Conventions for the protection of war victims and their Additional Protocols – as war crimes.

This approach has been neatly summarized by the United Nations Special Rapporteur on Kuwait, Professor Walter Kälin, in the claim that while the two bodies of law remain conceptually different in many regards they should be applied in an integrated and cumulative manner.[4] But it must be remembered that individual States may be differentially bound according to the extent to which they have ratified the relevant conventions and protocols. It may be reasonable to conclude, therefore, that the continuing separate status of the two sets of rules is generally accepted, but that they should be regarded as providing cumulative protection in situations of internal or international conflict.

Apparent differences

Professor Kälin's approach is obviously an attractive way of maximizing international protection for individuals affected by internal or international conflict. But it is not without its conceptual and practical problems.

In conceptual terms there are some significant differences and some apparent incompatibility between the two branches of law. The most striking, as discussed below, may be summarized as follows:

Human rights law	Law of armed conflict
The right to life is granted a high degree of protection	The right to shoot combatants is formally recognized
The right to be tried rather than detained without trial is protected	The right of combatants to be detained but not tried is protected
There appears to be a continuing obligation to prosecute human rights violators	There is a tendency to grant an amnesty when the conflict is over for most conflict-related crimes
The primary responsibility for ensuring compliance is imposed on the States	Individuals as well as States may be held responsible for ensuring compliance

In more practical terms the separate status and formulations of the two branches of law often make it difficult to provide a straightforward account of the international rules and standards for those working on

4 W. Kälin (ed.), *Human rights in times of occupation: the case of Kuwait*, Stämpfli, Berne, 1994, pp. 26-27.

the ground in conflict situations. As a result, most practice and training manuals deal separately with the two sets of rules, leaving it to those concerned to work out which rules to seek to apply.5

The need for integration

If human rights law and the law of armed conflict are to be regarded as complementary, there is clearly a need to eliminate any incompatibility between them, either of principle or of application. Peacekeepers, peace-enforcers and human rights monitors on the ground cannot reasonably be expected to apply or seek to enforce conflicting sets of rules. This must be so even if there is a case for preserving the distinctive traditions of the International Committee of the Red Cross (ICRC) in discharging its mandate by persuasion and negotiation rather than by legal enforcement.

A comprehensive reformulation of the law should also incorporate, in so far as is possible, the relevant provisions of the law on refugees and internally displaced persons and the law of humanitarian intervention by international bodies, uninvolved States and non-governmental voluntary relief agencies. The status and proper treatment of refugees and internally displaced persons is a primary concern in many situations of conflict and crisis. Those from foreign countries and other agencies who go to crisis areas in an attempt to deal with the conflict and to protect those affected by it also need to know what their own status and rights are under international law. And they must understand the rules governing humanitarian intervention, whether by States or by voluntary agencies.

The purpose of this article is to suggest how such a reformulation might be approached. As the use of the term "prospectus" implies, the project is by no means complete. In some areas the way in which the apparent conflicts between the various legal rules might be resolved is relatively clear. In others there is obviously more work to be done. In this sense the analogy with a commercial prospectus is both appropriate and deliberate. The aim is to set out the essentials of a projected merger and to call for contributions from others who may be prepared to invest some time and effort in bringing the project to fruition.

5 See, e.g., *Human rights and law enforcement: A manual on human rights training for the police*, United Nations Centre for Human Rights, 1997; C. de Rover, *To serve and protect: human rights and humanitarian law for police and security forces*, International Committee of the Red Cross, Geneva, 1998.

The continuum from normality to full-scale armed conflict

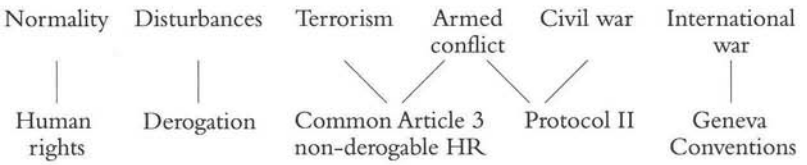
The key to a successful merger of the two bodies of law is clearly a recognition of the legal consequences of moving along the factual continuum from normality to full-scale armed conflict. In the real world there is an obvious progression – or regression – from situations of peace and stability through those of political and social instability, involving popular protests and riots and those in which organized groups are involved in terrorism or insurgency, to those in which there is something like a front line between government and opposition forces, whether internal or external, each of which controls part of the national territory. This continuum is reflected in the rules and standards of international law.

The ordinary rules of human rights law clearly apply to situations of normality, subject only to the usual limitations in respect of national security, public order and public morality. When the level of disturbance is sufficient to pose a threat to the life of the nation, and thus to the enjoyment of rights by the main body of the population, States are entitled under human rights law to declare a state of emergency and to derogate from some of their human rights commitments if they can establish that the derogation is necessary and that the measures are proportionate to the threat to the State or to the rights of others.[6] When the situation has deteriorated into armed conflict, the rules of Article 3 common to the Geneva Conventions come into operation and impose certain basic obligations on all sides of the conflict. These are broadly similar to the non-derogable rights under the main human rights conventions, in particular the obligation to deal humanely with all those not taking part in the conflict. If the conflict escalates into a situation in which organized forces on either side exercise some control over part of the national territory, the rules under Protocol II additional to the Geneva Conventions come into operation.[7] Finally, the full range of rules of the international law of conflict, as expressed in the Geneva Conventions and Additional Protocol I, apply to international armed conflicts and certain wars of national liberation.[8]

6 International Covenant on civil and political rights (ICCPR), Art. 4; (European) Convention for the protection of human rights and fundamental freedoms (ECHR), Art. 15.

7 Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II), Art. 1.

8 Art. 1 of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I) extends the application of the Geneva Conventions of 1949 to "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right to self-determination".



This relationship between the degree of disturbance/conflict and the applicable international law can be portrayed in simple tabular form as follows:

Further development

This presentation is clearly over-simplified as some elements of normal human rights standards apply throughout the continuum while others are variable in relation to the degree of disturbance or the seriousness of the conflict. And it is not always clear where the rules meet or merge in respect of derogations under the main human rights conventions, the rules of Article 3 common to the Geneva Conventions and those of Protocol II. Further development of any proposal for a merger or reformulation of these standards requires a more detailed examination of specific aspects and applications of the rules under each branch of the law. In the context of this outline prospectus, however, all that can be done is to draw attention to some of the problems, some of the emerging solutions and some areas of continuing controversy.

Absolute prohibitions

There are a limited number of absolute rights or prohibitions which apply in all circumstances, however serious the conflict or crisis. In human rights law these rights, referred to as non-derogable rights, are made absolute by excluding them from any possible derogation or limitation.[9] Since in the law of conflict there is no provision for derogation, the rights are made effectively universal by their explicit inclusion in the conventions and protocols which apply to all levels of armed conflict. The most obvious example is the prohibition of torture.[10] Both branches of law also require

9 ICCPR, Art. 4 (2); ECHR, art. 15 (2).

10 First Geneva Convention, Art. 50; Second Geneva Convention, Art. 51; Third Geneva Convention, Art. 130; Fourth Geneva Convention, Art. 147; Protocol I, Art. 85; Protocol II, Art. 4 (2).

humane treatment in all circumstances: in human rights law this is achieved by making the prohibition of "inhuman or degrading treatment or punishment" a non-derogable right along with the prohibition of torture;[11] in the law of conflict there is an explicit requirement that protected persons must be treated humanely in all circumstances.[12] There is also an absolute prohibition of all forms of genocide which is superimposed on both branches of law under the 1948 Convention on the prevention and punishment of the crime of genocide.

In this area there is clearly some scope for a more coordinated formulation of these absolute rights and prohibitions. Human rights law might draw on some of the more explicit formulations of conflict law, such as the list of prohibitions in common Article 3 and Article 4 of Additional Protocol II. In the law of conflict the main requirement may be to make it more explicit that these absolute rights are to apply to all persons in all circumstances rather than merely to protected persons, given the complex criteria defining the status of protected person under each of the main conventions.[13] A good start has been made in this area in the formulation of absolute rights and prohibitions in the Declaration on minimum humanitarian standards ("Turku/Abo Declaration") [14] though, as will be seen, some of the terms used such as 'murder' and 'terrorism' may require further clarification.

The right to life

There is an immediately striking divergence between human rights and conflict law in respect of the right to life. In human rights law the right to life is non-derogable and is often given pride of place.[15] In the law of armed conflict the right of combatants to shoot other combatants on sight and without warning is recognized. The beginnings of a reconciliation between these apparently conflicting standards may be found in the fact that in human rights law the right to life is not absolute since it is subject to the right to use

11 ICCPR, Art 7; ECHR, Art. 3.

12 First Geneva Convention, Art. 3 and 12; Second Geneva Convention, Art. 3 and 12; Third Geneva Convention, Art. 3 and 13; Fourth Geneva Convention, Art. 3 and 27; Protocol II, Art. 4.

13 First Geneva Convention, Art 13; Second Geneva Convention, Art. 13; Third Geneva Convention, Art. 4; Fourth Geneva Convention, Art. 4.

14 "Declaration of minimum humanitarian standards", reprinted in UN Doc. E/CN.4/1996/80 and *International Review of the Red Cross*, No. 282, May-June 1991, p. 328.

15 ICCPR, Art. 6; ECHR, Art. 2.

lethal force in lawful executions, in self-defence or in defence of an immediate threat to the life of others.[16] It might be argued, therefore, that under conditions of open warfare, including guerrilla campaigns, a continuing threat from combatants on either side may be presumed and would thus justify shooting on sight. This approach would have the advantage of casting doubt on the legitimacy not only of indiscriminate weapons and land-mines but also of aerial or missile attacks on forces not actively engaged and on part-time combatants while off-duty, both of which appear to be acceptable in the current interpretation of the law of conflict.[17]

It might also help to resolve the difference between the presumption in human rights law that warfare can never be lawful and the acceptance in the law of conflict that conflict is a fact of life and that its causes are irrelevant by emphasizing that in so far as individual combatants are concerned it is the immediate threat to life rather than the justification of the conflict which sets the standard. This is, incidentally, the approach to homicide in most countries' domestic law. And it would leave open the question whether those responsible for initiating or planning the campaigns on either side could be held to have acted in breach of human rights standards, as for example in the recent decision of the European Court of Human Rights in respect of the United Kingdom's actions in response to the terrorist threat in Gibraltar.[18]

Rights relating to trial and detention

There is a similar apparent divergence between human rights law and the law of armed conflict in respect of the trial and detention of combatants. Under human rights law the normal standard is that deprivation of freedom is permitted only after a fair trial for a criminal offence.[19] During states of emergency, however, derogations may be made to the normal standards for a fair trial. Detention without trial is also permitted. Under the law governing international armed conflict, on the other hand, the trial and punishment of combatants for the mere fact of having committed

16 ECHR, art 2; United Nations Basic Principles on the use of force and firearms by law enforcement officials, 1990, Art. 9.

17 See, e.g., R. Goldman, "International humanitarian law: Americas Watch's experience in monitoring internal armed conflict", *American University Journal of International Law and Policy*, vol. 9, 1993, p. 75.

18 *McCann v United Kingdom*, European Human Rights Reports, vol. 21, 1996, p. 97.

19 ICCPR, Arts. 9 and 14; ECHR Arts 5 and 6.

a hostile act is forbidden and those who are captured must be detained as prisoners of war.[20] Under common Article 3 and Additional Protocol II, however, the trial and punishment of those engaged in internal armed conflict is not ruled out provided that certain essential minimum standards for a fair trial, recognized as essential by civilized peoples, are observed.[21]

A measure of convergence between these two sets of rules may perhaps be based on the above-mentioned essential minimum standards.[22] Since any derogation under the main human rights conventions must in any case be compatible with the other international obligations of the State, they must be treated as non-derogable rights under human rights law.[23] The resulting position would be that all governments in their response to terrorism or insurgency must choose between the trial of those involved in accordance with these non-derogable standards and their detention without trial in conditions equivalent to those accorded to prisoners of war. A merged formulation along these lines would effectively resolve any apparent incompatibility between the principles of human rights and conflict law.

Political rights

There is a similar approach in both human rights and conflict law to political rights such as free expression, free association and democratic elections. All these rights are derogable under the main human rights conventions.[24] And there is nothing in the Geneva Conventions or Protocols to prevent governments or occupying powers from curtailing political rights of this kind. State practice is in line with this approach. The normal governmental response to serious internal crisis or war is to postpone elections and/or limit political freedoms of association and expression. The legitimacy of such derogations during states of emergency or war is usually accepted.

This suggests that there would be no major difficulty in drawing up a coherent set of standards for a merged restatement of the law in this area. But there may also be a case for developing the standard according to which derogations or lengthy occupations are assessed to include the extent

20 Third Geneva Convention, Arts. 82-108.

21 Common Article 3 (1) (d); Protocol II, Art. 6.

22 See S. Stavros, "The right to a fair trial in emergency situations", *International and Comparative Law Quarterly*, vol. 41, 1992, p. 343.

23 ICCPR, Art 4 (1).

24 ICCPR, Art. 19, 21-22 and 25; ECHR Art. 10-11 and Protocol 1, Art. 3. Article 23 of the American Convention on human rights, which makes the right to political participation non-derogable, is out of line.

to which the government or occupying power has made appropriate efforts to resolve its underlying political or economic problems and to restore democratic structures.[25]

Free and forced movement

International human rights law guarantees the right to freedom of movement, subject to the usual limitations in respect of national security, public order and public health and to the possibility of derogation during states of emergency.[26] In situation of crisis and conflict, restrictions on free movement, such as curfews and house arrest as a form of limited detention without trial, are regularly imposed and there are no general grounds on which justifiable and proportionate measures of that kind could be successfully challenged. In the law of conflict there is an express prohibition of the forced displacement or transfer of civilians during armed conflict other than on grounds of military necessity.[27] There is also an express prohibition of certain forms of forced eviction by armed attack, which is treated both as a war crime and a crime against humanity.[28]

As in the case of political rights there would not appear to be any major problem in combining these various standards in a merged formulation based on the twin principles of human rights and conflict law: first a general statement of the right to free movement, which may be curtailed only on specified grounds directly and proportionately related to the degree of crisis or conflict and subject to appropriate legal safeguards; and second a more tightly framed prohibition of forced movement or transfer except in the most restricted circumstances for the better protection of the lives of those affected and with an express right to return as soon as circumstances permit.

Refugees and internally displaced persons

Dealing with mass population movements, whether they occur for fear of attack or by actual force of arms, is one of the major concerns during acute crises and conflict. In cases where those affected have fled across

25 T. Hadden, "Human rights abuses and the protection of democracy during states of emergency", Cairo Conference on Democracy and the Rule of Law, 1997 (forthcoming).

26 ICCPR, Art. 12; ECHR, Protocol 4, Art. 2.

27 Fourth Geneva Convention, Art 49; Protocol II, Art. 17.

28 Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, 1968, Art. 1 (b).

international boundaries, they may be entitled to formal refugee status under the 1951 Convention relating to the status of refugees and the 1967 Protocol. But this is limited to cases in which it can be established that their flight was the result of a well-founded fear of persecution.[29] And even when such formal status is granted, the principal right of refugees is that they will not be returned to their country of origin (the right of *non-refoulement*). There is no formal right of settlement in the country of refuge or of resettlement elsewhere. The Convention does prescribe valuable standards of treatment and there is an obligation to cooperate with the United Nations High Commissioner for Refugees (UNHCR). But the mass influxes which typically occur during acute crises and conflicts render the individualistic approach of the 1951 Convention, which was drafted with individual asylum seekers in mind, highly problematic. Any reformulation of the rules would need to take into account and develop the concept of temporary protection, which is increasingly being relied on in cases of mass flight.

There are two significant categories of *de facto* refugees who do not qualify for formal refugee status under the 1951 Convention. The first are those who cannot establish a well-founded fear of persecution, generally referred to as non-status refugees. The second are those who have not crossed an international boundary, generally referred to as internally displaced persons. Neither group is entitled to any special protection other than that which is generally available to the civilian population under human rights law or the law of conflict. They do, however, fall under the functional responsibility of the UNHCR as well as of the other organizations that become involved in situations of forced displacement.

There is therefore a pressing need for a clear statement of the specific rights of all these groups. An initial account of the rights of internally displaced persons under both human rights law and the law of conflict has been prepared at the request of the UN Secretary-General.[30] But there is less clarity regarding the precise rights of non-status refugees other than that which can be deduced by analogy from those of status refugees. This lack of clarity has caused major problems in some refugee camps, notably those in (former) Zaire following the conflict in Rwanda. A coherent restate-

29 Art. 1 (A) (2).

30 Report of the Special Representative of the Secretary-General on internally displaced persons, UN Doc. E/CN.4/1998/53 (Deng Report).

ment of the existing rules and an indication of how best they might be developed to take account of the realities of mass movements of this kind is one of the most urgent requirements in this area.

Enforcement against involved States and/or individuals

A further major difference between human rights law and the law of conflict is that the obligations under the main human rights conventions are imposed exclusively on States while those under the Geneva Conventions and Protocols are binding on both States and on individuals, and in certain circumstances on organized paramilitary groups. This distinction has in recent years given rise to controversy as to whether non-State forces engaged in internal conflicts and liberation struggles can be held responsible for human rights violations. The prevailing view among most international non-governmental organizations is that opposition forces can properly be held responsible only for breaches of the law of conflict and that they cannot be accused of human rights violations.[31] But it is difficult to justify this distinction in the public arena in other than formalistic legal terms. And the fact that the statutes of the international criminal tribunals for the former Yugoslavia and Rwanda and of the new International Criminal Court provide for individual responsibility for crimes against humanity, which can be viewed as equivalent to serious human rights violations, as well as for war crimes, makes it even more difficult to justify the distinction.

