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INTERNATIONAL  
**REVIEW**  
OF THE RED CROSS



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International Committee of the Red Cross  
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INTERNATIONAL REVIEW  
OF THE RED CROSS

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## APPLYING THE FUNDAMENTAL PRINCIPLES OF THE RED CROSS AND RED CRESCENT:

### *A SUBJECT FOR CONTINUED THOUGHT*

The Fundamental Principles of the Red Cross and Red Crescent are the cornerstone of the doctrine of the International Red Cross and Red Crescent Movement. The Movement's mission and its activities are built on the Principles, which are binding on all its components in all circumstances. The members of the Movement are under the obligation to spread understanding and knowledge of the Principles, the better to ensure respect for them.

Knowledge and understanding of the Principles inside and outside the Movement are without doubt still insufficient, and the subject calls for serious thought. Could it be, as Donald Tansley suggested in his reappraisal of the Red Cross, that the Principles are poorly drafted? Author of *An Agenda for Red Cross*, Tansley felt that the Principles could not be easily understood or transmitted, and so suggested that they be restated in "a language and in a form which can be easily understood".<sup>1</sup>

The question of form bears investigation but is not the crux of the matter. Already in 1977, in Bucharest, the League of Red Cross Societies and the ICRC stated, "... its fundamental principles are the most valuable asset of the Red Cross, they constitute a binding force, a set of guidelines, a programme of action, the source and expression of an ideal, and a guarantee of universality. There is no need to re-formulate them; the main thing is to live up to them, and make them known and respected".<sup>2</sup>

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<sup>1</sup> Tansley, Donald. *Final Report: An Agenda for Red Cross — Re-appraisal of the Role of the Red Cross* (hereafter *Tansley Report*); Geneva, 1975, p. 35.

<sup>2</sup> *The ICRC, the League and the Tansley Report*. Considerations of the ICRC and the League on the Final Report on the Re-appraisal of the Role of the Red Cross; Geneva, 1977, p. 49.

More recently, in 1986, the Principles proclaimed in 1965 were made part of the Movement's new Statutes, the Preamble to which reaffirms that "in pursuing its mission, the Movement shall be guided by its Fundamental Principles".

The essential thing is really to disseminate knowledge of the Fundamental Principles, to bear witness to their abiding nature, not only by proclaiming them, but also explaining their content, by proving that while open to interpretation they are the common denominators of universal thought and constitute an inseparable whole.

The Principles are a human invention subject to the shifts and fluctuations in the values of our societies, one more reason to reflect on their application. In the face of the world's different ideologies, cultures and living conditions, the Principles have been taken to mean different things. Moreover, the Movement is not a static entity. It is a dynamic force working in a political, economic and social context which can change from one day to the next. This implies that its humanitarian tasks must be constantly reassessed and adapted.

To think about the Fundamental Principles of the Red Cross and Red Crescent in 1989 is not to challenge their wording, even less to rethink and restate Red Cross philosophy, as Tansley suggested.<sup>3</sup> It amounts to giving each Principle a meaning that will ensure and strengthen the Movement's cohesion, for no less than that is at stake: the Movement's unity, its credibility and efficiency.

Pursuant to a suggestion by Dr. Janos Hantos, Chairman of the Executive Committee of the Hungarian Red Cross and member of the Standing Commission of the Red Cross and Red Crescent, in 1986 the ICRC set up an internal working group chaired by Mr. Pierre Keller, a member of its Executive Board. After consulting with several members of the Movement, the group pinpointed a number of questions worthy of closer examination. An intermediary report on respect and dissemination of the Fundamental Principles was submitted by the ICRC to the Council of Delegates at its meeting of 27 October 1989. In Resolution No. 7, the Council of Delegates accordingly "...requests the ICRC to continue the study in consultation with all the National Societies, the League and the Henry Dunant Institute; invites the components of the Movement to collect any material they consider useful for promoting understanding and dissemination of the Principles and to forward it to the ICRC".

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<sup>3</sup> *Tansley Report*, p. 35.

In this issue, the *International Review of the Red Cross* therefore begins a series of thought-provoking articles on the Fundamental Principles. By asking members of the National Societies and the League, both theoreticians and those called on to implement the Principles, to express their views on the subject and by publishing the studies planned at the ICRC, the *Review* wishes to contribute to the Movement's far-reaching reflection of the past three years and help with the constitution of true dossiers of scholarly and practical information on the means of applying the Principles

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In 1979, Jean Pictet wrote, "Modern humanitarianism... is not only directed to fighting against the suffering of a given moment and to helping particular individuals, for it also has more positive aims, designed to attain the greatest possible measure of happiness for the greatest number of people. In addition, humanitarianism does not only act to cure but also to prevent suffering, to fight against evils, even over a long term of time".<sup>4</sup>

Humanitarianism today must take into account the fact that current problems, as concerns both armed conflicts and economic and social development, can be tackled and solved only at a planetary level. Yet at the same time today's world is characterized by its great diversity. We thus have the contradictory phenomena of growing unity born of respect for differences and unity endangered by the diversification of societal problems.

The Movement has not been spared this contradiction. Its work to protect and assist the victims of armed conflicts has too often been challenged and even flouted by infractions and breaches of basic humanitarian rules, as ideologies have become more radical and violence more commonplace. Cultural and religious crises have helped undermine the fundamental humanitarian principles by contesting their universality. Humanitarian action has suffered as a result.

How then is the humanitarianism of the Movement as a whole, laid down in its Fundamental Principles, to meet the requirements of a world in search of unity but wrestling with contradictions? How is Red Cross and Red Crescent humanitarianism to be defined on the eve of the twentieth century, and how is it to maintain its specificity? In his

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<sup>4</sup> Pictet, Jean. *The Fundamental Principles of the Red Cross-Commentary*: Henry Dunant Institute, Geneva, 1979, p. 21.

analysis of the meaning of the word “humanitarian” in the light of the *Fundamental Principles* (see pp. 507-515), Jean-Luc Blondel, referring to humanitarian law, to “hard core” human rights, demonstrates that Red Cross and Red Crescent humanitarian action depends on respect not only for the principle of humanity, but indeed for all the Fundamental Principles. In the case of humanitarian assistance provided in the event of an armed conflict or natural disaster, “impartiality, neutrality and independence on the part of the donor... are essential if the assistance given is to qualify fully as humanitarian”.

Such is to this day the specific nature of Red Cross and Red Crescent humanitarianism. It focuses on the human being; the protection of his life, health and dignity is its ultimate goal. Thanks to the principle of humanity, which when implemented helps strengthen the ties between individual human beings and thereby between peoples, thanks to the principle of universality, which implies solidarity between National Societies, and thanks to the principle of neutrality which, when understood correctly, means openness to others and the firm resolve to remain available, the Movement’s doctrine rejects violence and defeatism to call for dialogue and concerted action.

There is a general consensus that modern humanitarianism is an indivisible whole which requires not only that suffering be alleviated, but also that the cause of that suffering be examined and if possible eradicated.

According to some schools of thought, the Movement, while it must continue to protect and assist the victims of armed conflicts, must also act to eliminate the causes of war and of banes of society such as racial discrimination and torture.

This is not the first time the Movement has faced this challenge. It was viewed with foreboding by that alert scholar Max Huber, who was aware that the principle of humanity was open to dangerous misinterpretation and was concerned that vaguely broadening the concept could plunge the Red Cross headlong into the political arena.<sup>5</sup>

Of course the position of the Red Cross and Red Crescent may differ from the requirements of a humanitarianism which seeks the satisfaction of basic and lasting solutions. But the Movement has not turned its back on the problems of the modern world, it cannot and does not wish to ignore them. It has simply decided to set itself certain limits which it could not transgress without jeopardizing its *raison d’être*. The Movement has set its priority: the victims. It undertakes preventive

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<sup>5</sup> Huber, Max. *La pensée et l’action de la Croix-Rouge*, ICRC, Geneva, 1954, pp. 243-247.

work in the fields of activity which have for decades been specific to it: health care, social welfare, protection of the environment, education for peace, strengthening of international fellowship. Is this enough? Could the Movement work in other fields without losing its specificity? How is the relation between alleviating suffering and preventing it to be established? These are all subjects which merit consideration.

Not content to invoke a legal right—its entitlement to protect the victims of armed conflicts—the Movement invokes the principle of humanity to intervene in all situations not covered by the law. We cannot say it often enough: the ICRC's recognized right of humanitarian initiative is one of the essential factors of modern Red Cross humanitarianism.

The Movement has decided to speak out against aggression, torture and political disappearances, to express its deep concern about the arms race and more recently to deal with subjects related to the protection of human rights, all issues with possible political connotations. Not, however, to bow to pressure or follow a trend, but to help safeguard the moral heritage of humanity, without taking sides, bringing to bear the full authority of its neutrality.

\* \* \*

The Movement's universally applied humanitarian activities tend to overcome the contradictions in our societies through the principle of impartiality, which is the very negation of feelings of superiority or inferiority. Through the principle of neutrality, the Movement identifies totally with the person who suffers. But there must be general agreement on the meaning of these two concepts, which are often poorly understood or confused.

There are many basic questions on the subject. How can a National Society which is an auxiliary to the public authorities be said to be neutral? Is neutrality not at times synonymous with passivity, or indifference? Can the ICRC consider itself to be neutral when it draws public attention to violations of international humanitarian law? Does impartiality imply equal sharing of relief supplies between the victims of both parties to the conflict? Can assistance be provided to only one party without violating the principles of neutrality and impartiality? To what extent can National Societies from a third country work with the ICRC in an internal conflict?

In their articles, Frits Kalshoven (*“Impartiality and Neutrality in Humanitarian Law and Practice”*, page 516) and Marion Harroff-Tavel (*“Neutrality and Impartiality. The importance of these principles for the International Red Cross and Red Crescent Movement and the difficulties involved in applying them”*, page 536) attempt to analyse the relationship between the principles of impartiality and neutrality and to show the practical implications of these questions of concern to the members of the Movement.

The sometimes differing points of view presented in both articles fortunately give further food for thought. Witness the debate which was held in September 1989 in San Remo on “The Role of National Societies in Non-International Armed Conflicts”, organized in the framework of the *Round Table of the International Institute of Humanitarian Law* (see page 593). The participants realized that it was necessary to strengthen the role of the National Societies in internal conflicts, but emphasized that the responsibilities and mandates of the Movement’s components, which were complementary, had to be clearly defined and that co-operation, the key to effective Red Cross and Red Crescent action, had to be placed to the fore.

We invite our readers to peruse these pages and express their views on the new challenges represented by the application of the Fundamental Principles in our troubled times.

*The Review*

# The meaning of the word “humanitarian” in relation to the Fundamental Principles of the Red Cross and Red Crescent

by Jean-Luc Blondel

## 1. The Red Cross and Red Crescent: a practical approach

It has rightly been said that the International Red Cross and Red Crescent Movement does not stand for any specific philosophy or moral doctrine.<sup>1</sup> Neither the fundamental principles nor international humanitarian law (IHL) provide a methodical interpretation of human nature or an inventory of the moral rights and obligations of the Movement’s members. The Movement adheres to no particular ideology or political system. On the contrary, its universality enables it, with varying degrees of success, to adapt to or even influence various political regimes or tendencies in order to promote humanitarian aims. This ability can be attributed in particular to its respect for the principle of neutrality.

Seen in this light, the principle of neutrality is a positive factor. By refusing to identify with any ideology, religion or philosophy, the Movement remains free to serve the cause of all humanity everywhere. Our century in particular has witnessed too many tragedies resulting from blind adherence to various ideologies. By holding itself aloof from ideology, the Movement remains open to all and respects everyone’s liberty.

The principle of neutrality also stems from a desire to serve. To remain operational, the Movement must set its sights on reality and never distort the facts to fit prejudices and preconceived ideas. By refusing to imprison human beings at all costs in an all-embracing

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<sup>1</sup> Harroff-Tavel, Marion, “The doctrine of the Red Cross and, in particular, of the ICRC”, *Dissemination*, No. 2, August 1985, p. 7.

totalitarian system, it focuses attention on humanity and specifically on individuals in distress. Such an attitude is practical rather than philosophical or metaphysical and it is not always easy to maintain, since to a certain extent it entails suppressing questions about the causes of suffering, torture and war.

This, of course, is not a sign of indifference to suffering but a form of mental discipline which places the search for means of eliminating suffering above investigation of its structural, political and demographic roots. It calls for certain sacrifices; in particular, the Movement must refrain from denouncing those who are guilty of or responsible for acts considered unjust in order to give priority to action.

Red Cross and Red Crescent members do not, however, renounce thought and reflection, as clearly demonstrated by the Movement's contribution to the development of IHL. This very contribution demonstrates the Movement's determination to focus on seeking practical means of limiting human suffering.

## **2. The “humanitarian” aspect of international law**

Throughout its history, the Red Cross has championed and expanded what Pictet defined as “the formidable struggle which has been carried on from the very beginning of human society between those who wish to preserve, unite and liberate mankind and those who seek to dominate, destroy or enslave it”.<sup>2</sup> This assertion, although somewhat dualistic, is nevertheless correct.

It is no doubt pointless to wonder whether humanity faces greater threats now than it did in the past. The threats hanging over us today are real and considerable, and human suffering is widespread. From the ethical point of view, humanitarian motivation is not contingent on the degree of suffering or the number of people who are tortured or otherwise made victim. A single person tortured or reduced to starvation is already one too many. The Movement, by caring for the individual (although it also assists large groups and even entire populations), shows that its work consists in defending every man, woman and child, for human dignity is irreducible.

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<sup>2</sup> Pictet, Jean, *Development and Principles of International Humanitarian Law*, Martinus Nijhoff, Dordrecht, Henry Dunant Institute, Geneva, 1983, p. 5.

Although the word “humanitarian” rarely appears in the 1949 Geneva Conventions and their 1977 Additional Protocols, its meaning in this context may be inferred from a careful reading of those instruments. Some articles are particularly relevant. Article 3 common to the four Conventions provides that persons taking no active part in the hostilities shall be “treated humanely”. The *Commentary* on this article correctly points out that it would be dangerous and well-nigh impossible to give an exhaustive definition of humane treatment. The expression must be understood in the spirit in which the Conventions were written, that is, as stated in the *Commentary* on Article 9, one that values “human life, and peace between man and man”.<sup>3</sup>

It is interesting to note that the *Commentary* considers conflict victims as individuals. A soldier is normally identified in terms of his uniform, i.e., his nationality, but once he has been wounded or taken prisoner, he must be regarded first and foremost as a person. The legal provisions making up the Conventions thus express the moral imperative to help the destitute, the wounded and the sick.

Elsewhere, in the same spirit, the *Commentary* defines a humanitarian institution as one which focuses on “the condition of man, considered solely as a human being without regard to the value which he represents as a military, political, professional or other unit”.<sup>4</sup> Indeed, humanitarian work may encompass a wide range of activities as long as these are agreed to by the parties in conflict.

IHL is, one might say, minimalist. It aims to ensure the survival and subsistence of at least civilians and persons no longer taking an active part in hostilities. The rules concerning National Societies (Geneva Conventions I, 26; II, 25; IV, 30, 63, 142; Protocols I, 81; II, 18) provide that the humanitarian activities of these and similar Societies “must be impartial and may not compromise military operations”. Therefore “Societies authorized to exercise relief activities must submit themselves to any security rules imposed upon them, and may not use their privileged situation to collect and transmit political or military information”.<sup>5</sup>

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<sup>3</sup> Pictet, Jean, ed., *Commentary*, Vol. I — *The 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, ICRC, Geneva, 1952, p. 111.

<sup>4</sup> *Ibid.*, p. 108.

<sup>5</sup> Sandoz, Y., Swinarski, C., Zimmermann, B., eds., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Martinus Nijhoff, Dordrecht, ICRC, Geneva, 1987, p. 945, para. 3337 (on Art. 81 of Protocol I).

The right of initiative which the ICRC is entitled to exercise in the humanitarian field is legitimate, under the Conventions, only if it is used to accomplish tasks determined, but also restricted, by the three criteria of humanity, independence and neutrality.<sup>6</sup> The ICRC's Statutes (and Article 5 of the Movement's Statutes) state that its mandate is and must remain humanitarian, that is, must conform to the spirit of the Geneva Conventions with respect to protection.

Humanitarian law provides protection against acts or threats such as:

- hostage-taking;
- indiscriminate attacks;
- torture, ill-treatment, mutilation, murder;
- disappearances, death threats;
- deportation, genocide.

Without enumerating the provisions for the protection of war victims contained in the Conventions, their general thrust can be summed up by stating that a humanitarian activity is one which provides victims with the following services:

- nutritional and material relief (food, clothing, shelter);
- medical assistance (it should be noted that medical activities must, under Article 16 of Protocol I, be compatible with medical ethics, which are themselves based on specific legal provisions);<sup>7</sup>
- protection against arbitrary detention and summary judicial procedures;
- visits, interviews without witnesses, moral support;
- contacts with family members, tracing of missing persons;
- repatriation, family reunification;
- meeting various cultural needs such as education (reading and writing materials).

The International Court of Justice, in "Nicaragua vs USA",<sup>8</sup> defined

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<sup>6</sup> Sandoz, Yves, "Le droit d'initiative du Comité international de la Croix-Rouge", *German Yearbook of International Law*, No. 22, 1979, p. 368.

<sup>7</sup> Torelli, Maurice, *Le médecin et les droits de l'homme*, Berger-Levrault, Paris, 1983.

<sup>8</sup> See article in this issue by Professor F. Kalshoven, "Impartiality and Neutrality in Humanitarian Law and Practice" (p. 516 and notes 1 and 4).

as “humanitarian” any aid in the form of food, clothing or medicines as opposed to arms, munitions or other supplies capable of causing damage or death. But the Red Cross and Red Crescent principles define not only *what* is to be distributed, but also *how* and *why* it is to be distributed. To be humanitarian, assistance must be given impartially and without interfering with the conduct of hostilities.

Aid in the form of medicines or food supplied to an armed group reflects a partisan position, which is forbidden to the Red Cross and Red Crescent as a matter of principle. Impartiality, neutrality and independence on the part of the donor (ICRC, League, National Societies) are essential if the assistance given is to qualify fully as humanitarian.<sup>9</sup>

Humanitarian concern is not confined to the law. It extends far beyond the legal framework wherein it is applied to situations of conflict. The Conventions and Additional Protocols provide only a minimum degree of protection (in practice even this constitutes a maximum which, sadly, is often not attained). The Red Cross must therefore occasionally take further steps to relieve or prevent human suffering. However, to invoke “strictly humanitarian reasons” in persuading belligerents to support a measure that is in the interest of the victims but is not covered by the Conventions in no way casts doubt on the latter’s humanitarian nature; it merely points to the broad potential of the institution’s work.

This work is guided by the Movement’s general ethical commitment to relieving human suffering in conformity with its fundamental principles. In time of peace and social tranquillity as well, although it is concerned with all human problems, the Movement concentrates its efforts where its specific skills and efficiency are recognized (health and social welfare, emergency situations, acting as an auxiliary, etc.).

Humanitarian work is naturally not restricted to the relief of suffering; it also seeks to prevent it. The promotion of peace through education and the strengthening of solidarity among nations, in particular, are essential commitments in the struggle to protect humanity, a goal to which the Red Cross and Red Crescent, and other institutions to an equal and often greater extent, contribute. While each has its own speciality, emphasis should also be placed on

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<sup>9</sup> See article in this issue by Marion Harroff-Tavel, “Neutrality and Impartiality — The importance of these principles for the International Red Cross and Red Crescent Movement and the difficulties involved in applying them” (p. 536), which explains this point in greater detail.

complementarity and co-operation since all these bodies share the common goal of promoting human welfare.

Without actually defining the word “humanitarian”, IHL, like other branches of law, makes clear its aims, which are to ensure respect for human life and to promote health and dignity for all. It is concerned with men and women for their own sake, setting aside weapons, uniforms and ideologies, men and women who could very well be ourselves.

Thus whatever we would wish for ourselves we should also wish for others; no matter how great the gulf which divides us from them, we all belong to the same family of man.

Several studies have attempted to isolate the essence or core of humanitarian law, that is, a minimum set of rules which should be respected at all times.<sup>10</sup> These studies reflect the same concern for treating human beings as the highest priority and protecting their irreducible dignity, which no circumstance should be allowed to impair. The study of human rights pursues the same aim.

### **3. Humanitarian law and human rights**

Humanitarian thinking does not form a separate branch of the political or social sciences, a body of principles on an equal footing and consequently in conflict with political action. Concern with humanitarian ideals, as with human rights, is rather a view, an approach to life and human activities, particularly in times of tension, which attaches paramount importance to human life and dignity. The humanitarian point of view is not a conflicting but a complementary one. In the face of political and social institutions and struggles, humanitarian thinking rejects the idea of fatality, of “events taking their course”, of (so-called) inevitable constraints. It steps in to temper the reason of state and to introduce, when necessary, a sense of humanity.

In the political arena, whether national or international, the humanitarian point of view naturally faces a world that is already organized and fraught with conflicts, divergent interests and fixed opinions. Moreover, that world is already furnished with a set of values and standards propagated by various groups, institutions, legislative systems, etc. The humanitarian approach does not mean turning a blind

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<sup>10</sup> See in particular the articles by Theodor Meron and Hans-Peter Gasser in the issue of the *International Review of the Red Cross* devoted to internal disturbances and tension (No. 262, January-February 1988).

eye to the existence of conflicts, differences of opinion, hatred or oppression; it simply seeks to introduce in such situations certain values (respect for life and human dignity, solidarity, relief of suffering, etc.) generally known to and accepted by the belligerents, but pushed into the background by their passion for the cause they are defending.

Human rights, which pursue the same goal, have been formulated in various ways and the debate concerning their origin and foundations is far from closed. One thing, however, is clear: human rights are rooted in the conviction that man is invested with a special, intangible dignity. This puts politicians to the test by confronting them with the incontrovertibility of that dignity. Political order presupposes but does not create man's liberty and humanity.

This liberty and this humanity transcend manipulation by institutions or political movements. However, it would be naive to think that manipulation, lies and disruption do not occur. Our argument is based on a different premise, namely, the irreducibility of human dignity despite the existence of injustice, violence and torture. It is on this basis that humanitarian law and human rights law seek to defend humanity against arbitrary treatment, blind violence and cruelty.

