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INTERNATIONAL REVIEW

OF THE RED CROSS



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In its six 1992 issues, the *Review* will deal, among other things, with the following subjects:

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- **international humanitarian law: judicial guarantees in time of armed conflicts**
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- **humanitarian assistance in time of armed conflicts**
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- **Swiss neutrality and ICRC neutrality**
- **naval warfare**
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- **the contribution of 16th-century Spanish theologians and jurists to the emergence of the law of armed conflict**
- **more about the emblem**
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IN THE *INTERNATIONAL REVIEW OF THE RED CROSS*

The *International Review of the Red Cross* invites readers to submit articles relating to the various humanitarian concerns of the International Red Cross and Red Crescent Movement. These will be considered for publication on the basis of merit and relevance to the topics to be covered during the year.

● Manuscripts will be accepted in *English, French, Spanish, Arabic* or *German*.

Texts should be typed, double-spaced, and no longer than 20 pages (or 4 000 words). Please send diskettes if possible (*Word-perfect 5.1 preferred*).

● Footnotes (*no more than 30*) should be numbered superscript in the main text. They should be typed, double-spaced, and grouped at the end of the article.

● Bibliographical references should include at least the following details: (a) for books, the author's initials and surname (in that order), book title (underlined), place of publication, publishers and year of publication (in that order), and page number(s) referred to (p. or pp.); (b) for articles, the author's initials and surname, article title in inverted commas, title of periodical (underlined), place of publication, periodical date, volume and issue number, and page number(s) referred to (p. or pp.). The titles of articles, books and periodicals should be given in the original language of publication.

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Articles, studies, and other signed texts from non-ICRC sources published in the *Review* reflect the views of the author alone and not necessarily those of the ICRC.

Respect for fundamental judicial guarantees in time of armed conflict

The part played by ICRC delegates

by Hans-Peter Gasser

“No, the author¹ does not plead in court, He is present in the courtroom, but in one of the seats (usually uncomfortable) reserved for the public. He goes there with an open mind. He does not take sides. He looks at how justice is rendered and at the machinery of the law, at the whole formidable arsenal of buildings, traditions, texts, gestures, protagonists and off-stage operators. He examines that justice minutely. How will it behave in the dark shadow of war?” (*Translation*)

Pierre Boissier

“No sentence may be passed and no penalty may be executed ... except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized principles of regular judicial procedure ...”

Protocol I, Article 75(4)

Article 75 of Protocol I additional to the Geneva Conventions² lays down with admirable clarity and concision that *even in time of war, or rather especially in time of war, justice must be dispassionate. How does international humanitarian law promote this end? What can the International Committee of the Red Cross, an independent humani-*

¹ The author, Pierre Boissier, followed trials in France after the Second World War as an ICRC delegate. See his account in *L'épée et la balance*, Labor et Fides, Geneva, 1953, from which this quotation is taken (p. 11).

² Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts, of 8 June 1977.

tarian institution, do in the harsh reality of an armed conflict towards maintaining respect for the fundamental judicial guarantees protecting persons accused of crimes, some of them particularly abhorrent?

This article will first consider the Geneva Conventions and their Additional Protocols in relation to judicial procedure in time of armed conflicts. Thereafter it will examine the legal bases legitimizing international scrutiny of penal proceedings instituted against persons protected by humanitarian law. The next and principal part of the article will indicate how ICRC delegates appointed to monitor trials as observers do their job. In conclusion the article will try to evaluate this little-known aspect of the ICRC's work of protection.

To start with, here are some of the *fundamental features*, as laid down in the Geneva Conventions,³ of the system of penal repression of breaches of international humanitarian law.

(a) There is no supranational central body for penal repression of breaches of international humanitarian law, and no international penal court.

(b) Penal repression of breaches of international humanitarian law is therefore the responsibility of the States party to the Conventions. States holding persons suspected of such breaches must take steps to prosecute them in their own courts. If the breach is a grave breach of any of the four Geneva Conventions or of Additional Protocol I, every State party to that treaty is not merely entitled to prosecute the miscreant, but is under the obligation of doing so. In the first place this is of course the duty of the State holding the suspected offender, which may alternatively hand him/her over for trial to another State party interested in his/her prosecution (normally, the State of origin of the accused person, or on whose territory the crime was committed, or of which the victim is a national). This particular form of universal jurisdiction, and the obligation of *aut dedere aut judicare*, are a new way in which humanitarian law ensures penal repression of breaches of its essential obligations. That new way comes close to universal jurisdiction, even though there is no international penal court.

³ See, in the concluding provisions of the four Geneva Conventions of 12 August 1949, Articles 49 ff. of the First Convention, 50 ff. of the Second Convention, 129 ff. of the Third Convention and 146 ff. of the Fourth Convention. See also Protocol I, Articles 85-88.

For general information on the system of penal repression of breaches of humanitarian law, see the *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Eds. Y. Sandoz, Ch. Swinarski and B. Zimmermann), ICRC, Martinus Nijhoff Publishers, Geneva, 1986 (hereinafter *Commentary on the Protocols*), Introduction to Part V, Section II of Protocol I, paras. 3398-3422, with bibliography.

(c) Whilst applying national penal law (on substance and in procedure) the court of the State exercising its jurisdiction over a person accused of a breach of international humanitarian law must invariably observe certain procedural rules that are codified in the Geneva Conventions and their Protocols.

(d) In the disturbed climate of war and its aftermath, the victorious power is more likely to bring its defeated enemies to trial than to call its own nationals to account. Hence the contemptuous references to "what the victors call justice". How far are these justified? It is certainly regrettable that the victors all too readily shut their eyes to crimes committed by their own nationals, civilian or military; but whilst no effort should be spared to convince belligerents that justice is not conditional on victory, there is nothing wrong with putting a member of a defeated army who has allegedly committed a grave breach of humanitarian law on trial, provided that the trial is fair and all international judicial guarantees are observed. Furthermore, States often judge their own nationals by domestic criminal law, even for violations of international law that may be war crimes. Although such trials are an internal matter for the State concerned, and are not well known abroad, they are a means of implementing international humanitarian law.

To conclude, penal prosecution for violations of international humanitarian law is essentially a matter for States, and is subject to the procedural constraints imposed on them by instruments of international humanitarian law.

* * *

I. Provisions of the Geneva Conventions and of the Protocols additional hereto, regarding penal prosecutions

Humanitarian law does not have a single block of rules applicable to all penal prosecutions of protected persons in enemy hands during an armed conflict. The Conventions of 1949 set up several systems which vary according to the category of protected persons, and the fundamental difference in international law between international armed conflicts and internal conflicts affects international regulation of trials for violations of humanitarian law.

The following is a brief description of the various legal systems concerned:

1. Penal prosecution of prisoners of war⁴

All members of the armed forces of a party to a conflict who have committed a *grave breach* of the Conventions or of Protocol I must be brought to trial by the power holding them.⁵ It may alternatively hand them over to another power if that power has made out a *prima facie* case against them.⁶ The Detaining Power may also prosecute persons alleged to have committed other violations of humanitarian law.⁷ In either case the crimes punishable are those committed by prisoners of war during internment or before capture, when the accused person was under the jurisdiction of his own armed forces.⁸

The Third Convention establishes a body of rules that subjects any penal proceedings taken against a prisoner of war by a power of which he is not a national to international scrutiny. These essential rules are brought together in Article 99, which stipulates that:

“No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.”