There is therefore a strong case for extending responsibility for serious human rights breaches and violations of the law of conflict to all organized groups in situations of conflict. As in the case of responsibility under the Geneva Conventions and Protocols, this would require formulations taking account of the degree of control exercised by organized opposition groups over parts of the national territory and/or sections of the population. A similar approach is already applied under the main human rights conventions in respect of State responsibility for violations by non-State forces.[32] There is certainly no good reason in principle why a different rule should be applied under the two bodies of law. The further development of individual and group responsibility under the jurisdiction of the Interna-

31 See Goldman, *op. cit.* (note 17).

32 See the judgement of the Inter-American Court of Human Rights in *Velasquez Rodriguez v Honduras*, *Human Rights Law Journal*, vol. 9, 1988, p. 212.

tional Criminal Court may be the simplest means of pursuing this objective. But it may also be possible to argue that since the provisions of the Universal Declaration of Human Rights are widely regarded as having achieved the status of customary international law, any alleged difficulty in holding non-State bodies responsible for breaches of covenants which only States can ratify may be avoided.

Impunity and/or amnesty

There is a related and equally controversial divergence between human rights law and the law of conflict as regards the issue of impunity or amnesty for serious human rights violations and war crimes. Human rights lawyers typically take the view that all serious human rights violations should result in the prosecution and punishment of the individuals responsible for them and they argue strongly against any form of impunity. This approach has been given some backing by international human rights courts and commissions in decisions requiring States to investigate and bring to justice those responsible for disappearances and other serious human rights violations.[33] The law of conflict, on the other hand, favours the release of prisoners and the granting of amnesties to all combatants on the termination of hostilities. There is an express provision in Protocol II calling on the authorities in power to endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict.[34] This provision, however, must be read in conjunction with the standard articles in the main Geneva Conventions which require all States to provide effective penal sanctions against grave breaches of the Conventions and not to absolve themselves or other parties from any liabilities incurred as a result of such grave breaches.[35]

One possible approach to these apparently conflicting provisions is to distinguish between grave breaches for which no amnesty should be granted and other breaches and/or criminal offences related to the conflict, such as charges of homicide against members of non-State forces for their actions during the conflict, for which combatants should not be penalized. The practice of most States following the termination of hostilities in both international and internal conflicts, on the other hand, is to grant amnesty

33 See, for example, the opinion of the Human Rights Committee in *Suarez de Guerrero v Columbia*, No. 45/1979 (1982).

34 Art. 6 (5).

35 First Geneva Convention, Arts. 49-51; Second Geneva Convention, Arts. 50-52; Third Geneva Convention, Arts. 129-131; Fourth Geneva Convention, Arts. 146-148.

for all offences arising from the conflict, though in some recent cases this has been linked to the appointment of truth commissions in order to ascertain and publish the facts about serious and systematic violations by both State and non-State forces during the conflict.[36]

There is currently no agreement between human rights lawyers who argue against all forms of impunity and politicians who argue that national reconciliation may require some means of bringing an effective end to criminal proceedings for offences committed during the conflict, whether by the agreement by the parties to a negotiated peace settlement[37] or by international arbitration. Some measure of compromise might perhaps be reached by developing international standards under which democratically mandated amnesties – as opposed to those granted by the violators to themselves – might be legitimated, provided that appropriate compensation is not denied to victims. A distinction might also be drawn between offences committed by those responsible at the highest level for initiating or planning the violations and those responsible at lower levels for their implementation for whom an amnesty might be more readily agreed. But these are matters on which there is as yet insufficient international consensus upon which to base any agreed reformulation of the law.

Rights and obligations of intervening States and agencies

A final crucial issue on which both human rights law and the law of conflict are silent is the question of humanitarian intervention by external parties. There is an increasing expectation of intervention by external States and voluntary agencies to protect and relieve the suffering of those affected by internal crises and conflicts. But the legal principles on which such humanitarian intervention might be based remain unclear.

36 Amnesties linked with various forms of truth commissions have been implemented as part of political settlements following almost all the recent conflicts in Latin America and in South Africa.

37 See the decisions of the Inter-American Commission on Human Rights that the amnesty laws in Argentina and Uruguay were contrary to the American Convention on Human Rights: Report No. 28/92 in respect of Argentina and Report No. 29/92 in respect of Uruguay, *Human Rights Law Journal*, vol. 13, 1992, p. 336. But a challenge to the amnesty powers of the Truth and Reconciliation Commission in South Africa on the ground that they were contrary to the human rights included in its new Constitution was rejected on the grounds that it had been adopted as part of the peace settlement, *AZAPO v President of the Republic of South Africa* [1996][4], South African Law Reports, p. 562.

The UN Charter provides for the authorization of forcible intervention by the Security Council only where international security is threatened.[38] Most recent United Nations peace-keeping operations have therefore been mounted with the consent of the States or governments concerned. Action taken by the ICRC in internal conflicts is also based on negotiation with the relevant government or insurgent party, though the express provisions for its involvement in international conflicts under the Geneva Conventions and Protocols provide a formal basis for its operations.[39] And non-State aid agencies are wholly dependent on consent from State authorities. But individual States and regional interstate organizations in both Europe and Africa have intervened in a number of recent conflicts without clear UN authorization in order to protect individual or communal human rights or to prevent grave breaches of conflict law.[40]

This is one of the most controversial and politically sensitive areas of international law and there is no immediate prospect of international agreement on a clear set of rules. Even if international consensus cannot be reached on a formal right of intervention in such cases, however, there is clearly a need for a more coherent formulation of principle and practice for all those involved in such action for the protection of the victims of both internal and international crises and conflicts. This should include guidelines on the status and rights of military, police and other governmental and voluntary personnel who are working on the ground in situations of crises and conflict. Some of the principles and rules may be deduced by analogy from the mandates and working practices of international agencies, notably the ICRC and the UNHCR. But a considerable body of work remains to be done in this area.

Conclusions

The main objective of this outline prospectus has been to argue that the time has come for a coherent restatement of international law and practice in this area. Insofar as is possible this should be based upon a merged reformulation of the established rules of human rights law and the law of

38 United Nations Charter, Chapter VII.

39 First Geneva Convention, Art. 9; Second Geneva Convention, Art. 9; Third Geneva Convention, Art. 9; Fourth Geneva Convention, Art. 10; Protocol I, Art. 81; Protocol II, Art. 18.

40 As, for example, the recent interventions in Sierra Leone under the auspices of the Organization of African States and in Kosovo under the auspices of the Organization for Security and Cooperation in Europe.

conflict along the lines set out above. In other areas it may be possible only to suggest new rules or guidelines based on current international, State and voluntary practice. But it is clear that the long-standing separation between international human rights law and the international law of conflict has outlived its usefulness and that experts in both areas need to come together to agree on those issues on which there is already effective consensus and to resolve the continuing differences in their respective approaches. It is hoped that this initial formulation of the project, despite its generality, will contribute in some way to the initiation of more detailed work over the coming years so that in the new millennium it will no longer be necessary to talk or write about two conflicting bodies of international law in the field of humanitarian intervention.

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Résumé

Le droit des crises et conflits internes – Esquisse pour une fusion du droit des droits de l'homme, du droit des conflits armés, du droit des réfugiés et du droit de l'intervention humanitaire

par TOM HADDEN et COLIN J. HARVEY

Les auteurs prennent pour point de départ la constatation que les situations de violence et de conflit sur le territoire d'un État exigent très souvent la mise en œuvre de normes internationales d'origines différentes, notamment, d'une part, les règles internationales protégeant les droits de l'homme et d'autre part, le droit international humanitaire. Sur le plan de la doctrine, cependant, un fossé est encore trop souvent créé entre ces deux domaines. Le présent article tente d'esquisser une approche commune qui engloberait non seulement les deux domaines mentionnés mais encore le droit des réfugiés et les règles internationales relatives à l'intervention humanitaire. Avec ce texte, les auteurs cherchent moins à présenter des solutions qu'à susciter un débat, dans l'espoir qu'au nouveau millénaire droits de l'homme et droit humanitaire ne seront plus perçus comme deux disciplines antagonistes du droit international.

LA REVUE

Peut-on célébrer le 50e anniversaire des Conventions de Genève ?

par
Gilbert Holleufer

Le cinquantième anniversaire des Conventions de Genève du 12 août 1949 pour la protection des victimes de la guerre est certainement une date qui interpelle aussi bien l'ensemble du Mouvement international de la Croix-Rouge et du Croissant-Rouge que tous ceux qui sont concernés par le droit international humanitaire. Bien sûr, on peut n'y voir qu'une occasion de commémoration parmi tant d'autres en cette fin de siècle, où la plupart des institutions modernes, presque toutes issues de la fin de la Seconde Guerre mondiale, célèbrent leur cinquantième anniversaire. Mais pour le Comité international de la Croix-Rouge (CICR) et le Mouvement en particulier, il est naturel que s'impose aussitôt l'idée d'un événement, d'une célébration, bref, d'une initiative marquante qui satisfasse le désir de «faire quelque chose» lors de cet incontournable rendez-vous de l'histoire.

Néanmoins, un doute surgit aussitôt: est-il légitime de «célébrer» en tant que tel, et au sens premier, un traité qui, bien qu'il ait permis de déployer d'innombrables actions allégeant les souffrances des populations

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en situation de guerre, n'a pas permis de sauver de la mort et de la souffrance les millions de victimes qu'aura coûté à l'humanité le siècle finissant, durant lequel les destructions engendrées par la guerre ont pris des proportions effarantes? Cependant, le Mouvement international de la Croix-Rouge et du Croissant-Rouge, qui a défendu le droit international humanitaire avec constance, n'a pas à porter seul sur ses épaules le poids de la misère qui s'est abattue sur tant de millions de personnes dans les guerres du siècle. Au contraire, son devoir par rapport au droit international humanitaire, à la veille de cet anniversaire, doit être de s'employer plus intensément encore à promouvoir non seulement un ensemble de traités majeurs, mais aussi les valeurs qu'ils incarnent.

Au carrefour d'un passé et d'un avenir, un anniversaire ne peut se comprendre que dans une perspective historique, et c'est dans cette perspective que le Mouvement et la communauté internationale sont en quelque sorte invités en 1999 à entreprendre des efforts supplémentaires pour engager tous ceux qui sont concernés dans une réflexion qui à la fois établit un bilan et propose une projection pour l'avenir. Tirant les leçons du passé, regardant vers l'avenir, cette réflexion doit revenir aux sources, à l'essentiel, car le moment ne saurait être mieux choisi: et l'essentiel, en matière de droit ou de principes humanitaires, c'est de savoir s'il est réaliste de penser qu'un degré de décence, une certaine réglementation des comportements, une certaine codification des actes et des attitudes sont possibles dans la guerre, et de savoir comment traduire cette idée en pratique.

En effet, au-delà de toutes les divergences d'opinions, ce qui est sûr c'est que parler des *vrais* enjeux du droit international humanitaire et de la tradition morale qui le sous-tend, c'est parler de la guerre, et de manière suffisamment crédible pour répondre aux questions dans les débats qui ont une vraie influence sur la guerre aujourd'hui. Le droit humanitaire et ses principes sont violés ou négligés chaque jour: on ne peut ni baisser les bras, ni se satisfaire d'illusions. Il faut aller à la rencontre de la réalité et se défaire des abstractions morales. Sans quoi, le droit humanitaire et ses principes risqueront toujours de rester virtuels, le discours du CICR et du Mouvement dans son ensemble risquera de toujours remporter une victoire morale, certes, mais qui trop souvent signifie une défaite «politique» et sociale.

Or, pour qu'un débat soit susceptible d'amener les bonnes réponses, il faut qu'il commence par poser les bonnes questions. Tel est peut-être le défi que lance au Mouvement le siècle finissant, où la confusion

des points de vue humanitaires, l'enchevêtrement des discours et des termes de référence contradictoires qu'ils véhiculent, ont peut-être fini par occulter la question essentielle : les fondements de l'éthique humanitaire sont-ils universellement partagés ? Comment se fait-il que l'éthique humanitaire soit si souvent reconnue sur le plan des valeurs, et hélas aussi insuffisamment mise en pratique sur le terrain ? Est-ce donc là une fatalité ? Poser ces questions, c'est poser celle du rapport entre la nature humaine et la guerre en général, un débat sans doute vieux comme le monde, mais qui est devenu d'une actualité de plus en plus brûlante au cours du XXe siècle. C'est certainement à ce débat qu'il faut restituer aujourd'hui les enjeux de l'éthique humanitaire, non seulement sous la forme d'un impératif moral, mais encore comme une voie vers des solutions pratiques et réelles.

Le débat moderne sur la guerre

Le discours humanitaire est avant tout une objection à une conception a priori radicalement destructrice de l'activité guerrière. Or, minorant cette position morale, le débat sur la guerre s'est principalement concentré, au cours de ce siècle, sur l'exploration des moyens d'éradiquer le « phénomène guerre » une fois pour toutes. L'histoire de ce débat met en évidence la tragique tension entre la volonté d'en finir avec la guerre et l'évidence atterrante de sa résurgence, toujours plus violente, toujours plus scandaleuse. Une telle tension, de telles convulsions, s'expliquent pourtant au vu du contexte dans lequel il s'est déployé. Dans la perspective historique à laquelle nous invite cette fin de siècle, il est légitime de revenir en arrière, pour prendre le pouls de ce débat essentiel, et pour y situer le droit international humanitaire, afin de mieux comprendre les enjeux du présent.

En 1933, à l'initiative de la Société des Nations, Albert Einstein entre en correspondance avec Sigmund Freud sur le thème « pourquoi la guerre ? », ce qui a donné lieu à un opuscule d'un rare niveau et d'une rare authenticité en cette année fatidique. Cet opuscule, qu'on a trop oublié depuis, reste pourtant d'une grande actualité. La discussion de ces deux figures immenses de l'histoire des idées résume en effet admirablement l'ensemble du dilemme auquel est confronté le débat de ce siècle sur la guerre. D'un côté, Albert Einstein, défenseur de l'idée que le progrès scientifique doit nécessairement s'accompagner d'un progrès moral proportionnel de l'humanité, incarne une position pacifiste optimiste. Celle-ci ne l'empêche évidemment pas d'être lucide et de s'interroger sur la nature destructrice de

l'humanité, qu'il évoque avec force, pour demander à Freud s'il pense qu'il sera un jour possible de maîtriser ce «besoin de haine et de destruction [que] l'homme a en lui».

Au physicien généreux, le psychologue oppose d'abord un réalisme qui repose sur l'expérience acquise dans l'exploration minutieuse de la psyché humaine: exposant modestement les mécanismes de la violence et de la guerre, qu'il juge inséparables de la nature humaine dans ce qu'il appelle sa propre «mythologie» scientifique, il se résigne à déclarer qu'en fonction de ces observations, «l'on ferait œuvre inutile à prétendre supprimer les penchants destructeurs des hommes», même s'il reconnaît «qu'on peut s'efforcer de canaliser le penchant humain à l'agression, de telle sorte qu'il ne trouve pas son mode d'expression dans la guerre». Esquissant des voies théoriques, il finit néanmoins par dire qu'«il y a toute chance que ce soit là un espoir utopique» si on cherchait un résultat à court terme. S'il est des voies «praticables [...] elles ne permettent pas de compter sur des succès rapides». Mais il ajoute aussitôt «qu'on ne se plaît guère à imaginer des moulins qui moudraient si lentement qu'on aurait le temps de mourir de faim avant d'obtenir la farine».

D'un côté Einstein, qui pourtant balise les obstacles avec précision, est convaincu qu'une solution radicale, qui mène à la paix universelle doit exister. De l'autre, Freud, moralement plus mal à l'aise, est convaincu que la tendance destructrice fondamentale de l'homme est insurmontable. Même s'il croit qu'il est possible de l'atténuer, il reste pessimiste face à la fatale incapacité de l'homme à dominer ses tendances.

Au-delà de leurs arguments, bien évidemment discutables, Einstein et Freud, sous la pression du moment historique, se placent courageusement au cœur de l'essentiel, et désignent les deux extrêmes entre lesquels le débat moderne sur la guerre a oscillé au cours du siècle: d'un côté une position optimiste qui croit en la capacité de l'homme de surmonter sa violence originelle jusqu'à abolir la guerre, de l'autre la position pessimiste, qui doute que la créature humaine puisse jamais gérer ses conflits autrement qu'en recourant à la violence armée. Entre ces deux positions se déploieront tous les grands arguments du siècle.

Qu'en est-il du droit international humanitaire? Les principes éthiques qui soutiennent cet édifice, à y regarder de plus près, se situent à mi-chemin de ces deux positions extrêmes. Le droit lui-même exprime clairement ce «compromis» moral qui, en même temps qu'il reconnaît la guerre comme une réalité *de facto*, cherche à lui objecter l'exigence du respect de la

personne humaine. Chacune des quatre Conventions de Genève réglemente les comportements dans la guerre en tenant compte à la fois de la nécessité militaire et de la nécessité humanitaire qu'il y a à protéger la dignité des hommes. Cette position est semble-t-il moralement difficile à admettre, paraît contradictoire, et fut parfois critiquée non seulement comme un compromis, mais aussi comme moralement «compromettante», d'aucuns estimant qu'elle «justifie» la guerre. Et pourtant, elle existe et, si elle n'annonce pas un monde idéal, elle n'a cessé de correspondre à la réalité des faits, qui jamais n'ont permis à l'humanité de basculer ni dans un état de paix universelle, et ni dans un état de guerre universelle.

Entre 1933 et 1945, un monde bien réel perd cependant de vue ses idéaux quels qu'ils soient, et s'enfonce dans l'horreur, comme si dans l'immédiat, l'Histoire avait voulu donner raison à ce que Freud évoque de pire en la nature humaine. En 1945, en revanche, l'heure est à la structuration des discours de la non-violence, et pas seulement en Occident. Preuve en est l'épopée de Gandhi. Dans l'euphorie de la paix retrouvée et du «plus jamais ça!», les États adoptent la Charte des Nations Unies, qui virtuellement bannit la guerre, comme une première étape concrète vers des lendemains qui chanteraient la paix universelle. On pourrait croire le droit international humanitaire et ses principes presque définitivement condamnés à la caducité. En 1946, la Commission de droit international des Nations Unies refuse en effet d'entrer en matière sur la codification du droit de la guerre. Pourtant, en 1949, les États placent leur crédit et leur poids dans la révision des Conventions de Genève existantes, et même dans l'adoption d'une quatrième Convention, en une apparente contradiction avec l'esprit pacifiste dominant qui a inspiré la Charte des Nations Unies. Ce qui peut surprendre s'explique en partie par le simple fait que, depuis 1945 déjà, la situation internationale s'était si rapidement dégradée que la perspective d'une troisième guerre, de la guerre, s'affirmait à nouveau comme une fatalité presque inévitable, coupant court aux espoirs de paix. Et ce n'est qu'à partir du moment où la guerre est, bon an mal an, perçue comme une réalité tangible, que le droit humanitaire refait l'unanimité, que le «compromis» s'impose comme un recours pragmatique contre le pire si ce n'est contre le mal, permettant tout au moins de limiter la violence que l'on ne peut éviter.