Certain basic humanitarian standards must be preserved at all times. By establishing a minimum threshold (e.g., Article 3 common to the four Geneva Conventions, Article 75 of Protocol I), IHL guides the work of the ICRC and other components of the Movement in situations of conflict, but a concerted effort must also be made to protect humanity in times of disturbances and tension and even in peacetime (when this implies only that the guns are silent). The rights of children, minority groups and prisoners of opinion cannot remain a matter of indifference to the Movement, although careful consideration must naturally be given in each individual case to the specific contribution that can be made to protecting those rights.

#### **4. The ethic of dialogue**

The International Red Cross and Red Crescent Movement strives to prevent and alleviate human suffering. To relieve suffering is the ultimate ethical motivation underlying the commitment of all Red Cross and Red Crescent volunteers. Every refugee, torture victim and abandoned child serves as a vivid reminder of the grim toll already taken by history. To care for the victims, and for them alone, is to refuse to accept suffering as legitimate in any circumstances.

Human rights and humanitarian law address intolerable experiences such as abandonment and torture, and cannot be identified with the claims of any one individual or culture. They reflect a universal concept of humanity which no amount of wrongdoing or violence can suppress.

Human rights and humanitarian law do not belong to any particular individual, ethnic group, social class or geographical region, but unite all human beings in the struggle for dignity and liberty. These values, abstract as they may seem, are branded on mangled bodies and enshrined in texts intended to limit and, if possible, to prevent further suffering. The work carried out by the Movement, and by many others, represents a struggle against nihilism and defeatism, a rejection of violence and a commitment to respecting others and ensuring that every human being receives the care and attention he or she needs.

The universality of humanitarian work, which transcends national considerations to focus on the human condition rather than human nature, reflects the universality of suffering. The notion of humanity is inseparable from those of unity, universality and solidarity (from the Latin word *solidus*, meaning solid, whole).

In western cultures, the concept of “*humanitas*” goes back to the Greek sophists who believed that the use of reason was mankind’s distinguishing feature. This belief was adopted by the Roman stoics, particularly Cicero, who contrasted *homo romanus* with *homo humanus*, the cultured and moral human being. For Cicero, the contrast was no longer between Romans and Barbarians, but between humanity and inhumanity.

The humanitarian approach is neither to dream of perfection for mankind nor to despair of its imperfection, but to avoid judgement and condemnation, while seeking to assist human beings here and now, to ensure that their lives and decisions reflect and promote humanity, and to improve the conditions that govern their existence.

As already pointed out, the Movement’s principles constitute neither a moral doctrine nor a philosophy in the strict sense. Without elevating its convictions to a metaphysical postulate, it can be said that the Movement aspires to a rational and carefully weighed position. Instead of violence, selfishness and narrow-mindedness, it encourages discussion aimed at identifying the specific conditions necessary to preserve and, if possible, enhance man’s humanity.

The humanitarian ethic emphasizes communication and discussion aimed at reaching compromise and consensus. It entails the constant renewal of this process, which is in itself profoundly ethical since its very flexibility testifies to the liberty and humanity that it seeks to preserve. But this ethic also stands for a conviction, namely, that

recognition must be given to every human being's right to exist, to not be arbitrarily deprived of life and to enjoy conditions enabling him to make the most of his life. Deceit and contempt are intolerable since humanitarian thinking derives from close attention to the needs of others and requires mutual trust, without which life would be impossible.

This ethic can be discerned, as we have said, in the modern surge of interest in human rights. A "humanitarian policy" entails rational *discussion*, in itself as important as the decision to which it leads. Dialogue not only fosters a better understanding of oneself and others; it also helps us to assess the humanitarian challenge and escape from the chaos of selfishness and fanaticism.

The humanitarian approach therefore consists in *persuading* political decision-makers to take into account and protect certain values (such as care for victims and solidarity) whenever other interests would lead them to ignore or neglect such considerations. To render political acts more humane is one of the fundamental objectives of the International Red Cross and Red Crescent Movement's humanitarian mission.

### Jean-Luc Blondel

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# Impartiality and Neutrality in Humanitarian Law and Practice

by Frits Kalshoven

## 1. The International Court of Justice on U.S. Humanitarian Assistance to the Contras

On 27 June 1986, the International Court of Justice (ICJ) gave judgment in the case concerning Military and Paramilitary Activities in and against Nicaragua.<sup>1</sup> The case, involving Nicaragua against the United States of America, is remarkable in many respects, and so is the judgment.<sup>2</sup> I should like to single out two special features: it deals with a situation of armed conflict, and it mentions the Red Cross.

The rarity of the Hague Court dealing with an actual situation of armed conflict is a consequence of the reluctance of States to submit such matters to its jurisdiction. The fact that in the present instance the Court could address the issue at all is an accident of procedure rather than the effect of an exceptionally commendable attitude of the parties to the dispute.<sup>3</sup> As it seems unlikely that the example will soon be followed by many others, I can leave it at that.

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<sup>1</sup> Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, ICJ *Reports*, 1986, p. 14.

<sup>2</sup> As the judgment went against the United States, it sparked off a hot debate among American international lawyers; see the immediate reactions of some twenty lawyers, in: 81 *Am. J. Int'l Law* (1987), pp. 1-183.

<sup>3</sup> The case began with an Application by Nicaragua, filed on 9 April 1984; neither this State nor the U.S. had excluded disputes relating to armed conflict from their relevant instruments of acceptance of the Court's jurisdiction. As the U.S. rather than availing itself of its reservation to the effect that any matter declared by the U.S. to be an internal affair is outside the jurisdiction of the Court, chose to stay away from the proceedings once the Court had by its judgment of 26 November 1984 decided that it had jurisdiction, nothing stood in the way of the Court's dealing with the matter.

Of greater current interest is the reference made to the Red Cross. How did it come about, and what are we to make of it?

The story starts with the assistance provided by the United States to the Contras in and around Nicaragua. During the initial stages of its active involvement, this included all sorts of supplies, including weapons and other military equipment. Then, in June 1985, Congress decided that the administration would henceforth have to restrict its support to humanitarian assistance. The relevant paragraph in the legislation defines permissible “humanitarian assistance” as:

*the provision of food, clothing, medicine, and other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles or material which can be used to inflict serious bodily harm or death.*<sup>4</sup>

While this text may appear clear enough, it still left room for interpretation. Thus, rumour has it that after Congress had published its decision, there were those in administration circles who held that the supply of means of communication could be continued as these fell within the category of humanitarian assistance. It may readily be conceded that communications equipment is not a weapon or weapons system, and neither can it in and of itself “be used to inflict serious bodily harm or death”. Yet it is not food, clothing, or medicine either, nor does it particularly resemble any one of those items on the list of “humanitarian” goods. It is, indeed, a well-known fact that means of communication are of vital importance in all military operations, not least in those of a guerrilla type.

The Court did not deal with this particular rumour but rather with the whole business of “humanitarian assistance” to the Contras. It noted that:

*There can be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law.*<sup>5</sup>

Crucial in this paragraph is the phrase “strictly humanitarian aid to persons or forces in another country”. What are we to understand by it? The Court did not provide a definition of its own. Instead — and this is where the Red Cross comes in — it went on to quote the first and

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<sup>4</sup> As quoted in ICJ Reports 1986, p. 47, para. 97; p. 115: para. 243.

<sup>5</sup> *Ibid.*, p. 114, para. 242.

second of the seven Fundamental Principles of the Red Cross, as proclaimed in 1965 by the Twentieth International Conference of the Red Cross, i.e., the principles of humanity and impartiality. The relevant passages of these read as follows:

*The Red Cross, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours — in its international and national capacity — to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being...*

*It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals and to give priority to the most urgent cases of distress.*<sup>6</sup>

Inspired by these lofty principles, the Court asserted that:

*An essential feature of truly humanitarian aid is that it is given “without discrimination” of any kind. In the view of the Court, if the provision of “humanitarian assistance” is to escape condemnation as an intervention in the internal affairs of Nicaragua, not only must it be limited to the purposes hallowed in the practice of the Red Cross, namely “to prevent and alleviate human suffering”, and “to protect life and health and to ensure respect for the human being”; it must also, and above all, be given without discrimination to all in need in Nicaragua, not merely to the Contras and their dependents.*<sup>7</sup>

With all due respect, I very much doubt the correctness of this part of the Court’s reasoning; and I should like to avail myself of this opportunity to vent my misgivings.

My point of departure is the fact that States often limit the material support they give one party to an armed conflict to what they describe as “humanitarian assistance”. This they do when they are in sympathy with that party yet want to avoid the all too direct involvement that might ensue, for instance, from the overt supply of weapons. Especially when it is a matter of providing support to the insurgent party in an internal armed conflict, for a State to confine its material support to “humanitarian assistance” may be a useful device to obviate protests of unlawful intervention in the internal affairs of the belligerent State, without hiding that one’s sympathies lie with the insurgents.

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<sup>6</sup> *International Red Cross Handbook*, 12th ed., Geneva, 1983 (hereinafter: *Handbook*), p. 17: Resolution IX of the Twentieth International Conference of the Red Cross, Vienna, 1965.

<sup>7</sup> ICJ Reports 1986, p. 115, para. 243.

In particular at the time of the so-called wars of national liberation that marked the post-World War II decolonization process, the international community never condemned this practice as unlawful intervention in the internal affairs of another State. On the contrary, it welcomed it as an entirely legitimate mode of action and, indeed, a highly desirable expression of support for the cause of self-determination of the peoples involved.

It is quite obvious that this type of governmental humanitarian assistance, resting as it does on more or less open sympathy for one party if not antipathy for the other, is inherently partial in nature. To measure it, as the Court asks us to do, by the standards governing Red Cross assistance appears somewhat far-fetched, to say the least.

## **2. The Red Cross Principles of Impartiality and Neutrality**

The Court's argument about the "essential feature of truly humanitarian aid" leads me to another, more fundamental question. This is connected with the interpretation the Court places on the notion of impartiality as a principle governing Red Cross aid. To cast my question in terms directly related to the case before the Court: Suppose it had not been the government of the United States but the American Red Cross that had supplied humanitarian assistance to the Contras, would this activity have amounted to a violation of Red Cross principles if that Society had not at the same time attempted to provide similar relief for "all in need in Nicaragua", i.e., including the Sandinistas?

Two Red Cross principles are at issue here. Besides the principle of impartiality, relied on by the Court, equal relevance attaches to the principle of neutrality. The Proclamation of 1965 gives the following definition:

*In order to continue to enjoy the confidence of all, the Red Cross may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.*

Before we go any further, the point should be stressed that while the principles may have been officially proclaimed in 1965 by the Twentieth International Conference of the Red Cross, they had, in one form or another, governed Red Cross activities from the very

beginning.<sup>8</sup> And as we shall see, they are reflected in the treaty law relating to the treatment of the wounded and sick and other victims of armed conflict.

Among those who have tried their hand at explaining the principles underlying the International Red Cross and Red Crescent Movement in all its aspects, one man has more than anyone else contributed to their correct understanding, and that man is Jean Pictet.<sup>9</sup> In a recent study,<sup>10</sup> he distinguishes within the principle of impartiality, as defined in 1965, three separate notions: non-discrimination, proportionality, and impartiality proper. Non-discrimination is the absence of objective discrimination, or in other words, the non-application of adverse distinctions to people on the sole ground that they belong to a specified category: a race, a political party, a religious creed, or whatever. Proportionality requires that every person in need of help shall be aided according to his need. And impartiality implies that no subjective distinctions shall be applied among those who suffer: they are all equally entitled to help, whether they are good or bad, innocent victims or persons guilty of hideous war crimes.

In a sense, neutrality is a necessary negative complement to the essentially positive notion of impartiality. As Pictet explains, the Red Cross principle of neutrality has two aspects. For one thing, it requires non-participation, whether direct or indirect, in active hostilities. For another, it signifies ideological neutrality, or in other words, the non-acceptance of any ideology other than its own (which in effect has found expression in the principle of humanity). The neutrality of the Red Cross implies, therefore, that none of its components part may take sides in any political controversy, whether national or international and no matter what the issues. As we shall see, this may be less easy in practice than it sounds.

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<sup>8</sup> An earlier, somewhat tentative and less authoritative list of principles was adopted by the then Board of Governors (now the General Assembly) of the League of Red Cross Societies, in its 19th session, 1946, and reaffirmed at its 20th session, 1948; *Handbook*, p. 549.

<sup>9</sup> His long series of writings on the subject starts out with the magisterial: *Les principes de la Croix-Rouge*, published in 1955; from this study stem the endeavours that ten years later resulted in the adoption and proclamation of the Fundamental Principles.

<sup>10</sup> "The Fundamental Principles of the Red Cross and Peace", in *International Review of the Red Cross* No. 239, March-April 1984, p. 74. It may be of interest to refer here to an earlier study by the man who in many respects was Jean Pictet's predecessor, Max Huber, "Croix-Rouge et neutralité", in *Revue internationale de la Croix-Rouge* No. 209, May 1936, p. 353, republished in Huber, Max, *La pensée et l'action de la Croix-Rouge*, 1954, pp. 77-86.

Before coming to that, we should try to gain an insight into the legal aspect of the matter. What is, from that point of view, the impact of these principles on Red Cross activities and, in particular, on the question at issue of whether a National Society, such as the American Red Cross, would violate any principle if it were to supply humanitarian assistance to one party to an armed conflict only?

By way of introduction, let us cast a glance backwards at the early history of the Red Cross Movement, which was founded just about a century and a quarter ago. The first National Red Cross Societies (though not yet so named) were established for the purpose of assisting the army medical services in the performance of a task with which the latter had more than once (and not only in 1859 at Solferino) proved unable to cope. In the words of resolutions adopted at the founding conference of the movement, the International Conference held in Geneva in 1863:

*Each country shall have a Committee whose duty it shall be, in time of war and if the need arises, to assist the Army Medical Services by every means in its power...*

*In time of war, the Committees of belligerent nations shall supply relief to their respective armies as far as their means permit; in particular, they shall organize voluntary personnel and place them on an active footing and, in agreement with the military authorities, shall have premises made available for the care of the wounded.*<sup>11</sup>

We may readily admit, with Donald Tansley, that the original purpose of the National Societies “has somehow been forgotten over the years”, and that most of them have “turned to other activities”.<sup>12</sup> One obvious cause is the development of ever more sophisticated military medical services, taking away the need for supplementary Red Cross field teams.

The point is well illustrated by recent Dutch experience. Some years ago, plans were laid in the Netherlands for a reorganization of civil defence and disaster preparedness and, in that context, for a distinct role for the Netherlands Red Cross. When, in an attempt to incorporate the new situation in the legislation in force, the Royal Decree that recognizes the society and regulates its relations with the authorities was brought up for revision, the Ministry for Defence initially let it be known that they did not wish to reserve any claim on the services of

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<sup>11</sup> *Handbook*, p. 547.

<sup>12</sup> Tansley, Donald D. *Final Report: An Agenda for Red Cross*, July 1975, p. 23.

Red Cross teams, as they did not foresee any active role for such teams alongside military medical personnel in potential battle areas. (They later changed their attitude, if only to keep a finger in the inter-departmental pie).<sup>13</sup>

Until 1986, the conditions for the international recognition of a National Society included the requirement of being duly recognized by its government “as a Voluntary Aid Society, auxiliary to the public authorities, in particular in the sense of Article 26 of the First Geneva Convention of 1949”; in the sense, that is, of rendering assistance, whenever necessary, to the national military medical service.<sup>14</sup> In October 1986, the Twenty-fifth International Red Cross Conference adopted new Statutes of the International Red Cross and Red Crescent Movement, and these no longer specifically refer to Article 26. Instead, they require in somewhat vaguer terms that a National Society “be duly recognized by the legal government of its country on the basis of the Geneva Conventions and of the national legislation as a voluntary aid society, auxiliary to the public authorities in the humanitarian field”.<sup>15</sup>

This raises the matter of the treaty law relating to the wartime activities of National Societies. The treaties in force include the four Geneva Conventions of 1949 and the two Additional Protocols of 1977.<sup>16</sup> With the exception of one article, the Conventions of 1949 are applicable in international armed conflicts, and so is Additional Protocol I of 1977. The one remaining article of the Conventions, common Article 3, together with Additional Protocol II, may with some simplification be said to apply in internal armed conflicts.<sup>17</sup>

Article 26 of the First Convention, “for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field”, reflects the classic role of National Societies; it provides that the staff of a National Society that is employed on the same duties as the military medical personnel of their country shall be placed on the same footing

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<sup>13</sup> See Royal Red Cross Decree, dated 22 December 1988; *Staatsblad* 680, 17 January 1989.

<sup>14</sup> *Handbook*, p. 498.

<sup>15</sup> Art. 4, para. 3, of the Statutes of the International Red Cross and Red Crescent Movement, adopted by the Twenty-fifth International Red Cross Conference at Geneva in October 1986.

<sup>16</sup> Convention I, 75 UNTS (1950) p. 41, *Handbook*, p. 23; Convention II, 75 UNTS (1950) p. 85, *Handbook*, p. 47; Convention III, 75 UNTS (1950) p. 135 *Handbook*, p. 67; Convention IV, 75 UNTS (1950) p. 287, *Handbook*, p. 136; Additional Protocol I *Handbook*, p. 216; Additional Protocol II, *Handbook*, p. 286.

<sup>17</sup> For a more precise description of the scope of application of Art. 3 and Protocol II, respectively, see Kalshoven, Frits, *Constraints on the Waging of War*, ICRC, Geneva, 1987.

as that personnel. Article 24 defines those duties as “the search for, or the collection, transport or treatment of the wounded or sick”. The point should be emphasized that these duties are by definition performed in areas under the control of their country and, hence, on one side only.

While this already suggests that the Court’s stern requirement of assistance to all sides can hardly be a correct interpretation of Red Cross principles, this suggestion is strengthened to the point of becoming a certainty when we consider the case of the Red Cross Society of a neutral State that lends medical assistance to a State party to the conflict (and, hence, outside its own territory). The International Conference of 1863, anticipating this possibility, stated that “They [i.e., in its terminology, the “Committees of belligerent nations”] may call for assistance upon the Committees of neutral countries”.<sup>18</sup> Nor has this remained a mere theoretical possibility: by way of example, and as a matter of historical interest, the fact may be recorded here that in the war between Russia and Turkey, 1877-1878, the Netherlands Red Cross, at the request of the Turkish Red Crescent Society and with due permission from both sides to the conflict, operated a field hospital on the Turkish side.<sup>19</sup>

Article 27 of the First Convention requires in such a case both the previous consent of the Society’s own government and the authorization of the State party to the conflict concerned; the medical personnel of the Society are then placed under the control of the belligerent party, and both this party and the neutral government must notify the adverse party of the arrangement. For the sake of completeness, I should note that none of this was significantly modified in 1977: as far as relevant here, the provisions of Protocol I reaffirm the legal situation of a neutral Society and its personnel by the simple device of referring back to Article 27 of the 1949 Convention.<sup>20</sup>

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<sup>18</sup> *Supra*, note 11.

<sup>19</sup> Verspyck, Jonkheer G. M., *Het Nederlandsche Roode Kruis* (1867-1967), p. 86.

<sup>20</sup> Art. 8(c) (iii), Art. 9(2), Art. 12(2)(c). It should be noted that Art. 9 develops the legal situation in several respects which, however, are not relevant in the present context; thus, it adds a reference to the permanent medical units and transports and their personnel of “a neutral or an other State which is not a Party to that conflict” (para. 2a) and of “an impartial international humanitarian organization” (para. 2c); see International Committee of the Red Cross, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, 1987, pp. 138-143, paras. 407-440.

Evidently, then, even such overtly one-sided assistance is not deemed to bring a National Society of a neutral country in conflict with the Fundamental Principles of the International Red Cross and Red Crescent Movement. Needless to say, its decision to opt for one or another party to the conflict may not be based, say, on plain political grounds. More generally, its activity must always be assessed against the twin principles of impartiality and neutrality.

While on the face of it, respect for these principles may not appear to pose any particular difficulties, it should be remembered that an armed conflict is a manifestation of a political process, and any activity connected with the conflict, no matter how disinterested, risks being given a political twist or otherwise used for political purposes. After all, the very fact that two interested governments have to stamp the action with their seal of approval provides an indication of the political context in which our National Society is bound to carry out its task. What, indeed, if its action happens to be coincidental with an operation by its own government to supply “humanitarian assistance” to the same belligerent party?

The only thing one can probably say is that, like justice, neutrality must not only be respected but must be seen to be respected. For the rest, it may suffice to base the forbidden non-neutral service on entirely valid grounds such as, in the Turkish case, the objective need for supplementary medical assistance to the wounded and sick of one party, as evidenced by a credible request from the National Society of the country concerned.

Impartiality (including, with Jean Pictet, proportionality and non-discrimination) requires, in the words of Article 12 of the First Convention, that assistance shall always be given “without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria”; moreover, “only urgent medical reasons will authorize priority in the order of treatment to be administered”.

Impartiality and non-discrimination apply as soon as and wherever the Red Cross team is able to perform its functions. The point to emphasize here is that neither principle decides where the team is able to operate: this depends entirely and exclusively on the consent of the party in control of the territory. The point can hardly be overemphasized that the territorial scope of the team’s activities will of necessity be restricted to the area to which they have been given access; it does not, in other words, extend to territory under the control of the adverse party, whatever the need for assistance to the wounded and sick on that side.

In view of all this, the conclusion appears inescapable that neither the Red Cross principle of impartiality, including non-discrimination, nor that of neutrality require a National Society to lend, or even offer, assistance to all parties to an international armed conflict.

Does this lead to the equally inescapable conclusion that the Hague Court in its judgment in the Nicaragua case has misinterpreted these principles? Our argument has so far been entirely based on practice and law relating to international armed conflicts, and the relations between Sandinistas and Contras could not be characterized as such an armed conflict, but at most, according to the Court, as an internal one.<sup>21</sup> As there are perhaps as many differences as similarities between the treaty regimes for either situation, we should ask ourselves whether a situation of internal armed conflict requires a different interpretation of the Red Cross principles as well.