Thereafter the Convention lays restrictions on imposition and execution of the death penalty.⁹ It also requires that protected persons shall be tried by the same courts and by the same procedure as members of the armed forces of the Detaining Power.¹⁰ Thus all the soldiers concerned, friendly or enemy, will in principle come before the same judge. The Detaining Power must notify the Protecting Power of any judicial proceedings against a protected person.¹¹ Where

⁴ Third Convention, Articles 82-88 and 99-108, and Protocol I, Articles 85-88.

⁵ Third Convention, Article 129, para. 2, first sentence.

⁶ Third Convention, Article 129, para. 2, second sentence, and Protocol I, Article 88.

⁷ Third Convention, Article 129, para. 3.

⁸ Third Convention, Article 85.

⁹ Third Convention, Article 100 ff.

¹⁰ Third Convention, Article 84.

¹¹ Third Convention, Article 104.

there is no Protecting Power, the ICRC must be notified of such proceedings.

The new Article 75 of Protocol I fills in any gaps in the international protection of captured persons brought to trial who are refused combatant status, such as spies, mercenaries or deserters.

2. Penal proceedings against civilians

In accordance with the general provisions of the Fourth Geneva Convention relative to the protection of civilian persons, the present article distinguishes between the protection granted to aliens on the territory of a party to a conflict and that granted to residents of a territory occupied by an enemy power.

(a) Aliens on the territory of a party to a conflict¹²

The short section in the Fourth Convention concerning civilian nationals of a party to a conflict who are in the hands of the adverse party contains no provisions relating to legal proceedings against them. However, Article 38 of the Convention states, with one exception irrelevant to the subject under consideration here, that “*the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace*”. This is the system applicable to enemy civilians, and is primarily a matter for the domestic law of the State bringing the protected person to trial; but it is also governed by international obligations under bilateral or multi-lateral international agreements, and by customary rules on the subject. Human rights treaties deserve special attention; the judicial guarantees they lay down apply both to enemy civilians and to nationals of the State concerned.

Referral to the peacetime legal system may prove unsatisfactory or unconvincing if the Detaining Power is not bound by any treaty that would protect accused persons charged with an offence. Protocol I closed this gap by providing the legal guarantees contained in its Article 75.

(b) Residents in occupied territory¹³

In view of the atrocious crimes committed during the Second World War in occupied Europe and Asia, the Diplomatic Conference

¹² Fourth Convention, Article 38, and Protocol I, Article 75.

¹³ Fourth Convention, Articles 64-77, and Protocol I, Articles 85, 86 and 88.

of 1949 took particular care to bar the way to arbitrary action by an Occupying Power. Thus Articles 64 to 77 of the Fourth Convention define the status of protected persons against whom the Occupying Power has taken legal action, and introduce the necessary judicial guarantees.

To start with, Article 64 points out that the national penal legislation applicable to the territory in question remains in force after occupation, and that its courts continue to function. Residents of that territory are accordingly still subject to their own laws and to the courts they already know. For security reasons only, the Occupying Power may suspend, repeal or replace certain parts of those laws.¹⁴ It may set up special courts to deal with breaches of its security, but the Fourth Convention restricts their power to impose the death penalty on a protected person.¹⁵ Like the Third Convention (on prisoners of war), that part of the Fourth Convention relating to penal proceedings lays down rules of procedure which include the requirement of notifying the Protecting Power or the ICRC.¹⁶

*(c) Penal proceedings against civilian internees*¹⁷

The Fourth Convention lays down a considerable corpus of rules defining the position of the interned person in relation to the Detaining Power.¹⁸ Article 78 of that Convention authorizes the Occupying Power to intern protected persons “for imperative reasons of security.” Thus internment is not a punishment, but a measure for the safeguard of law and order and the security of the Detaining Power.

The section in the Fourth Convention on internment contains provisions on penal sanctions against civilian internees. These can relate only to offences *during* internment, for no person may be interned on penal grounds.

As in the two previous cases, the judicial guarantees in Article 75 of Protocol I will, if the need arises, fill any gaps in the provisions guaranteeing fair and equitable procedure.

¹⁴ Fourth Convention, Article 64, para. 2.

¹⁵ Fourth Convention, Articles 66, 68 and 75.

¹⁶ Fourth Convention, Articles 71-75.

¹⁷ Fourth Convention, Articles 117, 118 and 126.

¹⁸ Fourth Convention, Section IV, Articles 79-135.

3. Penal proceedings in a non-international armed conflict

International law on non-international armed conflicts confines itself to laying down a few general rules. Thus Article 3 of all four Conventions of 1949 prohibits “*the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples*”.

Protocol II¹⁹ develops this fundamental rule. In its Article 6, entitled *Penal prosecutions*, it lists provisions applicable to the prosecution of persons accused of criminal offences related to the armed conflict. The judicial guarantees codified by Protocol II closely resemble those of Article 75 of Protocol I. Like that article, Article 6 of Protocol II is largely based on the International Covenant on Civil and Political Rights.²⁰

Both Article 3 of the four Conventions and Protocol II apply to all parties to a non-international armed conflict — to the insurgents as well as to the government forces. Consequently, the rebel party is bound to respect the essential judicial guarantees if it proposes to punish any person in its power.

II. Conditions of a fair trial

What is a “fair trial” — to use the term coined by an English-speaking country that has done much to make it meaningful? In other words, by what standards should the procedure of a trial be assessed?

There are various texts dealing with the fundamental rights relating to judicial procedure.

The *Universal Declaration of Human Rights* of 10 December 1948 led to the elaboration of international rules for the protection of human rights, particularly the rights of accused persons. There are at present several conventions which lend weight to judicial guarantees and lay down procedures to guarantee respect of such rights. The most noteworthy of the universal treaties on this subject is the *International Covenant on Civil and Political Rights* of 16 December 1966, which establishes judicial guarantees that have become the accepted stan-

¹⁹ Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of non-international armed conflicts, of 8 June 1977.

²⁰ *Commentary on the Protocols* (see Note 3 above), para. 4597 of Protocol II, Article 6.

dard.²¹ Besides this universal treaty, various *regional conventions* have set up their own system of protection of the rights of accused persons.²²

Concurrently with the development of international protection of human rights in penal proceedings, humanitarian law has adopted a sizeable corpus of rules on the subject, applicable only in time of armed conflicts. Their main features are mentioned in the first part of this article.

The standards set by these conventions vary, but paragraph 4 of Article 75 of Protocol I provides a succinct codification of the rules for fair trial, and therefore for an equitable system of justice. This new code, which has been called a “summary of the law” and a “mini-Convention”,²³ is based on the various international treaties, and summarizes the essentials of a fair trial. Article 6 of Protocol II does the same for non-international armed conflicts and codifies the judicial guarantees applicable in time of civil war. These two provisions are a necessary safety net for accused persons who have fallen foul of the laws of an enemy country.

Article 75 paragraph 4 of Protocol I, and Article 6 of Protocol II, follow closely the respective provisions of the *International Covenant on Civil and Political Rights*. Thus as regards judicial guarantees the bridge between humanitarian law and international law protecting human rights is built on firm foundations. *It is however important to note that, unlike the guarantees contained in the human rights treaties, the rights guaranteed by instruments of humanitarian law may not be suspended in time of crisis.* In time of armed conflicts no waiver is therefore possible of the judicial guarantees established by the Geneva Conventions and their Additional Protocols.