On le sait: la dynamique des deux superpuissances nucléaires dans le demi-siècle qui a suivi a gelé la guerre dans les deux blocs, qui ont bénéficié d'une fausse paix nommée «guerre froide», tandis que les guerres

se rallumaient dans le reste du monde. Dans un monde où les alternatives sont radicales – la paix ou l'holocauste atomique, une idéologie ou l'autre, une guerre juste ou une guerre injuste – les espoirs ont convergé vers des positions morales extrêmes: d'un côté, les tenants des idéologies dominantes pour qui la solution finale ne pouvait être que la disparition de l'autre bloc, de l'autre, l'exigence d'en finir tout à la fois avec la menace nucléaire et la guerre. Dans cet environnement saturé de positions idéologiques absolues, de valeurs exclusives, de dérives vers l'utopie et de visions d'apocalypse nucléaire, il est assez naturel que l'objection humanitaire et le droit international humanitaire n'aient obtenu que la part congrue du débat global. Il n'en reste pas moins que sur le terrain, à l'abri des Conventions de Genève, inscrites envers et contre tout dans le système international, le CICR, avec l'appui de l'ensemble du Mouvement, a pu transformer leurs principes en des actes dont les victimes des guerres qui se sont succédées ont pu bénéficier concrètement.

Mais l'histoire a eu raison des discours, une fois encore. Sans crier gare, sans que personne n'ait même imaginé une pareille évolution, le rideau de fer est tombé en un clin d'œil, comme de lui-même, sans qu'aucune des forces idéologiques et militaires si longuement fourbies au cours du siècle n'ait eu à le pousser. Car, en arrière-fond, d'autres dynamiques s'étaient déjà mises en route, que les discours dominants intégraient mal. Finalement, la réalité a transformé ces discours en illusions. Où sont aujourd'hui les idéologies qui furent notre préoccupation quotidienne durant tant d'années? Et combien a-t-on glosé sur ce retour au chaos, au complexe et à l'inexplicable qu'a soudain signifié pour tous les systèmes établis la fin de guerre froide?

Pierre Hassner résume admirablement le phénomène: «La fin de la guerre froide, c'est la victoire des processus sur les structures»[1]. Des processus politiques, économiques, sociaux et technologiques se sont développés pendant la guerre froide, dont ils ont finalement sapé les structures. N'a-t-on pas parfois regretté l'ordre structuré, stable, intelligible, simple, de la guerre froide? Et n'a-t-on pas eu tendance à imaginer l'après-guerre froide idéal sur le modèle ancien, avec l'idée d'un ordre mondial nouveau, idéal structurel qui n'a pas longtemps résisté aux processus nouveaux?

1 Pierre Hassner, *La violence et la paix : de la bombe atomique au nettoyage ethnique*, Éditions ESPRIT, Paris, 1995, p. 12.

Quant à l'humanitaire, il s'était également structuré pendant la guerre froide, mais cette structuration lui a coûté la flexibilité dont il aurait aujourd'hui besoin pour saisir une réalité devenue fluctuante, qui se dérobe à ses catégories préétablies. La communauté humanitaire ne cesse-t-elle pas de s'émouvoir de ces «nouveaux» conflits «déstructurés», qui ne sont que l'expression d'un monde globalement déstructuré ?

Sitôt après la fin de la guerre froide, la logique du système humanitaire international a été emportée et partiellement absorbée par les mêmes processus de mondialisation politique, militaire, économique, sociale et technologique, quels qu'ils soient, que le reste de la société. L'agitation est grande autour de la soudaine absence de termes de référence communs et de la réalité qui se soustrait aux moyens traditionnels. Les actions, les acteurs se sont instantanément multipliés. Les discours également, se faisant de plus en plus confus. Les mots ont de plus en plus de peine à désigner les choses, et la prolifération de néologismes et mots-valises en est un symptôme significatif (urgence complexe, politico-militaire, *peace keeping, peace making, peace support*, etc.). Les différents mandats, les différents acteurs, les différents points de vue s'opposent les uns aux autres au lieu de se compléter. L'humanitaire se fragmente, comme le reste de la société. Il est mis en demeure de combler le fossé qui s'est ouvert entre les mots et les choses.

Le retour à la réalité

Quelle réalité recouvre aujourd'hui le mot «humanitaire» ? De plus en plus souvent, la réponse humanitaire traditionnelle – protection et assistance aux victimes, faire respecter les principes et les règles humanitaires – laisse place à un interventionnisme protéiforme où se mélangent tous les genres. Revendiquant en partie les habits de l'humanitaire, des opérations «politico-militaires» visant la pacification déploient sur le terrain des armées internationales aux mandats contradictoires et confus : confinés malgré eux dans le registre de l'expérimentation, des militaires internationaux, maîtrisant mal la complexité des contextes locaux et perçus a priori comme étrangers et illégitimes, s'essaient à la fois à des opérations de police internationale, de protection et d'intervention militaire, qui n'aboutissent pas à des solutions durables. Dans l'ensemble, sous les auspices d'une approche à la fois pacificatrice et humanitaire, ils sont soit condamnés à un impuissant «maintien de la paix» pieds et poings liés, soit tentés de céder à nouveau au principe de la guerre juste, où la fin justifierait les moyens, à la tentation de solution

radicale, de pacification par la force. Mais si le droit de la force prime sur la force du droit, revient alors nous hanter le paradoxe moral que signifie une «armée de la paix» – elle-même productrice d'actes belliqueux – et la fragilité d'une paix imposée par la force ou la contrainte, qui certes peut étouffer à court terme la violence, mais pas en supprimer les germes: la méfiance, la haine, qui réapparaîtront à terme.

En outre, sur ce fond d'interventions militaires internationales de toute sortes, et dans le même registre expérimental, la multiplication des agences internationales et non gouvernementales humanitaires sur le terrain s'accompagne d'une multiplicité d'approches différentes, voire contradictoires, où les tenants de l'intervention militante se heurtent aux partisans de la neutralité et du dialogue. Se dessinent également des nouveaux mécanismes de répression internationaux, qui véhiculent des espoirs, mais qui n'en sont qu'à leurs premiers pas et rencontrent des obstacles insurmontables en l'état. Enfin, s'ajoutent à cela des intérêts économiques et médiatiques qui viennent encore compliquer des processus déjà opaques.

Résultat: cette multiplicité d'acteurs armés et non armés, de comportements concurrents et divergents «énerve» littéralement les acteurs des conflits, suscite d'autant plus d'incidents de sécurité, et rend confuse à leurs yeux la notion même d'humanitaire. La plupart des acteurs de la violence armée étant non étatiques, ceux-ci sont d'autant plus enclins à ne pas respecter la lettre d'un droit auquel ils ne sont pas parties, à se méfier et à rejeter en bloc les principes contradictoires qu'on leur demande de respecter, et notamment à se méfier aussi bien de l'emblème de la croix rouge que de tous les autres symboles et emblèmes qui sillonnent le terrain. On est loin de l'idéal de Dunant, d'un symbole unique et rassembleur, représentant un ensemble cohérent et universel de principes.

De l'autre côté du miroir se trouve le public global: les citoyens des pays en paix, à qui toute cette confusion est relayée en vrac par les médias, notamment audiovisuels, omniprésents. Le public y voit la violence de plus en plus terrible qui lui parvient chaque jour en direct, sans explication, sans restitution de la complexité des contextes. Cette saturation dans l'atrocité le pousse vers une position fataliste, considérant la barbarie comme inévitable et consubstantielle à la guerre, et le prédispose à approuver toute forme de solution forte, simple, et aussi juste que radicale. La tentation d'une «idéologisation» du problème humanitaire, de son «utopisation», voire de sa «virtualisation» est réelle.

Tous les processus majeurs qui sont en cours, et qui semblent poussés par la volonté de «réinventer» l'humanitaire, sont porteurs d'autant de dangers que d'espoirs, selon qu'ils basculent dans des positions extrêmes ou non. Le risque de ne trouver rien d'autre que la guerre en lui opposant la guerre au nom de la paix est grave. Le risque de croire de manière simpliste à l'assistance humanitaire et celui d'un optimisme irréaliste quant à une paix universelle le sont tout autant si l'on considère les faits. Si, comme toutes les autres structures sociales, l'humanitaire glisse dans le chaos «global» de l'après-guerre froide, il n'en reste pas moins que le chaos n'est pas le néant: il n'est pas forcément nécessaire de «réinventer» de fond en comble l'humanitaire, le droit, les fondements éthiques, l'action. Au moment où il faudrait se poser plus de questions que jamais, on agit trop souvent avec empressement, comme par déni de la réalité, emporté par la tentation des réponses simples. «À tout problème complexe, disait Umberto Eco, il y a une solution simple: et c'est la mauvaise».

Reste que le débat se fait de plus en plus vif autour de ces enjeux, et force est de constater l'émergence croissante d'approches plus pragmatiques ou d'interrogations plus réalistes dans les discours des uns et des autres. Les militaires internationaux sur le terrain, plus que quiconque aptes à saisir les dilemmes inhérents aux expériences qui ont été faites, doutent et se posent des questions. « *We must remember that aid cannot be given in naive and arrogant disdain of the sociopolitical realities of the affected area. Purely military missions cannot impose simplistic criteria, autocratic parameters, and domineering black-and-white solutions* »[2], a dit le général Dallaire, commandant de la MINUAR au Rwanda. Les organisations dévouées à l'idéal de paix universelle sont plus enclines à reconnaître les limites des approches trop radicales. Le *Hague Appeal for Peace* est ainsi prêt à affronter les enjeux du droit international humanitaire, repris dans ses thématiques centrales, admettant en quelque sorte qu'il y a urgence à limiter les excès de la guerre *hic et nunc*, tout en s'efforçant d'abolir la guerre à l'avenir.

Dans l'ensemble, il est aujourd'hui permis de penser que les discours des élites tendent peu à peu à se distancer de toute *idéologisation* comme de tout intégrisme éthique, pour se rapprocher d'un pragmatisme «à la croisée des chemins», de solutions complexes mais plus praticables, moins

2 R.A. Dallaire, « The end of innocence – Rwanda 1994 », J. Moore (ed), *Hard Choices, Moral dilemmas in humanitarian intervention*, Rowman & Littlefield, Lanham, Boulder, New York, Oxford, 1998, p. 71 et suiv.

spectaculaires mais plus durables. S'il faut continuer à vouloir «changer le monde», la tendance pourrait être de s'investir davantage en faveur de solutions graduelles plutôt que radicales. On retrouve la métaphore du «moulin» de Freud, évoquée plus haut. Après un siècle où tous les espoirs de succès et de changements rapides ont été déçus et ont mené à des catastrophes répétées, le moment est peut-être venu de penser que, dans ce monde turbulent en surface, ce sont les «moulins qui moulent lentement» mais en profondeur qui portent les plus grandes promesses de changement. Entre optimisme et pessimisme extrêmes s'ouvre peut-être la voie médiane, où le défi consiste à ne pas réduire, simplifier, affirmer péremptoirement, et décider selon des structures établies, mais à accepter la complexité, les dilemmes, le dialogue comme un long processus d'apprentissage et de prise de décision.

Reste pour le Mouvement international de la Croix-Rouge et du Croissant-Rouge, un acteur parmi d'autres désormais, à retrouver au cœur de son identité les moyens d'orienter sa mission vers ces nouveaux défis: poser les bonnes questions avant de donner les réponses devient alors l'alpha et l'omega d'une approche frontale du nouvel environnement. La vraie question qui se pose au Mouvement en cette année du 50e anniversaire des Conventions de Genève est celle de la validité du droit international humanitaire et de ses fondements éthiques, qui sont le cœur de sa mission.

Une initiative inédite: le projet «Les voix de la guerre»

Le CICR s'est par conséquent fixé pour objectif, à la veille du rendez-vous historique du 12 août 1999, de se mettre systématiquement à l'écoute de ceux que depuis tant d'années il côtoie au quotidien dans les zones de conflits: les acteurs de la guerre, les populations des zones de guerre, les victimes, les combattants. Les personnes qui vivent la guerre sont rarement consultées sur ce sujet en tant que tel. Les discussions sur les guerres qui les touchent ont lieu en effet lors de réunions auxquelles elles ne peuvent pas assister, et les conclusions sont reflétées dans des documents qu'elles n'écrivent pas elles-mêmes ou qu'elles n'ont pas l'occasion de lire. À travers un processus de consultation aussi large que possible, le projet «Les voix de la guerre» a au contraire l'ambition de placer les personnes des sociétés déchirées par la guerre sur le devant de la scène, là où les règles et les décisions humanitaires de demain voient le jour, et de faire en sorte que ce processus soit moins une addition de monologues qu'un véritable dialogue.

Le but d'un tel processus serait de capter à la source l'imagination morale des individus, de la population en général comme de groupes plus ciblés, afin de mesurer si certaines intuitions morales, qui sont à la racine du droit humanitaire, sont partagées par les individus de cultures différentes, dans des circonstances différentes, et à l'échelon mondial. La somme des informations ainsi recueillies dresserait un premier inventaire des ressources éthiques, dont le développement et la mise en œuvre du droit, la pratique militaire et l'action humanitaire pourraient en fin de compte s'inspirer au XXIe siècle. Contrairement à l'approche spéculative traditionnelle, l'approche empirique de la validité des principes du droit international humanitaire – une approche de bas en haut plutôt que de haut en bas, qui donne enfin la parole à ceux qui ont vécu et ont fait la guerre – peut apporter un instrument authentiquement nouveau, au niveau substantiel et méthodologique, à la recherche de solutions humanitaires.

L'étude comparative des données recueillies doit susciter une lecture nouvelle des enjeux humanitaires globaux et contextuels. Elle permettra peut-être d'éclairer la nature de l'écart entre les intuitions éthiques et les faits, en explorant plus à fond les vrais dilemmes et déchirements auxquels sont confrontés les hommes et les femmes qui ont vécu la guerre. Elle permettra aussi peut-être de mesurer le degré d'adhésion à ces intuitions, de savoir si la réglementation des comportements dans la guerre est perçue comme essentielle ou non dans le patrimoine des valeurs humaines. Enfin, peut-être, permettra-t-elle de mieux définir les lacunes du droit international humanitaire lui-même, et les raisons qui rendent sa mise en œuvre parfois si difficile.

Du fait de la spécificité de son mandat, le CICR est l'opérateur désigné d'un tel projet. La présence de ses délégués au sein de la majorité des communautés récemment ou actuellement touchées par la guerre et la violence armée, toujours d'un côté et de l'autre, et la pluridisciplinarité de ses actions, dont bénéficient de nombreuses catégories de la population et notamment les combattants, offrent une interface d'une représentativité, sinon inégalable, du moins crédible, avec l'ensemble des sociétés en guerre dans le monde.

En tenant compte des contraintes opérationnelles et des obstacles méthodologiques qu'impliquent une telle action, le dispositif du CICR se prépare à recueillir, dans une quinzaine de pays, les opinions de personnes qui ont été touchées par la guerre au cours de ce demi-siècle. En coopération avec des professionnels des sondages d'opinion et de la recherche

sociale, les délégations du CICR, mais surtout les collaborateurs locaux secondés, le cas échéant, par des membres des Sociétés nationales de la Croix-Rouge et du Croissant-Rouge, mettront en place une méthodologie de consultation à la fois quantitative et qualitative. Sur la base de questionnaires statistiques, un échantillon représentatif de 500 personnes en moyenne par communauté partie à un conflit sera approché par des enquêteurs et invitée à répondre à une cinquantaine de questions en partie standard, en partie liées au contexte. Les questions porteront, notamment, sur la manière dont la personne interrogée a vécu la guerre, ses intuitions et ses opinions quant aux règles dans la guerre, ainsi que sur le rôle des acteurs locaux et internationaux en la matière.

En outre, environ quatre groupes de discussion composés de personnes choisies, particulièrement représentatives de l'expérience collective, seront constitués dans chacune de ces communautés. Ces groupes examineront les mêmes sujets, mais sur un mode plus interactif. La discussion, animée par des professionnels, vise à sonder en profondeur les dilemmes moraux, psychologiques et intellectuels des individus confrontés à ces questions. Enfin, un certain nombre d'entretiens auront lieu avec des individus en privé, afin d'approfondir plus encore ces sujets. Les consultations ont commencé en Colombie, en Bosnie-Herzégovine et aux Philippines et se poursuivront jusqu'en juillet 1999. Les données recueillies dans chaque communauté donneront une vision de l'ensemble de la problématique, et feront l'objet d'un rapport spécifique par pays. Enfin, un rapport final, qui fera la synthèse des réponses de plus de 10000 personnes, des débats de quelque 120 groupes de discussion et de plus de mille entretiens individuels, sera élaboré à l'automne 1999 et soumis à l'attention des participants à la XXVIIe Conférence internationale de la Croix-Rouge et du Croissant-Rouge.