A first point to note is that the Red Cross has, ever since the adoption of Resolution XIV by the Tenth International Conference of 1921, “affirm[ed] its right and duty of affording relief in case of civil war and social and revolutionary disturbances”.<sup>22</sup> While this phrase does not specify who should provide the relief, the Resolution goes on to state that in principle, “In every country in which civil war breaks out, it is the National Red Cross Society of the country which, in the first place, is responsible for dealing, in the most complete manner, with the relief needs of the victims; for this purpose, it is indispensable that the Society shall be left free to aid all victims with complete impartiality”. Without making it a condition for the Society to be simultaneously active on both sides, the quoted text expresses clearly the desire that this shall be the case<sup>23</sup>.

Other Red Cross Societies enter the picture when Resolution XIV comes to deal with the situation where the National Society of a country involved in civil war “cannot alone, on its own admission, deal with all the relief requirements”. In that case, “it shall consider appealing to the Red Cross Societies of other countries”. The Resolution emphasizes

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<sup>21</sup> ICJ Reports, 1986, p. 104, para. 219.

<sup>22</sup> *Handbook*, p. 641; a more complete text of the Resolution is contained in the 10th ed. of the *Handbook* (1953), pp. 414-415.

<sup>23</sup> In an enumeration of exceptional cases, the Resolution goes into the possibility that the Society has been dissolved or is unable or unwilling “to request foreign aid or accept an offer of relief received through the intermediary of the International Committee of the Red Cross”; when, in such a case, “the unrelieved suffering caused by civil war imperatively demands alleviation”, the Committee “shall have the right and the duty to insist to the authorities of the country in question, or to delegate a National Society to so insist, that the necessary relief be accepted and opportunity afforded for its unhindered distribution”.

that any such request must emanate from the National Society rather than from one or another of the parties to the conflict.<sup>24</sup>

While the Red Cross had thus broached the problem of relief in civil war, the Diplomatic Conference that in 1929 took up the revision of the Wounded and Sick Convention of 1906 left the whole matter of civil war outside its deliberations.<sup>25</sup> As mentioned above, it was only in the 1949 revision that a single article on internal armed conflict was incorporated in the four Conventions of that year, and this article, common Article 3, is completely silent on the matter of relief and does not refer to National Societies at all.

In contrast, Article 18, para.1, of Protocol II of 1977 does refer to National Societies. More specifically, it provides that relief societies located in the territory of the State involved in an internal armed conflict, such as Red Cross or Red Crescent Societies, “may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict”. So, unlike in 1921, the reference is to local societies only. Supposing for a moment that Nicaragua were a party to the Protocol, this much is certain: the American Red Cross, not being located in the territory of that State, could not derive from Article 18 a right to bring relief to the wounded and sick or other victims of the conflict, whether on the side of the Contras, or the Sandinistas, or both. But, once again, this is not to say that it would have been precluded from offering its services: merely that National Societies other than the one located in the country at war have no recognized right to make such an offer, and any offer they make may be rejected out of hand.

In view of all this, I am firmly convinced that if in such a situation of internal armed conflict a National Society not located in the country at war provides assistance to those in need on one side only, this activity need not bring it into conflict with the Fundamental Principles of the Red Cross, any more than bringing assistance to one side in an international armed conflict. An obvious condition is that in doing so it duly respects the principles of neutrality and impartiality. Thus, always in our imaginary example, the American Red Cross should have had no political motive in bringing humanitarian aid to the Contras: rather, its

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<sup>24</sup> Among the further principles laid down in the Resolution is the requirement that the request must be addressed to the International Committee of the Red Cross (which thereupon, “having ensured the consent of the Government of the country engaged in civil war”, shall organize the relief). On the role of the ICRC in these matters, see hereafter in Part 3.

<sup>25</sup> Des Gouttes, Paul, *La Convention de Genève pour l'amélioration du sort des blessés et des malades dans les armées en campagne du 27 juillet 1929, Commentaire*, 1930, pp. 186-87.

action should have been prompted by considerations such as the human suffering caused by the conflict and the absence on the side of the Contras of adequate medical and other needed facilities.

### 3. The ICRC and National Societies

Following this criticism of the ICJ's judgment in the Nicaragua case, I feel obliged to make a guess at what may have made it embark on its incorrect interpretation of the Red Cross principles of neutrality and impartiality. This brings me to a member of the Red Cross family that I have so far studiously ignored, viz., the International Committee of the Red Cross. Contrary to what its name suggests, this is not formally an international organization at all, but a Geneva-based association of Swiss citizens. Yet, materially, the word "international" in its name is entirely justified by the functions it performs and has been performing for many years. With the National Societies, it has shared from the outset the function of assisting the wounded and sick in armies in the field. The first time it ventured on that path was in April 1864, during the war between Prussia and Denmark, quite a while before it assumed its present name and even before the first Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field had been signed (an event that took place on 22 August of that year).<sup>26</sup>

Over the years, the task of bringing outside protection and assistance to the victims of armed conflict, and especially internal armed conflict, came to fall more and more exclusively to the Committee. This is apparent in resolutions adopted by International Conferences of the Red Cross,<sup>27</sup> as well as in the actual practice of the various members of the Movement. While, as we have seen, the right of National Societies to take part in this type of activity has survived to

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<sup>26</sup> Boissier, Pierre, *History of the International Committee of the Red Cross: from Solferino to Tsushima*, Henry Dunant Institute, Geneva, 1985, translation from original French, first published in 1963, p. 93.

<sup>27</sup> The tendency is already apparent in Resolution XIV of the Tenth International Conference, mentioned in Part 2: while the National Society of the country engaged in civil war may appeal to the Red Cross Societies of other countries, it must do this through the intermediary of the ICRC, which then shall organize the relief; if the government refuses its consent, it is the ICRC that "shall make a public statement of the facts"; indeed, "Should all forms of Government and National Red Cross be dissolved in a country engaged in civil war, the International Committee of the Red Cross shall have full power to endeavour to organise relief in such country, in so far as circumstances permit". See also Resolution XIV of the Sixteenth International Conference of the Red Cross, London, 1938, *Handbook*, p. 642; Resolution XXXI of the Twentieth International Conference of the Red Cross, Vienna, 1965, *Handbook*, p. 643.

this day, it is the Committee that literally always and everywhere attempts to come to the succour of the victims in question; so much so that at times it looked as if it had established a monopoly in the field. The agreement it concluded in 1969 with the League of Red Cross Societies “for the purpose of specifying certain of their respective functions” confirmed its dominant position in this area of Red Cross activity.<sup>28</sup>

The unremitting efforts of the Committee in favour of the victims of all armed conflicts have resulted in general recognition of its “right of humanitarian initiative”; the right, that is, to offer its services whenever and wherever necessary. It is reflected in the Statutes of the International Red Cross and Red Crescent Movement, where it is stated that:

*The International Committee may take any humanitarian initiative which comes within its role as a specifically neutral and independent institution and intermediary, and may consider any question requiring examination by such an institution.*<sup>29</sup>

The treaties in force reaffirm and reinforce the Committee’s predominant position. The Conventions of 1949 not only assign it a variety of specific tasks, but also expressly recognize its right of humanitarian initiative, a right it nominally shares, according to the relevant articles, with “any other impartial humanitarian organization”.<sup>30</sup> While these articles apply in international armed conflicts, common Article 3 similarly provides that in the event of internal armed conflict, “an impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict”.

Much to the regret of the Committee, Protocol II of 1977 does not reiterate this recognition of its right of initiative.<sup>31</sup> Yet it is worth casting a glance at Article 18, para. 2, which provides that:

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<sup>28</sup> *Handbook*, p. 475.

<sup>29</sup> Art. 5(3) of the Statutes, adopted in 1986 by the Twenty-Fifth International Conference of the Red Cross, Geneva.

<sup>30</sup> Art. 9 of Conventions I-III, Art. 10 of Convention IV.

<sup>31</sup> Draft Art. 39, submitted by the Committee in 1974 to the Diplomatic Conference, had repeated the text of common Art. 3, i.e., that “the ICRC may offer its services to the parties to the conflict”; in 1977, in the course of the final session, the Conference in plenary session deleted this proposed text by consensus; 7 *Official Records* 151-152: CDDH/SR.53 paras. 64-70; and see Kalshoven, Frits, “Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts: the Diplomatic Conference, 1974-1977, Part I: Combatants and Civilians”, in 8 *Neth. Yb Int’l Law* (1977) pp. 107-135, at p. 115.

*If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival... relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.*

This passive construction was purposely chosen to avoid any indication as to who should undertake the relief actions, let alone any specific reference to the Red Cross. Yet the paragraph evidently refers to relief coming from abroad, and it enumerates the conditions such actions have to fulfil.

Three of these conditions reflect the fundamental Red Cross principles of humanity and impartiality, i.e., non-discrimination. When we combine this with the reference in Article 3 common to the 1949 Conventions, to an “impartial humanitarian body, such as the International Committee of the Red Cross”, the conclusion is readily drawn that the Committee is, to say the least, undoubtedly qualified to undertake relief actions for a civilian population suffering undue hardship as a consequence of an internal armed conflict. And indeed, it has undertaken such actions on many occasions.<sup>32</sup>

However, it is not always successful in its endeavours; there is, after all, the remaining condition in Article 18, para. 2, of “consent of the High Contracting Party concerned”. This wording leaves little doubt which party the authors of the provision had in mind: obviously, none other than the incumbent government, and definitely not the insurgent party.<sup>33</sup>

Here we come across the crucial problem of access to the territory of a country at war; a problem with which the Committee has to struggle in its day-to-day practice and which frequently entangles it in

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<sup>32</sup> In its *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (1987), the Committee simply states that “What is meant in particular is relief actions which may be undertaken by the ICRC or any other impartial humanitarian organization”; p. 1479, para. 4879 (emphasis added).

<sup>33</sup> For a different interpretation, see Prof. Bindschedler-Robert, Denise, “Actions of Assistance in Non-international Conflicts — Art. 18 of Protocol II”, in *European Seminar on Humanitarian Law*, Jagellonian University, Krakow, report, 1979, pp. 71-83. Her attempt to solve the problem by interpreting the term “High Contracting Party” as the State, thus leaving the question of its representation by the “legal” government or the other party entirely open, was already challenged on that occasion, among others by the present author; report, p. 84. My participation in a number of the negotiations that resulted in the text of Art. 18 has given me the strong conviction that, to most participants, “High Contracting Party” simply meant the incumbent government.

delicate negotiations with the authorities in power. I note in passing that while this obstacle may be particularly hard to overcome in situations of internal armed conflict (witness, for example, recent experience in Ethiopia), the governments of countries involved in an international armed conflict (say, the war between Iran and Iraq) are apt to erect equally formidable barriers.

To return to the case of internal armed conflict, no incumbent government is eager to acknowledge that it has even temporarily lost control over part of its territory. As a consequence, it goes on claiming the right to determine who will be admitted, even to parts of the territory firmly under the control of the insurgents (who may themselves apply their own criteria for admission). Whoever wants to bring relief to the victims in these areas is faced with a dilemma: whether to respect the claim of the government, perhaps even when this is plainly absurd, or to go ahead regardless.

It is not my purpose to examine this question in any detail. May it suffice to note that the Committee usually appears prepared to negotiate at length with the governmental authorities about access to insurgent-held areas and apparently has more than once made its entry into such areas dependent on their prior consent. This may often be a commendable policy. Yet it can also lead to very precarious situations, for instance if a government, in plain disregard of its solemn obligations under international law as expressed in Article 14 of Protocol II, is determined to apply starvation as a method of warfare and accordingly persists in withholding its consent.<sup>34</sup>

There are only two ways out of the resultant impasse. One is for the Committee to accept failure and confine its assistance to the victims on the governmental side. This may go against its fervent aspiration to implement to the fullest the task of “preventing and alleviating human suffering wherever it may be found”; an aspiration, incidentally, that the Hague Court may well (though erroneously) have taken for the only possible interpretation of the principle of humanity. It must be stressed that the words quoted, set out in the principle of humanity as defined in 1965, represent no more than a sort of ideal or ultimate goal, and they are not meant to constitute a yardstick by which the legitimacy of every single humanitarian act should be measured. It may be repeated that an

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<sup>34</sup> Art. 14, first sentence, lays down the principle that “Starvation of civilians as a method of combat is prohibited”. As regards Art. 18, see: the commentary by Michael, Bothe, in Bothe, Michael, Partsch, Karl Joseph and Solf, A. Waldemar, *New Rules for the Victims of Armed Conflicts*, 1982, pp. 696-697, and the ICRC *Commentary*, p. 1479: paras. 4884, 4885.

act of assistance to one side to the conflict only need not violate the principle of humanity, any more than it does those of impartiality or neutrality.

If the Committee finds this solution unacceptable nonetheless, there remains the other way out, which is to disregard the government's refusal. This may go against its policy of co-operation with all governments, good or bad. However, it is only a policy, not a sacred principle; and even if it were, it must be remembered that *Jede Konsequenz führt zum Teufel*: any attempt to maintain absolute consistency leads to the devil. Put differently, for an institution like the Committee to operate in a political environment as chaotic and corrupt as the international community requires a readiness to accept compromise if, and to the extent that, principle cannot be upheld.

As opposed to the straight road of principle, the path of compromise is tortuous and full of pitfalls. To mention only one: the powers that be are as likely as their opponents in an internal armed conflict to exploit the situation to their political advantage, and they may be very ingenious in turning a purely humanitarian action into an ostensible political act. In such circumstances, the decision whether to continue or discontinue the action may become agonizingly difficult to take.<sup>35</sup>

Be that as it may, the difficulties attending the Committee's policy of respecting governmental authority to the utmost may have contributed more than anything else to its sometimes apparent disapproval of National Societies becoming too active in bringing assistance to the victims of internal armed conflict. An obvious exception is the National Society located in the country at war: as already recognized in 1921, the latter may be particularly well suited to take part in such activity. Thus, the Uganda Red Cross Society played a crucial role throughout a seemingly endless period of internal conflict, and the same is true of the Lebanese Red Cross: without their unflinching and at times extremely courageous endeavours, the International Committee could not have functioned as it did.<sup>36</sup>

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<sup>35</sup> See Rufin, Jean-Christophe, *Le piège — Quand l'aide humanitaire remplace la guerre*, Lattès, Paris, 1986.

<sup>36</sup> Information about events in Uganda was provided by Tom W. Buruku, Head of the Africa Department of the League of Red Cross and Red Crescent Societies and former Secretary General of the Uganda Red Cross Society; as for Lebanon, the reader may be referred to the periodic reports in the media. Obviously, this may work both ways; thus, in the Lebanon, the ICRC helped the Lebanese Red Cross survive.

An instance of assistance by a National Society located elsewhere than in the country at war is the food airlift operated by the French Red Cross from Libreville into Biafra, that is, to the separatist party to the civil war in Nigeria. The French Red Cross engaged in this activity without the consent of the government in Lagos, at a time when the Committee was for all practical purposes precluded from bringing aid to that part of the country.<sup>37</sup> In doing so, the French Red Cross did not help the Committee in its efforts to obtain from the authorities concerned the necessary consent to resume the despatch of relief into Biafran territory. The French action was, moreover, regarded with some suspicion because the airfield at Libreville was also used for the shipment of weapons. Yet the point deserves to be emphasized that while the independent action by the French Red Cross may have been regarded with a bleak eye, it was never denounced as a violation of Red Cross principles. After all, the French action came at a time when public opinion in Europe and elsewhere was raising its voice in protest against the policy of starvation as a method of warfare, as applied by the Nigerian Government against part of its own population.

Quite recently, in 1986, the Committee submitted to the Twenty-fifth International Conference of the Red Cross a Guide for National Societies that explicitly acknowledges their role in situations of conflict.<sup>38</sup> As regards internal armed conflict, the document attributes a particular function to the Society of the country concerned; it identifies the many difficulties it may encounter and emphasizes the need for it “to retain its freedom of movement throughout the country, subject only to the military situation”<sup>39</sup>—words strongly reminiscent of the language used in 1921 by the Tenth International Conference<sup>40</sup>. Yet the text does not stop at that: it also goes into the position of National Societies of countries not parties to an internal armed conflict. On this score, it explains that in spite of the silence in the relevant treaty provisions:

*there is nothing to prevent humanitarian activities and Protocol II provides for relief actions of an exclusively humanitarian and impartial nature conducted without any adverse distinction to be undertaken for*

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<sup>37</sup> As regards the role of the French Red Cross in relation to Biafra see Jacobs, Dan, *The Brutality of Nations*. Knopf, New York, 1987.

<sup>38</sup> *Guide for National Red Cross and Red Crescent Societies to Activities in the event of Conflict*, document drawn up by the International Committee of the Red Cross Geneva, October 1986.

<sup>39</sup> *Ibid.*, p. 34.

<sup>40</sup> *Supra*, note 22.

*the civilian population, subject to the consent of the authorities concerned. A National Society can therefore offer aid to the victims of an internal conflict.*

Having said that, the Committee hastens to add that “In practice... [the National Societies] generally work in close co-operation with the ICRC, whose assistance is an additional guarantee of the neutrality and humanitarian nature of the relief activities”.<sup>41</sup> Just so; but the fact remains that in the quoted paragraph the Committee unreservedly recognises the right of National Societies to “offer aid to the victims of an internal conflict”; it does not specify that the offer should always extend to both sides, and it leaves open the question of who are the “authorities concerned” whose consent is required.

I do not believe that as a result of the new Guide National Societies of countries not involved in an ongoing internal armed conflict will soon be developing independent humanitarian activities on a grand scale in favour of the victims. Nor do I particularly advocate such a market shift in policy: a multiplicity of unco-ordinated relief efforts tends to affect efficacy and is therefore undesirable in any disaster situation, let alone in the intractable mess an internal armed conflict usually creates.<sup>42</sup>

Another matter is that the statement in the Guide that “there is nothing to prevent” relief activities being undertaken by National Societies of countries not involved in an internal armed conflict, while legally correct, may strike the reader as somewhat defeatist from a practical point of view. One wonders whether from that point of view the potential contributions of such Societies might not deserve a more positive approach. Pursuing this line of thought, I venture to suggest that the Committee might welcome or even actively seek the regular co-operation of interested National Societies in its field work in conflict situations. It might do this, more specifically, in the many cases of internal armed conflict (including the mixed, part-internal part-international variety) as well as in the nowadays relatively rare event of purely inter-State armed conflict.

I am thinking not so much of the Committee’s general task of “protection and assistance”, with its complex features of diplomacy, negotiation and representation at all levels. What I have in mind is, rather, participation in specific relief activities: setting up and running

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<sup>41</sup> *Op. cit.*, note 38, p. 55.

<sup>42</sup> See, Kalshoven Frits, *Assisting the Victims of Armed Conflict and Other Disasters*, Martinus Nijhoff Publishers, Dordrecht, Boston, London, 1989.

emergency hospitals for the wounded and sick of all categories, organizing centres for the distribution of food and other vital supplies to the thousands of displaced persons who have fled the scene of the fighting, and so on. Many National Societies have, through their peacetime disaster relief activities, built up quite a bit of expertise in these matters, and this may make them extremely useful here. Needless to say, the modalities of such co-operation would have to be carefully worked out in every single instance, as they are in the relatively few instances where it can already be seen at work (as in Angola, where the Swedish Red Cross has for some time been operating an orthopaedic workshop in Luanda and a similar activity by the Netherlands Red Cross has started more recently).

While I am making this suggestion entirely on my own account and without prior consultation with any National Society, I may add that, in my view, such a policy might have three significant positive effects: it could relieve the Committee of some of its burden, offer National Societies an opportunity to actively (and not merely financially) contribute to the alleviation of human suffering in an area that is very much on the public mind, and, last but not least, enhance and improve relations between the Committee and the National Societies. The situation would be even further improved if the Committee were prepared to publicly acknowledge these contributions by National Societies, for instance, by regularly reporting them in its monthly *Bulletin*, alongside its own activities.

If such systematic co-operation between the Committee and National Societies could be achieved for the great many more or less “normal” wartime relief activities, the latter could be expected to reserve their inclination to “go it alone” for the really exceptional situations of the Biafra type, where one belligerent’s policy of starvation as a method of warfare thwarts the endeavours of the Committee to bring relief to all the victims and entails a degree of human suffering which the international public conscience is not prepared to tolerate. I am convinced that in such extreme situations the Committee would not protest such independent actions too loudly, even if they only benefit the victims on the side to which it is being refused access.

Traumatic crisis situations of the Biafra type have led not only to much public outcry, but also to the emergence of new voluntary aid agencies such as *Médecins sans frontières* and *Médecins du Monde*. These agencies sometimes claim that the human right of the victims to receive humanitarian assistance implies a right for the agencies to give such assistance, including the right to enter a country involved in armed

conflict without the consent of the governmental authorities. Practice shows that in particular the latter part of the claim may involve them in serious difficulties, and prior consent may be an invaluable asset for a successful operation.

Obviously, everything depends here on the situation: if in a country involved in internal armed conflict, the incumbent government exerts no more than nominal sovereignty over the part of the territory where the agency wishes to bring its aid, and if for the moment that relief action is the agency's only concern, it may fairly safely pass over the formality of acquiring prior governmental consent. In the majority of less evident cases, however, an open application for admission appears to be the wiser course.

There is also a growing awareness that while overt sympathy with the cause for which an insurgent movement is fighting may raise political or financial support at home, it does not necessarily help and may actually impede the accomplishment of the mission in the field. The lesson is, in other words, that impartiality and neutrality are valuable principles, not only for the Red Cross but for all those who wish to engage in humanitarian activities.

### **Frits Kalshoven**

**Frits Kalshoven** is a retired professor of international law, and of international humanitarian law in particular ("Red Cross Chair"), of the University of Leiden. He currently is an adviser on international legal affairs to the Netherlands Red Cross Society. His publications include: *Belligerent Reprisals*, thesis, Leiden (1971); *The Law of Warfare* (1973); a series of articles on "Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts", in *Neth. YIL* (1971-1978); "Arms, Armaments and International Law", in the Hague Academy *Recueil des Cours* 1985-II; *Constraints on the Waging of War* (1987); *Assisting the Victims of Armed Conflict and other disasters* (ed., 1989); *Implementation of International Humanitarian Law* (ed. with Sandoz, Yves, 1989). In 1971, he received the Royal Shell Award for his work in the domain of humanitarian law and in 1973 the Ciardi Award of the International Society for Military Law and the Law of War for his thesis. The above text represents his farewell address delivered on 3 February 1989 in the University of Leiden.