Paragraph 4 of Article 75 of Protocol I is so important that it is given below *verbatim*:

“4. No sentence may be passed and no penalty may be executed on a person found guilty of a penal offence related to the armed conflict except pursuant to a conviction pronounced by an impartial and regularly constituted court respecting the generally recognized

²¹ Article 14. Exceptions may however be made to this provision in time of internal crisis (Covenant, Article 4).

²² European Convention on Human Rights, Articles 5 and 6, American Convention on Human Rights, Article 8, and the African Charter on Human and People’s Rights, Article 7.

²³ *Commentary on the Protocols* (see Note 3 above), para. 3007 on Protocol I, Article 75.

principles of regular judicial procedure, which include the following:

(a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;

(b) no one shall be convicted of an offence except on the basis of individual penal responsibility;

(c) no one shall be accused or convicted of a criminal offence on account of any act or omission which did not constitute a criminal offence under the national or international law to which he was subject at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was committed; if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;

(d) anyone charged with an offence is presumed innocent until proved guilty according to law;

(e) anyone charged with an offence shall have the right to be tried in his presence;

(f) no one shall be compelled to testify against himself or to confess guilt;

(g) anyone charged with an offence shall have the right to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(h) no one shall be prosecuted or punished by the same Party for an offence in respect of which a final judgement acquitting or convicting that person has been previously pronounced under the same law and judicial procedure;

(i) anyone prosecuted for an offence shall have the right to have the judgement pronounced publicly; and

(j) a convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.”

To sum up, Article 75 of Protocol I codifies the basic guarantees protecting all persons affected by international armed conflict. It leaves intact individual systems that grant greater juridical protection to various categories of protected persons, and therefore specifies the *minimum* to be respected in all circumstances, the “minimal standard” or “Mindeststandard”.

Article 6 of Protocol II contains the same guarantees to ensure a fair trial in cases related to a non-international armed conflict.

An observer following, and later assessing, a trial related to an armed conflict can therefore always refer to a catalogue of judicial guarantees that are above discussion because they comprise the absolute minimum — a safety net for everyone.

III. Monitoring of judicial guarantees

Penal prosecution for violation of humanitarian law is justified by the duty of States to respect the international obligations binding them, or more precisely, the obligations imposed by international treaties.²⁴ The judicial authorities and courts of these States are bound to respect the international rules whose purpose is to guarantee a fair trial to all. Like every other legal rule, these obligations are subject to violation in the harsh reality of an armed conflict, when even the courts are not immune from miscarriages of justice. National juridical systems therefore provide for procedures for rectifying judicial errors. However necessary domestic appeals procedure of this kind may be within national frontiers, it will not suffice to guarantee respect for international obligations. There has to be a supranational monitoring procedure.

As the bodies mainly concerned are the national courts having jurisdiction over protected persons or other persons affected by the conflict, any monitoring system must show that it can cover the entire judicial system. International monitoring must take into account the particular characteristics of the bodies dispensing justice.

The following is a brief summary of the monitoring mechanisms provided for in the Conventions and Protocol I to verify that prescribed judicial procedure is respected.

1. The Protecting Power

In every international armed conflict the States party to the conflict must appoint a *Protecting Power*. Article 8 of the first three Conventions and Article 9 of the Fourth Convention set out the principle, and Article 5 of Protocol I lays down procedure for the appointment and acceptance of a Protecting Power.

²⁴ Article 1 of each of the Conventions of 1949, and Protocol I, Articles 1 and 80.

The Protecting Power is a neutral State which, because normal relations between two States at war with each other have ceased, agrees to represent the interests of one party to the conflict *vis-à-vis* the other party, for example by holding itself in readiness to discharge humanitarian tasks as required by the Conventions of 1949 and Protocol I. The Protecting Power thus facilitates respect for humanitarian law by the parties to the conflict.

The Third and Fourth Conventions assign to the Protecting Power important duties whose purpose is to ensure that justice is done. For example, the Protecting Power or its representatives must be informed when proceedings are initiated against protected persons.²⁵ It is required to find a counsel for the defence for an accused person who has not already chosen such a counsel.²⁶ The Protecting Power is entitled to send a representative to the sessions of the court and must be notified of the place and opening date of the trial.²⁷ It is entitled to be sent the texts of all verdicts against a prisoner of war (including the reasons for which they were delivered),²⁸ or where the accused person is a civilian, of all verdicts rendering that person liable to the death penalty or imprisonment for two years or more. It is entitled to take cognizance of other verdicts.²⁹

In practice this system has never worked well ever since the Geneva Conventions were adopted in 1949. For example, no representative of a Protecting Power has ever attended the trial of a protected person. It is to be hoped that this important means of international monitoring will meet with a more favourable response in the future.

2. The International Committee of the Red Cross

Of all the *substitutes for a Protecting Power*³⁰ only the ICRC has been able to prove its worth. This paper does not propose to examine the juridical system applicable to the ICRC as the substitute for a Protecting Power, since the ICRC has never offered its services in that capacity to the Parties to a conflict. In practice ICRC delegates come into action where there are urgent humanitarian needs caused by an

²⁵ Third Convention, Article 104, and Fourth Convention, Article 71, para. 2.

²⁶ Third Convention, Article 105, and Fourth Convention, Article 72, para. 2.

²⁷ Third Convention, Article 105, para. 5, and Fourth Convention, Article 74, para. 1.

²⁸ Third Convention, Article 107.

²⁹ Fourth Convention, Article 74, para. 2.

³⁰ First, Second and Third Conventions, Article 10, and Fourth Convention, Article 11.

armed conflict or similar situation. The ICRC can then discharge all the duties of the Protecting Power provided they are humanitarian ones. Article 9 of the First, Second and Third Conventions and Article 10 of the Fourth Convention recognize that the ICRC has a right of initiative circumscribed only by the borderline between humanitarian and non-humanitarian activities, and it is beyond question that even-handed justice for protected persons is in the highest degree a humanitarian aim.

Unlike the activities of a Protecting Power, ICRC activity does not stop short at international armed conflicts. It extends to internal conflicts and even to situations of internal strife that do not reach the intensity of a non-international armed conflict and are therefore not subject to humanitarian law.³¹ In all such situations, too, ICRC delegates can inquire into the course of justice.

Since 1949 ICRC delegates have only on exceptional occasions monitored penal proceedings against protected persons. They have for example attended the trials of residents of the territories occupied by Israel, and later monitored the penal proceedings instituted by the Iraqi authorities against Iranian prisoners of war. Lastly, after the liberation of Kuwait from Iraqi occupation, the ICRC monitored the trials of many persons accused of collaborating with the Iraqi occupying forces.

Let us now look at the duties of an ICRC delegate in the courtroom.

IV. ICRC delegates as observers at trials of protected persons

ICRC delegates are usually sent to the authorities of a country engaged in armed conflict, either with the armed forces of another State or with insurgents within its borders. The main duties of the delegates are to visit places of detention, put detainees in touch with their families and distribute relief supplies. Trials are probably the last thing they have in mind.