Se mettre à l'écoute est un processus qui, même s'il soulève des problèmes considérables, ne suffit pourtant pas : partager l'information est plus nécessaire encore. Le projet s'accompagne donc d'un vaste programme de distribution et de publication des données. Pour autant que la sécurité des individus le permette, le matériel recueilli sera rendu public : des rapports seront publiés et le matériel sera mis à la disposition de tous les chercheurs, institutions spécialisées, organisations internationales et ONG intéressés. Divers médias et observateurs indépendants ont été invités à se rendre sur le terrain. Un site web dédié à ce projet sera lancé au printemps, et d'autres initiatives seront prises pour encourager le débat autour des « voix de la

guerre». À travers une campagne d'information publique, le CICR espère qu'en faisant entendre la voix de milliers de civils et de combattants, il permettra à l'homme de la rue de mieux comprendre ce qui se passe réellement et ce qui compte vraiment dans une société ravagée par la guerre, et de contrer le fatalisme et les simplifications qui ont cours.

Le projet «Les voix de la guerre» donnera la parole à celles et ceux qui auparavant ne l'avaient pas. Il rappellera au grand public que les personnes qui vivent dans des régions déchirées par la guerre, prises au piège de situations complexes et cruelles, sont les principaux partenaires des acteurs internationaux, politiques aussi bien qu'humanitaires. En leur donnant l'occasion de s'exprimer, le projet traite ces personnes en tant qu'individus, avec leurs espoirs et leur dignité, avec leur grande et précieuse expérience, dont dépend la possibilité de se forger un avenir meilleur.

Enfin, le CICR fera un effort particulier pour que les résultats de la consultation soient mis à la disposition des communautés consultées, et il s'attend à ce qu'ils suscitent un débat sur le plan local. Quelle que soit l'issue de la consultation, il faut – et c'est important – qu'après avoir écouté ce que les personnes interrogées avaient à dire, des mesures soient prises qui assureront un avenir meilleur à celles et ceux qui nous ont donné un peu de leur temps pour nous parler de leur expérience. Le projet a été lancé par le CICR, mais l'essentiel en sera la contribution de celles et ceux qui ont le plus souffert dans la guerre et qui en savent le plus.

Au fond du vaste corpus du droit international humanitaire, la clause de Martens est là pour nous rappeler que lorsque les limites de la lettre du droit international sont atteintes, «les populations et les belligérants restent sous la sauvegarde et sous l'empire des principes du droit des gens, tels qu'ils résultent des usages établis entre nations civilisées, des lois de l'humanité et des exigences de la conscience publique». Le projet «Les voix de la guerre» témoigne des efforts que fait le CICR pour se mettre concrètement à l'écoute de cette «conscience publique», afin de contribuer à restituer les enjeux fondamentaux de l'action humanitaire en cette période d'incertitudes.

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Abstract

Is it possible to celebrate the 50th anniversary of the Geneva Conventions?

by GILBERT HOLLEUFER

The author raises the rather daunting question of whether it is possible to justify celebration of the Geneva Conventions despite the enormous suffering caused by war which those Conventions are supposed to prevent. What can international humanitarian law achieve under the present circumstances? The author does not give an easy answer to this question but he asks the right questions, which could lead to at least certain components of a good answer. He goes on to present the project, called "People on War", that the ICRC has launched to mark the anniversary. The purpose of this unique initiative is to meet people who have been through war and ask them to share their personal experiences with conflict and to say what they expect from humanitarian law. Results of this vast study should be available for the 27th International Conference of the Red Cross and Red Crescent, to be held in Geneva later this year.

THE REVIEW

The International Red Cross and Red Crescent Movement's involvement in public advocacy campaigns

A discussion paper

BY STEVEN DAVEY AND JEAN-LUC BLONDEL

At the 1997 Council of Delegates of the International Red Cross and Red Crescent Movement, a short but important debate was held on the advocacy role of the Movement, with a view to determining criteria for the launching of campaigns on humanitarian issues. The present document takes into account the different contributions made during a series of meetings and the various written papers submitted within the Movement. It has been sent as a background paper to National Red Cross and Red Crescent Societies in order to seek their views on the matter. At a later stage, the results of this consultation will be taken into consideration in establishing a policy document for the Movement as a whole.

The meaning of advocacy

A new interest in advocacy

Although not new, the concept of advocacy is now receiving renewed attention. The Red Cross and Red Crescent Movement (hereinafter "the Movement") has had a long-standing commitment to furthering and upholding humanitarian principles and action, and to defending, either privately or publicly, the cause of vulnerable people and victims of conflicts or other disasters. Likewise, it has long taken a public stand in promoting the ratification and implementation of the Geneva Conventions and their Additional Protocols. Indeed, the Movement is itself the product of one of

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the great advocacy ideas: that of Henry Dunant, who strove to introduce a measure of humanity into the inhumane chaos of war. But, unlike other organizations, the Movement has developed primarily as a service provider, "doing good" without seeking much publicity. The many and constant representations made by the Red Cross and Red Crescent institutions are generally of a private rather than a public nature, as this is often a more effective way of exerting pressure on players in political or social spheres.

The new dimension of advocacy today lies mainly in the growing interest of some of the Movement's components in having speedier or wider recourse to public campaigns. For others in the Movement, advocacy is seen as a most delicate exercise, covering areas perceived to have potential political implications. Thus some National Societies are concerned that a public campaign might cause them to lose the confidence of their traditional partners, not least that of government authorities. But few would argue against the idea that the Red Cross and Red Crescent has an important role to play in expressing, promoting and defending the needs of the victims, thereby also contributing to the development of a society more attentive to the values of solidarity and humanity.

Advocacy is part of the Red Cross and Red Crescent mission, in addition to, or in support of, the services rendered to the community. Thus it represents a key element of National Society development, clearly highlighted, for example, in the Strategic Work Plan of the International Federation.

Advocacy does not necessarily involve public demarches, but these demarches are one of the tools that can be used to fulfil the humanitarian mission of the Movement. Generally speaking, that mission is to "prevent and alleviate human suffering (...), to protect life and health and ensure respect for the human being, (...) to work for the prevention of disease and for the promotion of health (...)". Consequently, having the courage to take positions and conduct campaigns – if necessarily publicly – on essential issues, is an important factor in the Movement's credibility.

Definitions

The many terms used when discussing advocacy are very diversely understood by different organizations and people, both within and outside the Movement. The word "advocacy" itself means different things to different people. For some the term immediately conjures up images of an advocate and of legal action. For others the idea that the Red Cross and Red

Crescent should be engaged in advocacy seems new – more because the word is not familiar to them than because they reject the idea that the Red Cross and Red Crescent has been, and needs to be, involved in "speaking out" on humanitarian issues.

Before proceeding any further it would be useful to establish a frame of reference by adopting common definitions for the relevant terminology.

A short, general definition of advocacy is given in the Oxford Dictionary as "... pleading in support, supporting or speaking in favour of (someone, a cause or policy)...". This definition can be used for the present discussion.

The second part of this paper will examine the criteria for launching a humanitarian campaign, as an example of public advocacy. This approach is different from, although possibly complementary to, the other modes of action available to the Red Cross and Red Crescent, which include:

• "private advocacy", i.e. bilateral approaches to government authorities, through meetings or letters, to promote a Red Cross/Red Crescent position;

• routine communications aimed at informing the public about Red Cross/Red Crescent policies, activities and needs;

• conferences, training seminars and publications intended to promote international humanitarian law, the Fundamental Principles and Red Cross/Red Crescent policies and practice in a wide range of areas relating to health and social welfare;

• public statements on violations of international humanitarian law or on conduct representing a serious breach of the Fundamental Principles or of essential policy within the Movement (e.g., on AIDS, refugees, non-discrimination in delivering services).

Working as they do in diverse social and political environments, the National Societies do not all have the same possibilities as regards public advocacy and are not all in a position to promote with equal vigour all the policies adopted by the General Assembly of the International Federation or the Council of Delegates. For each issue, and in every context, it is important carefully to consider and to promote the best and most appropriate means of pleading in support of war victims or the most vulnerable.

Different issues might require different levels of participation by the individual components of the Movement. The International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies would naturally make representations or raise public awareness on matters of international concern, such as the protection

of the emblem, respect for international humanitarian law and assistance to victims of natural disasters. A National Society might be active on the national level in defence of the most vulnerable, such as the elderly, HIV/AIDS victims, etc., or even at branch level to deal with local issues or personal hardship in a town or region.

Depending on the urgency of an issue and on its own resources, a single Society might decide to launch a national campaign to promote Red Cross/Red Crescent interests or to combat a health or social problem (e.g., street children, alcoholism). The Society concerned must certainly take into account the possible consequences of its commitment outside its own country, perhaps for sister Societies, but this should not hinder it in its endeavour as long as its campaign is compatible with accepted Red Cross/Red Crescent policy.

All the different means of communicating with and influencing others, mainly at the national level, are important. The following paragraphs will not explore them in depth, but will focus rather on the pros and cons of worldwide campaigns conducted by the Movement and of its association with such campaigns.

Launching public advocacy campaigns

Definition of a campaign

A campaign is an organized course of action aimed at achieving, within a determined time frame, the acceptance of an idea or the implementation of a certain measure. For the purposes of this paper, a Red Cross/Red Crescent campaign is a coordinated worldwide mobilization in which all the components follow similar patterns of communication for promotion of an essential issue.

The "special relationship" of the Red Cross/Red Crescent institutions with governments

A Red Cross/Red Crescent campaign is not solely aimed at promoting humanitarian values, but also securing the modification of a policy or a form of behaviour. The objective being to change public opinion, a campaign seeks to exert a certain amount of pressure upon political decision-makers in situations where traditional discreet diplomacy would be unsatisfactory or too remote to achieve effective results. Such campaigns are frequently directed at governments and/or legislative bodies; but other organizations and to some

extent the Red Cross/Red Crescent have also launched or participated in campaigns aimed at private sector companies on issues including the environment, appropriate marketing practices for health products, etc.

For some National Societies, finding themselves at odds with their governments may be seen as the main risk, for reasons related to the status of a National Society as auxiliary to the public authorities in health, social welfare and other activities. The negative impact of a public confrontation could have lasting consequences in terms of government support (financial and moral), cooperation in the many fields of common concern and common activities (including programmes unrelated to the campaign in question), and the ability of the National Society to "lobby" successfully on other humanitarian matters. Governments themselves differ considerably in terms of their respective approaches and the resources devoted to humanitarian issues, and different National Societies will need to find different ways of communicating with their governments.

Whilst the ICRC and the International Federation are not themselves auxiliaries to governments, both depend, for the effectiveness of their action, on preserving the good will and support of governments, and thus share some of the concerns of National Societies, although to a lesser degree.

In launching a public campaign at the international level (but the same applies to national activities and advocacy), care should be taken to maintain positive working relations with the authorities and even strengthen the dialogue between the components of the Movement and political authorities. "Positive relations" does not mean silence, fear or the abandonment of humanitarian values, but the establishment of a constructive, although partly critical, dialogue that takes due account of the different responsibilities, means and strengths of the partners concerned. The end result of a campaign must be to promote Red Cross/Red Crescent action in the long term, including through healthy relations with governments.

In their relations with non-governmental organizations (NGOs) on advocacy issues, the individual components of the Movement also need to coordinate carefully. Relations between the ICRC or the International Federation and the international arm of an NGO should not contradict positions taken by National Societies with the national arm of the same NGO.

Working together with other organizations

The Red Cross and Red Crescent Movement needs to cooperate with many other bodies to achieve its goal. It also recognizes that it does not have any exclusive interest in humanitarian concerns and action. As shown by the mobilization of NGOs and governmental support for the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief and for the campaigns to ban anti-personnel landmines and to protect and assist children affected by armed conflict, working in association – or at least following some common guidelines – with NGOs can increase the impact of the Movement's efforts and thus favour the success of the enterprise.

NGOs can also benefit from their association with the Red Cross/Red Crescent, and at times actively seek such association. Understandably, this often prompts them to solicit backing for their causes or request cooperation from other agencies as corroboration of the validity of their campaigns or operations. For the Red Cross/Red Crescent, such an association can be constructive, but it may also backfire. There is a risk of confusion on the part of the public or governments, which may not clearly distinguish between the motivations and the public statements and action of different organizations.

NGOs enjoy greater independence in their advocacy of some humanitarian issues. The Red Cross/Red Crescent Movement can nevertheless share with them common concerns and seek coordination and cooperation in the promotion of certain values. Humanitarian agencies working on a complementary basis can represent a much stronger force than a "fusion" of identities in an excessively close coalition. In other words, it will often be important to adopt common or similar positions, but to engage in advocacy in one's own name.

The role of the different components of the Movement

Humanitarian mobilization being a sensitive topic, the components of the Movement must, in this respect, pay greater attention to "working together". Because of national statutory relations and traditions, the relationships of National Societies with their governments, NGOs and the mass media vary from country to country. Although not hampered by local constraints, worldwide campaigns conducted by the Movement must nevertheless pay due attention to each of its components. On the other hand, the international institutions of the Movement, which are less dependent on local

circumstances, can be of great help to the National Societies, advocating on their behalf on potentially sensitive issues and thus enabling them to avoid direct involvement with their countries' authorities (any such contacts should, of course, take place with the knowledge of the Societies concerned, which must be kept informed by the ICRC or the International Federation about their nature and results).

The international institutions of the Movement should not bypass National Societies and pursue a campaign in the latter's countries without their consent or at least their knowledge. As a general rule, humanitarian campaigns have to be based on a consensus, as they represent a high-quality means of propagating a message. Naturally, National Societies can follow guidelines and implement measures at different "speeds". They can also show different levels of commitment in carrying out a campaign. It may even happen that a National Society remains passive vis-à-vis some issue, leaving it up to the international institutions of the Movement to assume responsibility for certain demarches and publicity in its own country.

Criteria for launching international campaigns

It was noted earlier that an individual National Society or a small group of Societies should not make a policy decision having possible worldwide implications without consulting the other partners within the Movement. Similarly, the International Federation and the ICRC must constantly maintain effective coordination on issues which could give rise to a campaign, and also on projects which may call for major commitment on the part of National Societies in terms of communication and mobilization of resources.

As the anti-personnel landmines campaign has shown, international humanitarian mobilization can lead to unexpected developments and yield better results than was first expected. The campaign has also demonstrated, however, that this kind of mobilization is a costly business. The components of the Movement must therefore be ready to commit themselves on a long-term basis to making the necessary human and financial resources available to see such campaigns through to the end.

Before launching a campaign, or a worldwide advocacy action, the Movement or its individual components must take the following criteria into account:

• The issue for which public advocacy or a campaign is planned must be based on the mandates of the components of the Movement, as defined

by its Statutes, the Fundamental Principles, international humanitarian law, or Movement policy.

• The components of the Movement must, through their operations and programmes, have sufficient knowledge and experience to be credible in their advocacy role (the capacity to "make the difference").

• An official agreement must be reached officially within the Movement (General Assembly or Executive Council of the International Federation, Council of Delegates or another statutory meeting), and close consultation maintained with the other partners of the Movement.

• The desired outcome of the campaign must be precisely defined and the long-term allocation of resources for running the campaign must be clearly identified.

• The action to be taken must not be expected to have severe adverse effects on any other components of the Movement and thus risk jeopardizing its image or operational capacity (including the security of humanitarian action); mechanisms for evaluating the impact of advocacy initiatives, particularly campaigns, on each component should also be identified.

• The issue addressed must tend to promote wider respect for international humanitarian law or more effective assistance to victims of conflicts and disasters or the most vulnerable members of society.

Conclusion

Any campaign carried out by one or more components of the Movement inevitably has repercussions on the other components. Globalization of the media and the image of the "Red Cross/Red Crescent" as a single concept are both factors which accentuate this phenomenon and which should be taken fully into account in the organization of a campaign. Regular dialogue is necessary to manage such repercussions, which may be favourable (indeed, a campaign may offer a National Society the opportunity to establish contacts with its government) or unfavourable.

Launching a public advocacy campaign is only one of the means available to the Movement for promoting humanitarian principles. Advocacy, as an imperative for the various components, must take place at different levels and in a meaningful and effective way. Most probably, the majority of approaches made by Red Cross/Red Crescent representatives will and must remain of a confidential, private nature. However, faced as it is with worldwide phenomena causing excessive suffering and undermining human

dignity, the Movement might decide that coordinated public mobilization at the international level is the best means of achieving its humanitarian objective. Individual and collective capacities within the Movement certainly do not allow for many similar simultaneous enterprises of that kind. It is therefore essential to maintain a constant and open dialogue between the components, in accordance with agreed criteria, for the sake of credibility, efficiency and, ultimately, greater humanity for all.

Résumé

La participation du Mouvement international de la Croix-Rouge et du Croissant-Rouge à des campagnes de sensibilisation – un document de travail
par Steven Davey et Jean-Luc Blondel

Prenant pour point de départ le bref débat sur l'attitude du Mouvement à l'égard des campagnes de sensibilisation qui a eu lieu lors du Conseil des Délégués de 1997, les auteurs passent en revue toutes les questions que soulève la participation de composantes du Mouvement à des campagnes qui impliquent des prises de position publiques. Ils rappellent que l'approche fondée sur la confidentialité reste souvent la meilleure méthode pour atteindre un but à caractère humanitaire. Reste que la mobilisation de l'opinion publique, sur le plan national ou international, produit parfois des résultats qui ne peuvent pas l'être autrement. Les auteurs proposent l'esquisse d'une ligne de conduite qui est compatible, à la fois, avec les objectifs de la Croix-Rouge et avec les intérêts de toutes les composantes du Mouvement.

LA REVUE

Faits et documents

Reports and documents

Les principaux défis auxquels le CICR doit faire face en 1999

Conférence de presse de **Jean-Daniel Tauxe** directeur des opérations, 20 janvier 1999

L'ANALYSE de l'évolution des situations de conflit en 1998 permet de discerner plusieurs grandes tendances, qui doivent être prises en compte dans la conduite des opérations humanitaires, et qui sont:

• l'imprévisibilité: c'est le cas pour la guerre entre l'Éthiopie et l'Érythrée, les événements en Indonésie, en Guinée-Bissau, en Sierra Leone et au Kosovo;

• l'extension: il s'agit des situations où des conflits prennent une dimension régionale (République démocratique du Congo, Afghanistan, ainsi que les pays voisins);

• l'enlisement: pour certains conflits, il semble n'exister aucune perspective de solution (Soudan, Afghanistan, Sri Lanka);

• la réactivation: certaines guerres reprennent, comme en Angola ou en Irak;

• la paupérisation: sur le plan socioéconomique, le fossé se creuse dans le monde entier entre les nantis et les laissés pour compte, entraînant une augmentation inéluctable de la violence et de la criminalité. Ce phénomène a été observé dans la presque totalité des contextes où le CICR mène ses activités. Il en résulte des actes de pur banditisme, qui viennent s'ajouter à la violence issue d'une situation de conflit.