# Neutrality and Impartiality

## *The importance of these principles for the International Red Cross and Red Crescent Movement and the difficulties involved in applying them\**

by Marion Harroff-Tavel

Of all the seven Fundamental Principles of the Red Cross and Red Crescent, neutrality and impartiality are perhaps the least well understood. They are often confused with each other and give rise to controversy. How can a National Society that is an auxiliary of the public authorities possibly be called neutral? Isn't neutrality sometimes synonymous with passivity or indifference? Can the ICRC regard itself as neutral when it points publicly to violations of international humanitarian law? Does impartiality mean sharing relief equally between the victims on both sides of a conflict? Is it possible to give humanitarian assistance to only one of the parties without violating the principles of neutrality and impartiality? These are questions that have occurred to every man and woman working in the International Red Cross and Red Crescent Movement.

The aim of this article is not to answer these questions, but to show their implications and set the reader thinking. Humanitarian assistance nowadays is often mixed up with politics, and the principles are not easy to apply. Knowledge not only of the general standards of behaviour set by the Movement but also of the pitfalls awaiting those who endeavour to apply those standards may make it easier to find the best way of relieving human suffering.

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\* This article reflects the author's personal views and does not engage the responsibility of the ICRC.

## Neutrality is not the same as impartiality; but the two are closely linked

Neutrality is defined as follows:

*“In order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.”*<sup>1</sup>

This principle imposes two obligations:

- The first is to refrain from any participation in hostilities, that is, to do nothing that could help or hinder either party, not only on the battlefield but also in any Red Cross or Red Crescent activities related to the conflict. For example, a National Society should not in any circumstances lend its ambulances to transport able-bodied soldiers, or allow the supplies it distributes to the civilian population to be used to feed combatants.
- The second is to keep out of political, racial, religious or ideological controversy in all circumstances. This interpretation of the principle of neutrality requires the components of the Movement to restrict their statements to what is recognized as their area of competence, and within that area always to bear in mind the interests of the people they are to help. If a Red Cross or Red Crescent leader publicly supports a candidate for political office in the run-up to elections, or becomes an instrument of government propaganda in matters alien to the Movement, or subscribes to a resolution naming one of the parties to a conflict as the aggressor, many people will consider that he has dealt a fatal blow to the credibility of his or her National Society.

In other words, neutrality means standing apart from *contending parties* or *ideologies*, so that everyone will trust you. It is a *means* to an end, not an end in itself.

Impartiality is the corollary of the principle of humanity, and is defined as follows:

*[The Movement] «makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the*

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<sup>1</sup> The seven Fundamental Principles of the Movement (humanity, impartiality, neutrality, independence, voluntary service, unity and universality) are set out in the Preamble to the Statutes of the International Red Cross and Red Crescent Movement adopted by the Twenty-fifth International Conference of the Red Cross in Geneva in October 1986 (hereinafter referred to as the Statutes of the Movement).

*suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress».*

The ethical basis of impartiality is the belief that whilst circumstances are not the same for everybody, all human beings have equal rights. To distinguish between them on grounds such as race, nationality or political allegiance would be to act on bias and personal likes and dislikes, which are unacceptable prejudices. These are not the only criteria; any distinction based, for example, on sex or language is similarly forbidden. But neither would it be fair to treat everyone in the same way irrespective of their varying degrees of suffering or the urgency of their needs.

For example, it would be contrary to the principle of impartiality to run relief programmes for women solely because of their sex; but where it is evident that they are especially vulnerable (expectant or nursing mothers, widows with dependent children, and so on) or are underprivileged (denied access to education or technology, etc.), the principle of impartiality requires that they be given special attention.

In other words, the principle of impartiality lays down two clear rules of conduct: (a) there must be no discrimination in distributing the aid given by the Movement (either in peacetime or in time of conflict or disturbances); and (b) relief must be proportionate to need—the greater the need, the greater the relief.

Thus neutrality and impartiality both require that there must be no prejudice, but the two principles are not directed at the same people. Neutrality means keeping one's distance from the adversaries during an armed conflict, and from political ideologies at all times, so that humanitarian assistance can be given impartially, differentiating between recipients only according to the degree or urgency of their distress.<sup>2</sup>

## **Independence—how to be able to act with neutrality and impartiality**

Neutrality and impartiality are possible only in an independent institution whose conduct is not dictated by partisan considerations or subject to partisan influence. To enjoy such freedom of thought and

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<sup>2</sup> For further consideration of these Principles, see Jean Pictet's basic works: *Red Cross Principles*, International Committee of the Red Cross, Geneva, 1956, pp. 32-76, and *The Fundamental Principles of the Red Cross. Commentary*, Henry Dunant Institute, Geneva, 1979, pp. 37-60.

freedom to act, a National Society must first and foremost be open to all, as the principle of unity requires, recruiting its members on a representative geographical basis and from all classes of society. It must not merely say it is willing to do this; it must actively try to enrol members from all the racial, ethnic, religious and other communities in the country. Secondly, it must be run by bodies in which there is a majority of democratically elected members; and finally its funds should come from a variety of sources.

These three factors are important so that the National Society can act as an auxiliary to the public authorities whilst retaining the autonomy it needs to operate in accordance with the Fundamental Principles of the Movement, neutrality and impartiality in particular.

Whenever a conflict breaks out the National Society must be capable of assisting the military and civilian medical services. The volunteers it has recruited and trained as auxiliaries to the army medical services will be subject to military laws and regulations, in accordance with Article 26 of the First Geneva Convention of 1949. Does this call the National Society's neutrality into question? Normally it does not, for the volunteers are only auxiliaries to the public authorities in the *medical* field; their role is to see that the wounded are cared for without discrimination of any kind.

In practice, however, a National Society may lack neutrality and impartiality because of the pressure put on it; and a Society will not necessarily act neutrally merely because it is independent. In many of the conflicts of our times the whole nation takes sides. Chaos reigns and passions run high; the National Society may be caught up in the struggle, unable to stand apart. All credit must go to Societies that nevertheless always manage to apply the Fundamental Principles in such circumstances.

## **The difficulty of being neutral**

The ICRC is often asked how the Movement can remain neutral towards grave violations of international humanitarian law or human rights. This question wrongly assumes that to be neutral means being silent, indifferent, passive, and even cowardly. It overlooks the fact that the Movement must never be neutral towards human suffering, but always towards men who are fighting each other and towards the differences that divide them.

Neutrality does not always mean keeping quiet; it means keeping quiet when to say anything would inflame passions and provide material for propaganda without doing any good to the victims the Movement is trying to help. It requires common sense. There is unfortunately no standard way of distinguishing between what can be said and what should not be said. Every case and situation is different from those of the past.

On principle, the ICRC acts with *discretion*, and this is often wrongly attributed to its neutrality. In fact there is a quite different reason: the ICRC's discretion makes its delegates acceptable in States that would never let it in if they feared that it would disclose information of use to their opponents. For example, the ICRC considers that its reports on its visits to places of detention, and the recommendations contained in those reports, are for the confidential information of the authorities to whom they are submitted. It takes this view because if these reports were published, they would inevitably give rise to controversy that would make its humanitarian work difficult and harm the persons it seeks to protect. In the case of violations of international humanitarian law, not only could such allegations be denied by the States accused, but also it would be very difficult to restrict the discussion to international humanitarian law and to avoid its being exploited for political purposes that go to the very heart of the conflict. Only if its reports are published without permission, out of context or in an incomplete or abridged form does the ICRC reserve the right to publish all the reports relating to that country, to give them to people who ask for them or allow those people to see them. The ICRC then has to take care that publication of the reports gives an impartial and objective picture of the conditions in which prisoners are held, so that it does not favour either party.

The ICRC can show great discretion; but it also feels entitled to make public statements concerning violations of the international humanitarian law applicable in armed conflicts, if the following four conditions are fulfilled:

1. *"The violations (torture, bombing or shelling of civilians, attacks on refugee camps, attacks on hospitals or Red Cross/Red Crescent personnel, etc.) are major and repeated"* ;
2. *"the steps taken confidentially have not succeeded in putting an end to the violations"* ;
3. *such publicity is in the interest of the persons or populations affected or threatened,*

4. *the ICRC delegates have witnessed the violations with their own eyes, or the existence and extent of those breaches were established by reliable and verifiable sources*".<sup>3</sup>

Undeniably, public statements of this kind by the ICRC give rise to controversy, but in making them the ICRC is stating facts. It acquaints the States party to the Geneva Conventions of the deadlock it has reached, in order to encourage them to ensure respect for the law, as required by Article 1 common to the four Geneva Conventions of 1949. In that article the High Contracting Parties undertake to respect *and to ensure respect for* the Conventions.

The ICRC, which exercises such pressure only rarely, has to remember two real dangers.

The first is the temptation to make a statement that strikes an artificial balance between the breaches committed by each of the parties to a conflict. Neutrality does not mean denouncing both parties in the same terms, saying that each of them has committed as many breaches as the other, if that is not true.

The second pitfall, of which the ICRC is well aware, is the danger of showing political opportunism in response to public opinion. The ICRC reserves the right to depart from its usual discretion when it believes this is warranted by the circumstances. It realizes that its responsibilities are all the greater when it is the sole witness of especially grave events of which public opinion and governments are unaware. It also weighs up the chances of success of any pressure that the international community can bring to bear on the government of the country to which these breaches are ascribed, and considers the effects that making a public statement may have on the plight of victims. To avoid any risk of prejudice, the ICRC should shun public statements altogether. As long as it does not take up that extreme position, it has to walk a tightrope. In view of the inherent complexity of these situations, the criteria applied by the ICRC leave some leeway so that each individual case has to be examined on its merits. This makes the ICRC's moral responsibility all the greater.

Neutrality, then, does not prevent the ICRC from expressing its concern with regard to violations of the international humanitarian law applicable in armed conflicts. In internal disturbances and tensions the ICRC has to be much more careful. Any action taken in this context is

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<sup>3</sup> These four conditions were published in "Action by the International Committee of the Red Cross in the event of breaches of international humanitarian law", *International Review of the Red Cross*, No. 221, March-April 1981, p. 81.

solely by virtue of its own Statutes and the Statutes of the Movement;<sup>4</sup> States are under no obligation to accept the ICRC's presence and the only freedom of action it enjoys is to cease its operations if its recommendations never have any effect, and thus to leave unprotected the persons it was striving to help.

In some countries in which disturbances are rife, the ICRC's decision not to make any public statement about the cost in human suffering of certain methods of combat or kinds of repression is sometimes wrongly construed as complicity. The ICRC is accused of casting a cloak of respectability, merely by being in the country, on movements or authorities striving for recognition. Surely, the ICRC is so often told, its moral values of humanity and non-discrimination, its conviction that in suffering all are equal, should make it speak out and denounce the pernicious effects of doctrines and ideas that lead to misery and death.

There is no easy way out of this ethical dilemma, no definitive answer. But the ICRC certainly does not think that its principles and working methods are more important than the suffering human being it is duty bound to relieve. The whole point of the rules it follows is that they enable it to take action. If the ICRC makes no public statement on the consequences, in humanitarian terms, of certain political or ideological projects, this is not so much because it does not want to take part in controversy as that it is anxious not to be denied all access to people who have great hopes of its help. Other bodies—humanitarian organizations, churches, journalists, and any other individual or organization concerned—may be able to bear witness to the repression to which those people are subjected; but the ICRC's day-to-day mission is to preserve individual human beings from bodily harm and personal indignity. It has the delicate task of keeping negotiations going with authorities or movements guided by political or ideological considerations that are often far from humanitarian. Its strength resides in its self-imposed limitations. It refuses to enter into ideological controversy, to express condemnation or approval, to say on which side justice lies. It takes sides only with the victims, and works actively and pragmatically to alleviate their plight.

The ICRC often asks itself how long it can keep up its discussions with people who turn a deaf ear to its appeals; the nature of the responsibility conferred upon it by history; and at what point its concern

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<sup>4</sup> Article 4, paragraph 1(d) and paragraph 2 of the Statutes of the International Committee of the Red Cross of 21 June 1973, revised version of 20 January 1988, and Article 5, paragraph 2(d) and paragraph 3 of the Statutes of the Movement.

to protect a limited number of individuals conflicts with its duty to alert the international community.

Hindsight and a better understanding of the situation may or may not show that the ICRC's attitude and policy were correct. Usually, however, these questions will never be definitely answered, and the ICRC has to bear sole responsibility towards victims and critics for decisions it has taken in the heat of the moment.

## **The difficulty of being impartial**

Impartiality as defined above is an ideal not easily reached, as the following three obstacles show.

The first is refusal by one of the parties to allow assistance to be given to victims under the control of the other party. In internal conflicts the ICRC has often come up against intransigent governments who said it was out of the question to bring aid to their opponents. There may be many reasons for this attitude, but it is often the result of extremism, which fails to recognize a defeated enemy as a human being, and of the fear that humanitarian aid will strengthen the enemy. The use of famine as a weapon of war is an example of this opposition to any assistance to the other side.

Even where the principle of aid to the other party has been endorsed, the ICRC finds great difficulty in making either side realize that the relief it brings is in proportion to need, and is therefore not even-handed when there is more distress on one side than on the other.

The second difficulty, politicization of humanitarian aid, is connected with the first one. In most of the civil wars now raging, humanitarian assistance is one of the "weapons" used by either side to obtain political or military advantage. Either party can turn humanitarian assistance to its own advantage in many different ways. It can, for instance, attract civilians to its side by the promise of food aid, so depriving the other side of their support; or it can displace considerable population groups because of the sympathies they have shown. In total war, when communities are pawns on the political chessboard, it is not easy to gain acceptance for the notions of non-discrimination and making relief proportionate to needs.

A third obstacle to the principle of impartiality is that funds have to be used as their donors wish. It was because of this that the ICRC's report on its activities in the Second World War mentioned the great disparity in the volume of relief supplies that it was able to get through to some groups of victims as compared with others. "*But*", it

commented, “where no other possible intermediary between donors and recipients exists, the Red Cross cannot make itself responsible for refusing an offer of assistance on the sole grounds that the same help is needed just as much, if not more, in some other place... The impartiality of the Red Cross suffers no prejudice so long as the latter’s services, when required de jure or de facto, are made available to all donors and to all categories of beneficiaries”.<sup>5</sup>

The ICRC, however, can and must make a firm plea to donors for latitude to distribute relief supplies with due regard to the needs of the various categories of victims of the conflict.

## **Respecting the principles of neutrality and impartiality in offers of services**

The International Red Cross and Red Crescent Movement must show equal solicitude for all human beings in difficulty. In any conflict situation there are probably humanitarian needs on either side of the “front line”, and the Movement wants to assist everyone. Unfortunately its offers of services are not always accepted by both sides, and then what about neutrality? Let us consider the ICRC’s attitude in such circumstances and then, separately, that of the National Societies.

The International Committee of the Red Cross offers its services in equal terms to all parties in an *international* conflict. This policy goes back to the nineteenth century. In 1864, when Denmark was fighting Prussia and Austria, General Dufour impressed upon his colleagues in the Committee the importance of sending one delegate to Germany and the other to Denmark.<sup>6</sup>

In an international armed conflict, the ICRC’s offer of its services to carry out the tasks assigned to it by international humanitarian law may not be accepted by one of the parties, although such a refusal violates that law. In that event the ICRC will render its services unilaterally. It cannot be accused on these grounds of infringing the Fundamental Principles. The essential thing for the ICRC is to make clear that it is

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<sup>5</sup> *Report of the International Committee of the Red Cross on its activities during the Second World War* (September 1, 1939 — June 30, 1947). Vol I: General activities, Geneva, May 1948, p. 17 (hereinafter referred to as *Second World War Report*).

<sup>6</sup> “Documents inédits sur la fondation de la Croix-Rouge (Procès-verbaux du Comité des Cinq)” Jean S. Pictet, ed., in *Revue internationale de la Croix-Rouge*, No. 360, December 1948, p. 876.

willing simultaneously and with equal readiness to offer its services, which cannot of course be given under compulsion.

In *non-international* armed conflicts the ICRC is entitled to offer its services to the parties to the conflict—to the government and the rebels alike—by virtue of Article 3 common to the four Geneva Conventions of 1949, which does not establish a hierarchy between the parties to the conflict, and contains a saving clause reading “*The application of the preceding provisions shall not affect the legal status of the Parties to the conflict*”.<sup>7</sup>

In practice the ICRC does its best to offer its services to both the government side and the rebel side, as openly as possible. Since these offers are of a purely humanitarian nature it cannot be accused of interfering in the internal affairs of the State.<sup>8</sup>

In so far as the Fundamental Principles are concerned, impartiality requires the ICRC to do all it can to help all victims of an internal conflict. Help to only one of the parties, even if given without discrimination, is still incomplete. The principle of impartiality decides what the objective of the ICRC must be, and the principle of neutrality how it must set about pursuing it—by trying to get the agreement of all parties. Thus to win and keep the trust of everybody the ICRC must act openly and frankly. That duty was defined as follows after the Second World War:

*“Open dealing means activity carried out with the full acquiescence, or at least the tolerance of the authorities concerned, throughout the territories where the Committee and its representatives operate. It further implies that the Committee’s delegates and other representatives pursue no activity, other than that which is expressly allowed or tolerated”*.<sup>9</sup>

But what about offers of services from a National Society?

Here we must distinguish between international and non-international armed conflicts:

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<sup>7</sup> The Commentary on Article 18 of Protocol II states that: “Article 18, paragraph 2, does not in any way reduce the ICRC’s right of initiative, as laid down in common Article 3, since the conditions of application of the latter remain unchanged. Consequently the ICRC continues to be entitled to offer its services to each party without such a step being considered as interference in the internal affairs of the State or as infringing its sovereignty, whether or not the offer is accepted”. *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC, Martinus Nijhoff Publishers, Geneva, 1987, p. 1480.

<sup>8</sup> See also Article 3 of Protocol II.

<sup>9</sup> *Second World War Report*, p. 26.

When two or more States are at war, the National Society of each belligerent country co-operates with its army medical corps. Its volunteers are therefore engaged on one side only, but the National Societies of allied countries can very well help each other. The essential thing is to bring aid to friends and enemies alike.

Article 27 of the First Geneva Convention of 1949 sets out two conditions on which the recognized Society of a neutral country can lend the assistance of its medical personnel and units to a party to the conflict: (a) the authorization of the party to the conflict concerned; and (b) the consent of the government of the neutral country, notified by that government to the adversary of the State to which such assistance is offered.

The party to the conflict which accepts such assistance from the National Society of a neutral country is bound to notify the adverse party thereof before making any use of it.

Rules governing neutral voluntary assistance were already laid down in the Geneva Convention of 6 July 1906.<sup>10</sup>

Article 27, para. 3 of the First Geneva Convention of 1949, reading: "*In no circumstances shall this assistance be considered as interference in the conflict*", gives a clear and legally valid answer to the question of whether, in an *international* armed conflict, assistance to one side only by the National Society of a neutral country infringes the principles of neutrality and impartiality.

Such assistance may be given to only one of the adversaries without being regarded as participation in the hostilities and therefore as infringing neutrality. The belligerents are placed on a strictly equal footing, as they are equally entitled to aid from the National Society of a neutral country. That Society remains impartial as long as it cares for the wounded and sick of all nationalities.

The said Article 27 deals, however, only with assistance in the form of *medical personnel* and/or *medical units*, and not with help in cash or foodstuffs.

In *internal* conflicts the National Society of the country in which the conflict takes place is, in principle, bound to operate throughout the national territory and to help all victims. Independence and a decentralized organization are vital to make this possible.

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<sup>10</sup> Article 11 of the Geneva Convention of 6 July 1906 for the amelioration of the condition of the wounded and sick in armies in the field.

However, in the internal conflicts now raging in many countries, the National Society very often has no access to some parts of the national territory, either because the government does not allow it to operate in areas or among populations not fully under government control, or because rightly or wrongly the opponents of the government regard the National Society as an agent of the government they are fighting. Many victims of the conflict are therefore deprived of the National Society's help, and even if it acts impartially in all the areas it can reach its help is still only partial.

In these circumstances, National Societies outside the conflict will want to bring help—some of them to the National Society of the country in which the internal conflict is taking place, others to the insurgents' medical services in areas under opposition control—often because they want to help all victims of the conflict anywhere in the country, whether they are sick or wounded combatants or hungry civilian war victims.

In many cases public opinion in a country outside the conflict is stirred by reports of such distress and urges its own National Society to do something to help.

What then must we think of intervention by the National Society of a *third* country in a country ravaged by internal conflict? If this intervention is unilateral, is it in accordance with the Fundamental Principles of the Movement?

In answering these questions one should bear in mind that in countries where an internal conflict is taking place, under the Statutes of the International Red Cross and Red Crescent Movement and the ICRC/League Agreement of 1989,<sup>11</sup> the ICRC «*shall assume the general direction of International Red Cross and Red Crescent actions*». Any relief operation by the National Societies in aid of the victims of the conflict, whether in the form of material aid (foodstuffs or clothing, pharmaceuticals, shelter or cash) or of personnel, is carried out under the auspices of or by agreement with the ICRC.

The ICRC was given these responsibilities because, under Article 5, paragraphs 2(d) and 3 of the Statutes of the Movement, it is a *specifically* neutral and independent institution. The ICRC's neutrality is of practical use, for without it the institution could not perform the mission entrusted to it by the international community. So as to be able to act with neutrality and independence, the ICRC recruits its members

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<sup>11</sup> Article 5, para. 4(b) of the Statutes of the Movement — Article 18 of the *Agreement between the International Committee of the Red Cross and the League of Red Cross and Red Crescent Societies*, signed on 20 October 1989 (Quoted hereafter).

by co-optation. They are all nationals of Switzerland, whose perpetual neutrality is internationally recognized.

As early as 1921, Resolution No. XIV (on civil war) of the Tenth International Conference of the Red Cross declared that:

- (a) it is the National Society of the country in which civil war breaks out which, in the first place, is responsible for dealing with the relief needs of the victims, provided that it can do so with complete impartiality;
- (b) if the National Red Cross cannot cope unaided with all relief needs it may appeal for help from other Red Cross Societies;
- (c) the National Red Cross Society should address such requests to the ICRC, which is responsible for organizing the relief operation.