³¹ See "ICRC protection and assistance activities in situations not covered by international humanitarian law" in *International Review of the Red Cross (IRRC)*, No. 262, January-February 1988, pp. 9-37, and *Statutes of the International Red Cross and Red Crescent Movement*, Article 5, paras. 2.d) and 3.

Nevertheless Article 126 of the Third Convention and Article 143 of the Fourth Convention state (in similar terms) that ICRC delegates (like representatives of the Protecting Power) “shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work”. Although court-rooms are not mentioned in either of those articles, they are one of the “places where protected persons are”, and ICRC delegates have therefore to follow, *inter alia*, judicial developments in the country to which they are posted. With all their various duties they will of course always have to be selective about what they do. Naturally enough, they give priority to more urgent tasks and more pressing needs of greater humanitarian importance, and this may delay their attendance in court.

More often still, delegates will not have to wonder whether to spend part of their time in court. In all too many States engaged in armed conflict it is not left to the courts to sentence the guilty and acquit the innocent. All too often, what is wrongly called “summary justice” is rife and unbridled in theatres of war.

But, supposing a delegate is called upon to investigate penal procedure in the country of assignment, this paper will now try to describe the problems that may arise and give a tentative reply to possible questions.

1. The duties of an observer³²

The purpose of such duties is to ensure that all accused persons are given a fair trial with all the judicial guarantees granted them by international law. In case of need the delegate must make representations to the competent authorities so that the international standards regulating judicial proceedings are respected.

That general description of the delegate’s duties may be amplified under the following headings:

- taking cognizance of the juridical basis of verdicts and proceedings;
- following individual trials in order to form an impression of the extent to which judicial guarantees are respected at each stage of the proceedings;

³² There is little literature on this activity, but the following excellent introductions to the subject may be consulted: Pierre Boissier, *L'épée et la balance*, *op. cit.*, (see Note 1 above), and David Weissbrodt, “International Trial Observer”, in *Stanford Journal of International Law*, 1982, pp. 27-121.

- emphasizing to all the persons taking part in penal proceedings that the accused person must be given a fair trial and that his/her elementary rights must be guaranteed;
- making clear to the authorities that the international community wants to see penal proceedings against aliens in their power properly conducted;
- giving moral support to accused persons and their supporters (such as their families, witnesses and counsel for the defence);
- reporting on every trial monitored or on penal proceedings as a whole.

Obviously, it is no part of an observer's job to take an active part in proceedings. ICRC observers sit in the courtroom, witness what goes on, observe it and take notes. Just being there matters. Therefore a delegate must be noticed, must be seen and identified as the ICRC representative from start to finish of the proceedings.

ICRC delegates have a wide range of duties in an armed conflict situation, but attending trials is unlike their other duties for several reasons. First of all, observers, as the name implies, follow the proceedings but cannot influence them in any personal, direct immediate way. If judges grossly exceed their prerogative at a trial ICRC delegates cannot rise to their feet and hasten to defend the accused, as they would normally and spontaneously do elsewhere, for example in a POW camp or prison or occupied territory. Judicial procedure is far too formal for immediate representations, however justified they may appear to be for humanitarian reasons.

Nevertheless observers are not condemned to idleness. Far from it. As will be seen below, they can contact all the persons taking part in the course of justice, and in this way make known their position, which is that of the Geneva Conventions. It need not be a disadvantage that such contacts are made outside the actual judicial proceedings.

Quite apart from these representations, the whole proceedings are certainly influenced by the mere fact that an ICRC delegate wearing the emblem of the red cross on a white ground is in the courtroom; an observer impresses people, even without saying anything. And such is the prestige of the ICRC that the competent authorities are going to read the delegate's final report very carefully.

2. Qualifications required by observers

Delegates who have to monitor trials must be qualified lawyers with practical experience as a judge, clerk of the court, or barrister. It is important that observers should know the ins and outs of judicial procedure through practical experience as a law officer or barrister and not only in theory. Their contacts with officials of the court will be all the easier for this.

ICRC delegates (who are Swiss nationals) must therefore be familiar with the penal procedures of continental Europe (and other jurisdictions which have taken these as a model). Two salient features of this model are: first, a judicial enquiry by an investigating magistrate who questions witnesses and compiles other evidence, and second, that much of the procedure is in writing. It is nevertheless important that delegates should also have some knowledge of the other major judicial system, the Anglo-Saxon one adopted by many Third World countries. In this system the entire proceedings take place in the presence of the judge in the courtroom, and evidence must be introduced into the proceedings in the presence of the judge. There is a great difference between the two systems, and delegates must be aware of it if they are to understand the trial.

Apart from this general knowledge, delegates cannot be expected to be experts on the penal legislation and procedure applicable in the country to which they are posted. They will be able to familiarize themselves with this in the course of their work.

Whether the ideal observer at a trial should be an illustrious personality, such as a judge or barrister of international reputation, or alternatively a run-of-the-mill ICRC delegate who knows his/her job inside-out and is a competent jurist, will depend on the particular trial. If it follows a cut-and-dried procedure that is likely to turn it into a *cause célèbre* a famous personality may have to be appointed; but where, as is more usual ICRC practice, a large number of trials — some important, some less so — have to be monitored, only a “professional” delegate, meaning a permanent member of an ICRC delegation, will be willing to do the job. This is by no means a cheap “ersatz”; for, when all is said and done, the respect inspired by an observer depends on the institution that observer represents; and in this case it is the ICRC.

It is very desirable that observers should understand and speak the language of the country; otherwise they must be accompanied by an interpreter chosen by themselves, who should preferably be a member or employee of the local ICRC delegation (a national of the host

country may be subjected to all kinds of intolerable pressure). To facilitate contacts with the authorities, and with judges and other officials, the interpreter should preferably be an expatriate member of the ICRC delegation.

3. Choosing what trials to monitor

As already stated, the ICRC may send an observer to monitor a *single* trial of special interest for any reason, for example, that of a prisoner of war for war crimes, or of a well-known person from an occupied territory.

More often, however, the ICRC has to monitor trials in a country involved in a conflict, or suffering from serious internal dissension, in which it already carries out protection duties such as visiting places of detention, tracing missing persons, or operating in occupied territory. Observing trials is then only one of the delegation's many duties, and it is quite usual for delegates to attend many or all of the trials, in some cases over a long period. Most probably, too, accused persons already known to them from prison visits will ask delegates to monitor their trials.

ICRC delegates may find that at the opening sessions of a trial the courtroom will be crowded with observers and media representatives. But by the time the tenth trial takes place the delegate will certainly be the only outsider present. One of the ICRC's strong points — and it must remain so — is the continuity it maintains in its work. This is possible only because attendance at trials is part of a local delegation's normal activities.

Being on the spot, a delegate will soon be able to discern which cases particularly deserve attention. It is perfectly legitimate — and, indeed, good — to follow “routine” cases too, for the extent to which justice is being done is also revealed by day-to-day observation. And behind each trial is a human being who has a right to the delegate's attention.

4. Contacts

Delegates monitoring a trial will have to have contacts with the various people involved in or influencing it. Each of these contacts will be different. It may be useful to say a few words about them.