Enfin, sur le plan humanitaire, l'analyse des conflits démontre que les civils ne sont plus seulement des victimes mais deviennent également des cibles, notamment dans les Balkans, en Afrique centrale, en Sierra Leone ou en Colombie.

Avec l'évolution des conflits, le CICR se trouve confronté à deux défis majeurs: l'accès aux victimes et la nécessité de faire respecter le droit international humanitaire. Ces difficultés apparaissent de diverses manières.

Les modes d'action du CICR – basés sur les principes d'impartialité, de neutralité et d'indépendance – sont de plus en plus contestés et difficiles à

faire accepter. La sécurité des victimes et du personnel des organisations humanitaires dans des contextes explosifs impose des contraintes à l'action. Enfin, on assiste à une multiplication du nombre des acteurs impliqués dans la violence et il est essentiel non seulement de les identifier mais également de les responsabiliser.

Pour le CICR, l'enjeu consiste à développer des stratégies pour faire face à ces défis. Il s'agit, d'une part, d'assurer la proximité avec les victimes tout en tenant compte des contraintes liées à la sécurité. D'autre part, il est impératif d'élargir les réseaux de contact en poursuivant le dialogue non seulement avec les interlocuteurs politiques et militaires traditionnels mais également avec d'autres acteurs, notamment au sein de la société civile et dans les milieux économiques.

Au cours de l'année 1998, de multiples contraintes politiques et liées à la sécurité ont empêché l'institution de réaliser pleinement les objectifs prévus, par exemple en Afghanistan, en Tchétchénie, en Somalie ou en République démocratique du Congo.

Il faut toutefois souligner que, pendant la même année, le CICR était présent en permanence dans 58 pays et que ses délégués ont pu visiter plus de 190000 détenus dans quelque 1300 lieux de détention. Environ 64000 tonnes de secours ont été distribuées dans 50 pays, pour une valeur de 76 millions de francs suisses.

Pour 1999, le budget terrain, s'élève à 660 169 500 francs suisses, ce qui représente une légère baisse par rapport au budget 1998, qui était initialement de 675 millions.

Il est à noter que le CICR a introduit un nouveau système pour fixer ses objectifs et déterminer son budget. Ce système n'est plus fondé sur des activités mais sur des populations cibles, et les objectifs sont planifiés en fonction des résultats. Cette nouvelle technique doit permettre de mieux cerner les besoins des victimes, tout en analysant plus précisément l'environnement dans lequel elles évoluent. Le budget 1999 se veut donc explicite et plus réaliste en termes d'objectifs.

La plus grande partie de ce budget, soit 48,2 %, est destinée au continent africain avec en priorité l'Afrique centrale, mais également la Corne de l'Afrique, la Sierra Leone et les pays voisins. La région Europe et Amérique du Nord vient ensuite, avec 19,9 % (en particulier pour les Balkans); 17 % sont attribués à l'Asie et au Pacifique (essentiellement l'Afghanistan et aussi l'Indonésie). L'Amérique latine se verra consacrer 7,9 % avec en priorité la

Colombie, mais aussi le Pérou et le Mexique. Enfin, 7 % iront au Moyen-Orient et à l'Afrique du Nord, en particulier pour Israël, les territoires occupés et les territoires autonomes, et l'Irak.

Il a été rappelé, en outre, que l'année 1999 marque le 50e anniversaire de la signature des Conventions de Genève. Le CICR a lancé, dans 12 pays touchés par la guerre, un projet intitulé «Les voix de la guerre». Il s'agit de donner la parole à ceux qui ont vécu la guerre pour leur permettre d'expliquer comment ils perçoivent le droit international humanitaire et de dire ce qu'ils attendent de l'avenir. Cette consultation sera également menée dans six pays ou règne la paix, auprès de personnes pour qui la guerre est un phénomène étranger qu'elles ne connaissent qu'à travers les médias. Un rapport sera ensuite rédigé pour engager un vaste débat sur le sujet.

CICR NEWS 03
22 janvier 1999

The principal challenges which the ICRC has to face in 1999

Press conference by **Jean-Daniel Tauxe,** Director of Operations, 20 January 1999

A NUMBER of major trends emerge from an analysis of conflict situations in 1998 and they must be taken into account when carrying out humanitarian operations. Generally speaking, conflicts today have a tendency

• to be unpredictable (as shown by the war between Ethiopia and Eritrea and the events in Indonesia, Guinea-Bissau, Sierra Leone and Kosovo);

• to expand and engulf whole regions (as have the conflicts in the Democratic Republic of the Congo and Afghanistan);

• to drag on with no prospect of settlement (Sudan, Afghanistan and Sri Lanka);

• to be reactivated (Angola and Iraq).

Impoverishment is another serious problem. The widening gap between rich and poor throughout the world has led to an inexorable increase in crime and violence. As a result, in almost every country where the ICRC is working, conflict situations have been exacerbated by acts of pure banditry.

Finally, from a humanitarian point of view, civilians caught up in conflicts are no longer simply victims; they have also become targets, as is the case in the Balkans, Central Africa, Sierra Leone and Colombia.

The changing nature of conflicts presents the ICRC with two major challenges, the first having to do with access to victims, the second with ensuring respect for international humanitarian law. Various types of difficulties are involved.

The ICRC's methods of action, which are based on the principles of impartiality, neutrality and independence, are increasingly brought into question and it is becoming more and more difficult to have them accepted. In volatile situations, the organization's ability to act is hampered by the need to ensure the safety of the victims and of humanitarian workers. Finally, an ever greater number of players are involved in the violence, and it is extremely important to find out who they are and to make them aware of their responsibilities.

For the ICRC, the main task consists in developing strategies to meet these challenges. In the first place, it must remain in close proximity to the victims while taking security constraints into account. Secondly, it must broaden its network of contacts while keeping up a dialogue with its traditional political and military negotiating partners and with other players as well, in particular representatives of civil society and of the economic sector.

In 1998 a great number of political and security constraints prevented the ICRC from fully achieving its planned objectives in countries such as Afghanistan, Chechnya, Somalia and the Democratic Republic of the Congo. However, the organization maintained a permanent presence in 58 countries and its delegates were able to visit over 190,000 persons held in about 1,300 places of detention. Moreover, 64,000 tonnes of relief supplies valued at 76 million Swiss francs were distributed in 50 countries.

The field budget for 1999 amounts to 660,169,500 Swiss francs. This is slightly less than the 1998 budget, which was initially set at 675 million francs.

The ICRC has introduced a new system for defining its objectives and drawing up its budget. This system is based on target populations rather than on activities, and objectives are set in terms of results. The new approach should make it possible to assess the needs of the victims with greater precision and to carry out a more accurate analysis of the environment in which they live. The 1999 budget is thus both more explicit and more realistic in terms of objectives.

The greater part of the budget (48.2%) will be spent in Africa, with priority being given to Central Africa, the Horn of Africa, Sierra Leone and neighbouring countries. The rest of the budget has been allocated as

follows: 19.9 % will go to Europe and North America (the Balkans in particular); 17% to Asia and the Pacific (mainly Afghanistan and Indonesia); 7.9% to Latin America (especially Colombia, but also Peru and Mexico); and 7% to the Middle East and North Africa (Israel, the occupied territories and the autonomous territories, and Iraq, in particular).

To mark the 50th anniversary of the signing of the Geneva Conventions, which is to be celebrated in 1999, the ICRC has launched a project entitled "People on War" in 12 countries affected by armed conflict. The object is to enable those who have lived through war to speak up and explain how they perceive international humanitarian law and what they expect of the future. The survey will also be carried out in six countries where peace prevails so as to obtain the views of people whose only knowledge of war comes from the media. At the end of the survey a report will be drawn up with a view to generating a broad debate.

ICRC NEWS 03
22 January 1999

Mise en œuvre du droit international humanitaire

Chronique semestrielle
de législation et de jurisprudence nationales
juillet-décembre 1998[1]

A) Législation

Bénin

Par le décret n° 98-155 du 27 avril 1998, une «Commission nationale pour la mise en œuvre du droit international humanitaire» a été créée. Elle a notamment pour mandat de veiller au respect et à la mise en œuvre effective de ce droit, d'encourager sa promotion, de procéder à sa diffusion et à son enseignement.

1 Cette chronique paraît dorénavant deux fois par an dans la *Revue*, sous la responsabilité des Services consultatifs en droit international humanitaire, CICR. Voir *RICR*, n° 832, décembre 1998, p. 789.

Bolivie

La promulgation d'une nouvelle loi sur l'organisation du pouvoir exécutif, en septembre 1997, a nécessité l'adoption d'un nouveau décret présidentiel pour faire renaître la «Commission nationale permanente pour l'application du droit international humanitaire» (*Comisión Nacional Permanente para la Aplicación del Derecho Internacional Humanitario*), initialement créée en décembre 1992. Ce décret (résolution 218.456 du 17 août 1998), signé par le président et le ministre de la Justice et des Droits de l'homme, approuve le règlement de la Commission et opère ainsi les adaptations nécessaires à son fonctionnement, notamment en redésignant ses membres. La loi offre également à la Commission ses premières règles de travail internes.

Espagne

Pendant de la loi adoptée quatre ans plus tôt au sujet du Tribunal pénal international pour l'ex-Yougoslavie, la loi sur la coopération avec le Tribunal pénal international pour le Rwanda est entrée en vigueur le 3 juillet 1998 (*Ley 4/1998, de 1 de julio, para la Cooperación con el Tribunal internacional para Ruanda*, Boletín Oficial del Estado, n° 157, 2 juillet 1998). Avec quelques adaptations par rapport à son modèle, ce texte identifie les autorités compétentes pour la coopération avec le tribunal international et règle les questions liées à la concurrence de juridiction, la détention, le transfert, la comparution devant le tribunal et l'exécution des peines.

La loi sur l'interdiction totale des mines antipersonnel et des armes ayant un effet similaire est entrée en vigueur le 7 octobre 1998 (*Ley 33/1998, de 5 de octubre, de prohibición total de minas antipersonal y armas de efecto similar*, Boletín Oficial del Estado, n° 239, 6 octobre 1998). Elle incorpore dans le droit interne espagnol les obligations fondamentales contenues dans le traité d'Ottawa interdisant les mines antipersonnel. L'emploi, le développement, la production, le stockage, la conservation, le transfert et l'exportation de mines antipersonnel et des moyens technologiques destinés au lancement ou à la dispersion de celles-ci sont interdits. À l'exception du strict minimum nécessaire pour la formation ou le déminage, les stocks doivent être détruits dans les trois ans. La loi exige aussi du gouvernement espagnol qu'il apporte un soutien, notamment financier, aux programmes de déminage et d'assistance aux victimes.

France

En application de la Convention sur l'interdiction de la mise au point, de la fabrication, du stockage et de l'emploi des armes chimiques et sur leur destruction du 13 janvier 1993, la loi n° 98-467 du 17 juin 1998 interdit toute une série d'activités, dont celles qui sont mentionnées dans le titre de la Convention, ainsi que la détention, la conservation, l'acquisition, la cession, l'importation, l'exportation, le transit, le commerce et le courtage de ces armes. Entreprendre des préparatifs en vue de leur utilisation, tout comme aider, encourager ou inciter à agir de façon contraire à la loi est également interdit. La détention, le stockage ou la conservation d'armes chimiques par les services de l'État en vue de leur destruction est autorisée sous certaines conditions. Comportant 85 articles, cette loi traite aussi du contrôle de certains produits chimiques, de la vérification internationale et des investigations nationales. Elle détaille également les sanctions administratives et pénales.

Géorgie

Créée par le décret présidentiel n° 537 du 22 juin 1998, la Commission interministérielle pour le droit international humanitaire est un organe de la Commission de sécurité nationale. Elle est chargée de coordonner les activités des ministères et institutions concernés, de préparer des résolutions et des recommandations relatives au droit international humanitaire, de contrôler leur application, d'examiner la législation nationale, de fournir des services consultatifs, d'encourager la ratification des traités internationaux pertinents et d'établir des rapports sur la mise en œuvre du droit international humanitaire.

Kazakhstan

Le nouveau Code pénal du Kazakhstan, entré en vigueur le 1er janvier 1998, inclut un chapitre sur les crimes contre la paix et la sécurité de l'humanité. Outre les actes d'agression, le mercenariat, l'écocide et le génocide, cette partie du code couvre quelques aspects du droit international humanitaire. Il s'agit notamment de l'interdiction des attaques contre des personnes ou des organisations bénéficiant d'une protection internationale, de la production, la prolifération et l'emploi d'armes de destruction massive, du traitement inhumain des prisonniers de guerre ou de la population civile, de la déportation de la population civile, du pillage de biens nationaux dans les territoires occupés et de tout emploi de moyens ou de méthodes de guerre interdits par un traité international ratifié par le Kazakhstan.

Royaume-Uni

Le 20 juillet 1998, six mois après la ratification des Protocoles additionnels par le Royaume-Uni, sont entrées en vigueur les dispositions adaptant en conséquence la loi britannique sur les Conventions de Genève (*Geneva Conventions (Amendment) Act 1995 (Commencement)* Order 1998, 1998 n° 1505 (C.30)

Huit jours plus tard, peu avant la ratification du traité d'Ottawa de 1997, une loi sur les mines antipersonnel a été adoptée (*Landmines Act 1998*, Chapter 33, 28 juillet 1998). Elle interdit l'emploi, le développement et la production des mines antipersonnel, tout comme la participation à l'acquisition ou au transfert et la possession de celles-ci ou d'un de leurs composants. Sous des conditions variées, elle prévoit des exceptions pour ce qui touche à la détection de mines antipersonnel, leur destruction, le déminage, certaines opérations militaires internationales et l'obtention ou la possession d'objets de preuve dans le cadre d'une procédure criminelle. Plusieurs dispositions détaillent les questions liées à l'accueil d'une mission d'établissement des faits et à la fourniture d'informations et de données conformément au traité d'Ottawa.

Yémen

Le nouveau code pénal militaire yéménite (loi n° 21 du 25 juillet 1998 concernant les infractions et les peines militaires) contient un chapitre relatif aux crimes de guerre. Le code pénal militaire réprime tout acte commis en période de conflit armé, de caractère international ou non international, qui porte atteinte aux personnes et aux biens protégés en vertu de conventions internationales auxquelles le Yémen est partie. Quelques actes, qui doivent être considérés comme crimes de guerre selon cette loi, sont ensuite spécifiquement énumérés. Tous ces crimes sont imprescriptibles. Les questions liées à la responsabilité du commandant et à la défense de l'ordre supérieur sont également évoquées. Le code s'applique aussi aux actes commis à l'extérieur du territoire national pour toutes les personnes auxquelles il s'applique, ce qui inclut expressément les prisonniers de guerre.

B) Jurisprudence nationale

Chili

Dans un nouvel arrêt du 9 septembre 1998 relatif à la loi d'amnistie de 1978 (décret-loi 2.191), la Cour suprême chilienne a estimé cette fois que les Conventions de Genève de 1949 étaient applicables au moment des

faits, en se fondant sur le décret-loi n° 5 du 12 septembre 1973 qui qualifie la situation interne d'«état ou temps de guerre» à l'effet de rendre applicables certaines dispositions pénales internes. Les faits en question concernent un cas de disparition forcée commençant en date du 19 juillet 1974.

La Cour rappelle qu'une jurisprudence établie, fondée sur la Constitution chilienne, admet que les normes internationales touchant aux droits de l'homme imposent des limites aux autorités de l'État chilien, y compris au législateur. Elle se réfère à l'obligation de réprimer figurant à l'article 146 de la quatrième Convention de Genève, comme à la liste des infractions graves à l'article suivant, et conclut que pour les faits considérés une application de la loi pénale admettant l'amnistie serait erronée.

Irlande

La loi de modification du *Geneva Conventions Act* de 1962 a été promulguée le 13 juillet 1998 (*Geneva Conventions (Amendment) Act, 1998*). La section relative aux infractions graves et celle relative aux infractions de moindre gravité sont étendues pour couvrir le Protocole additionnel I de 1977. Cette loi réglemente l'emploi du signe distinctif de la protection civile, tout comme celui de certains signaux distinctifs pour les unités et moyens de transport sanitaires définis dans l'Annexe I au Protocole additionnel I. Les deux Protocoles additionnels sont ajoutés comme annexes au *Geneva Conventions Act*. Cette nouvelle loi amende également le *Red Cross Act* de 1938 et le *Prisoners of War and Enemy Aliens Act* de 1956.

THOMAS GRADITZKY
Services consultatifs
en droit international
humanitaire, CICR

Enforcement of international humanitarian law through national criminal legislation

STATES are required to adopt a number of measures to ensure compliance with their obligations under international humanitarian law. In particular, they must prevent and, where necessary, punish violations of humanitarian law through the adoption of national implementing legislation. This requi-

rement may be found in several humanitarian law treaties. For example, States party to the 1949 Geneva Conventions and their 1977 Additional Protocol I must enact laws to *repress*, that is, to punish the most serious violations of these instruments, those which are defined as grave breaches. In addition, States party to the Conventions and their two Additional Protocols must *suppress* all other violations of international humanitarian law.

The fact that countless violations of humanitarian law are committed around the world clearly shows that a greater effort must be made to ensure respect for the rules of this body of law if civilians, prisoners of war and sick or wounded soldiers are to receive the full protection to which they are entitled. Adherence to humanitarian law instruments is only a first step in this direction and additional efforts must be undertaken to implement and enforce their provisions. It is indeed of the utmost importance that States fulfil their obligations under the Geneva Conventions and other humanitarian law treaties and act to prevent and suppress violations thereof.