These affirmations were followed by the significant statement that:

*“Should all forms of Government and National Red Cross be dissolved in a country engaged in civil war, the International Committee of the Red Cross shall have full power to endeavour organize relief in such country, in so far as circumstances may permit”*.<sup>12</sup>

This clearly recognizes the specific neutrality and independence of the ICRC and the special part it can therefore play in an internal conflict.

Nevertheless, in countries where the ICRC is co-ordinating an international relief operation, National Societies of third countries sometimes run bilateral programmes with the Society of the country in conflict, in order to promote that Society’s development. Thus the National Society of a third country may very well take part in training the first-aiders of a Society in whose country a conflict is under way, help it to set up a blood bank or ambulance services or assist in an operation to bring relief to populations outside the conflict area. Generally speaking, funds are easily raised to carry out projects of this kind in countries whose tragic plight is widely reported in the press.

However, in a country in which the ICRC is co-ordinating international relief action, programmes for the development of the National Society should not be launched in conflict areas without ICRC agreement, especially if they affect the volume of relief supplies distributed. This requirement is necessary because if foreign National Societies sent that Society foodstuffs or medicines as development aid

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<sup>12</sup> *International Red Cross Handbook*, 12th ed.; Geneva, 1983, p.641.

the ICRC would have to ensure that impartiality towards all victims of the conflict was fully respected.

It is impossible to foresee and theorize on every situation that may arise, especially as it is hard to say what type of programme can promote a National Society's development. But only concerted action by the components of the Movement will ensure a *global* approach to aid, show that the Movement is united in serving distressed humanity, and ensure its efficiency and impartiality.

One can also envisage a National Society taking responsibility for a particular project forming part of the ICRC's operations, for example administering a blood bank or orthopaedic workshop for which the ICRC would still be globally and finally responsible. Consideration is now being given to delegating projects in this way, which would be an extension of the ICRC's present practice of recruiting specialized personnel from National Societies, and would enable those Societies to retain their identity whilst taking part in an ICRC operation.

Some National Societies want to relieve the suffering of persons in areas under opposition control. Their aid can be passed on through the ICRC, if the latter can be sure that it will be used in accordance with the Fundamental Principles.

In other words, a National Society can send assistance to only one of the parties through the ICRC without infringing the Fundamental Principles, provided such assistance goes to all persons in distress, without discrimination and to the extent their needs require. The International Committee of the Red Cross undertakes to see that the Movement's operations are marked by *global* impartiality.

The question then arises whether, taking into account the principle of impartiality, it is justifiable and desirable for a National Society to give aid in an internal conflict before the ICRC's offers of services have been accepted.

Although bilateral assistance from one National Society to another, given in accordance with the Principles of the Movement, can be invaluable in helping the National Society of a country in which there is a conflict to cope with the situation, it may not reach all the victims.

Where the ICRC's offers of services are not accepted, the reason nearly always is that the parties to the conflict do not accept its operational rules, especially its requirements regarding the distribution of relief supplies. It can happen, therefore, that a party that has declined the ICRC's offer may try to obtain aid from another relief organization, or even from a Red Cross or Red Crescent Society, which it anticipates will be less strict in observing the principle of impartiality. The dangers

of such competition to humanitarian work are obvious. Undercutting of this kind would only hinder the ICRC's efforts and in the long run would weaken the Movement. Above all, it would make matters worse for the victims most exposed to arbitrary acts by the authorities concerned.

Some would argue that where all the victims cannot be given help, rather than do nothing at all it is better to save some of them, even only those favoured by the authorities for political reasons. Here again, nobody can claim to provide a final answer.

Unfortunately, humanitarian organizations often work in a context of total war, in which disinterested action is ascribed to political manoeuvring. This is the view usually taken of relief operations in areas no longer controlled by the government. Whatever the legal position, and no matter why such action is taken, it may all too easily be *regarded* as interference in the conflict and cast doubt on the neutrality of those taking it.

## **The legal effects of the principles**

All components of the International Red Cross and Red Crescent Movement are strictly bound to observe neutrality and impartiality. The Preamble to the Movement's Statutes "*reaffirms that, in pursuing its mission, the Movement shall be guided by its Fundamental Principles*". The obligation also arises because neutrality and impartiality have acquired a customary character, for the International Red Cross has always been convinced that it must be completely impartial in giving its aid and must not be swayed by partisan beliefs.

As for the States, by supporting the adoption of the Fundamental Principles at International Conferences of the Red Cross they undertook to respect the wishes of the National Societies, and of the ICRC and the League, to act in accordance therewith. The fact that the Fundamental Principles are mentioned in the Geneva Conventions and Protocol I is further evidence of their international recognition as standards of behaviour that the components of the Movement are strictly bound to respect.<sup>13</sup>

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<sup>13</sup> Article 44 of the First Geneva Convention of 1949, Article 63 of the Fourth Geneva Convention of 1949, and Article 81 of Protocol I.

## Concluding remarks

The following points are particularly important to understanding and applying the principles of neutrality and impartiality:

- (a) Neutrality does not mean lack of courage. On the contrary, it needs iron discipline to refrain from expressing an opinion on matters that are causing international uproar, and one has to be quite sure that otherwise defenceless people can be helped in this way. In the words of Leopold Boissier, a former President of the ICRC, “Protest, denunciation, condemnation and ostracism may at times relieve conscience, but it can also kindle the hatred which is the curse of mankind”.<sup>14</sup>

ICRC action is essentially *pragmatic*; its aim is to take immediate steps to safeguard the physical and mental wellbeing of individuals to whom it endeavours to obtain access so that it can protect them.

- (b) The Movement believes that impartiality is a principle that can be understood only *in providing* humanitarian aid to the most disadvantaged. Acting without prejudice towards one or another of the conflicting parties, and so refraining from any interference in hostilities, is not an expression of the principle of impartiality, but of the principle of neutrality.
- (c) It is often said that the International Red Cross must act without prejudice, without showing either sympathy or antipathy, and without passion of any kind; but why one person or National Society helps another is always a matter of opinion. However disinterested the help given to relieve suffering, it may be *misconstrued* as politically inspired. That is why the principle of impartiality comprises two objective rules of conduct: non-discrimination, and giving relief in proportion to need.

It is only natural and human that the sympathies of volunteers in a National Society should lie with one of the parties to a conflict, and that they should have political opinions and beliefs of their own. But they are asked to forget these sympathies and opinions when they are doing their *work*, if only for the sake of the human relations they maintain with the people they are helping. Similarly, National Societies in a given region, and having cultural affinities, can help each other provided they respect the two rules just men-

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<sup>14</sup> Boissier, Léopold, “The silence of the International Committee of the Red Cross”, in *International Review of the Red Cross*, No. 85, April 1968, p. 180.

tioned—non-discrimination and giving relief in proportion to need.

To sum up, the two principles considered here have been ennobled by international recognition, as International Red Cross history, now more than a century old, amply shows. They make for cohesion and unity in the Movement, and give its actions a predictability that should inspire international confidence. They exist to advance the lofty ideal of relieving human suffering, and respecting them requires a high degree of moral responsibility from all who serve under the red cross or red crescent emblem.

**Marion Harroff-Tavel**

**Marion Harroff-Tavel** holds a degree in political science from the Geneva Graduate Institute of International Studies and a Master of Arts in Law and Diplomacy from the Fletcher School of Law and Diplomacy, Medford, USA. She joined the ICRC in 1977, after working for the Diplomatic Conference on International Humanitarian Law. She now deals with matters of policy in the ICRC Division for Principles and Relations with the Movement.

**125th ANNIVERSARY OF THE ADOPTION  
OF THE GENEVA CONVENTION  
OF 22 AUGUST 1864**

*The International Review of the Red Cross is especially pleased to publish hereunder the text of the speech made by Mr. Jan Martenson, Director-General of the United Nations Office at Geneva, to mark the 125th anniversary of the Geneva Convention of 22 August 1864. The speech was given during a Round Table organized at the University of Geneva on 22 June 1989, in the framework of courses on international humanitarian law, and the text brings out the special significance the initial Geneva Convention has for the international community. It also highlights the long-standing, close and fruitful co-operation between the United Nations and the ICRC in humanitarian law and human rights.*

**The 1864 Geneva Convention,  
a link between the ICRC  
and the United Nations**

It is an honour and a privilege for me to speak to you today, as we celebrate the 125th anniversary of the Geneva Convention.

This commemoration is of special significance in that the Geneva Convention—which deals with the situation of war wounded—was the first text providing for international humanitarian action and regulating individual behaviour in certain defined circumstances.

It is also of special significance in that it has been organized by the International Committee of the Red Cross, which was likewise born of the appeal to man's conscience made by Henry Dunant, who witnessed the battle of Solferino and was the first co-ordinator of humanitarian aid for wounded soldiers left untended on the battlefield.

In 125 years, the Red Cross Movement has spread throughout the world: the number of its members has grown, its activities have expanded; it has succoured millions, in time of peace and in time of war, and the protection and assistance it affords are known and respected worldwide. I would like to take this opportunity to pay tribute, on behalf of the United Nations, to the President of the

International Committee of the Red Cross, Cornelio Sommaruga, to all those who make sure, day after day, that help is given to anyone in urgent need of protection and assistance, and to those whose various contributions provide invaluable support for these activities.

We can say of the 1864 Convention which has brought us together today that it is the source, the wellspring of contemporary humanitarian law: it opened the way for an unprecedented body of law, one which currently comprises over twenty conventions, declarations and protocols laying down the rights and obligations of the individual, whether civilian or soldier, in time of armed conflict. History will remember this Convention above all as the first text providing for the protection of the person, the human being. Therein lies, to some extent, the link between us, between the International Committee of the Red Cross and the United Nations.

For the welfare of the human being has, in the past forty years, been of major concern not only to you, but to the United Nations as well. The United Nations too, has insisted that fundamental individual rights and freedoms be established and accepted as universal rules to which there can be no exception. The 1948 Universal Declaration has been followed by about sixty conventions, treaties and covenants which, with the body of humanitarian law I mentioned a moment ago, are now a guaranty of real protection for all those whose rights are denied, abused and violated. We have, for example, the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*, the *International Convention on the Elimination of All Forms of Racial Discrimination*, the *Convention on the Elimination of All Forms of Discrimination against Women*, and the *International Convention on the Suppression and Punishment of the Crime of Apartheid*. The *Convention on the Protection of the Rights of the Child*, the text of which has just been approved by the Human Rights Commission, should, by the end of the year, be part of the formidable panoply of legal documents now at the service of the international community.

As their very titles indicate, all these texts seem to mark the point at which ICRC and United Nations activities converge. The persons concerned are indeed very often those who need your assistance, those who belong to exposed and vulnerable groups, who have long been deprived of their recognized rights and, thereby, of effective protection.

The road has been long and arduous. We have suffered many setbacks and encountered many obstacles arising, for the most part, from the intransigence of States imbued with their absolute sovereignty and loath to renounce a single iota of power.

And we still have quite a way to go. Several bodies of rules are still needed to complete this set of legal instruments which the international community has resolved to adopt, for its own good.

Since 1945, both the Red Cross with its millions of members and the United Nations, its bodies and specialized agencies have been working in the same spirit towards the same goal, that of peace and security in a world in which conflicts, underdevelopment and other human rights violations will have been replaced by genuine dialogue and constructive co-operation between all States and all peoples.

While substantial progress must still be made there has been an evident turn for the better. Current conditions augur well for the efforts made by the international community in recent decades and may, in the long run, play a decisive part. The international scene has been marked in the past few years by a clear swing back to multilateralism, by the long-awaited revival of true east-west dialogue, coupled today with intensive co-operation between the great powers. This renewed détente has in turn favoured the success of negotiations at a number of levels: suffice it to mention the disarmament agreements which, in the wake of the Reagan-Gorbachev summit, have made it possible to start dismantling intermediate-range nuclear missiles; the Geneva Agreements on Afghanistan; the results achieved in the Iran-Iraq negotiations; the opening of talks on Cyprus and the Western Sahara; and, more recently, the start of the independence process in Namibia.

But I would also like to emphasize that this tangible renewal of the spirit of the Charter goes hand in hand today with new awareness in an area which is very dear to me (I should probably say us)—that of action to promote and protect human rights, those inalienable rights which the 1948 Declaration has rendered universal.

In this domain the International Committee of the Red Cross has co-operated often and well with the United Nations and some of its specialized agencies, on the basis of resolutions of the General Assembly and the Human Rights Commission calling for closer co-operation with the Centre for Human Rights.

Co-operation between our two organizations may very soon take on a new dimension, particularly in the framework of the Programme of Advisory Services and Technical Assistance implemented by the Centre.

This programme, which I have made every effort to set up and activate with the means at our disposal, is at present a key element in action for human rights, in that in the long run it may ultimately enable sometimes inadequate national human rights structures to be reorganized by mobilizing, through courses, seminars and other

conferences, various social-professional groups which can influence society.

It is not sufficient, however, to draft additional rules and implement existing technical assistance and advisory services programmes. All members of the human family must be educated and informed as widely as possible about their fundamental rights and freedoms. This was the *raison d'être* of last year's World Campaign for Human Rights, the long-term purpose of which is to build up a truly universal culture of human rights.

Conducted at all levels and in every field the Campaign was based on the same principles as the mission the ICRC has set itself: to educate and inform on a large scale, thereby making it possible for each and all to work towards greater co-ordination of humanitarian activities, towards greater respect for the international standards established to improve the protection of the individual, irrespective of origin or beliefs.

Our hope in this context is for greater co-operation between our two organizations, a co-operation leading, for example, to an extended information and publications programme which could encompass all the work that we, like you, are determined to accomplish.

The links between our organizations can, I am convinced, become even stronger in the future, in the spirit of the Charter, in the spirit of the 1948 Universal Declaration, and *noblesse oblige*, in the spirit of the 1864 Convention, to the benefit of all those throughout the world who need our help, our protection, our assistance.

**Jan Martenson**  
*Director-General*  
*United Nations Office*  
*of Geneva*

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## The international challenges facing humanitarian law today, 125 years after its creation

*As part of its activities to mark the 125th anniversary of its foundation on 4 February 1864, the Belgian Red Cross has been taking stock of its work to date and future possibilities for Red Cross action in various domains.*

*From 15 to 22 April 1989, the French-language Community of the Belgian Red Cross held a series of one-day symposiums in which Society volunteers and officials as well as many outside individuals and associations took part.*

*A number of very interesting lines of thought were developed at the symposium devoted to fundamental issues of principle, the law and the image of the Red Cross.*

*The International Review of the Red Cross is pleased to print the exposé presented by Mr. André Andries, First Attorney-General at the Military Court in Brussels and Chairman of the Belgian Red Cross (French-language Community) Commission on the Dissemination of Humanitarian Law, on the international challenges facing that law today.*

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Observers of animals in the wild have noted that a stag battling for supremacy in the herd never makes a surprise attack on the unguarded flank of his rival. Instead, he engages in a ritual to provoke the other stag into a clash of antlers which ends when the weaker of the two takes flight, defeated but uninjured.

The works of Konrad Lorenz have done much to increase our knowledge of animal behaviour and have shown that such an inhibitive mechanism operates throughout the animal kingdom to ensure that

struggles between members of the same species do not seriously threaten that species' survival.

The initial phases of human evolution were still profoundly marked by highly ritualized behaviour related to cosmic phenomena and procreation.

Thus, the feeling that there was a cosmic equilibrium which must not be disturbed and the desire to protect mothers and their offspring was reflected in all cultures by this fundamental ritualized matching of contestants.

In human conflict, from the earliest wars fought with sticks and stones to the advent of gunpowder, custom dictated that part of the male population on each side would be armed and that the losers, determined by the fortunes of battle and recognizing that fate had decided against them, must yield before they were dealt the mortal blow.

It may therefore be wondered why international humanitarian law—which is, after all, the law governing armed conflict—is said to be only 125 years old if the customs of war are indeed as old as mankind itself.

To divide mankind into peoples, tribes and clans once seemed perfectly natural in an unchanging world with fixed horizons and little exchange and communication between groups. The customs of war essentially protected the interests of the groups observing them. The treaties and alliances that introduced codified international law in this area were bilateral, conditional on reciprocity and subject to abrogation. Moreover, in the heyday of customary law, the weapons of war had a very limited range.

True humanitarian law, the dimensions of which this article will attempt to define, first appeared in 1864.

The growing notion of human rights was evidenced by the British Bill of Rights of 1689—whose tricentenary has not been marked to the extent it deserves—the United States Declaration of Independence of 1776 and the French Declaration of the Rights of Man and the Citizen. These were all steps forward in affirming the fundamental freedoms of the *individual* in his dealings with the group hierarchy. But this growing tendency was confined to the framework of the nation-state, seeking essentially to change the structures of the state and replace authoritarian systems by internal democracy. The national character of these ideals enabled systems based on the principle of representative government to co-exist with imperialism, colonialism and racism.

The concept of universal humanity did not emerge until well after the French Revolution. The present meaning of the word “humanitarian” appeared only around 1830. Although the philosophers

of the Age of Enlightenment had urged an end to intolerance, torture and slavery, the term still lacked emotive content; the modern idea of humanity had not yet taken root in people's minds.

Humanitarian law became possible when a human being realized that his suffering at the sight of any wounded or tortured human was due to the fact that he recognized them as his fellows, and identified with them in their suffering.

Henry Dunant's genius lay in his ability to conceive of a permanent, worldwide institution guaranteed by international law to ensure at least a minimum of humanity in armed conflicts.

Unlike human rights, humanitarian law is set squarely in the realm of international relations. It is not intended to change state structures but to limit arbitrary actions by states in their external policies.

What caused Dunant's initiative to transcend all previous accomplishments was the underlying concept of humanitarian law as a universally applicable system of law. In her book on the ICRC, Isabelle Vichniac, a correspondent for the French daily *Le Monde*, notes that:

*Without humanitarian laws, the ICRC could not exist. At most, it would be a large welfare society of limited scope and duration. As the initiator of this body of law and guarantor of its development and its subsequent implementation by the states, the ICRC has been able to become what it is today because it brought the first multilateral treaty of international humanitarian law into being—the Geneva Convention of 1864.*

The Red Cross movement's very identity lies in being the driving force in the development of that law, with all the obligations of self-scrutiny that such a role implies. For it is only by respecting the law oneself that it is possible to ensure its respect by others. This presents considerable difficulty in the short run, but it is the only way for the international community to accomplish any lasting change for the better.

Thus, 125 years of humanitarian law means more than just an anniversary to mark the advent of a key institution; it also evidences the permanence of that institution's vocation.

Humanitarian law is in the forefront of the civilizing process. It penetrates the last and most fearsome areas of lawlessness, those of violence between states. Humanitarian law has brought together various branches of law created for the defence of the common values of humanity. By assuming this international dimension, human rights have become above all the peacetime complement of humanitarian law.

Belgium was prompt to act on Dunant's appeal for the creation of societies for the relief of wounded soldiers and ratified the Geneva Convention as early as 14 November 1864. Less than three months later, on 8 January 1865, Parliament approved the creation of a National Society. The 10-article Convention was restricted to improving care for wounded soldiers in armies in the field. The revised and enlarged Conventions of 1906 and 1929 broadened the scope of humanitarian law, resulting in a greater number of provisions and hence a lengthier ratification process.

The most recent Conventions, those of 1949, are of course four in number:

- the First, on the condition of wounded and sick soldiers in the field;
- the Second, on the condition of wounded and shipwrecked members of armed forces at sea;
- the Third, for the protection of prisoners of war;
- the Fourth, for the protection of civilians in time of war.

In all, these Conventions contain 429 Articles. Belgium ratified these Conventions on 26 September 1952, that is, three years and one month after their adoption. But even as they were being signed, the Red Cross movement was already conscious that they were insufficient, for the constant change and increasing sophistication of methods of warfare had not been taken into account.

The Second World War ended with one side sworn to all-out war and the provocation this implied, and the other side using a weapon virtually able to wipe out civilization. From that time on, mankind has known that war could lead to its collective demise.

In 1949, the bombing of Dresden and Hiroshima was still too fresh in people's minds to obtain a prohibition of direct attacks on the civilian population. In elaborating the four Geneva Conventions, the Diplomatic Conference was able to address only some of the problems encountered in the recent war: the taking of large numbers of prisoners of war and the submitting of the civilian population to long periods of foreign occupation.

Only after the Vietnam war did it become possible to carry out the necessary changes in humanitarian law. This was the first time that a nuclear power had to realize that military victory at all costs is not politically acceptable when it must be won in a strategic relationship of certain mutual destruction.

In June 1977, after four years of work, a new Diplomatic Conference finally adopted the two Additional Protocols, which come to grips with the two main deficiencies in humanitarian law:

- the absence of protection for the civilian population against the methods and means of warfare, and
- the lack of provisions covering guerrilla warfare in which the combatants do not distinguish themselves from the civilian population.

Humanitarian law was now no longer peripheral to the law of war, but made itself felt in rules governing the very methods and means of warfare. This time, eight years and ten months of consultations at national and international level were necessary before Belgium ratified the Protocols, though they contained a total of only 130 articles (not counting the annexes).

From the very beginning, in 1864, the Geneva Conventions required the states to take action already in peacetime and, from 1906, contained the obligation to disseminate knowledge of their contents.

What has the Belgian National Society done to implement humanitarian law in peacetime? Before the Society was divided to reflect the different cultural communities, dissemination work was somewhat sporadic: pamphlets, talks at universities by ICRC delegates, day-long information campaigns, etc.

The Belgian Red Cross (French-language Community) Commission on the Dissemination of Humanitarian Law was formed in January 1981 following the said Community's first Congress, held in Liège on 1 and 2 March 1980. So far, the Commission has set up a programme of nine lectures to train local officials in humanitarian law. It has further organized an annual humanitarian law competition for university and secondary school students. Finally, it took part in a nationwide campaign to have the Additional Protocols ratified and a law passed for the repression of grave violations of the Geneva Conventions.

When the Protocols came into force in Belgium, the National Society organized a national symposium on the internal measures that implementation of the Protocols would require. The government responded to the Society's appeal by creating an interdepartmental commission made up of representatives of all the Ministries concerned and Red Cross legal experts. The Commission's first task was to draw up a list of those measures. This completed, it is now monitoring and co-ordinating the tabling of the necessary legislation in Parliament and

the various other measures in administration, education and government regulations.