The easiest but most sensitive relations are with the *judges*. The most important feature of an observer's functions is total independence of any external authority. Therefore, fearing perhaps to be accused of taking upon themselves the right to influence the trial (and even judge

the judges!), observers feel some unease about calling on judges to talk to them about the trial they are conducting. This is a difficulty to be overcome — by tactful, adroit and diplomatic handling, for delegates must never give the impression that they are trying to put pressure on the judges. The approach to a judge is often made easy by the latter's personality, qualities and distinction, so that the interview may be a memorable occasion for the delegate.

In the first place, contact with the judges will give delegates an opportunity of introducing themselves and making their duties known. This is very important; the members of the court are entitled to know why an ICRC representative wearing the emblem of the red cross on a white ground is in the courtroom. The delegate will then be able to talk about the Geneva Conventions and their judicial provisions applicable to the trial under way. This is one way of reminding the judges of the international standards they must always respect. Also, one or another of the judges may possibly want to know a little more about humanitarian law or the ICRC's work. This is a splendid opportunity for dissemination among an especially important audience.

If the opportunity arises the delegate may ask a few questions to clarify a point of law, for example on the competence of the court, the law applicable to the trial, and the right of appeal, if any, against the verdict. It is advisable not to insist too much with queries about the trial taking place. The time for this may come later.

The initial interview with the judges may take place either before the trial begins, or when a hearing is suspended and the judges withdraw to their chambers to which the public are not admitted; the delegate should therefore leave his visiting card with the secretary of the court or with the usher.

The interview with the *public prosecutor* should be conducted in the same way as the interview with the judges.

The delegate will naturally be particularly concerned with the *accused person*, who would normally know of the ICRC through one of its visits to the place of detention. That is the difference between the ICRC representative and the other observers present in court. They are interested only in the trial itself, whereas the ICRC looks at the whole daily life of a person deprived of liberty, from arrest to detention after being sentenced. A delegate will be well rewarded by a smile or a sign of recognition from the defendant, even if they have not met before and the delegate is recognized only as a member of the organization that visited the defendant in prison. If the law allows, the delegate will try to have a few words with the defendant, simply as a friendly gesture to show that he/she is not alone in the world.

After the hearing the delegate should report the identity of the defendant to the other members of the ICRC delegation so that they take the next available opportunity of visiting the prisoner at the place of detention. This is especially important once the verdict is rendered.

The counsel who is looking after the accused person's interests may appear to be the closest ally of the delegate following the trial. Clearly, therefore, the delegate should get to know the *counsel for the defence*. This contact will often enable him to get useful information on the conduct of trials, court practice in such cases, the personality of the judges, the facts of the case, and so on.

It also helps to meet lawyers elsewhere than in the courtroom — in their office, where their comments may be rather different. But the functions of the counsel for the defence are not those of an observer at a trial. An observer must always be absolutely neutral, and so may not come out unreservedly on the side of the defendant.

A contact with the *Ministry of Justice* or the *Attorney General's Department* may be useful for the exchange of information.

There are also the *other observers* who will be of interest to ICRC delegates. If the case is of political interest governments may well send observers to the trial, normally a diplomat from their local embassy, or a consular agent. These *governmental representatives* will not always be perfectly neutral or impartial, especially if their government decides to defend one side, but it will always be useful to contact them to learn more about local conditions or about the trial. They will often know more about it than a delegate fresh from Geneva.

Non-governmental organizations such as the *International Commission of Jurists*, or the international Secretariat of *Amnesty International* or *Human Rights Watch*, may also send representatives to monitor a trial. Unlike the ICRC these institutions are international non-governmental organizations (NGOs). Contact with their representatives will be almost automatic and may be a useful source of all kinds of information. Obviously the ICRC delegates must keep the distance their duty of confidentiality requires, always holding a little aloof - not in order to prove that the ICRC is superior to anyone else, but to emphasize that the ICRC's job and theirs are different. Each institution's best hope of success lies in recognizing that the others have different terms of reference and different strengths.

If a *cause célèbre* is being heard, *media* representatives will flock to the law courts and cluster in and around the courtroom. How should ICRC delegates react when the newsmen's cameras are focused on

them and journalists bombard them with questions on the case, on why they are there and what the ICRC's attitude is to the trial?

The first thing to be remembered is that ICRC delegates report to the authorities of the parties to a conflict, not to the public through the media. ICRC experience has shown that the confidential approach is better able to persuade a government that the demands made on it are well founded, and so to ensure that representations and recommendations get results. Only as a last resort and after careful thought will the ICRC appeal to world opinion.³³

In accordance with instructions, therefore, ICRC delegates must confine themselves to talking to the media about the ICRC's mandate and explaining why it has sent a representative to attend the court. Delegates must explain clearly why they cannot comment on the trial, adding if possible some general information on ICRC activities in that country, and so taking advantage of this opportunity of telling the media more about what the Red Cross does. In exchange for this open attitude the media will often give delegates information of use to them in their work. Furthermore, it is the duty of delegates to read national and international newspapers daily for the invaluable information they often contain.

To sum up, contact between delegates and the media is perfectly desirable. It is good if the newspapers mention that an ICRC representative is attending the trials of protected persons, and if television reports show the ICRC delegate at work in the courtroom. It is also a good means of dissemination based on a specific event.

V. Final report to the authorities

The observer's presence in the courtroom is important, but not an end in itself. The authorities have to be informed of the delegate's observations and the conclusions he/she has drawn from them.

During their informal contacts with the judges, and with the *public prosecutor* or representatives of the Ministry of Justice or Attorney General's Department, delegates will always find an opportunity of conveying first impressions by remarks made "off the cuff", immediately after the event and when interest is at its height.

³³ See ICRC's internal guidelines on this subject in "Action by the International Committee of the Red Cross in the event of breaches of international humanitarian law", in *IRRC*, No. 221, March-April 1981, pp. 76-83.

In accordance with its traditional policy the ICRC sends a written report to the authorities containing its representative's conclusions and recommendations for measures to be taken. The report may cover a single case or a whole series of trials, according to circumstances. The ICRC normally sends it through diplomatic channels, with copies for direct distribution to the authorities concerned.

VI. Some practical advice

1. Court hearings in camera

If certain conditions (required by domestic law) are satisfied, the court may decide to meet *in camera*, that is, in the presence of the public prosecutor, the defendant and the counsel for the defence only, the public being barred from the hearing. It may, for example, take this decision so as not to reveal secret information or documents, or to conceal the identity of witnesses. What should the ICRC delegate who is following a trial as an observer do then — try to force entrance to the closed session?

The delegate's duties require him/her to form an opinion on the proceedings as a whole. Delegates must therefore press the court to allow them to be present at all its sessions, confidential and non-confidential. They may if necessary give an undertaking to the court that the ICRC will not make use of any observations made by delegates at hearings held *in camera* except in its reports to the authorities of that State. If delegates are not allowed to be present at sessions held *in camera*, they will specify this in their report on the trial.

2. Notification of trials

Before they can follow any trial delegates have to obtain a certain amount of information. They have to know the court, the place and date of the first hearing, the defendant's full name and the charges brought. Ideally, they will already have been supplied with a copy of the indictment, a note of the facts and a statement of the penal provisions invoked in the indictment. They will doubtless also want to know the verdict and the court's reasons for it, and must therefore always ask to be sent a copy of the verdicts delivered by the court.