Since its establishment in 1995, the ICRC's Advisory Service on International Humanitarian Law has provided advice and assistance to States regarding the implementation of that law at the national level, in particular measures which must be adopted to punish war crimes and other serious violations of the Geneva Conventions and their Additional Protocols. Accordingly, the Advisory Service has conducted an in-depth analysis of such measures, in consultation with experts who have practical experience of criminal legislation and the prosecution of war criminals.

As part of this process of consultation, from 23 to 25 September 1997 the ICRC held a meeting during which experts from civil law countries exchanged views on the national repression of violations of international humanitarian law. This initiative was followed by a similar meeting of common law experts which took place from 11 to 13 November 1998, also in Geneva.

The objective of these meetings, which were attended by criminal lawyers, members of academic and military circles and government officials, was to draw conclusions and offer advice to decision-makers and legislators on substantive legal issues and procedure with regard to the repression of war crimes. They allowed the experts and the ICRC to share information on a wide range of technical and other questions relative to enforcement mechanisms provided for under international humanitarian law at the national level, and to compare State practice in this area.

The participants discussed various legislative models used in civil law and common law States to implement obligations under international humanitarian law. Working groups were set up to evaluate these different approaches and to identify substantive issues that should be considered when enacting or amending implementing legislation. If necessary, States were encouraged to adopt legislation to comply with their obligations under the Geneva Conventions and their Additional Protocols. States were also encouraged to amend their legislation to allow for the prosecution of the crime of genocide and crimes against humanity as well as for that of violations committed in non-international armed conflicts.

Other procedural and policy issues were discussed, including the importance of military law in enforcing international humanitarian law and the interaction between military and ordinary courts; the need for an independent judiciary, particularly when dealing with politically sensitive cases such as those of alleged war criminals; special training for persons involved in the criminal justice system; and the complementarity between national and international enforcement systems, especially in light of the adoption on 17 July 1998 of the Statute of the International Criminal Court. In that respect, it was noted that the establishment of the new court would not release States from their individual obligation to bring to justice those accused of having committed war crimes. On the contrary, national courts would keep their important and primary role in prosecuting alleged war criminals.

The final report on the meeting of civil law experts is currently available in French and Spanish, and a report on the meeting of common law experts should be ready by mid-1999. Both will provide practical advice to government officials in their efforts to implement and enforce international humanitarian law through the adoption of criminal legislation at the national level. Interested readers are invited to contact the ICRC Advisory Service. Other meetings of this nature will take place in the future, possibly at the regional level.

ISABELLE DAOUST
ICRC Advisory Service on
International Humanitarian
Law

Le Centre Henry Dunant pour le dialogue humanitaire débute ses activités

AVEC la réunion de son premier Conseil de fondation et la nomination de son président, le Centre Henry Dunant pour le dialogue humanitaire a débuté hier ses activités [le 27 janvier 1999 à Genève]. Cette nouvelle fondation, qui succède à l'Institut Henry-Dunant, approfondira un dialogue interculturel et pluridisciplinaire afin de promouvoir des solutions durables aux problèmes humanitaires.

Dès 1997 s'est engagée une réflexion sur l'avenir de l'Institut Henry-Dunant qui ne correspondait plus aux besoins concrets de ses membres fondateurs. De nombreux spécialistes se sont réunis afin de définir les besoins et les problèmes actuels de l'assistance humanitaire à la résolution desquels la nouvelle entité devant remplacer l'Institut Henry-Dunant pourrait contribuer. Il est ressorti de ces discussions que, face aux nouveaux défis posés par l'évolution des conditions de l'action humanitaire, il manquait une plate-forme de dialogue approfondi sur des questions humanitaires d'actualité.

Suite à cette étape préliminaire posant les fondements du futur Centre Henry Dunant a été créée en novembre 1998 une nouvelle fondation, qui succède à l'Institut Henry-Dunant, sous la dénomination de *Centre Henry Dunant pour le dialogue humanitaire*.

Le nouveau Centre organisera sur une base régulière des tables rondes informelles et des séminaires afin de remplir ses buts statutaires qui sont de:

• développer et approfondir un dialogue universel, interculturel et pluridisciplinaire, basé sur l'échange d'expériences de tous les acteurs concernés par les questions humanitaires;

• concevoir et promouvoir la réalisation de solutions durables aux problèmes humanitaires.

Afin d'être en mesure d'accomplir ses objectifs, le Centre est doté d'un Conseil de fondation dont le président et le vice-président sont respectivement M. Abdul G. Koroma, juge à la Cour internationale de Justice à La Haye et le Dr Ernst A. Brugger. M. Martin Griffiths, directeur exécutif, est chargé de l'administration et de la gestion courante des affaires du Centre. Un Comité des projets, dont la mission principale est de conseiller et de faire des propositions sur la meilleure manière de promouvoir les activités du Centre et de contribuer le cas échéant à leur réalisation, a également été créé.

Communiqué de presse
27 janvier 1999

The Henry Dunant Center for Humanitarian Dialogue begins its work

THE Henry Dunant Center for Humanitarian Dialogue began its work yesterday with the first meeting of its Foundation Council and the appointment of the Council's President [27 January 1999 in Geneva]. The purpose of the new Center, which has been set up in place of the former Henry Dunant Institute, is to strengthen intercultural and multidisciplinary dialogue with a view to promoting sustainable solutions to humanitarian problems.

Discussions began in 1997 on the future of the Henry Dunant Institute, which no longer served the purposes which its founding members had in mind. Numerous specialists came together to identify present needs in the area of humanitarian assistance and the problems that a new center might help resolve. It emerged from the discussions that, given the challenges posed by the changing conditions in which humanitarian action is being carried out today, a platform was needed for in-depth dialogue on current humanitarian issues.

After this preliminary stage, during which the groundwork for the new foundation was laid, the *Henry Dunant Center for Humanitarian Dialogue* was set up in November 1998.

The new Center will hold informal round tables and seminars on a regular basis in accordance with its statutory aims, which are to:

• develop and strengthen a universal, intercultural and multidisciplinary dialogue in which all players concerned by humanitarian issues can exchange their experiences;

• devise and promote sustainable solutions to humanitarian problems.

A Foundation Council has been set up to enable the Center to achieve its objectives. Its President is Mr. Abdul G. Koroma, a judge at the International Court of Justice in The Hague, and its Vice-President is Dr. Ernst A. Brugger. Mr. Martin Griffiths, Executive Director, is responsible for the administration and daily management of the Center. A Program Committee has also been set up to give advice and make proposals on the best ways to promote the Center's activities, and, if necessary, to assist in carrying them out.

Press release
27 January 1999

Le CICR dans le monde 1998

Quelques chiffres

Présence dans le monde (1998)

Activités dans environ 80 pays

Délégations dans 58 pays:

Afrique	20	délégations
Amériques	7	délégations
Europe et Asie centrale	15	délégations
Asie	8	délégations
Moyen-Orient	8	délégations

Et une délégation à New York (Nations Unies)

Personnel (moyenne 1998)

Total	8911
Personnel siège	632
Personnel terrain	8279*

*personnel CICR, Sociétés nationales et engagé sur place

Finances (budget 1999, chiffres approximatifs)

Total	800	mio francs suisses
siège	140	mio francs suisses
terrain	660	mio francs suisses

Visite de détenus par des délégués (1998)

Plus de 190000 détenus visités, dans quelque 1300 lieux de détention.

Secours distribués (1998)

Environ 64000 tonnes, pour une valeur de quelque 76 million de francs suisses

Chirurgie/orthopédie (1998)

Le CICR a fourni l'essentiel des médicaments, du materiel médical et de l'équipement à douze hôpitaux en Asie et en Afrique. Une assistance substantielle a également été apportée à de nombreux autres hôpitaux. Des équipes chirurgicales du CICR ont travaillé en permanence dans cinq hôpitaux et ont assuré une permanence temporaire dans cinq autres hôpitaux.

Le CICR a participé à 23 projets orthopédiques dans 12 pays.

The ICRC worldwide 1998

Some figures

Presence in the world (1998)

Field operations in about 80 countries

Delegations in 58 countries:

Africa	20 delegations
The Americas	7 delegations
Europe/Central Asia	15 delegations
Asia	8 delegations
Middle East	8 delegations

The ICRC also has a delegation in New York (United Nations).

Personnel (average in 1998)

Total	8,911
Headquarters	632
Field staff	8,279*

*ICRC, National Society and local staff

Finance (1999 budget, rounded figures)

Total	800 million Swiss francs
Headquarters	140 million Swiss francs
Field	660 million Swiss francs

Visits to detainees by ICRC delegates (1998)

Visites to over 190,000 detainees in more than 1,300 places of detention

Relief supplies (1998)

Over 64,000 tonnes of relief supplies worth 76 million Swiss francs

Surgery/care for the disabled (1998)

In 1998 the ICRC was the major supplier of medicines and other medical materials and equipment for 12 hospitals in Africa and Asia. Substantial assistance was also given to numerous other hospitals around the world. Permanent ICRC surgical teams worked in five hospitals and were also present for part of the year in a further five hospitals.

The ICRC was involved in 23 prosthetic/orthotic projects in twelve countries.

Conventions de Genève du 12 août 1949 pour la protection des victimes de la guerre et Protocoles additionnels du 8 juin 1977

ratifications, adhésions
et successions
au 31 décembre 1998

1. Abréviations

R/A/S Ratification /Adhésion / Déclaration de succession
R/D Réserve / Déclaration
D90 Déclaration prévue par l'article 90 du Protocole I

2. Dates

Les dates indiquées sont celles du jour de réception par le dépositaire de l'acte officiel transmis par l'État qui ratifie, adhère, succède ou fait la déclaration selon l'article 90 du Protocole I.

3. Entrée en vigueur

Les Conventions et les Protocoles entrent en vigueur pour chaque État six mois après la date indiquée; pour les États faisant une déclaration de succession, l'entrée en vigueur intervient rétroactivement au jour de l'accession à l'indépendance.

Geneva Conventions of 12 August 1949 for the protection of war victims and Additional Protocols of 8 June 1977

ratifications, accessions
and successions
as at 31 December 1998

1. Abbreviations

R/A/S Ratification /Accession / Declaration of succession
R/D Reservation/Declaration
D90 Declaration under Article 90 of Protocol I

2. Dates

The dates indicated are those on which the depositary received the official instrument from the State which ratified, acceded to or succeeded to a treaty or made the declaration under Article 90 of Protocol I.

3. Entry into force

The Conventions and the Protocols enter into force for States six months after the date given in the present document; for States which have made a declaration of succession, entry into force takes place retroactively, on the day of their accession to independence.

Les **Conventions de Genève** sont entrées en vigueur le 21 octobre 1950. Les **Protocoles additionnels** sont entrés en vigueur le 7 décembre 1978.

4. Noms des pays

Le nom figurant dans la liste peut être différent du nom officiel de l'État concerné.

5. Modifications apportées depuis le 1er janvier 1998

Ratifications, adhésions ou successions au Protocole I

Cambodge	14. 1. 1998
Royaume-Uni	28. 1. 1998
Venezuela	23. 7. 1998
Grenade	23. 9. 1998

Ratifications, adhésions et successions au Protocole II

Cambodge	14. 1. 1998
RoyaumeUni	28. 1. 1998
Venezuela	23. 7. 1998
Grenade	23. 9. 1998

Déclaration prévue par l'article 90 (Protocole I)

Paraguay	30. 1. 1998
Lao (Rép. dém. pop.)	30. 1. 1998
Grèce	4. 2. 1998

6. Note

Palestine: en date du 21 juin 1989, le Département fédéral suisse des affaires étrangères a reçu de l'Observateur

The **Geneva Conventions** entered into force on 21 October 1950. The **Additional Protocols** entered into force on 7 December 1978.

4. Names of countries

The name of a State given in the list may differ from its official name.

5. Changes since 1 January 1998

Ratifications, accessions or successions to Protocol I

Cambodia	14. 1. 1998
United Kingdom	28. 1. 1998
Venezuela	23. 7. 1998
Grenada	23. 9. 1998

Ratifications, accessions or successions to Protocol II

Cambodia	14. 1. 1998
United Kingdom	28. 1. 1998
Venezuela	23. 7. 1998
Grenada	23. 9. 1998

Declaration under Article 90 (Protocol I)

Paraguay	30. 1. 1998
Lao (People's Dem. Rep.)	30. 1. 1998
Greece	4. 2. 1998

6. Note

Palestine: On 21 June 1989, the Swiss Federal Department of Foreign Affairs received a letter from the Permanent

permanent de la Palestine auprès de l'Office des Nations Unies à Genève une lettre informant le Conseil fédéral suisse «que le Comité exécutif de l'Organisation de Libération de la Palestine, chargé d'exercer les fonctions de Gouvernement de l'État de Palestine par décision du Conseil National Palestinien, a décidé en date du 4 mai 1989, d'adhérer aux quatre Conventions de Genève du 12 août 1949 et à leurs deux Protocoles additionnels». Le 13 septembre 1989, le Conseil fédéral suisse a informé les États qu'il n'était pas en mesure de trancher le point de savoir s'il s'agissait d'un instrument d'adhésion, «en raison de l'incertitude au sein de la communauté internationale quant à l'existence ou non d'un État de Palestine».

Observer of Palestine to the United Nations Office at Geneva informing the Swiss Federal Council "hat 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 the 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 nonexistence of a State of Palestine".

7. Totaux

États parties aux
Conventions de Genève
du 12 août 1949 188

États parties au
Protocole additionnel I
du 8 juin 1977 152

États parties au
Protocole additionnel II
du 8 juin 1977 144

États ayant fait la déclaration prévue par l'article 90 (Protocole I) 53

7. Total

States party to the
Geneva Conventions
of 12 August 1949 188

States party to
Additional Protocol I
of 8 June 1977 152

States party to
Additional Protocol II
of 8 June 1977 144

States having made the declaration under Article 90 (Protocol I) 53

États membres
des Nations Unies 185

États membres de l'ONU ou parties au Statut de la Cour internationale de Justice qui ne sont pas parties aux Conventions de Genève de 1949: Érythrée, Îles Marshall, Nauru.

Member States
of the United Nations 185

UN member States or States party to the Statute of the International Court of Justice which are not party to the 1949 Geneva Conventions: Eritrea, the Marshall Islands, Nauru.

Country	Geneva Conventions		Protocol I			Protocol II	
	R/A/S	**R/D**	**R/A/S**	**R/D**	**D90**	**R/A/S**	**R/D**
Afghanistan	26 09 1956	R					
Albania	27 05 1957	R X	16 07 1993	A		16 07 1993	A
Algeria	20 06 1960						
	03 07 1962	A	16 08 1989	A X	16 08 1989	16 08 1989	A
Andorra	17 09 1993	A					
Angola	20 09 1984	A X	20 09 1984	A X			
Antigua and Barbuda	06 10 1986	S	06 10 1986	A		06 10 1986	A
Argentina	18 09 1956	R	26 11 1986	A X	11 10 1996	26 11 1986	A X
Armenia	07 06 1993	A	07 06 1993	A		07 06 1993	A
Australia	14 10 1958	R X	21 06 1991	R X	23 09 1992	21 06 1991	R
Austria	27 08 1953	R	13 08 1982	R X	13 08 1982	13 08 1982	R X
Azerbaijan	01 06 1993	A					
Bahamas	11 07 1975	S	10 04 1980	A		10 04 1980	A
Bahrain	30 11 1971	A	30 10 1986	A		30 10 1986	A
Bangladesh	04 04 1972	S	08 09 1980	A		08 09 1980	A
Barbados	10 09 1968	S X	19 02 1990	A		19 02 1990	A
Belarus	03 08 1954	R X	23 10 1989	R	23 10 1989	23 10 1989	R
Belgium	03 09 1952	R	20 05 1986	R X	27 03 1987	20 05 1986	R
Belize	29 06 1984	A	29 06 1984	A		29 06 1984	A
Benin	14 12 1961	S	28 05 1986	A		28 05 1986	A
Bhutan	10 01 1991	A					
Bolivia	10 12 1976	R	08 12 1983	A	10 08 1992	08 12 1983	A
Bosnia and Herzegovina	31 12 1992	S	31 12 1992	S	31 12 1992	31 12 1992	S
Botswana	29 03 1968	A	23 05 1979	A		23 05 1979	A
Brazil	29 06 1957	R	05 05 1992	A	23 11 1993	05 05 1992	A

Country	Geneva Conventions		Protocol I			Protocol II	
	R/A/S	**R/D**	**R/A/S**	**R/D**	**D90**	**R/A/S**	**R/D**
Brunei Darussalam	14 10 1991	A	14 10 1991	A		14 10 1991	A
Bulgaria	22 07 1954	R	26 09 1989	R	09 05 1994	26 09 1989	R
Burkina Faso	07 11 1961	S	20 10 1987	R		20 10 1987	R
Burundi	27 12 1971	S	10 06 1993	A		10 06 1993	A
Cambodia	08 12 1958	A	14 01 1998	A		14 01 1998	A
Cameroon	16 09 1963	S	16 03 1984	A		16 03 1984	A
Canada	14 05 1965	R	20 11 1990	R X	20 11 1990	20 11 1990	R X
Cape Verde	11 05 1984	A	16 03 1995	A	16 03 1995	16 03 1995	A
Central African Republic	01 08 1966	S	17 07 1984	A		17 07 1984	A
Chad	05 08 1970	A	17 01 1997	A		17 01 1997	A
Chile	12 10 1950	R	24 04 1991	R	24 04 1991	24 04 1991	R
China	28 12 1956	R X	14 09 1983	A X		14 09 1983	A
Colombia	08 11 1961	R	01 09 1993	A	17 04 1996	14 08 1995	A
Comoros	21 11 1985	A	21 11 1985	A		21 11 1985	A
Congo	04 02 1967	S	10 11 1983	A		10 11 1983	A
Congo (Dem. Rep.)	24 02 1961	S	03 06 1982	A			
Costa Rica	15 10 1969	A	15 12 1983	A		15 12 1983	A
Côte d'Ivoire	28 12 1961	S	20 09 1989	R		20 09 1989	R
Croatia	11 05 1992	S	11 05 1992	S	11 05 1992	11 05 1992	S
Cuba	15 04 1954	R	25 11 1982	A			
Cyprus	23 05 1962	A	01 06 1979	R		18 03 1996	A
Czech Republic	05 02 1993	S X	05 02 1993	S	02 05 1995	05 02 1993	S
Denmark	27 06 1951	R	17 06 1982	R X	17 06 1982	17 06 1982	R
Djibouti	06 03 1978	S	08 04 1991	A		08 04 1991	A
Dominica	28 09 1981	S	25 04 1996	A		25 04 1996	A
Dominican Republic	22 01 1958	A	26 05 1994	A		26 05 1994	A
Ecuador	11 08 1954	R	10 04 1979	R		10 04 1979	R
Egypt	10 11 1952	R	09 10 1992	R X		09 10 1992	R X
El Salvador	17 06 1953	R	23 11 1978	R		23 11 1978	R
Equatorial Guinea	24 07 1986	A	24 07 1986	A		24 07 1986	A
Estonia	18 01 1993	A	18 01 1993	A		18 01 1993	A
Ethiopia	02 10 1969	R	08 04 1994	A		08 04 1994	A
Fiji	09 08 1971	S					
Finland	22 02 1955	R	07 08 1980	R X	07 08 1980	07 08 1980	R
France	28 06 1951	R				24 02 1984	A X
Gabon	26 02 1965	S	08 04 1980	A		08 04 1980	A
Gambia	20 10 1966	S	12 01 1989	A		12 01 1989	A