With this considerable undertaking, Belgium has become a pioneer in the peacetime implementation of international humanitarian law. Among the initiatives, some of the more striking examples are the assignment among the armed forces of advisers on the law of war, recognition of the competence of the International Fact-Finding Commission and the drafting of a Bill for legislation to repress grave violations of humanitarian law, an obligation which Belgium has had since ratifying the 1949 Conventions.

The national forum on humanitarian law that we are organizing on 8 May 1989 to mark the 125th anniversary of the original Geneva Convention will itself, we hope, be marked by the announcement of humanitarian gestures from the Ministers who have agreed to take part. We are hoping that it will be at once a political forum, an opportunity for media publicity and a general "brain-storming" session.

The 1977 Additional Protocols provided a detailed reply to criticism that the law of war had become obsolete. Similarly, their content and the way they were drawn up counter criticism that it had become unrealistic.

But in recent years the Red Cross movement has had to face more fundamental criticisms from those who advocate new forms of relief work. These critics question the very principle of humanitarian law.

In his book *Le piège* (The Trap), published in 1986, Jean-Christophe Rufin argues that humanitarian action comes within the scope of politics, not of law, claiming that in reality it acts as an extension to politics by being a sort of complement to war. According to Rufin, it constitutes a domain unto itself in which the various political forces continue to fight it out. Humanitarian action, he says, depends on the goodwill of states, which are just as free to break commitments under international law as they are to make them; neutrality by virtue of the law is therefore entirely dependent on the price paid to the state. National Societies, he maintains, are generally kept under a tight rein and the ICRC remains a hostage of the states with only the leeway they choose to grant it; everything depends on the extent to which respect for the law is in their own interest.

Under the guise of down-to-earth idealism (or humanitarianism filtered through cynicism, as Rufin himself puts it), this view is based on two false premises, specious arguments which threaten to discredit the very foundations of the Red Cross and Red Crescent Movement:

- the states are above international law;
- only humanitarian action outside the law can effectively help those in distress.

This opinion is widely held. It is a supposedly realistic but in fact completely erroneous view of the relationship between the state and the law. It does not stand up to scrutiny, for law is not made by states but by peoples. It is the electorate of a country—not those they have chosen to represent them—who hold sovereign power. And on the international political scene, all states draw their justification from the claim that they represent their people. In Belgium the Head of State, his Ministers, civil servants, magistrates and army officers swear an oath that they will observe the laws of the Belgian people. The very uniform worn by soldiers is nothing other than a symbol indicating that they bow to the fundamental rule of the law of war that a distinction must be made between combatants and non-combatants.

Constant references to the failings of the system of international law tend to legitimize an absolutely illegitimate situation. They nourish the imposture upon which the dictatorships in some states are founded and prevent their people from being able to make a correct or simply honest appraisal of international law. The notion that international humanitarian law is dependent on the goodwill of the governments is categorically refuted by the 1960 Vienna Convention on the Law of Treaties. Articles 53 and 60 confer on certain provisions of international law, including the humanitarian law of armed conflict, the status of imperative rules (*jus cogens*), i.e. retorsion—suspending the implementation of law in retaliation for failure to observe it by the other side—is prohibited and any instrument of international law containing contrary provisions is nul and void.

It is not true that the power, prestige and grandeur of the states prevail over all else, including the people who live in them. The physical integrity of those people is infinitely more important than “reasons of state”. This is precisely what the judgments at Nuremberg and the European Convention and Human Rights are based on.

It is not the rights of the states but the rights of people which are violated when attacks are made on the civilian population. International law is the sole joint creation of the peoples of the world, the only domain in which divergent particular interests and conflicting reasons of state are reconciled.

Founded on the common aim of mankind’s survival and formulated in terms adopted by common consent, the law of war is an objective

standard, set in peacetime, for the conduct of governments, peoples and individuals in time of war.

Only when action is in accordance with that body of law can it lay claim to the impartiality and universality which enable it to assist all the victims of war. Conversely, those in the field of humanitarian assistance who profess the right to work outside the law will sooner or later find themselves at loggerheads with one party or another to a conflict and will then themselves become partisan, fuelling conflict by their assistance rather than contributing to its settlement.

The law of armed conflict is a standard of civilization, both in the passive sense (it mirrors the civilization on which it is founded) and in the active sense (it is a norm which humanity must strive to live up to). But for humanitarian law to remain an effective standard of civilized behaviour, it must constantly serve as a model for the public conscience from which it stemmed. Given the barbarity of certain states, the people themselves are the only ones left to curb the politicians in their disregard for human life.

Public opinion is a force to be reckoned with. Its reaction to atrocities, in Algeria and Vietnam for example, has hastened the end of more than one conflict. But public opinion can be manipulated. By imparting knowledge, ideas and a sense of commitment, teachers and journalists therefore have a very responsible part to play in transforming public opinion into a true public conscience. If teachers and journalists know humanitarian law, when giving reports and comments on events they can simultaneously denounce violations of it.

National Society members should be especially active not only in promoting knowledge of humanitarian law, since that is only the first step, but in working for its implementation. The "International Law 1990" Research Fund, set up last year in Paris and Geneva, put it this way:

*The relief work of the Red Cross tends to make observers of the international scene, the public and the governments themselves forget that the National Societies also have other duties. One of the most important of these is to contribute to respect for international humanitarian law in all circumstances. When international organizations such as the UN and the ICRC denounce the violations of that law by certain States, the following questions arise:*

- a) *What should the National Societies do, particularly when the ICRC makes a public appeal?*

b) *What can each individual do, mainly within the framework of his or her National Society, to ensure that the provisions of international humanitarian law are indeed respected?*

In his foreword to the first volume of his training material for local officials of the Belgian Red Cross, Mr. Valère Bleiman has already provided a clear reply:

*The ultimate goal of the work done to promote knowledge of international humanitarian law is to foster, by extensive familiarization with its principles and the rights and duties it defines, a true humanitarian conscience which will govern the conduct of people in conflict situations, not only demanding that the law be observed but also censuring any violations of it.*

Moreover, do we contribute to a healthy upbringing of our children by letting them just sit there and watch on television as Lebanese children are blown to pieces?

Before thinking about new activities, these symposiums to mark the 125th anniversary must first see to preserving the essential foundation of the Red Cross, namely the implementation of existing international humanitarian law, thereby helping to build a world in which it would be a less formidable task to help people simply because less suffering is inflicted upon them.

**André Andries**  
*First Attorney-General at the  
Military Court in Brussels*  
*Chairman of the Belgian Red Cross  
(French-language Community) Commission on  
the Dissemination of Humanitarian Law*

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## **Appointments of two new members**

At its latest meeting of 4 and 5 October, the Assembly of the International Committee of the Red Cross appointed two new members to the Committee and nominated an acting Director of Operations.

The two new members of the Committee are Mr. Max Daetwyler and Mr. Marco Mumenthaler. Their appointment brings membership of the ICRC Assembly, which is composed exclusively of Swiss citizens, to 25.

- **Mr. Max Daetwyler**, who holds a degree in economics and social sciences from Geneva University, was born in 1928 and is originally from Unterentfelden in the Canton of Aargau. Mr. Daetwyler is currently living in Geneva. He studied in Zurich, Geneva and the United States, and his professional activities have taken him to Japan, Pakistan and Zaire. He has held several posts at the International Management Institute (IMI) in Geneva, where he is a Scholar in Residence. He has maintained close connections with the institutions as a member of its Faculty, running seminars for members of Boards of Directors.

- **Mr. Marco Mumenthaler**, Professor of Neurology at the University of Bern, was born in 1925 and is originally from Langenthal in the Canton of Bern. He went to school in the Canton of Tessin and in Italy and later attended the Medical Faculties of the Universities of Zurich, Paris, Amsterdam and Basel. He has been in practice as a neurologist in Paris, Zurich, Winterthur, the United States and Bern. He was recently appointed Rector of the University of Bern. Professor Mumenthaler is the author of numerous scientific publications and carried out a medical mission for the ICRC in 1989.

## **Federal Councillor Kaspar Villiger visits ICRC**

On 13 November 1989, the Head of the Federal Military Department and Mrs. Villiger visited the International Committee of the Red Cross, where they were received by President Cornelio Sommaruga. Mr. Villiger was accompanied by Majors General Peter Eichenberger, Chief Medical Officer, Carlo Vincenz, Deputy Chief of Staff Operations, and Fritz Husi, Director of the Federal Office of Adjutancy.

President Sommaruga thanked the Federal Councillor for the support traditionally afforded to the ICRC by the Swiss Confederation and went on to review ICRC activities worldwide, emphasizing those of topical interest.

After signing the Visitor's Book, Mr. Villiger expressed the Federal Council's solidarity with the ICRC in connection with the abduction of the institution's two delegates in southern Lebanon.

Mr. Villiger's visit to the ICRC ended with a tour of the International Museum of the Red Cross and Red Crescent.

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## **President's mission to New York**

For several days in October, the ICRC and humanitarian law had a high profile at United Nations Headquarters in New York. On 13 October, a ceremony was held there to mark the 125th anniversary of the original Geneva Convention of 1864. This was followed by the opening of an exhibition on the Geneva Conventions and the work of the ICRC.

Mr. Cornelio Sommaruga, the ICRC President, took part in the two ceremonies. He had the opportunity to talk to the United Nations Secretary-General and representatives of the Security Council before, giving a press conference to the United Nations Correspondents' Association.

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The ceremony on 13 October to **commemorate the 1864 Geneva Convention** was organized by the Swiss Federal Council and the United Nations in New York. In addition to Mr. Javier Pérez de Cuéllar, UN Secretary-General, it was attended by Mr. René Felber, member of the Swiss Federal Department of Foreign Affairs, President Sommaruga, representatives of almost all the UN member States and a number of other guests.

Mr. Felber, who presided at the ceremony, reviewed the development of international humanitarian law from the original Convention to the 1977 Additional Protocols.

Mr. Pérez de Cuéllar spoke of the excellent co-operation established between the United Nations and the ICRC in their respective activities and of the UN's role in codifying humanitarian law.

Representatives of the UN Assembly's various regional groups (Africa, Asia, Eastern Europe, Western Europe and Latin America and the Caribbean) then paid tribute to the ICRC's work in conflict areas and stressed the key role played by humanitarian law in the system of international law, expressing the hope that the Additional Protocols would be ratified by all States.

After thanking the various speakers for their expressions of confidence and support, President Sommaruga spoke of the profound shock caused by the abduction in Lebanon on 6 October of two ICRC delegates and made a solemn appeal for their unconditional release. Then, recalling humanitarian law's century and a quarter of development, Mr. Sommaruga called on all governments, whether at peace or at war, to accord higher priority in their political decisions to matters of humanitarian concern, and to continue lending their support to the ICRC.

This ceremony was followed by the official opening of an **exhibition on the Geneva Conventions and the work of the ICRC** set up at United Nations Headquarters. A preview of the exhibition was held for a large number of ambassadors and representatives of the press, the UN Secretariat, the American Red Cross, the Swiss Red Cross and non-governmental organizations such as Amnesty International (represented by its Secretary General). The ICRC President told them that the purpose of the exhibition was threefold—to make people see, make them understand and make them take action. He pointed out that the exhibition itself was a contribution to humanitarian mobilization.

\* \* \*

During his visit to New York, President Sommaruga, accompanied by Mr. Michel Veuthey, head of the ICRC's International Organizations Division, and Mr. Jean-Paul Fallet, head of the institution's New York delegation, had **talks with the United Nations Secretary-General**. Mr. Sommaruga expressed his appreciation for the high degree of co-operation between the ICRC and the United Nations on a growing number of matters of common interest and thanked Mr. Pérez de Cuéllar for UN support of ICRC activities. The ensuing discussions covered several situations of concern to the ICRC: the prisoners of war still being held in connection with the Iran/Iraq war, the conflict in Lebanon and the abduction of two ICRC delegates there, the 200 Moroccan prisoners who have still not been repatriated from the Western Sahara, the critical situation of some 300,000 civilians trapped on the border between Thailand and Cambodia and events in Namibia, Somalia and Afghanistan.

Mr. Sommaruga also pointed out that thanks in part to the UN Secretary-General's efforts to restore peace, the ICRC had been able to carry out a number of exceptionally successful humanitarian operations. But donor countries had to give more financial support to the ICRC to enable it to launch large-scale programmes.

Finally, Mr. Sommaruga mentioned the United Nations Decade of Peace and International Law, expressing the hope that international humanitarian law would figure prominently in it.

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At a luncheon with **Security Council delegates**, President Sommaruga expressed the ICRC's gratitude for their contribution to the humanitarian mobilization. He spoke of the ICRC exhibition commemorating the 1864 Geneva Convention and the peace-making initiatives of the UN Secretary-General and the Security Council which were directed at areas where the ICRC was also working. He went on to review the ICRC's activities in various parts of the world and its major causes for concern, and spoke of the ICRC's efforts to encourage disarmament, especially with regard to chemical weapons, and the preparatory work done on the 1980 UN Convention on certain conventional weapons. His speech was followed by an informal discussion.

On 13 October, Mr. Sommaruga accepted an invitation from the President of the **United Nations Correspondents' Association** to give a press conference to some 30 New York-based journalists.

During his stay, the President visited the **Greater New York Chapter of the American Red Cross**.

This three-day mission demonstrated the recognition accorded to the ICRC's activities and showed how those activities complement the United Nations' efforts to find a peaceful settlement for conflicts.

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*EXTERNAL ACTIVITIES**September-October 1989***Africa****Angola**

In September, the ICRC began its annual seed distribution programme for some 120,000 families on the Angolan Planalto. The delegation continued to keep the food situation there under close observation and distributed food where necessary. The many nutritional surveys carried out on the Planalto showed an alarming rise in the rate of malnutrition.

Also in September, delegates visited 95 members of the government armed forces held by UNITA in south-eastern Angola.

**Mozambique**

In October, the ICRC delegation completed a series of visits begun in May to 11 places of detention holding Mozambican security detainees and first visited between June 1988 and February 1989.

The delegates also endeavoured during the period under review to continue all their assistance activities in the field despite difficult access to the parts of the country affected by the conflict.

**Uganda**

On 18 October, the head of the ICRC delegation was received by Mr. Yoweri Museveni, President of Uganda, with whom he reviewed the activities and concerns of the ICRC in the country.

The delegates continued their visits to security detainees and, after assessing the situation in the Gulu and Soroti regions, provided food, material and medical assistance there. In the period under review, delegates were particularly active in Soroti distributing Red Cross messages to a large number of families of recently visited detainees.

## **Ethiopia**

After talks with the Ethiopian authorities at the OAU summit in Addis Ababa in July, at which the ICRC was represented by Mr. Rudolph Jäckli, a member of its Executive Board, together with the Delegate General for Africa and the head of the ICRC delegation in Ethiopia, a mission was carried out in the north of the country by the head of delegation, an agronomist, a doctor and representatives of the Ethiopian Red Cross Society. This joint mission enabled the ICRC representatives to assess food and medical needs, especially those resulting from the conflict, in Eritrea, Gondar and Wollo.

Following the mission, the ICRC drew up a plan of action which it submitted to the Ethiopian government on 16 October. At the end of the month, the ICRC had not yet received a reply from the authorities.

## **Somalia**

During a mission to Somalia by the Delegate General for Africa from 28 September to 2 October, consideration was given to a possible extension of ICRC activities in the north of the country, especially in connection with the surgical hospital in Berbera, which was opened in August with equipment provided by the Norwegian Red Cross. In the period under review, teams of delegates flew to various parts of northern Somalia to check how the population affected by the conflict was faring and see whether facilities could be set up to provide first aid for the wounded and evacuate the most serious cases to the ICRC hospital in Berbera. On several occasions it was possible to fly out several casualties on the aircraft used by the ICRC teams.

Finally, the ICRC began a food-aid programme in October for about 1,250 people from hospitals, orphanages and other social welfare institutions in Berbera.

## **Sudan**

During the period under review, the ICRC had seven subdelegations in Sudan and was present from time to time in eleven other places. As from September, when the harvest began, the ICRC concentrated on continuing its emergency rehabilitation programmes such as the vaccination of livestock, distribution of fishing tackle and medical care. Food distributions were confined to the most vulnerable groups of civilians affected by the conflict.

## Latin America

### Peru

The agreement in principle granted to the ICRC in June, during the ICRC President's mission to Peru, and the subsequent discussions with the authorities on arrangements for visits to detainees enabled delegates to begin daily visits on 24 October to the premises of the *Dirección contra el terrorismo* (DIRCOTE) in Lima. Since then, the ICRC has had access to the register containing the detainees' names and has been able to interview without witnesses each detainee who has reached the end of his interrogation period and is about to be transferred to another place of detention.

Delegates also continued their visits to the places of detention situated in areas under a state of emergency and administered by the Ministry of Justice. These visits were resumed in June when permission was granted by the authorities, also during the ICRC President's visit.

The delegation continued expanding its other activities (mostly assistance and dissemination) in the areas under a state of emergency. In September, some 30,000 people in the departments of Ayacucho and Cuzco took part in an anti-malaria campaign combining an information programme with a distribution of chloroquine.

### Honduras/Nicaragua

In October, the ICRC received permission to make regular visits to Yamales, the main refugee camp linked to the armed Nicaraguan opposition. This enabled delegates based in Honduras, Nicaragua and Costa Rica to undertake extensive tracing work in connection with requests made to the ICRC's Central Tracing Agency.

### El Salvador

The ICRC continued all its activities in El Salvador, though the fighting which flared up again as from September compelled the delegates there to cancel a large number of planned field missions. On 31 October, the head of delegation was received by President Cristiani, the head of State and informed him about the ICRC's various concerns in connection with the Salvadoran conflict.

During the period under review, the ICRC was twice asked to act as a neutral intermediary. On 7 October, with the consent of the parties concerned, an aircraft chartered by the ICRC flew 48 war amputees to Cuba. These members of the Farabundo Martí National Liberation

Front had taken refuge in the Mexican Embassy in San Salvador. On 6 October, again at the request of the parties concerned, 18 members of a human rights organization who had occupied the Costa Rican embassy in San Salvador and 13 people who had been taken hostage during the occupation were escorted home by the ICRC.

## **Guatemala**

On 13 September, the ICRC signed a headquarters agreement with the Guatemalan Ministry of Foreign Affairs setting out the terms and conditions for its presence in the country. An ICRC delegation was opened in Guatemala City in January 1988.

## **Asia**

### **Sri Lanka**

In early October, after years of negotiations, the ICRC was authorized to open a delegation in Sri Lanka to carry out its customary activities for victims of the disturbances. The President of Sri Lanka announced that the ICRC would be allowed to visit security detainees, search for missing persons and provide medical assistance where necessary. An initial team of two delegates, a doctor and a nurse, arrived in Colombo on 16 October. They immediately set to work preparing for the arrival of further delegates and carried out several medical surveys in the south of the island.

### **Afghan conflict**

During the period under consideration, the Afghan capital continued to be the target of attacks which caused casualties among the civilian population. On 1 October, a rocket hit the office of the Afghan Red Crescent Society, killing two people and injuring 13 others among the National Society's staff and people who had come there for help. The surgical teams of the ICRC hospital in Kabul worked non-stop to cope with the influx of wounded people. A record number of 144 beds were occupied in mid-October, representing the hospital's maximum capacity. The situation then gradually began to ease. On 15 October, the sub-delegation in Herat, west of Kabul, opened a dispensary to give first aid to the wounded. The ICRC hospitals in Quetta and Peshawar, across the border in Pakistan, also worked at maximum capacity to treat

wounded people brought there from the towns of Khost, Kandahar and Jalalabad in eastern Afghanistan.

During their many missions in Afghan territory, delegates based in Pakistan visited dozens of prisoners held by Afghan opposition movements and organized the exchange of Red Cross messages between them and their families living in Afghanistan and abroad.

### **China/Viet Nam**

On 8 September, an ICRC team of two delegates and one doctor visited several Chinese prisoners held by the Vietnamese authorities. The previous ICRC visit to these prisoners was in January 1989.

### **Cambodian conflict**

After 26 September, the date on which Vietnamese troops officially completed their withdrawal from Cambodian territory, the resumption of fighting in Cambodia led to a rise in the number of casualties brought to the ICRC hospital at Khao-I-Dang and to the first-aid center in Kab Cherng.

The ICRC received permission from the Cambodian authorities to begin working in Battambang. Several surveys were conducted in the region to prepare for setting up a medical system. The ICRC plans to send a mobile medical team there which can go where it is most needed.

## **Middle East**

### **Lebanon**

On 6 October, unidentified armed persons abducted Emanuel Christen and Elio Erriquez, both ICRC delegates assigned to the orthopaedic centre in Sidon, as they were on their way to work. Seven weeks after their abduction, no one has claimed responsibility and no news has been received from the two hostages.

In Lebanon and from its headquarters in Geneva, the ICRC immediately contacted all groups represented on Lebanese territory and governments with influence in the country and has continued to do so ever since. All have condemned this act, which violates the basic conditions without which no humanitarian work is possible. With demonstrations of solidarity being organized throughout Lebanon, the ICRC made several appeals demanding the release of its delegates and a

return to the respect essential for it at all times and in all circumstances to carry out its mission in behalf of the victims of war (see also p. 579, the text of the *Appeal on behalf of the ICRC delegates kidnapped in Lebanon*, adopted by the Council of Delegates on 26 October).

Before the abduction, and before the ceasefire between the parties to the conflict on 23 September, the ICRC delegation in Lebanon continued to assist the civilians affected by the fighting. Working with UNICEF in Beirut, it pursued its programme to restore sanitation facilities; civilian shelters were disinfected and two pumping stations for drinking water were repaired. In the Christian area of northern Lebanon, in the Beka'a valley and especially in the south of the country, the ICRC continued bringing material and food assistance to people who had fled the appalling fighting in Beirut. Delegates regularly visited the dispensaries and hospitals, which were treating a constant influx of wounded people. Wherever necessary, medical equipment and medicines were distributed.

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

In the period under review, the ICRC delegation in Israel obtained permission from the Israeli authorities to visit several military detention centres to which it had previously not had access. Visits were conducted there in accordance with the institution's customary criteria and will be repeated on a regular basis.

### **Jordan**

From 19 September to 18 October, the ICRC delegation in Jordan carried out its annual series of visits to seven places of detention administered by the prison service.