As already stated, the Detaining Power must notify the Protecting Power that proceedings are being instituted, if the defendant is a protected person under the Third Convention (a prisoner of war) or Fourth Convention (a civilian). Similarly, if the ICRC is acting as a

substitute for a Protecting Power it is *ipso facto* entitled to be supplied with the necessary information. If no spontaneous notification is given, delegates must do their best to get the information they need for their work from the authorities administering the court, the Ministry of Justice or other competent body. They must at the same time try to get a copy of the relevant laws, such as the Penal Code and any special laws against security offences. Any texts on the organization of the courts and their procedure will also be of interest to them.

Experience shows that it may not be easy to get this information from the judicial authorities. It is clear that courts are not in the habit of welcoming people who are not law officers. Delegates will need tact and perseverance to get what they want. Information given by lawyers may fill in gaps and encourage the authorities to give delegates the required information direct.

3. Delegates in the courtroom

ICRC delegates must see and be seen, whether they are at work in the law courts or elsewhere. They must therefore find a seat in court that allows them to see and be seen, preferably among the public (who are also there to observe) and not anywhere privileged or specially reserved for them. There must never be any doubt that an ICRC delegate is not a member of the court, but has come to the courtroom as an independent observer. ICRC delegates must always wear the emblem identifying them as such and, by the same token, as neutral and impartial observers.

Observers may find monitoring a trial a wearisome business in the long run, because they are not entitled to intervene in the procedure that is going on in front of them. They can best signal to those taking part in the trial and to the public that the ICRC delegate is following the trial with unremitting interest by taking notes regularly.

VII. Concluding remarks

The right to fair trial is one of the most elementary human rights. *“Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”*³⁴ It is the responsibility of the organs of justice to give that right full effect. This

³⁴ Universal Declaration of Human Rights, Article 11, para. 1.

is often more difficult in an armed conflict situation, when many particularly shocking crimes are committed and feelings run much higher than in peacetime.

The presence in the courtroom of a representative of an international institution that is universally recognized as neutral and impartial may help to guarantee that accused persons are given impartial trial. An ICRC delegate who follows judicial proceedings as an observer is thus helping to achieve the lofty aim that international humanitarian law has set itself, namely to safeguard human dignity in time of armed conflict.

Hans-Peter Gasser

Hans-Peter Gasser was born in Zürich in 1939. He has a doctorate in law from Zürich University and a Master of Laws degree from Harvard Law School (1968). He held several positions in the Swiss judiciary and public administration from 1966 to 1969, before working as a delegate of the International Committee of the Red Cross in the Middle East from 1970 to 1972. From 1972 to 1977 he was Secretary and Deputy Secretary-General of the Swiss Science Council in Bern and in 1977 was appointed Head of the Legal Division of the International Committee of the Red Cross. He held this post until 1982, when he became Legal Adviser to the ICRC Director of General Affairs, and worked in this capacity from 1983 until 1985. Since 1986, Mr Gasser has been Legal Adviser to the ICRC. He is the author of numerous articles, several of which have already appeared in the *Review*, and also delivers lectures on various issues relating to international humanitarian law.

The protection of foreign workers and volunteers in situations of internal conflict, with special reference to the taking of hostages

Carlos Jiménez Piernas

I. INTRODUCTION

One has only to glance at a newspaper to realize that much of today's world is in a state of upheaval and permanent crisis. Many countries are affected by internal conflicts of one sort or another, making the social stability usually enjoyed in North America and Western Europe a rare privilege. These internal conflicts constitute fertile breeding grounds for the most arbitrary violence against defenceless victims and for increasingly frequent violations of the fundamental rights and freedoms of the individual, whether a national of the country concerned or an alien.¹

Indeed, the gradual undermining of respect for the rights and freedoms of the citizens of States affected by internal conflicts has inevitably led to a simultaneous erosion of respect for the rights and freedoms of the foreign nationals living in those States. This is especially true for certain groups of foreigners (like workers and volunteers), whose life, liberty and security — the most basic concerns of the rules governing aliens (in traditional international law) and of human rights law (in modern international law) — are particularly at risk in such situations of crisis, for reasons we shall go into below.

¹ See for example ICRC, *1984 Annual Report*, Geneva, 1985, pp. 89-90; *1985 Annual Report*, Geneva, 1986, pp. 85-86; *1986 Annual Report*, Geneva, 1987, pp. 86 and 88. Further examples are to be found in ICRC field activities in Africa, Latin America, Asia and the Middle East in 1988 and 1989; see *1988 Annual Report*, Geneva 1989, pp. 13 ff., 43 ff., 59 ff. and 77 ff.; *1989 Annual Report*, Geneva, 1990, pp. 13 ff., 39 ff., 57 ff., and 85 ff.

Indeed, the impressive development in human rights law and humanitarian law since the Second World War has not prevented the groups or parties involved in internal conflicts from repeatedly and persistently violating the most basic rights of both their own nationals and of aliens. Despite the apparent consensus of the international community that States have general obligations to protect individuals, whether nationals or aliens, the existence of such obligations and their presumptive acceptance as customary norms do not seem to have led to any improvement in their application and effectiveness. This would seem to be the case in all types of conflict, including internal conflicts.²

This article proposes first to situate the different types of internal conflict in the existing legal framework (II). Those descriptions will then serve as guidelines for a brief review of the type and content of existing rules designed to protect basic human rights and freedoms in peacetime or in situations of internal conflict (III), and for a series of case studies concerning one of the most blatant violations of the basic rights and freedoms of foreign workers and volunteers, namely the taking of hostages (IV). The article takes a look at the almost predictable extension of this phenomenon to the hostage crisis in Iraq (V) before going on to the conclusion proper (VI).

II. TYPES OF INTERNAL CONFLICT

To our understanding, internal conflicts are characterized by two things: the existence of an objective situation of violence and strife; and the fact that it takes place on the territory of one State. An internal conflict may consist simply in an outbreak of random and isolated acts of violence repressed through the application of ordinary criminal law; in that case it is known as a *low-intensity internal conflict* (temporary disturbances, unrest, riots and lynchings). An internal conflict may, however, take the form of an organized, intense and prolonged struggle, usually involving the armed forces and not just the police, and a rebel movement organized along military lines with some form of bureaucratic apparatus and effective control of part of the State's territory, its purpose being to overthrow a specific

² See for example Gasser, H.P., "Some reflections on the future of international humanitarian law", *International Review of the Red Cross (IRRC)*, No. 238, January-February 1984, at pp. 19-20, and the ICRC paper "Respect and development of international humanitarian law", in *IRRC*, No. 239, March-April 1984, at pp. 91-94.

government or political regime or to obtain the independence of part of the State. These are the constituent elements of a *non-international, high-intensity armed conflict* (the classic *civil war*).³

There also exists an *intermediate* type of conflict, usually known as banditry. It is characterized by three things: continuous armed skirmishes, a certain amount of strategy, and a collective and endemic nature giving rise to a permanent climate of insecurity. The acts of banditry (traditionally kidnapping, theft and pillage) are usually committed by armed groups with some degree of organization.⁴ This is the kind of internal conflict we are most interested in here. In fact, our list of types of internal conflict is original only in that it goes one

³ Our definition of internal armed conflicts and the various forms they may take is based *mutatis mutandis* on the provisions of Article 1 of Additional Protocol II, in relation to Article 3 common to the Geneva Conventions, and on the work of the International Law Commission (ILC) on State responsibility, from the *ILC Yearbook*, 1975, Vol. II, pp. 98-99 (commentary on Art. 14 of Part One of the Draft Articles on State Responsibility, paras. 1-3). See also ICRC internal policy as described in "ICRC protection and assistance activities in situations not covered by international humanitarian law", in Gasser, H.-P., "A measure of humanity in internal disturbances and tension: proposal for a Code of Conduct", and in Meron, T., "Draft Model Declaration in internal strife", in the *IRRC* special issue on the subject, No. 262, January-February 1988, at pp. 12-13, 30-42 and 67, respectively. See also Mangas Martin, A., *Conflictos armados internos y derecho internacional humanitario*, Salamanca, 1990, pp. 59-62 and 68-70.