Country	Geneva Conventions		Protocol I			Protocol II	
	R/A/S	**R/D**	**R/A/S**	**R/D**	**D90**	**R/A/S**	**R/D**
Georgia	14 09 1993	A	14 09 1993	A		14 09 1993	A
Germany	03 09 1954	A X	14 02 1991	R X	14 02 1991	14 02 1991	R X
Ghana	02 08 1958	A	28 02 1978	R		28 02 1978	R
Greece	05 06 1956	R	31 03 1989	R	04 02 1998	15 02 1993	A
Grenada	13 04 1981	S	23 09 1998	A		23 09 1998	A
Guatemala	14 05 1952	R	19 10 1987	R		19 10 1987	R
Guinea	11 07 1984	A	11 07 1984	A	20 12 1993	11 07 1984	A
Guinea-Bissau	21 02 1974	A X	21 10 1986	A		21 10 1986	A
Guyana	22 07 1968	S	18 01 1988	A		18 01 1988	A
Haiti	11 04 1957	A					
Holy See	22 02 1951	R	21 11 1985	R X		21 11 1985	R X
Honduras	31 12 1965	A	16 02 1995	R		16 02 1995	R
Hungary	03 08 1954	R X	12 04 1989	R	23 09 1991	12 04 1989	R
Iceland	10 08 1965	A	10 04 1987	R X	10 04 1987	10 04 1987	R
Indonesia	30 09 1958	A					
Iran (Islamic Rep. of)	20 02 1957	R X					
Iraq	14 02 1956	A					
Ireland	27 09 1962	R					
Israel	06 07 1951	R X					
Italy	17 12 1951	R	27 02 1986	R X	27 02 1986	27 02 1986	R
Jamaica	20 07 1964	S	29 07 1986	A		29 07 1986	A
Japan	21 04 1953	A					
Jordan	29 05 1951	A	01 05 1979	R		01 05 1979	R
Kazakhstan	05 05 1992	S	05 05 1992	S		05 05 1992	S
Kenya	20 09 1966	A					
Kiribati	05 01 1989	S					
Korea (Dem. People's Rep.)	27 08 1957	A X	09 03 1988	A			
Korea (Republic of)	16 08 1966	A X	15 01 1982	R X		15 01 1982	R
Kuwait	02 09 1967	A X	17 01 1985	A		17 01 1985	A
Kyrgyzstan	18 09 1992	S	18 09 1992	S		18 09 1992	S
Lao People's Dem.Rep.	29 10 1956	A	18 11 1980	R	30 01 1998	18 11 1980	R
Latvia	24 12 1991	A	24 12 1991	A		24 12 1991	A
Lebanon	10 04 1951	R	23 07 1997	A		23 07 1997	A
Lesotho	20 05 1968	S	20 05 1994	A		20 05 1994	A
Liberia	29 03 1954	A	30 06 1988	A		30 06 1988	A
Libyan Arab Jamahiriya	22 05 1956	A	07 06 1978	A		07 06 1978	A
Liechtenstein	21 09 1950	R	10 08 1989	R X	10 08 1989	10 08 1989	R X

Country	Geneva Conventions		Protocol I			Protocol II	
	R/A/S	**R/D**	**R/A/S**	**R/D**	**D90**	**R/A/S**	**R/D**
Lithuania	03 10 1996	A					
Luxembourg	01 07 1953	R	29 08 1989	R	12 05 1993	29 08 1989	R
Macedonia	01 09 1993	S X	01 09 1993	S X	01 09 1993	01 09 1993	S
Madagascar	18 07 1963	S	08 05 1992	R	27 07 1993	08 05 1992	R
Malawi	05 01 1968	A	07 10 1991	A		07 10 1991	A
Malaysia	24 08 1962	A					
Maldives	18 06 1991	A	03 09 1991	A		03 09 1991	A
Mali	24 05 1965	A	08 02 1989	A		08 02 1989	A
Malta	22 08 1968	S	17 04 1989	A X	17 04 1989	17 04 1989	A X
Mauritania	30 10 1962	S	14 03 1980	A		14 03 1980	A
Mauritius	18 08 1970	S	22 03 1982	A		22 03 1982	A
Mexico	29 10 1952	R	10 03 1983	A			
Micronesia	19 09 1995	A	19 09 1995	A		19 09 1995	A
Moldova (Republic of)	24 05 1993	A	24 05 1993	A		24 05 1993	A
Mongolia	20 12 1958	A	06 12 1995	R X	06 12 1995	06 12 1995	R
Morocco	26 07 1956	A					
Mozambique	14 03 1983	A	14 03 1983	A			
Myanmar	25 08 1992	A					
Namibia	22 08 1991	S	17 06 1994	A	21 07 1994	17 06 1994	A
Nepal	07 02 1964	A					
Netherlands	03 08 1954	R	26 06 1987	R X	26 06 1987	26 06 1987	R
New Zealand	02 05 1959	R X	08 02 1988	R X	08 02 1988	08 02 1988	R
Nicaragua	17 12 1953	R					
Niger	21 04 1964	S	08 06 1979	R		08 06 1979	R
Nigeria	20 06 1961	S	10 10 1988	A		10 10 1988	A
Norway	03 08 1951	R	14 12 1981	R	14 12 1981	14 12 1981	R
Oman	31 01 1974	A	29 03 1984	A X		29 03 1984	A X
Pakistan	12 06 1951	R X					
Palau	25 06 1996	A	25 06 1996	A		25 06 1996	A
Panama	10 02 1956	A	18 09 1995	R		18 09 1995	R
Papua New Guinea	26 05 1976	S					
Paraguay	23 10 1961	R	30 11 1990	A	30 01 1998	30 11 1990	A
Peru	15 02 1956	R	14 07 1989	R		14 07 1989	R
Philippines	06 10 1952	R				11 12 1986	A
Poland	26 11 1954	R X	23 10 1991	R	02 10 1992	23 10 1991	R
Portugal	14 03 1961	R X	27 05 1992	R	01 07 1994	27 05 1992	R
Qatar	15 10 1975	A	05 04 1988	A X	24 09 1991		

Country	Geneva Conventions		Protocol I			Protocol II	
	R/A/S	**R/D**	**R/A/S**	**R/D**	**D90**	**R/A/S**	**R/D**
Romania	01 06 1954	R X	21 06 1990	R	31 05 1995	21 06 1990	R
Russian Federation	10 05 1954	R X	29 09 1989	R X	29 09 1989	29 09 1989	R X
Rwanda	05 05 1964	S	19 11 1984	A	08 07 1993	19 11 1984	A
Saint Kitts and Nevis	14 02 1986	S	14 02 1986	A		14 02 1986	A
Saint Lucia	18 09 1981	S	07 10 1982	A		07 10 1982	A
Saint Vincent Grenadines	01 04 1981	A	08 04 1983	A		08 04 1983	A
Samoa	23 08 1984	S	23 08 1984	A		23 08 1984	A
San Marino	29 08 1953	A	05 04 1994	R		05 04 1994	R
Sao Tome and Principe	21 05 1976	A	05 07 1996	A		05 07 1996	A
Saudi Arabia	18 05 1963	A	21 08 1987	A X			
Senegal	18 05 1963	S	07 05 1985	R		07 05 1985	R
Seychelles	08 11 1984	A	08 11 1984	A	22 05 1992	08 11 1984	A
Sierra Leone	10 06 1965	S	21 10 1986	A		21 10 1986	A
Singapore	27 04 1973	A					
Slovakia	02 04 1993	S X	02 04 1993	S	13 03 1995	02 04 1993	S
Slovenia	26 03 1992	S	26 03 1992	S	26 03 1992	26 03 1992	S
Solomon Islands	06 07 1981	S	19 09 1988	A		19 09 1988	A
Somalia	12 07 1962	A					
South Africa	31 03 1952	A	21 11 1995	A		21 11 1995	A
Spain	04 08 1952	R	21 04 1989	R X	21 04 1989	21 04 1989	R
Sri Lanka	28 02 1959	R					
Sudan	23 09 1957	A					
Suriname	13 10 1976	S X	16 12 1985	A		16 12 1985	A
Swaziland	28 06 1973	A	02 11 1995	A		02 11 1995	A
Sweden	28 12 1953	R	31 08 1979	R X	31 08 1979	31 08 1979	R
Switzerland	31 03 1950	R	17 02 1982	R X	17 02 1982	17 02 1982	R
Syrian Arab Republic	02 11 1953	R	14 11 1983	A X			
Tajikistan	13 01 1993	S	13 01 1993	S	10 09 1997	13 01 1993	S
Tanzania (United Rep of)	12 12 1962	S	15 02 1983	A		15 02 1983	A
Thailand	29 12 1954	A					
Togo	06 01 1962	S	21 06 1984	R	21 11 1991	21 06 1984	R
Tonga	13 04 1978	S					
Trinidad and Tobago	24 09 1963	A					
Tunisia	04 05 1957	A	09 08 1979	R		09 08 1979	R
Turkey	10 02 1954	R					
Turkmenistan	10 04 1992	S	10 04 1992	S		10 04 1992	S
Tuvalu	19 02 1981	S					

Country	Geneva Conventions		Protocol I			Protocol II	
	R/A/S	**R/D**	**R/A/S**	**R/D**	**D90**	**R/A/S**	**R/D**
Uganda	18 05 1964	A	13 03 1991	A		13 03 1991	A
Ukraine	03 08 1954	R X	25 01 1990	R	25 01 1990	25 01 1990	R
United Arab Emirates	10 05 1972	A	09 03 1983	A X	06 03 1992	09 03 1983	A X
United Kingdom	23 09 1957	R X	28 01 1998	R X		28 01 1998	R
United States of America	02 08 1955	R X					
Uruguay	05 03 1969	R X	13 12 1985	A	17 07 1990	13 12 1985	A
Uzbekistan	08 10 1993	A	08 10 1993	A		08 10 1993	A
Vanuatu	27 10 1982	A	28 02 1985	A		28 02 1985	A
Venezuela	13 02 1956	R	23 07 1998	A		23 07 1998	A
Viet Nam	28 06 1957	A X	19 10 1981	R			
Yemen	16 07 1970	A X	17 04 1990	R		17 04 1990	R
Yugoslavia	21 04 1950	R X	11 06 1979	R X		11 06 1979	R
Zambia	19 10 1966	A	04 05 1995	A		04 05 1995	A
Zimbabwe	07 03 1983	A	19 10 1992	A		19 10 1992	A

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Livres et revues

Books and reviews

Jonathan Moore (ed.)

Hard choices: Moral dilemmas in humanitarian intervention

Rowman & Littlefield, Lanham, Oxford, 1998, 322 pages

The end of the Cold War, the proliferation of internal conflicts and the changing nature of sovereignty have created new prospects for humanitarian intervention. One idea that all contributors to *Hard choices*, a collection of essays edited by Jonathan Moore and sponsored by the ICRC, seem to share, however, is that while opportunities for such intervention have never been so great, there has never been such a need for ethical reflection on its nature. Indeed, with the decline in the "excessive and rather smug faith in the morality of humanitarian action", as Rony Brauman puts it, has come a gradual realization that "sincerity of intentions" is no "guarantee of virtue", and that humanitarian workers have a "compelling moral obligation to mistrust the premise upon which their action is built". Failure to do so, as Kofi Annan warns, may result – quite literally – in "bloody failure".

Ethical dilemmas relating to humanitarian intervention make for hard choices because they are both unavoidable and complex. They are unavoidable inasmuch as there are no ready-made recipes to test the morality of any given aspect of international relations. The arms trade, as Roger Williamson points out, is the legitimate means whereby States acquire the resources they need for their self-defence. Yet at the same time the arms trade can be a cause and aggravator of internal violence.[1] It is not the arms trade as such that is unethical, therefore, but rather the way it fits into the broader dialectic of ends and means.

1 Larry Minear makes a similar point in relation to the dual nature of sanctions as a means of implementation and thus an «effective expression of international law and expression of human rights and humanitarian values» on the one hand, and as a cause of «hardship for the targeted country» on the other.

Ethical dilemmas are complex because, as Jonathan Moore suggests, they involve competition not only between material, political and ethical considerations, but also between different ethical paradigms. Foremost among these is to what extent one should be faithful to one's core beliefs and how much attention one should give to the consequences of one's actions – the deontological versus the consequentialist. *Hard choices* argues convincingly in favour of a moral pragmatism that rejects any form of extremism.

One of the difficulties with the book is that its contributing authors are in fact dealing with two separate issues. When talking about dilemmas of humanitarian intervention, some refer to the dilemma of whether the international community should intervene militarily in the affairs of a sovereign State on humanitarian grounds. Others assume that such an operation is already under way – or simply equate humanitarian intervention with humanitarian assistance – and discuss the moral issues that arise therefrom. In other words, some are concerned with the ethical dilemma of intervention (when and why), while others discuss the ethical dilemmas arising from intervention (what and how). This is not entirely coincidental. It is in itself a reflection of the degree to which political and military intervention has tended to come in the guise of humanitarian assistance. How far one type of intervention can go without impairing the other is, unsurprisingly, one of the key questions which the contributors, who come from both academic and operational backgrounds, seek to address.

J. Bryan Hehir seeks to apply the theory of just war to intervention and points in particular to the legitimizing function of multilateralism. Yet beyond theory lies a road fraught with difficulty. Too little military intervention or intervention that comes too late, as the cases of Bosnia-Herzegovina and Rwanda have demonstrated, is unethical. A promise of intervention not acted upon is even worse (African Great Lakes). Yet there is also such a thing as over-intervention. The heavy-handedness of the UN intervention in Somalia hampered efforts to gain acceptance from the population and may have been counterproductive.

This raises many questions for the humanitarian community. Ultimately, the total failure of intervention may sometimes make humanitarian action impossible because of the breakdown of any "humanitarian space", and this would seem to point to a bottom line where the issue simply cannot be ignored. The international community's failure to disarm the *génocidaires*

in eastern Zaire, for example, gravely undermined the success of humanitarian action. Should humanitarian actors, therefore, have been ready and willing to advocate military intervention?

Once military intervention is under way, the question arises as to how humanitarian actors should manage their relations with the military. Several authors make a cogent case for the idea that the risk of being enlisted by political players and the military, both operationally and strategically, means that independence is the only viable ethical option. This independence is especially useful when the political handling of the matter by the international community tends to become part of the humanitarian problem rather than offering a solution. Larry Minear has strong words to describe how the use of sanctions, notably against Iraq, has made the UN "morally schizophrenic" by placing "political and humanitarian imperatives" on a collision course.[2]

Another more general question discussed is what posture humanitarian actors should adopt in the face of grave human rights violations. The assumption that human rights are an essential component of peace-building is widely shared. Justice Goldstone insists that peace and justice are not contradictory, and José Zalaquett points to the need for a "moral reconstruction in the wake of human rights violations and war crimes". Although the authors take due note of the fact that in the thick of humanitarian intervention there may be a fundamental tension between assistance and protection, access and advocacy, none of them seems to have any taste for restraint in voicing concerns about human rights violations. Rony Brauman, for example, focuses on the existence of circumstances "in which political considerations override all else" because benefits gained by adherence to strict neutrality in terms of good access are outweighed by the cost to the population of failing to denounce atrocities. In such circumstances, this author warns, a neutrality that lets itself be manipulated – neutrality without independence – is really no neutrality at all.

Another key issue that *Hard choices* addresses, albeit implicitly, is how far humanitarian action should stretch: should it be involved in finding solutions to the root causes of the conflicts that give rise to the need for intervention? To what extent should humanitarian workers take into account long-term concerns for reconstruction? The fact that the book devotes

2 Colin Granderson's reminder that the joint OAS/UN International Civilian Mission in Haiti (MICIVIH) ended up having to monitor the human rights record of the UN Mission in Haiti (UNMIH) also highlights the need for such independence.

attention to topics as varied as development, democracy, human rights, justice, health care and the impact of television is revealing of how much the word "humanitarian" has come to encompass. *Hard choices* is more noteworthy for highlighting that diversity, however, than it is for trying to make sense of it.

One of the wonders of *Hard choices* is that it shows how many ethical dilemmas could be reworded into operational dilemmas. Indeed, an important truth that filters from the book is that when it comes to humanitarian intervention, ethics make operational sense, particularly in terms of perceptions. As Mu Sochua's account of the UN intervention in Cambodia through the eyes of a Cambodian refugee vividly underlines, ethical behaviour builds credibility and therefore enhances the efficiency of humanitarian action.[3]

Awareness of the existence of ethical challenges is already a step towards taking them into account. In this regard *Hard choices* is a remarkably frank attempt to consider the consequences and the shortcomings of humanitarian intervention.[4] With so much soul-searching involved, Romeo Dallaire's contribution is aptly entitled "The end of innocence". A promising step, no doubt, towards the beginning of wisdom.