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## **STATUTORY MEETINGS WITHIN THE MOVEMENT**

*(Geneva, October 1989)*

*The seventh session of the General Assembly of the League of Red Cross and Red Crescent Societies took place in Geneva from 21 to 26 October 1989. The delegates from 144 National Societies who attended the Assembly elected Dr. Mario Villarroel as President of the League. Dr. Villarroel is President of the Venezuelan Red Cross Society and has served as acting President of the League since 1987. The Assembly also elected the League's eight Vice-Presidents, the 16 members of the Executive Council and the Treasurer General.*

*A full account of the General Assembly will appear in the January-February 1990 issue of the Review.*

*The Agreement between the International Committee of the Red Cross and the League of Red Cross and Red Crescent Societies, replacing the 1969 Agreement specifying the respective functions of the two organizations and the 1974 Interpretation of that Agreement, came into force on 23 October 1989, the date on which it was approved by the League General Assembly (the ICRC Assembly having approved it on 5 October).*

*The full text of the Agreement, which exists in English, French, Spanish and Arabic, will appear in the January-February 1990 issue of the Review.*

*The Movement's Council of Delegates met on 26 and 27 October 1989. The resolutions it adopted appear on pages 000-000 and a full account of the proceedings will be given in the next issue of the Review.*

## **COUNCIL OF DELEGATES**

*Geneva, 26-27 October 1989*

At its meeting on 26 October 1989 the Council of Delegates of the International Red Cross and Red Crescent Movement, in conformity with the decisions of the Standing Commission of the Red Cross and Red Crescent, awarded the Henry Dunant Medal and the Red Cross and Red Crescent Prize for Peace and Humanity as follows:

### **Henry Dunant Medal**

**The Henry Dunant Medal was awarded to**

*The late Michael Egabu*, Uganda Red Cross Society, killed in an ambush on 9 January 1989 while a passenger in a Red Cross vehicle;

*Mr. Georges M. Elsey*, former President and President Emeritus of the American Red Cross;

*Dr. Ali Fourati*, Honorary President of the Tunisian Red Crescent;

*Prof. Dr. L. Kashetra Snidvongs*, Former Executive Vice-President of the Thai Red Cross Society;

*Mr. Gejza Mencer*, member of the Federal Committee of the Czechoslovak Red Cross;

*Mr. Leon Stubbings*, former Secretary General of the Australian Red Cross Society.

### **Red Cross and Red Crescent Prize for Peace and Humanity**

*The Red Cross and Red Crescent Prize for Peace and Humanity was awarded to the Lebanese Red Cross.*

The prize was created in 1987 to honour a National Society or an individual who has made an important contribution to international solidarity, and its attribution this year to the Lebanese Red Cross coincides with the 125th anniversary of the Movement.

During a moving tribute to the Lebanese Red Cross, represented by Mrs. Nada Slim, Dr. Abou-Goura, President of the Standing Commission of the Red Cross and Red Crescent, said: "Its volunteers and staff have shown their courage, perseverance, devotion, compassion, humanity, fidelity and determination to work for peace and to alleviate human suffering".

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## **Appeal on behalf of the ICRC delegates kidnapped in Lebanon on 6 October 1989**

*(adopted by the Council of Delegates on 26 October 1989)*

The 144 National Societies meeting in Geneva at the Council of Delegates of the International Red Cross and Red Crescent Movement,

*convey* to the ICRC the expression of their solidarity and support following the kidnapping on 6 October of Emanuel Christen and Elio Erriquez, orthopaedic technicians on mission in Sidon, Lebanon,

*recall* the resolution adopted at the Twenty-third International Conference of the Red Cross (Bucharest, 1977) condemning hostage-taking,

*consider* the kidnapping of the two ICRC delegates to be an unacceptable act, constituting an affront to the very essence of the humanitarian mission of the International Red Cross and Red Crescent Movement and cruelly depriving hundreds of disabled in Lebanon of medical assistance,

*call for* the immediate and unconditional release of Emanuel Christen and Elio Erriquez to restore the respect the ICRC requires, at all times and in all circumstances, to carry out its neutral and impartial humanitarian mission, and to enable the ICRC to continue unhindered its work for the victims of war.

# Resolutions of the Council of Delegates

*(adopted at its session of 27 October 1989)*

## 1

### **World Campaign for the Protection of Victims of War**

The Council of Delegates,

*recalling* that the project for a World Campaign for the Protection of Victims of War was unanimously adopted by the Council of Delegates at Rio de Janeiro in November 1987,

*having taken note* of the report prepared by the Steering Committee of the Campaign which was appointed by the Commission on the Red Cross, Red Crescent and Peace,

1. *thanks* the Steering Committee for the preparatory work already done on this project,
2. *expresses its commitment* to such humanitarian mobilization on a global scale,
3. *urges* all components of the Movement to support the Steering Committee in its efforts to raise the necessary resources for the Campaign,
4. *approves* the general goal of the Campaign and, subject to available resources, the plan as outlined in the Steering Committee's report,
5. *enjoins* the National Societies, the ICRC and the League to take active part in implementing the project, on a national, regional and international basis,
6. *requests* the Steering Committee to ensure that the National Societies are provided with the necessary support and advice in order to create optimal conditions for the preparation and ultimate success of the Campaign,
7. *invites* the Commission on the Red Cross, Red Crescent and Peace to present the results of this Campaign to the next Council of Delegates.

## **The International Red Cross and Red Crescent Movement and Human Rights**

The Council of Delegates,

*having taken note* with interest of the report submitted by the Group of Experts on Human Rights to the Commission on the Red Cross, Red Crescent and Peace, in accordance with Decision 1 of the 1985 Council of Delegates,

1. *thinks* the Commission as well as the Group of Experts on Human Rights for their excellent work,
2. *accepts* the report of the Group of Experts on Human Rights as approved by the Commission,
3. *urges* National Societies, the ICRC and the League to do their utmost to implement the conclusions and recommendations of this report.

## **Future of the Commission on the Red Cross, Red Crescent and Peace**

The Council of Delegates,

*having taken note* of the report presented by the Commission on the Red Cross, Red Crescent and Peace on its work since the 1987 Council of Delegates in Rio de Janeiro,

*noting* that, for lack of time, the Commission was unable to fulfil the mandates entrusted to it in accordance with:

- a) Decision 1 of the 1985 Council of Delegates, inviting the Commission to consider developing and co-ordinating the implementation of a four-year plan relative to the Programme of Action of the Red Cross as a Factor of Peace, to the final document of the Second World Red Cross and Red Crescent Conference on Peace, and to Resolutions 1 and 2 of the 1983 Council of Delegates,
- b) Decision 3 of the 1985 Council of Delegates concerning reactivation of the Plan for Red Cross and Red Crescent Action in the Struggle against Racism and Racial Discrimination,

*stressing* that the programme of work of the World Campaign for the Protection of Victims of War extends until 1991,

*recognizing* the importance of following the recommendations contained in the report of the Group of Experts on Human Rights,

*extends* the mandate of the Commission with its current composition until the next Council of Delegates, requesting the Commission to carry out the tasks set forth above and submit proposals to the Council of Delegates regarding its future, its mandate, duration and composition.

## 4

### Information Policy of the Movement

The Council of Delegates,

*having taken note* of the ICRC-League report on the Information Policy of the International Red Cross and Red Crescent Movement,

1. *thanks* the International Communications Group for the work it has accomplished and takes note with great interest of its considerations and recommendations,
2. *approves* the global approach to communications, as defined in the ICRC-League report,
3. *recommends* that the National Societies, the ICRC and the League use the Identity Statement contained in the report to promote the Movement and its work,
4. *decides* with regard to World Red Cross and Red Crescent Day,
  - to select the annual theme on a three-year cycle,
  - to adopt the following themes for the next three years:
    - 1990: *Protecting Human Life and Dignity*
    - 1991: *Victims of War*
    - 1992: *The Prevention of Disasters*
  - to feature a global event on World Red Cross and Red Crescent Day, involving the promotion of a specific message and of the financial resources of the Movement,
5. *invites* the ICRC and the League, in co-ordination with National Societies, to find the resources necessary for the editing and distribution of *Red Cross, Red Crescent*, the Movement's magazine,
6. *recommends* that the ICRC and the League establish, in co-ordination with National Societies, a programme to improve or to create information services in National Societies of developing countries,
7. *encourages* co-productions in the field of communications, so as to reinforce the Movement's unity and solidarity among its members,
8. *takes note* of the intention of the ICRC and the League to establish, in association with National Societies, a Joint Working Group:

- a) to review international activities undertaken to implement the Information Policy, so as to ensure their coherence and co-ordination,
  - b) to develop proposals at international level—with due regard to the Fundamental Principles, financial efficiency and communications requirements—to promote the Movement and to raise funds, in co-ordination with National Societies, through sponsorship for the benefit of the Movement,
9. *requests* the ICRC and the League to report to the next Council of Delegates on progress made in these areas.

## 5

### **Participation of the International Red Cross and Red Crescent Movement in the 1992 Universal Exposition in Seville**

The Council of Delegates,

*recalling* that the Council of Delegates meeting in Rio de Janeiro on 27 November 1987 unanimously decided that the ICRC, League and all National Societies should participate in EXPO '92,

*noting* that the Presidents of the ICRC, League and Spanish Red Cross have held three meetings on how such participation is to be financed, and how the Movement is to be represented,

*further noting* that the Joint Working Group on Information and Public Relations set up by the ICRC and the League has studied how the Movement might participate so as to maximize the international impact of its humanitarian principles and activities,

*considering* that such participation gives the Movement a unique opportunity to be represented in an Exposition devoted to promoting human achievement worldwide, in an international event expected to attract more than 40 million visitors and featuring more than 100 countries plus 14 international organizations,

*conscious* that participation will allow continuous promotion of the Movement's humanitarian message and work over six months, as well as providing a focus for World Red Cross and Red Crescent Day on 8 May 1992,

*being informed* that an excellent site has been allocated gratis for the pavilion of the Movement, alongside the pavilions of other international organizations,

*and taking into account* the agreement reached by the Presidents of the ICRC, the League and the Spanish Red Cross that a joint working group of experts should be appointed by the ICRC and the League, in consultation with

the Spanish Red Cross, to advise on construction, programme content and sponsoring,

1. *reaffirms* that the Movement will participate in the 1992 Universal Exposition in Seville (EXPO '92) and,

2. *decides* that:

- the Spanish Red Cross will be the legal representative of the ICRC and the League with regard to the authorities of EXPO '92,
- Mr Leocadio Marín, President of the Spanish Red Cross, will be General Commissioner of the Red Cross and Red Crescent pavilion,
- the Spanish Red Cross is entrusted with fund-raising for the pavilion, in conformity with existing Regulations and Principles,
- the overall costs of the Movement's pavilion—construction, programme and services—will be covered by commercial sponsorship plus other donations (including contributions from the ICRC and the League); the total sum being guaranteed, in any event, by the Spanish Red Cross,
- the pavilion building will become the property of the Spanish Red Cross at the conclusion of EXPO '92.

## 6

### **Formation of a working group to examine the 1987 revised provisions on the use of the emblem in the light of experience and new developments**

The Council of Delegates,

*anxious* to support and encourage the work of the National Societies to promote respect in each country for the rules governing the use of the red cross and the red crescent emblem,

*recalling* the mandate given to the ICRC by the Twenty-fourth International Conference of the Red Cross (Manila, 1981) to prepare a revised version of the "Regulations on the use of the emblem of the red cross, red crescent and red lion and sun by National Societies" (Resolution XII),

*recalling* Resolution 6 of the 1987 Council of Delegates to submit to the Twenty-sixth International Conference of the Red Cross and Red Crescent for formal adoption the draft regulations drawn up by the ICRC in consultation with the National Societies and the League Secretariat,

*considering* developments since the aforementioned draft was drawn up and experience gained in implementing its provisions,

1. *invites* the ICRC, in consultation with the League, to study the questions raised by the implementation of certain rules and, to this end, to form a

working group with representatives of the League and of National Societies from the various parts of the world,

2. *requests* the ICRC to report the results of the group's work to the next Council of Delegates before submitting the revised Regulations for formal adoption to the Twenty-sixth International Conference.

7

**Study on respect for and dissemination  
of the Fundamental Principles of the Red Cross and Red Crescent**

The Council of Delegates,

*having examined* the ICRC's interim report on the study on respect for and dissemination of the Fundamental Principles of the Red Cross and Red Crescent,

1. *reaffirms* the importance of respect for the Fundamental Principles by the Movement's components and the need to disseminate knowledge of the Principles also among the general public,
2. *requests* the ICRC to continue the study in consultation with all the National Societies, the League and the Henry Dunant Institute,
3. *invites* the components of the Movement to collect any material they consider useful for promoting understanding and dissemination of the Principles and to forward it to the ICRC,
4. *requests* the ICRC to submit a report to the next Council of Delegates.

\* \* \*

The Council of Delegates also took note of a *report on the celebration of the 125th anniversary of the International Red Cross and Red Crescent Movement*.

It furthermore took note of a *report on the activities of the Henry Dunant Institute*, of a document drawn up by nine African National Societies in *support of the Henry Dunant Institute's development studies*, and of a pledge by the League Secretary General of his institution's continued support for these projects.

The Council lastly decided to hold its next session at the same time and place as the next League General Assembly.

## **Recognition of the Saint Vincent and the Grenadines Red Cross Society**

CIRCULAR No. 553

Geneva, 14 November 1989

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

Ladies and Gentlemen,

We have the honour of informing you that the Saint Vincent and the Grenadines Red Cross Society has been officially recognized by the International Committee of the Red Cross. This recognition, which took effect on 4 October 1989, brings to 149 the number of National Societies that are members of the International Red Cross and Red Crescent Movement.

Founded on 15 July 1949 as a branch of the British Red Cross, the Society officially applied for recognition by the International Committee of the Red Cross on 6 March 1989. In support of its application, it forwarded various documents, including a report on its activities, the text of its Statutes and a copy of Act No. 13 incorporating the Society. This Act was adopted by Parliament on 12 April 1984 and signed into law by the Governor-General on 17 May 1984. It attests that the Society is recognized by the Government as a voluntary aid society auxiliary to the public authorities in accordance with the provisions of the First Geneva Convention of 1949.

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

The progressive development of the Saint Vincent and the Grenadines Red Cross Society, has been closely observed by the ICRC and the League and their representatives have visited the Society several times in recent years. They have ascertained that the Society has a sound infrastructure which enables it to extend its activities throughout the national territory. These activities are being

developed in several spheres: first-aid training, social assistance for the elderly and the destitute, disaster preparedness and emergency aid to disaster victims.

On 1 April 1981, the Swiss Federal Council received notification of the accession by Saint Vincent and the Grenadines to the Geneva Conventions of 12 August 1949, which entered into force in that country on 1 October 1981.

On 8 April 1983, Saint Vincent and the Grenadines furthermore deposited an instrument of accession to the two Protocols of 8 June 1977 additional to the said Conventions. The Protocols entered into force there on 8 October 1983.

The Director General of the Saint Vincent and the Grenadines Red Cross Society is Mrs. Yvonne Patterson. The headquarters is located in Kingstown at the following address: **Saint Vincent and the Grenadines Red Cross Society, P. O. Box 431.**

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

FOR THE INTERNATIONAL COMMITTEE  
OF THE RED CROSS  
**Cornelio Sommaruga**  
*President*

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## **Course on international humanitarian law for Dutch-speaking countries**

The Flemish Section of the Belgian Red Cross and the Netherlands Red Cross jointly organized a course on international humanitarian law for representatives from all regions where Dutch is spoken. The course, the first of its kind, was held in Bruges, Belgium, from 10 to 17 September 1989 and was attended by 38 people, including students, a professor, dissemination officers, trainee diplomats and representatives of various ministries from the Netherlands, Flanders, Indonesia and Suriname.

Opening remarks were made by Mr. Daniel Coens, Minister of Education of the Flemish Community, Mr. J. J. van der Weel, President of the Netherlands Red Cross and Mr. V. Laysen, President of the Belgian Red Cross

(Flemish Section). The course itself dealt with humanitarian law, its development and dissemination. Talks were given by professors from the Universities of Leyden and Limburg in the Netherlands and Antwerp, Louvain and Brussels in Belgium, as well as by a representative of the Belgian Ministry of Foreign Affairs and members of the two National Societies which organized the course.

This course was of a high academic level and was greatly appreciated by those who took part. A similar course will be organized in the Netherlands in 1990.

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## **Death of H.S.H. Princess Gina of Liechtenstein**

It was with great sorrow that the ICRC learned of the death on 18 October 1989 of Her Serene Highness Princess Gina of Liechtenstein, founder and President from 1945 to 1985 of the Liechtenstein Red Cross.

Her passing deprives the Movement of one of its most eminent figures, whose lifelong devotion to the Red Cross was exemplary.

It was on Princess Gina's initiative that the Liechtenstein Red Cross was created on 30 April 1945 to assist the thousands of refugees fleeing hunger and destruction during the last days of the Second World War. The Princess herself set the example by distributing relief to destitute men, women and children. In the ensuing decades the President of the Liechtenstein Red Cross was often to be found in the front ranks, working with the utmost devotion to help refugees from Hungary in 1956, from Czechoslovakia in 1968 and from Indo-China in 1979.

Princess Gina initiated many humanitarian activities, including development schemes for National Societies, and launched numerous operations to assist the victims of disasters, such as the drought and famine which have afflicted Ethiopia in recent years. She also worked tirelessly for the benefit of handicapped children in Africa.

In her own country, Princess Gina was well known for her child care programmes and her projects to provide medical care for the sick at home and assistance for the elderly.

Her immense contribution to and personal participation in humanitarian activities nationally and internationally and her outstanding dedication to the wounded, the sick and war victims made of her an outstanding champion of the humanitarian cause.

For all these reasons, in 1987 the Standing Commission of the Red Cross and Red Crescent awarded her the Henry Dunant Medal.

Princess Gina had been Honorary President of the Liechtenstein Red Cross since 1985.

The ICRC was represented by its former President, Mr. Alexandre Hay, at the Princess' funeral on 24 October in Vaduz.

In paying tribute to Princess Gina of Liechtenstein, the ICRC shares her family's deep sorrow and mourns a Red Cross personality of great stature.

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## **The Republic of Côte d'Ivoire ratifies the Protocols**

On 20 September 1989, the Republic of Côte d'Ivoire ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts, adopted in Geneva on 8 June 1977.

In accordance with their provisions, the Protocols will come into force for the Republic of Côte d'Ivoire on 20 March 1990.

This ratification brings to **89** the number of States party to Protocol I and to **79** those party to Protocol II.

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## **The People's Republic of Bulgaria ratifies the Protocols**

On 26 September 1989, the People's Republic of Bulgaria ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts, adopted in Geneva on 8 June 1977.

In accordance with their provisions, the Protocols will come into force for the People's Republic of Bulgaria on 26 March 1990.

This ratification brings to **90** the number of States party to Protocol I and to **80** those party to Protocol II.

## The Union of Soviet Socialist Republics ratifies the Protocols

On 29 September 1989, the Union of Soviet Socialist Republics ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts (Protocol I) and non-international armed conflicts (Protocol II), both adopted in Geneva on 8 June 1977.

The instrument of ratification for Additional Protocol I contained the following declaration:

*In accordance with Article 90 (2) of Protocol I, the Union of Soviet Socialist Republics recognizes ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission (Russian original).*

The USSR is the **sixteenth** State to make the declaration regarding the Commission, which will be set up once twenty States have made such declarations.

In addition, the instrument of ratification was accompanied by the following general statement:

*The Soviet Union's ratification of the Protocols additional to the Geneva Conventions for the protection of the victims of war constitutes an unusual event in the recent diplomatic history of our country.*

*It reflects the spirit of new political thinking and demonstrates the Soviet State's commitment to humanizing international affairs and strengthening the system of international law.*

*At the same time, it exemplifies the spirit of continuity between Russian and Soviet diplomacy, extending back to the 1860s, in seeking to ensure that the principles of humanism and mercy are respected even in the tragic circumstances of war.*

*The Additional Protocols, in whose drafting the Soviet Union played a universally recognized role, were among the first international instruments presented for ratification to the new Soviet Parliament.*

*It should be pointed out that the Supreme Soviet of the USSR chose to ratify the Protocols without any reservation whatsoever. At the same time, our State recognized the competence of the International Fact-Finding Commission in cases where international humanitarian law is violated.*

*We in the Soviet Union hope that the ratification of the Additional Protocols will be duly appreciated by all those involved in the noble cause of humanism and the endeavour to free mankind from the horrors of war (Original French).*

In accordance with their provisions, the Protocols will come into force for the Union of Soviet Socialist Republics on 29 March 1990.

This ratification brings to **91** the number of States party to Protocol I and to **81** those party to Protocol II.

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## The Paul Reuter Prize

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

The prize, in the amount of 2,000 Swiss francs, is awarded for a major work in the field of international humanitarian law. It was first awarded in 1985 to Mr. Mohamed El Kouhène, Doctor of Laws, for his doctoral thesis entitled *Les garanties fondamentales de la personne en droit humanitaire et droits de l'homme* (Fundamental guarantees of the individual under humanitarian law and in human rights)<sup>1</sup>.

The second award was made in 1988 to Ms. Heather Anne Wilson, also Doctor of Laws, for her thesis entitled *International Law and the Use of Force by National Liberation Movements*<sup>2</sup>. The prize will be awarded for the third time in 1990. In accordance with the Regulations of the Paul Reuter Prize, to be considered for the next award, the applicants must fulfil the following conditions:

1. The work submitted must be aimed at improving knowledge or understanding of international humanitarian law.

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<sup>1</sup> See the *International Review of the Red Cross*, No. 257, March-April 1987, pp. 231-232.

<sup>2</sup> See *IRRC*, No. 266, September-October 1988, pp. 477-478.

2. It must either be still unpublished or have been published recently, i.e. in 1989 or 1990.
3. Authors who meet the above requirements may send their applications to **Mr. Paolo Bernasconi**, Chairman of the Commission of the Paul Reuter Fund, International Committee of the Red Cross,<sup>3</sup> as soon as possible and by *15 November 1990* at the latest.
4. Applications may be submitted in *English, French or Spanish*, and must include:
  - a brief curriculum vitae;
  - a list of the applicant's publications;
  - three unabridged copies of the work submitted to the Commission.