Some conflicts are difficult to categorize. This is the case in particular of very complex situations said to be internal conflicts, such as the so-called civil war in Lebanon. In fact, there was a state of civil war in Lebanon only from the spring of 1975 until the autumn of 1976, the Syrian armed intervention of June 1976 having virtually put an end to it. Since then the conflict has been in an intermediate phase with sporadic clashes and periods of more serious crisis. We believe that our definition surmounts these difficulties and can be applied to the Lebanese conflict, as is confirmed in the study by Eitel, T., "Lebanon: a legal survey", in the *German Yearbook of International Law*, Vol. 29, 1986, at pp. 14-23.

In any case, our definition does not include "armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist régimes in the exercise of their right of self-determination", which according to Article 1, para. 4, of Additional Protocol I, constitute international armed conflicts.

⁴ See Huber, M., "*Réclamations britanniques dans la zone espagnole du Maroc (Accord anglo-espagnol du 29 mai 1923)*", in *Rapports*, The Hague, 1925, p. 56, para. 4, and Ralston, J.H., *Supplement to the 1926 Revised Edition of the Law and Procedure of International Tribunals*, Stanford University (California), 1936, pp. 175-1976, para. 613b. Acts of banditry may of course be simply common-law offences or occur in a situation of rebellion, and would therefore be included in low-intensity or high-intensity conflicts respectively. But we feel that the intermediate situation is that which best characterizes banditry in accordance with jurisprudence and practice, because the permanence and general insecurity which typify it and distinguish it from low-level conflicts are not usually accompanied by effective control of part of the territory and an antagonistic political claim, as a rule the aspiration to govern or secede, which are characteristic of high-level conflicts.

step further than most scholarly works and classifies banditry as a situation of *intermediate conflict*.

This is the perfect category for the new situations of constant political violence and instability⁵ which have beset so many recently-independent and developing countries. The main causes are poverty, overpopulation and gross inequality⁶ (Guatemala, Colombia or Peru, for example); or great cultural diversity, involving in particular race, religion and language (as in Angola, Chad or Sudan); or both concurrently but to varying degrees (the Philippines, India or Zaire).⁷ When these factors are combined with the general functional weakness of the State power structure, the inevitable result is either increasingly arbitrary behaviour on the part of the latter or its collapse; the result of either is a state of chronic insecurity and lawlessness, which in turn inexorably affects basic human rights and freedoms. This category of conflict includes such widely divergent situations as intermittent guerrilla warfare, sometimes resembling traditional banditry, without any prospect of a political future, more acute institutional violence and police repression, terrorism, political upheaval and violent *coups d'état*, racial disturbances and killings; together they result in a generalized situation of medium intensity conflict which has been shown to

⁵ We have again simply gone one step further in our interpretation, since we have not changed the institutional framework of the customary norm, but have merely broadened one category to include more cases than hitherto. See Díez-Picazo, L., *Experiencias jurídicas y teoría del derecho*, Barcelona, 1982, pp. 282-283.

⁶ This is without doubt the principal and most widespread component of intermediate-level conflict, and is fully recognized as an emergency situation brought about by a conjunction of external and internal socio-economic factors. See Marks, S.P., "Principles and norms of human rights applicable in emergency situations: underdevelopment, catastrophes and armed conflicts", in Vasak, K. (ed.), *The international dimensions of human rights*, 3 vols., Greenwood Press, Connecticut, 1982, vol. I, at pp. 176-179.

⁷ Our interpretation of this category is based on: Marks, *op. cit.*; Eide, A., "Internal disturbances and tensions", in *International dimensions of humanitarian law*, Unesco (Paris), Henry Dunant Institute (Geneva), Martinus Nijhoff Publishers (Dordrecht), 1988, Ch. XV, at pp. 242-243 and 246-248; Meron, T., *Human rights in internal strife: their international protection*, Grotius Publications Ltd., Cambridge, 1987, pp. 71-86; the interesting United Nations document E/CN.4/1108/Rev.1, E/CN.4/1131Rev.1 (Study prepared by M. Ganji, New York, 1975, pp. 107-108, paras. 221-230, and 111-112, paras. 233-237); and R. Falk's analysis of prospects for human rights development in *Human rights and State Sovereignty*, New York, 1981, pp. 66-71, 76-77, 87-89, 98-99 and 165-166. For a specific example, that of Peru, see Rubio Correa, M., "Militares y Sendero Luminoso frente al sistema democrático peruano", in *Revista de Estudios Políticos*, Madrid, No. 53, 1986, at pp. 162-163 and 169 *in fine* - 174.

be very prejudicial to individual rights and freedoms, whether of nationals or of aliens.⁸

Indeed, States affected by this type of internal conflict inevitably find themselves in an emergency situation, understood to be the result of a temporary or permanent combination of circumstances which leave State institutions in a precarious situation and which justify *de jure* or explain *de facto* the suspension of certain human rights. As for low-level conflicts, although public order is of course threatened by any incidents of tension or unrest, their unorganized and sporadic nature does not usually result in the breakdown of social stability. They are usually quelled without there being reason to justify *a priori* any suspension of human rights, it being sufficient simply to apply internal criminal law.

Medium-intensity conflicts have inevitable repercussions on the rights and freedoms of foreigners. One of the common aims of most of the acts which characterize such conflicts (at least those committed by individuals or groups of individuals) is to raise questions about the internal political structure of the State concerned — among the international community as well. To achieve this end, those concerned seek to obstruct not only the political structures and the administrative services which are the normal channels for political and trade relations between States (for example by attacking internationally protected persons) but also the economic aid and technical assistance offered the State in the framework of the cooperative relations promoted by international development law (by attacks against foreign workers and volunteers). The obvious result is that the established international order is disrupted on its two main levels: the level of inter-State relations and the institutional level, in which international organizations play a role.

What repercussions have such acts against aliens had on the international responsibility of the State? In low-level conflicts the State has rarely been held responsible for injury to foreigners; State liability is incurred only when one of its agents has manifestly and inexcusably acted negligently *ex ante* or *ex post facto*, i.e., in the case of the connivance, complicity or obvious participation of its agents in acts harmful to foreigners.⁹ In high-intensity conflicts (internal armed

⁸ See Meron, *op. cit.*, pp. 95-102. Colombia is a good example; see Valencia Villa, H., "The law of armed conflict and its application in Colombia", in *IRRC*, No. 274, January-February 1990, at pp. 9-14.