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3 Mary B. Anderson makes a similar point when she remarks that the growing professionalization of humanitarian aid, and its control by Western donors, contributes to the alienation of victims. Treating «victims as partners» instead is likely to substantially affect the way in which humanitarian work can be conducted.

4 Particularly noteworthy for their frankness and their willingness to accept failure in some circumstances are the contributions of Kofi Annan and Romeo Dallaire.

5 At the time of writing the author was an attaché at the ICRC International Organizations Division in Geneva.

T.M.C. Asser Instituut (ed.)

Yearbook of international humanitarian law

Vol. 1, 1998, T.M.C. Asser Press, The Hague, 1998, 696 pages

The *Yearbook of international humanitarian law 1998 (YIHL)* is the first publication devoted specifically (if not exclusively) to international humanitarian law to be issued on a yearly basis. This new publication therefore merits the attention of all those who are concerned with humanitarian matters, whether academics, staff of humanitarian organizations or casual onlookers interested in humanitarian affairs. To produce the first issue of such a publication is a challenge and necessarily an experiment, but it can already be said that the results are commendable. The general editor, Professor Horst Fischer of the University of Leiden, Netherlands, and the Ruhr-Universität Bochum, Germany, and the managing editor, Avril McDonald from the T.M.C. Asser Instituut, The Hague, Netherlands, should be congratulated on having produced in a short time a reference work which readers may very well hope to find each year on their desks. The next Yearbook will have to prove the success of the enterprise.

In the words of the publisher, "[t]he Yearbook's aim is to serve worldwide practice, which is understood to include implementation, research and development and the teaching of the law". The editors intend to cover all aspects of international humanitarian law, including developments in related fields, such as human rights law, disarmament law and conflict resolution. To achieve this end, they have established an impressive network of correspondents from all over the world who gather material and information regarding the practice of international humanitarian law in their respective regions or countries.

The *Yearbook* follows the usual pattern for such publications. It consists of four main parts, with the following headings: Articles, Current developments, Correspondents' reports and Documentation, followed by a table of cases and an index. Short items of information and documentary material account for by far the greater part of the *YIHL*, about five times as many pages as the first part devoted to scholarly articles.

Among the latter the reader will find an article by Christopher Greenwood, Professor of International Law at the London School of Economics, entitled "International humanitarian law and United Nations

military operations". The author succeeds in clarifying the rather intricate legal and political issues raised by the presence of United Nations forces in conflict situations and the applicability of humanitarian law to their operations. Professor Ivo Josipovic of the University of Zagreb examines a range of domestic legislation established to meet obligations arising out of the Statute of the International Criminal Tribunal for the former Yugoslavia. In the first part, the author identifies the issues which such legislation has to cover. He then brings together an impressive amount of documentary material which otherwise would be hardly accessible. Raúl Emilio Vinuesa, professor at the University of Buenos Aires, discusses in his article the "Interface, correspondence and convergence of human rights and international humanitarian law". After examining doctrinal aspects, analysing the rules on derogation from human rights obligations and discussing the so-called non-derogable "hard core" of human rights, the author provides valuable information on the experience of Argentina during the "dirty war" of the seventies and the subsequent practice of the Argentine authorities and courts.

The second part, entitled "Current developments", opens with the informative report "The year in review", written by Avril McDonald, the *Yearbook's* managing editor. The reader will find a host of information on various issues, developments or institutions related in one way or another to international humanitarian law and practice. The following key topics give an idea of the broad scope of this overview: the negotiations leading to the establishment of the International Criminal Court, the practice of the two ad hoc Criminal Tribunals, the activities of the ICRC Advisory Service on International Humanitarian Law, the project to establish a set of minimum humanitarian standards, the United Nations reports on the protection of women and children, the anti-personnel landmines issue, developments with respect to control or prohibition of weapons of mass destruction and information on United Nations peace-keeping and peace-enforcement operations. Although short and condensed, these items of information, with the numerous citations of sources, will no doubt prove very useful.

Most of the issues mentioned in McDonald's report appear again in some way or another in one of the subsequent short articles. From the end of impunity in Rwanda to German practice on international humanitarian law, numerous brief comments provide details on and, particularly important, access to sources and documentary material. The short texts published under the heading "Correspondents' reports, a guide to State practice concerning

international humanitarian law" explain the domestic practice of States. They range from information on ratification of an international treaty to comments on domestic legislation, e.g. on the recently adopted Chinese National Defence Law.

In its last chapter, the *YIHL* publishes a host of documentary material, some of which may otherwise not be easily available. Parts of the published documents are of an international character, others are of national origin. A table of cases and a detailed index close the volume.

This short review cannot do justice to the wealth of material presented by the *Yearbook*. Readers will have to forge their own opinion on the usefulness of the project for research purposes, for teaching or for use in professional practice. In the reviewer's opinion, it is the documentary part of the *YIHL* which merits the closest attention. Much of what is now easily available thanks to the *Yearbook* would have been beyond the reach of scholars or other interested persons who do not have ready access to all primary sources. The editors might, however, wish to give consideration to the way in which information and documents are dealt with in the various chapters of the documentary section, in order to enhance clarity and avoid double entries. Access to specific documents could be improved by way of a detailed summary. The question may also be raised whether it is necessary to include in this already rather voluminous work matters which clearly do not belong to the sphere of international humanitarian law (e.g. reference to an agreement on confidence building measures between China and India). Finally, a compilation of recently published books and articles on international humanitarian law would make the *YIHL* even more attractive.

All in all, the *Yearbook* is a welcome contribution to the literature on international humanitarian law. This new annual publication will facilitate access to its sources and to relevant documents and thereby encourage scholarly work in this field.

HANS-PETER GASSER [1]
Editor, The *Rewiew*

1 The reviewer is a member of the Board of Editors of the *Yearbook of international humanitarian law*.

Françoise Bouchet-Saulnier

Dictionnaire pratique du droit humanitaire

Éditions La Découverte & Syros, Paris, 1998, 420 pages

Ce dictionnaire propose la définition et l'analyse de plus de 300 termes qui couvrent le champ de l'action humanitaire. Ne se limitant pas au seul droit international humanitaire, il fait également référence à des notions appartenant à d'autres ordres juridiques telles que l'adoption ou la sécurité collective. Plusieurs institutions et organes des Nations Unies y sont également présentés (l'UNICEF, par exemple).

Selon l'auteur, ce guide pratique s'adresse «à ceux qui ne liront jamais les Conventions de Genève». L'ouvrage, qui n'a donc aucune prétention académique, cherche à «restituer un sens et un contenu précis à tous ces mots qui ont envahi le vocabulaire médiatique du malheur, et dont on a oublié qu'ils sont porteurs de la force du droit». Il est résolument tourné vers l'action et met l'accent sur le rôle spécifique des acteurs non gouvernementaux dans les situations de conflit. L'auteur le précise dans la première phrase de son introduction: «Le droit humanitaire est un droit qui se plaide et se défend dans l'action.» Le public plus particulièrement visé est sans aucun doute celui des praticiens des actions de secours (organisations non gouvernementales et organisations internationales), mais le Dictionnaire pratique du droit humanitaire s'adresse aussi aux journalistes et à tout citoyen intéressé par les questions touchant à l'humanitaire. Rappelons que l'auteur est responsable juridique de Médecins sans frontières et directeur de recherche à la Fondation Médecins sans frontières.

Le pari était difficile à tenir: expliquer le droit international humanitaire en termes opérationnels, simples et compréhensibles par tous. Le résultat est concluant. D'une manière générale, la matière est bien présentée. Des encadrés mettent en évidence des informations particulièrement importantes concernant le sujet traité. Chaque terme est accompagné de renvois à des notions voisines. De plus, ceux qui souhaitent approfondir un sujet trouveront des références bibliographiques à la fin de chaque article. Le langage est celui d'un auteur engagé et il est accessible à un lecteur non spécialiste. Dans son introduction, Françoise Bouchet-Saulnier décrit de manière claire et succincte l'essence de l'action humanitaire et de certains enjeux actuels.

Quant aux spécialistes du droit international humanitaire, ils resteront peut-être sur leur faim. Toute vulgarisation a en effet ses qualités et ses défauts: certaines définitions sont imprécises ou incomplètes, si bien que le contenu juridique est approximatif et que le droit pourrait être mal interprété. Ainsi, à la lecture du terme «mouvement de résistance», le Protocole I additionnel aux Conventions de Genève semble s'appliquer à n'importe quel mouvement de résistance. Quant au respect des «garanties fondamentales», le texte donne l'impression qu'il y a automatiquement des dérogations dans les situations de troubles ou de tensions internes. D'autre part, la distinction entre les infractions graves (pour lesquelles il existe une obligation de poursuite) et les autres violations (pour lesquelles seule existe l'obligation de prendre les mesures adéquates pour les faire cesser) est parfois équivoque. En outre, le texte laisse entendre que les Conventions de Genève sanctionnent aussi bien les crimes de guerre que les crimes contre l'humanité, alors que ces derniers peuvent également être commis en temps de paix et ne sont pas prévus dans ces instruments. Actualité oblige, notons au passage qu'une large place est accordée à la répression pénale et aux tribunaux internationaux, alors que celle consacrée aux armes ou à la conduite des hostilités est comparativement courte.

Par ailleurs, puisque le dictionnaire s'adresse en particulier à des praticiens, l'explication de certains termes ou mécanismes aurait pu être développée. Ainsi en est-il de la procédure 1235 mentionnée sous le terme «Commission des droits de l'homme de l'ONU (et sous-commission)». Cette procédure, créée par une résolution du Conseil économique et social des Nations Unies (ECOSOC), autorise les actions urgentes. De même, les Principes directeurs relatifs au déplacement de personnes à l'intérieur de leur propre pays, élaborés par le représentant du secrétaire général chargé de la question des personnes déplacées dans leur propre pays, pourraient être présentés de façon plus exhaustive.

Enfin, si nous sommes conscients des limites et de la finalité d'un tel ouvrage, il aurait été utile d'exposer en termes simples dans l'introduction la matière brute couverte par le droit international humanitaire. Certes, les principes fondamentaux et le champ d'applicabilité de cette branche du droit sont expliqués dans les divers articles. Toutefois, selon les points d'entrée dans le dictionnaire, il n'apparaît pas toujours clairement que le droit international et le droit des droits de l'homme sont complémentaires dans les situations de conflit armé. De même, aucune distinction fondamentale n'est faite

entre le *ius ad bellum*, (droit du recours à la force, énoncé dans la Charte des Nations Unies) et le *ius in bello* (droit des conflits armés, qui s'applique indépendamment de la légitimité du recours à la force).

En conclusion, si le Dictionnaire pratique du droit humanitaire de Françoise Bouchet-Saulnier n'est pas à proprement parler un précis de droit humanitaire, il constitue néanmoins une contribution majeure à la diffusion de cette branche du droit auprès de non-juristes. L'auteur y interprète le droit humanitaire tout en s'efforçant de le promouvoir (par exemple, quand il parle de son applicabilité aux forces de maintien de la paix) et se révèle être un ardent défenseur du respect des principes humanitaires en temps de conflit comme dans les situations de troubles ou de tensions internes.

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Anne-Marie La Rosa

Dictionnaire de droit international pénal : termes choisis

Presses universitaires de France, Paris, 1998, 118 pages.

Le *Dictionnaire de droit international pénal* d'Anne-Marie La Rosa offre aux non-spécialistes la possibilité de se familiariser avec une matière peu accessible du fait de ses sources multiples. Ce court ouvrage (une centaine de pages), particulièrement clair et bien écrit, contient de nombreuses références qui seront utiles à ceux qui chercheraient les sources de ce droit relativement nouveau et en plein développement.

Plutôt que de faire un petit manuel, l'auteur a préféré initier le lecteur à travers des articles sur trente-trois sujets divisés en trois catégories : les grandes caractéristiques du droit international pénal, les incriminations et notions afférentes, et les règles et principes inhérents à la répression pénale internationale. L'ouvrage traite ainsi de sujets tels que : « Cour criminelle internationale », « Nuremberg », « Crimes contre l'humanité », « Génocide », « Ordre supérieur », « *Aut dedere, aut judicare* », « Compétence universelle », « Extradition », « *Non bis in idem* », etc.

Cette méthode a le mérite d'éviter d'alourdir l'ouvrage avec les chapitres et les passages formels qu'impose un manuel. La forme du dictionnaire permet à l'auteur d'aller directement aux sujets qui lui paraissent essentiels. La pertinence du choix des sujets traités a d'ailleurs été récemment démontrée avec l'affaire Pinochet, qui a vu de nombreux juristes ou journalistes non spécialisés s'exprimer à tort et à travers : l'article « Position d'autorité » leur aurait permis de s'informer facilement et à moindre frais sur cette problématique !

Cet ouvrage sera également très utile aux spécialistes du droit international et du droit pénal, du fait des nombreuses citations et références qu'il comporte. En fait, il fourmille d'informations fondées sur des documents officiels ou sur les principales sources doctrinales, ce qui en fait un précieux compagnon pour le juriste qui s'intéresse au droit international pénal. Sans compter qu'il plaira particulièrement aux francophones, qui ont parfois de la peine à trouver leurs sources en français !

Les limites d'un tel ouvrage sont dictées par sa forme. En effet, il y est fait peu de place à la discussion doctrinale. Les concepts et les principes sont parfois imposés sans le recul nécessaire à une matière extrêmement complexe, qui suscite encore bien des controverses. La lecture attentive de l'ouvrage laisse notamment apparaître les orientations d'Anne-Marie La Rosa et sa volonté de promouvoir le développement du droit international pénal. Toutefois, l'histoire lui donnera probablement raison.

On aurait également souhaité que les principaux auteurs soient cités au début de chaque article. Gageons que l'ouvrage fera l'objet de rééditions, étant donné que la matière connaît un développement fulgurant, surtout depuis l'adoption, en juillet 1998 à Rome, du Statut de la Cour pénale internationale.

En bref, un ouvrage agréable et utile, qui trouvera facilement sa place dans la bibliothèque de toute personne qui s'intéresse au droit international pénal. Chaudement recommandé.

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Marianne Dubach-Vischer

Mit Boot und Stethoskop

Friedrich Reinhardt Verlag, Bâle, 1998, 375 pages

L'auteur est la fille du docteur Mattheus Vischer et d'Elisabeth Vischer-Mylius, infirmière de formation. Tous deux travaillaient à Bornéo-Sud depuis 1927 pour la Société missionnaire évangélique de Bâle. Après l'invasion de Bornéo-Sud par l'armée japonaise, en février 1942, le CICR demanda au docteur Vischer de devenir son délégué. Sa tâche essentielle devait être de porter protection et assistance aux prisonniers de guerre alliés aux mains des Japonais.

Au cours de toutes ces années, Mattheus et Elisabeth Vischer accomplirent leur mission humanitaire avec énormément de courage et d'abnégation. En 1943, ils furent accusés d'espionnage par les Japonais, arrêtés le 13 mai, condamnés à mort par un tribunal de guerre, et exécutés le 20 décembre 1943. Le CICR avait tenté à plusieurs reprises d'entrer en contact avec eux par l'intermédiaire des autorités japonaises, mais en vain. Ce n'est que le 29 août 1945 que la Légation de Suisse à Tokyo fut informée de la mort du docteur Mattheus Vischer et de son épouse, Elisabeth Vischer-Mylius.

Marianne Dubach-Vischer vécut à Bornéo avec ses parents jusqu'à l'âge de neuf ans. En 1935, elle fut confiée à sa grand-mère à Bâle pour y étudier. Jusqu'à fin 1941, sa famille reçut régulièrement des lettres de Mattheus et d'Elisabeth Vischer puis plus rien jusqu'en 1945, lorsque la nouvelle de leur mort lui parvint.

Marianne avait alors 19 ans, mais ni elle ni ses frères et sœurs ne furent informés des circonstances tragiques de la mort de leurs parents. Ce n'est qu'en 1956 que la grand-mère de l'auteur lui remit un paquet contenant toutes les lettres envoyées par ses parents, en lui disant qu'elle devrait les faire connaître un jour.

La présente publication répond à ce vœu. Elle se compose essentiellement d'extraits de plus de 500 lettres, regroupés par thèmes et décrivant l'environnement et les conditions dans lesquelles travaillèrent les époux Vischer.

FRANÇOISE PERRET
Chargée de recherches
CICR

Information aux auteurs et lignes directrices pour la présentation des manuscrits

La rédaction de la *Revue internationale de la Croix-Rouge* invite les lecteurs à lui soumettre des textes sur des sujets en rapport avec l'action, la politique ou le droit humanitaires, ainsi que sur toute question intéressant le Mouvement international de la Croix-Rouge et du Croissant-Rouge (voir la mission de la *Revue* en page 2 de couverture).
La publication ou non d'un manuscrit et la date de sa parution sont décidées par la rédaction de la *Revue*. Il est notamment tenu compte de l'originalité du travail et de la qualité scientifique de la démarche. Le cas échéant, le texte est soumis à un expert pour avis.

Langue: le manuscrit peut être rédigé en langue *française* ou *anglaise*. La *Revue* publie les textes dans leur langue originale, avec un résumé dans l'autre langue.

Longueur: l'*article* ne doit pas dépasser 20 pages imprimées, soit environ 20 pages de manuscrit en interligne serré (environ 8 000 mots). Le *compte rendu d'un livre* comptera au maximum trois pages imprimées (environ 1 000 mots). — L'auteur d'un *article* est invité à en fournir un résumé de 100 à 200 mots, selon la longueur de l'original.

Notes de bas de page: la rédaction invite les auteurs à maintenir le nombre et la longueur des notes de bas de page au minimum nécessaire à la compréhension du texte, à l'identification des sources utilisées et à l'intérêt bibliographique. Les notes sont numérotées de manière consécutive, du début à la fin du texte.

Références bibliographiques:
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