The Statutes of the Fund and the Regulations of the Paul Reuter Prize were published in the November-December 1983 issue of the *International Review of the Red Cross*.

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## **Fourteenth Round Table of the International Institute of Humanitarian Law**

**(San Remo, 12-16 September 1989)**

The Fourteenth Round Table on current problems of international humanitarian law (IHL), organized by the International Institute of Humanitarian Law (IIHL), took place in San Remo from 12 to 16 September 1989. The meeting was held under the auspices of the ICRC, the United Nations High Commissioner for Refugees, the Intergovernmental Committee for Migration and the League of Red Cross and Red Crescent Societies and was attended by some 150 participants, including representatives from some 15 National Red Cross and Red Crescent Societies, experts, representatives of permanent missions and members of NGOs.

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<sup>3</sup> 19, avenue de la Paix, CH-1202 Geneva.

This fourteenth session was divided into three parts: one day was devoted to refugee problems, two days to the Red Cross and Red Crescent Symposium, whilst the Round Table proper spent two days discussing the rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts.

## 1. Refugee Day (12 September)

The meeting, chaired by Mr. Jean-Pierre Hocké, United Nations High Commissioner for Refugees, was devoted to the protection of refugees in non-international armed conflicts. The theme was introduced by Dr. Ghassan Arnaout, Director, UNHCR Division of Refugee Law and Doctrine, and was extensively discussed by a panel of 15 specialists, who examined a draft declaration on the protection of refugees, asylum seekers and displaced persons. The day ended with the adoption of this declaration, as follows:

### DECLARATION ON THE PROTECTION OF REFUGEES ASYLUM SEEKERS AND DISPLACED PERSONS

*Deeply concerned* about the plight of refugees and displaced persons,

*Recognizing* the necessity of applying humanitarian principles and securing the full observance of fundamental human rights in refugee situations,

*Commending* the office of the United Nations High Commissioner for Refugees for pursuing the development of international refugee law,

The participants of the 14th Round Table on the current problems of international humanitarian law, inspired by compelling humanitarian sentiments,

*Declare that:*

In situations not covered by international Conventions in force, refugees, asylum seekers and displaced persons are nevertheless protected by the general principles of international law, by the humanitarian practices of international organizations accepted by States, by the principle of humanity and by the rules on basic human rights.

## 2. The IIHL Round Table (13-14 September)

Within the context of the 125th anniversary of the original Geneva Convention, the San Remo Institute had selected a particularly topical issue for discussion, namely *the rules of international humanitarian law governing the conduct of hostilities in non-international armed conflicts*.

The Geneva Conventions and their Additional Protocols (Article 3 common to the Four Geneva Conventions and Protocol II) only touch briefly on the law governing the conduct of hostilities. The object of the Round Table was therefore to highlight the obligatory nature of some of the basic rules governing the conduct of hostilities in non-international armed conflicts and to examine the position of the law with regard to certain weapons whose use in international conflicts is strictly limited or prohibited by treaties.

An introductory report on the general rules and methods of combat in internal conflicts was given by Dr. Kosta Obradovic, Professor at the Belgrade Institute of International Politics and Economics, followed by a study presented by Dr. Horst Fischer from the Ruhr University, Bochum (FRG), on the limitation or prohibition of the use of certain weapons.

The participants were then divided into two working groups. The first group was chaired by Professor Dietrich Schindler, a member of the ICRC, assisted by Professor Obradovic, Professor Frits Kalshoven, Legal Adviser of the Netherlands Red Cross, and Ms. Denise Plattner, a member of the ICRC Legal Division. It discussed seven topics, namely *the principle of distinction between combatants and civilians, the ban on causing unnecessary suffering or superfluous injury, the ban on perfidy, the protection of medical personnel and units, chemical weapons, expanding bullets and poison*.

The second group was chaired by Professor L. R. Penna, of Singapore University, assisted by Dr. Horst Fischer, Professor Theodor Meron from New York University, and Ms. Louise Doswald-Beck, a member of the ICRC Legal Division. The issues covered included *the principle of immunity of the civilian population (i.e., the ban on acts intended to spread terror, indiscriminate attacks, incidental damage and the principle of proportionality), the protection of civilian property and objects (objects indispensable for survival), the protection of hospitals and safety zones and precautions in attack, mines, booby traps and other devices, and incendiary weapons*.

The extremely useful conclusions reached by both working groups at the end of their two-day sessions were presented by Mr. René Kosirnik, Head of the ICRC Legal Division. These conclusions affirm and/or reaffirm the customary and/or mandatory nature, pursuant to the general principles of IHL, of the following rules, which are applicable in all situations of armed conflict:

- the obligation to distinguish between civilians and combatants;
- the ban on attacking civilians or the civilian population;
- the ban on acts or threats intended to spread terror;
- the ban on indiscriminate attacks;
- the ban on perfidy;
- the ban on causing unnecessary suffering or superfluous injury;
- the ban on attacking or destroying objects indispensable for the survival of the civilian population;
- the ban on attacking buildings used only to house civilians;
- the obligation to take all necessary precautions in attack;
- the protection in all circumstances of medical personnel and medical units.

As regards the prohibition on using certain weapons, the following conclusions were adopted:

- *chemical weapons*: the ban on the use in any circumstances of poison gas is anchored in customary law (the issue of tear-gas or other gases such as “riot control” gas remains open);
- *mines, booby traps and incendiary weapons*: their use against civilians is prohibited, and they may not be employed in such a way as to strike without distinction;
- *expanding bullets (dumdum bullets)*: the ban proclaimed in 1899 is now part of customary law and applicable in all armed conflicts, but the question has not been settled as regards situations outside the scope of IHL;
- *poison*: the general ban on poison both as a method and a means of combat is part of customary law.

It should be emphasized that these extremely important conclusions were presented verbally and likewise received only verbal approval from the Round Table, which therefore decided that they would be set down in writing and submitted to the Council of the Institute for formal adoption at its spring session in 1990; they would then be published and their contents disseminated as widely as possible, because they con-

stituted an extremely useful means of ensuring the protection of human beings in non-international armed conflicts.

### 3. Red Cross and Red Crescent Symposium (15 and 16 September)

The central theme of the Symposium, which was chaired by Dr. Ahmad Abu-Goura, Chairman of the Standing Commission of the Red Cross and Red Crescent, was the *role of the National Red Cross and Red Crescent Societies in non-international armed conflicts*.

In his opening address, the President of the ICRC, Mr. Cornelio Sommaruga, said that the fact that the majority of today's conflicts had become internal and were taking an increasing toll of civilian victims had brought about a change in the activities of National Societies, which often had considerable difficulty in gaining access to all the victims requiring impartial humanitarian assistance. Experience had shown that there was a need for a neutral intermediary, namely the ICRC, capable of assuming responsibility for Red Cross action vis-à-vis both sides. Mr. Sommaruga also stressed the importance of unity within the Movement (mutual respect for each component's specific role and preservation of the Movement's positive image) and of co-ordination between its various components.

The ICRC President's speech was followed by presentations by representatives of the following National Societies: Colombia (Mr. Walter Cotte), Mozambique (Mrs. Janet Mondlane), Uganda (Mr. Peter Oryema), Netherlands (Mr. Peter Tjittes), Philippines (Ms. Lourdes Masing) and Sweden (Mr. Carl-Ivar Skarstedt). The speakers gave reports on the experience acquired by their respective Societies in one or several of the following fields: *medical work in times of internal conflict, activities as intermediaries between parties to a conflict, steps taken in the events of violations of fundamental guarantees, international activities of the Movement and the role of National Societies*. These various topics were then discussed by all the participants, divided into two working groups.

The first group, chaired by Mr. Fritz Wendl, Legal Adviser of the League, dealt with the following themes: *medical and other relief activities and international activities of the Movement*.

The rapporteurs were Mr. Thomas Klemp, Legal Adviser of the German Red Cross in the Federal Republic of Germany, and Mr. Ilkka Uusitalo, Deputy Secretary General of the Finnish Red Cross.

The second group, chaired by Mr. Yves Sandoz, Director, ICRC Department of Principles, Law and Relations with the Movement, covered the following topics: *Activities as intermediaries between*

*parties to a conflict and Steps to be taken in the event of violation of fundamental guarantees.*

The rapporteurs were Mr. Santiago Gil, Director of the Training Institute of the Spanish Red Cross, and Mr. Jean-Luc Blondel, Deputy Head, ICRC Division for Principles and Relations with the Movement.

Both groups noted that there was a definite gap between legislation and practice.

a) ***Medical and other relief activities*** — The working group reaffirmed the rule that a National Society's medical activities must be respected and protected in non-international armed conflicts. In practice, however, National Societies frequently found it extremely difficult to carry out their humanitarian duties in behalf of all the parties to a conflict. Conversely, from a legal standpoint it was questionable whether National Societies—unlike the ICRC—could act as intermediaries, whereas in practice a National Society might well have access to dissident armed forces and be trusted by them. In some cases the National Society of the country affected by the conflict might be more readily acceptable to the government than outside organizations such as the ICRC or a National Society from another country.

It was pointed out that the ICRC's unique status did not hinder the humanitarian activities of a National Society, provided that the Society worked in accordance with international humanitarian law and the fundamental principles of the Movement. On condition that assistance was offered to both sides in an internal conflict it seemed acceptable for a National Society to act on one side only, if its offer of medical assistance was not accepted by the other side. The principle of impartiality was violated only when a National Society deliberately confined its humanitarian work to one side.

b) ***International activities of the Movement*** — The participants clearly saw a need for an increased role for the National Societies in situations of internal conflict. The fact that in many instances National Societies had found themselves unable to take action was not due solely to political or legal constraints but was also because they did not have the necessary material or financial resources to carry out their tasks without external assistance from the ICRC and other National Societies.

In this connection it was suggested that the League, in its development programmes, should place greater emphasis on National Society preparedness to act in internal conflicts and on their task of encouraging their governments to implement international humanitarian law.

The ICRC's special role and position in affording protection were widely reaffirmed.

c) *Intermediaries between parties to a conflict* — The participants emphasized that in situations of non-international conflict, a National Society's function as an intermediary depended largely on the confidence and credibility it had established throughout the country.

In order to gain such confidence, a National Society must conduct extensive dissemination programmes in peacetime already, using methods adapted to all audiences and giving practical demonstrations; it must also ensure a selective recruitment and continued training of both permanent staff and volunteers.

Given the difficulties encountered by National Societies in situations of internal conflict, co-operation with the ICRC ensured that Red Cross work could carry on in areas and fields of activity where National Societies were unable to pursue their tasks.

Generally speaking, however, a clear distinction had to be drawn between the respective responsibilities and functions of the Movement's components, whose complementarity was stressed, and emphasis placed on co-operation, which was the only way of ensuring efficiency in Red Cross and Red Crescent action.

d) *Violations of the basic rules of international humanitarian law* — Although the Movement's priority was to assist conflict victims in the most practical possible way, this did not mean that it remained silent at all costs when faced with violations of the humanitarian rules. National Societies, as well as the ICRC, might decide to take steps, possibly even through public statements, to condemn such violations.

One of the Movement's essential duties, however, was to take preventive action in order to ensure compliance with the two most fundamental humanitarian rules, namely respect for human beings and their dignity. Hence the importance of National Society action to have these rules incorporated in national legislation, to launch educational programmes and help train members of the police, the armed forces and prison staff accordingly, and to keep the general public informed, for example, about torture and the means of combating it.

\* \* \*

The Round Table's final meeting was devoted to presentation of the conclusions reached by both working groups and the award to the

Swedish Red Cross of the Prize for the promotion, dissemination and teaching of international humanitarian law.

Several statutory meetings of the Institute were held in parallel with the Round Table, namely the Commission on International Humanitarian Law and Human Rights, chaired by Mr. Yves Sandoz, and the Council and General Assembly of the Institute, which re-elected Professor Jovica Patrnogic as President of the Institute and confirmed the election of the members of the Council for a further term.

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## BOOKS AND REVIEWS

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### DOCUMENTS ON THE LAWS OF WAR\*

Roberts and Guelff's *Documents on the Laws of War* was first published in 1982 (and mentioned in the November/December 1983 issue of the *Review*). This collection of treaties and other documents pertaining to the law of war soon became an invaluable tool for everyone interested in international humanitarian law in the broad sense. It is with great pleasure that the *Review* now draws the attention of its readers to the second edition of *Documents on the Laws of War*. Although the second edition does not add any further treaties to the selection included in the original volume, it nevertheless contains a wealth of new information. That alone justifies an announcement in the *Review*.

It is mainly a collection of treaties and other texts for scholars and legal practitioners who need to know the present state of codified international humanitarian law. The reader will therefore find all the treaties which are currently in force, together with a number of other relevant instruments, from the 1856 Paris Declaration onwards. In the reviewer's opinion, the selection made by the authors is well-nigh perfect. Furthermore, Roberts and Guelff have included several documents which, not being treaties, are not binding on States but which have had or still have an impact on the law (such as the 1923 Hague Rules of Aerial Warfare, the 1936 London Procès-Verbal on Submarine Warfare, and extracts from the Nuremberg Judgment), or are otherwise important for its understanding (e.g., the 1978 Red Cross Fundamental Rules of International Humanitarian Law). Although the editors' decision not to include resolutions of the UN General Assembly is generally sound, an exception in favour of Resolutions 2444 (XXIII) of 19 December 1968 and 2675 (XXV) of 9 December 1970 would have been welcome. These texts, too, would seem to be indicators of the state of customary law.

The text of each instrument is accompanied by a wealth of useful information: history of the treaty, basic information on the respective diplomatic conference, authentic languages, official source of the text and other publications, state of acceptance (list of States parties, reservations and declarations), etc. A short check reveals the accuracy of these most useful details. In a general introduction to the volume the editors give a brief outline of terminology, the source of humanitarian law (with an especially welcome reminder of the importance of customary law), the application of the law to States and to individuals in international and non-international armed conflicts and other relevant matters. The practitioner in humanitarian law is particularly happy to read the chapter on the practical impact of the law, in which the

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\* *Documents on the Laws of War*, edited by Adam Roberts and Richard Guelff, second edition, Clarendon Press, Oxford, 1989, 509 pp. + XI.

editors convincingly show that despite widespread pessimism about its role, humanitarian law *does* indeed influence the conduct of warfare.

A short bibliography and an index complete the volume, which is of quite manageable size (some 500 pages).

This revised and updated edition of Roberts and Guelff's *Documents on the Laws of War* is a most useful and judicious collection of essential instruments of international humanitarian law. The handy volume will be indispensable for all English-speaking scholars and practical lawyers, whether newcomers to the subject or seasoned practitioners.

Hans-Peter Gasser

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## HUMAN RIGHTS AND HUMANITARIAN NORMS AS CUSTOMARY LAW\*

In this work the author, an eminent specialist in international human rights law and international humanitarian law, examines the relationship between these two branches of the law and the general rules relating to the formation of customary law on the one hand and to international responsibility on the other.

The first chapter deals with the influence of the provisions of international humanitarian law treaties on the development of customary law applicable in armed conflicts without, however, going into the general question of the nature and elements of customary law in the contemporary international community. The second chapter, which addresses the same problem in relation to human rights instruments, gives an extensive review of international and national (especially American) jurisprudence.

A definitive, although somewhat hesitant, trend emerges from these two chapters. Indeed, it would seem that when the customary nature of a norm has to be determined in the two domains mentioned above, more importance is attached in practice to *opinio juris* than to acts consistent with the postulated rule. More particularly, the treaty commitments entered into by States and the declarations they make in various international fora are increasingly considered as practice contributing to the development of customary law. It is in this context that the author analyses the judgment rendered by the International Court of Justice in *Nicaragua v. United States* merits. Professor Meron quite rightly criticizes the court, not for the conclusions it reached but for failing to justify those conclusions.

With regard to Protocol I additional to the Geneva Conventions, it is the author's view, referring to various statements made by the United States

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\* Theodor Meron, *Human Rights and Humanitarian Norms as Customary Law*, Clarendon Press, Oxford, 1989, 263 pp.

authorities; that the great majority of its rules are likely to qualify as customary law, once the Protocol is more universally accepted and if the whole of State practice *lato sensu* is analysed. On this last point one might beg to differ with Professor Meron, who gives decisive weight to the practice of the great powers and of States involved in armed conflicts. In the opinion of this reviewer, the customary nature of a rule of international humanitarian law can be assessed only by taking into account the practice of all States; the practice, again *lato sensu*, of States living in peace must have the same weight as that of actual or potential belligerents. In this connection we also feel that the author attaches too much importance to military manuals, which are certainly useful for demonstrating the *opinio juris* and the practice of a given State, but are much too uncommon and difficult to come by to serve as a guide to general practice.

As for the law applicable in internal conflict, the author observes that it will be difficult to derive customary rules from Protocol II; less so for the principles of human rights reaffirmed in this treaty than for the rules on the conduct of hostilities. In this sphere, rules deduced from principles must be combined with internal legislation and the reactions of third parties spurred by public opinion if any general law is to emerge.

In the third and last chapter the author shows that violation of a rule of humanitarian law or human rights law engages the international responsibility of a State, in accordance with the rules of general international law. Thus, by virtue not only of Article 1 common to the Geneva Conventions but also of the general concept of violations *erga omnes*, when a State violates a rule of humanitarian law (or is in serious breach of human rights law), the whole community of States is the victim of that violation. The States can then take the action provided for in the relevant instruments but, according to the text of the latter, in most cases they can also act on the basis of general rules. A counter-measure violating another customary or treaty-based obligation (not itself of a humanitarian nature) cannot therefore be ruled out.

The present review can mention only a few aspects, mainly concerning international humanitarian law, of this very instructive and admirably presented work whose arguments are supported by a wealth of references. By showing that international humanitarian law and human rights are both branches of international law governed by the general rules on sources and international responsibility, with the exception of some specific provisions, Professor Meron justifiably hopes to enhance respect for the individual in international society. He is always very prudent in putting forward his views and is careful to point out counter-evidence and opposite trends, thus making his propositions all the more convincing. The reader wishing to find more clear-cut conclusions and more definite replies to certain questions raised has failed to appreciate the fluid nature of international law, particularly as concerns the issues addressed in this work.

*Marco Sassòli*

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## ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA (Socialist People's Republic of) — Albanian Red Cross, Boulevard Marsel Kashen, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Cruz Vermelha de Angola, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, 3, Gusshausstrasse, Postfach 39, A-1041, *Vienne 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, Dhaka-1217, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleur-*gat, 1050 Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (People's Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRASIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa, Ontario K1G 4J5*.
- CAPE-VERDE (Republic of) — Cruz Vermelha de Cabo Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA (People's Republic of) — Red Cross Society of China, 53, Ganmian Hutong, *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, N.º 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO (People's Republic of the) — Croix-Rouge congolaise, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Croix-Rouge de Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Calzada 51 Vedado, Ciudad Habana, *Habana 4*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovská 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjølds Allé 28, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Société du Croissant-Rouge de Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, calle de la Cruz Roja y Avenida Colombia, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, *San Salvador*, Apartado Postal 2672.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis-Ababa*.
- FIIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. Box 168, 00141 *Helsinki 14115*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMAN DEMOCRATIC REPUBLIC — German Red Cross of the German Democratic Republic, Kaitzer Strasse 2. DDR, 8010 *Dresden*.
- GERMANY, FEDERAL REPUBLIC OF — German Red Cross in the Federal Republic of Germany, Friedrich-Erbert-Allee 71, 5300, *Bonn 1*, Postfach 1460 (D.B.R.).
- GHANA — Ghana Red Cross Society, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 221, *St George's*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUINEA — The Guinean Red Cross Society, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Sociedad Nacional da Cruz Vermelha de Guiné-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.

- HONDURAS — Honduran Red Cross, 7.<sup>a</sup> Calle, 1.<sup>a</sup> y 2.<sup>a</sup> Avenidas, *Comayagüela D.M.*
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, *Budapest 1367*. Mail Add.: *1367 Budapest 51. Pf. 121.*
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New-Dehli 110001*.
- INDONESIA — Indonesian Red Cross Society, Il Jend Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Bagdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Ammán*.
- KENYA — Kenya Red Cross Society, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyeongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat, *Kuwait*.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*, West Africa.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, *Luxembourg 2*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, aneue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, Z.P. 11510*.
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Cruz Vermehla de Moçambique, Caixa Postal 2986, *Maputo*.
- MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217 *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O.B. 28120, 2502 *KC The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*. (P.O. Box 12-140, *Wellington Thorndon*.)
- NICARAGUA — Nicaráguan Red Cross, Apartado 3279, *Managua D.N.*.
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. N-0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Camino del Inca y Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of the Socialist Republic of Romania, Strada Biserica Anzei, 29, *Bucarest*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries St. Lucia, W. I.*
- SAINT VINCENT AND THE GRENADINES — Saint Vincent and the Grenadines Red Cross Society, P.O. Box 431, *Kingstown*.
- SAN MARINO — Red Cross of San Marino, Comité central, *San Marino*.
- SÃO TOMÉ AND PRÍNCIPE — Sociedade Nacional da Cruz Vermelha de São Tomé e Príncipe, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House 15, Penang Lane, *Singapore 0923*.
- SOMALIA (Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.

- SOUTH AFRICA — The South African Red Cross Society, Essanby House 6th Floor, 175 Jeppe Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN — Spanish Red Cross, Eduardo Dato, 16, *Madrid 28010*.
- SRI LANKA (Dem. Soc. Rep. of) — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN (The Republic of the) — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27 316, *102-54 Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, *3001 Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND — The Thai Red Cross Society, Panibatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku'Alofa, South West Pacific*.
- TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain, Trinidad, West Indies*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY — The Turkish Red Crescent Society, Genel Başkanlığı, Karanfil Sokak No. 7, 06650 Kızılay, *Ankara*.
- UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- USA — American Red Cross, 17th and D. Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- U.R.S.S — The Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., 1, Tcheremushkinskii proezd 5, *Moscow, 117036*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado, 3185, *Caracas 1010*.
- VIET NAM (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Ba-Triệu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN ARAB REPUBLIC — Red Crescent Society of the Yemen Arab Republic, P.O. Box 1257, *Sana'a*.
- YEMEN (People's Democratic Republic of) — Red Crescent Society of the People's Democratic Republic of Yemen, P. O. Box 455, Crater, *Aden*.
- YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

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**Applying the principles of Humanity,  
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