⁹ García Amador, F.V., *The Changing Law of International Claims*, 2 vols., Oceana, Dobbs Ferry, New York, 1984, Vol. I, pp. 206-208. This Cuban scholar

conflicts or civil wars), the State is presumed from the outset not to be responsible, although exceptions are made (*juris tantum*) when the claimant State can prove that the injury is the result of deliberate or inexcusable negligence *ex ante* or *ex post facto* by the authorities of the State against which the complaint has been made, or in the case of unjustified discrimination against the foreigner, especially as concerns financial compensation.¹⁰ Finally, practice has shown that in intermediate conflicts responsibility is generally attributed according to the rules governing high-intensity conflicts, even though the situations are not materially comparable.

In avoiding attribution of responsibility to the State for acts committed in situations of internal conflict, the law of international responsibility simply falls in line with international humanitarian law (IHL) by protecting the primary subject of international relations and in preserving the prevailing legal order, which as we know is conditioned by the eminently inter-State structure of the international community.¹¹

The Diplomatic Conference which drafted the final text of Article 3 common to the 1949 Conventions was already anxious¹² not to approve restrictive provisions which might weaken the State. The final decision was to apply certain basic principles — a minimum humanitarian standard — to non-international armed conflicts. Article 3 thus refers primarily, but not exclusively, to high-intensity internal conflicts (civil wars). It should be added that the phenomenon of endemic banditry was not considered as belonging to that category. The same attitude towards banditry prevailed when the 1977 Protocols were drafted.¹³

expressly states that practice suggests “that negligence in the protection of aliens during internal disturbances (riots, mob violence and the like) be dealt with separately from negligence during civil war (rebellion or insurgency)” (p. 206).

¹⁰ *Ibid.*, pp. 208-211, and Al-Ganzory, A.A., “International Claims and Insurgence”, in *Revue égyptienne de droit international*, Vol. 33, 1977, at pp. 78-81. See Arts. 14 and 15 of Part One of the ILC’s Draft Articles on State Responsibility.

¹¹ Cassese, A., “La guerre civile et le droit international”, in *Revue générale de droit international public (RGDIP)*, Vol. 90, 1986, at pp. 577-578.

¹² See *Final Record of the Diplomatic Conference of Geneva of 1949*, Vol. II, Section B, pp. 120 (Seventh report drawn up by the Special Committee of the Joint Committee) and 128 (Report of the Joint Committee to the Plenary Assembly). See also Cassese, *op. cit.* p. 564.

¹³ See for example the statement made in plenary by Mr. Abdine (Syria), in *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva (1974-1977)*, Federal Political Dept., Bern, 1978, Vol. VII, p. 67, para. 47.

What is more, during the debate on Article 1 of Protocol II by Commission I of the Diplomatic Conference on the Reaffirmation and the Development of International Humanitarian Law Applicable in Armed Conflicts (CDDH, Geneva 1974-1977), and in the light of the development of human rights, whose analogical relevance for the protection of the individual in any peacetime or conflict situation was emphasized by a number of speakers, an attempt was made gradually to increase the scope of Article 3 of the 1949 Geneva Conventions by rephrasing its rather vague field of material application on the one hand (the requirement of a high-intensity conflict, in particular the control by the rebels of part of the territory, was introduced as a condition for application of the Protocol), and by extending the rights protected on the other.

However, in spite of the efforts of many of the participating delegations and of the ICRC, whose draft Protocol attempted to clarify the scope of Article 3 and the material protection it affords, in the end the plenary session adopted, by 58 votes for and five against with 29 abstentions — far short of the desired consensus — a very restrictive version of the scope of material application of Protocol II, without achieving a marked improvement in the degree of protection.

So, under pressure from a good many recently-independent States, the CDDH included, in Article 1, para. 1, of Protocol II, a set of very strict objective conditions for the application of the Protocol in cases of internal conflict, such as the presence of dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of the State's territory so as to enable them to carry out sustained and concerted military operations and to implement the Protocol. The CDDH expressly excluded from the Protocol's field of application any low-intensity internal conflict such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts (paragraph 2 of the same article).

A large number of delegations felt that these conditions were excessive and weakened the Protocol in that they limited its scope to conventional civil wars, which have become increasingly rare, while failing to provide for detailed regulation of the more common modern phenomenon of guerrilla warfare. Their objections were ultimately overridden by the obligatory link between Article 1, para. 1, of Protocol II and Article 3 common to the 1949 Geneva Conventions, whose independent merit was safeguarded in respect of the application of Protocol II. This is important in that Protocol II covers only one of the kinds of conflict — the most intense — governed by Article 3,

which requires the existence of an armed conflict, but does not stipulate that the conflict must necessarily be between the government and rebel forces, nor that the latter must control part of the territory.¹⁴ There is therefore no doubt about the rules governing intermediate internal conflicts. Only the rules governing low-level internal conflicts remain open to interpretation.

The International Court of Justice itself recently recalled that the minimum humanitarian rules set down in common Article 3 were general customary norms whose application was mandatory in non-international as well as in international armed conflicts, thus establishing the obligation for the United States to respect and ensure respect, in all circumstances, for the rules of behaviour prescribed in that article in its conflict with Nicaragua.¹⁵

On the other hand, an equally large number of delegations considered the text of Article 1 as the minimum condition for accepting Protocol II in its entirety. This did not mean that they had no doubts about the article, in view of both the manifest weakness of their countries' civilian and military administration and the prevalence of rebellions and internal conflicts in their history to date. They would have preferred that the conditions set forth in Article 1, para. 1, apply only to the State affected by the conflict, to avoid any possible interference in its internal affairs and any weakening of its legal position, as the

¹⁴ See *inter alia* the statements made in plenary by Mr. Mbaya (Cameroon), *ibid.*, Vol. VII, p. 70, para. 66; Mr. Eide (Norway), p. 71, para. 68; Mr. Di Bernardo (Italy), p. 223, paras. 143-146; Mr. Bindschedler (Switzerland), pp. 299-300, paras. 103-106. Also see the written explanations of votes by the Federal Republic of Germany (pp. 79-80), Belgium (p. 76) and Italy (pp. 100-101). As concerns ICRC policy, see Swinarski, Ch., *Introducción al derecho internacional humanitario*, San José de Costa Rica/Geneva, 1984, pp. 60-67, and Bornet, J.-M., "Modalidades de acción del CICR en las situaciones de disturbios interiores y de tensiones internas y sus actividades en América Latina", in *Coloquio sobre la protección jurídica internacional de la persona humana en las situaciones de excepción*, (Mexico, 16-21 March 1987), organized by the ICRC and the International Institute of Humanitarian Law, s. l. ed., s.a. at pp. 82-85. See also Veuthey, M., "Implementation and enforcement of humanitarian law and human rights in non-international armed conflicts: the role of the International Committee of the Red Cross", in *American University Law Review*, Vol. 33, 1983, at pp. 87-89; Abi-Saab, G., "Non-international armed conflicts", in *International dimensions of humanitarian law*, *op. cit.*, ch. XIV, at pp. 224, 228-229 and 237-238; and Meron, *op. cit.*, pp. 106-117.

¹⁵ ICJ, *Reports of Judgments, Advisory Opinions and Orders 1986*, pp. 113-115, paras. 217-220, although the Court does not state on what kind of normative interaction it bases the customary nature attributed to the article, i.e., it does not justify its conclusions. See Meron, T., "The Geneva Conventions as customary law", in the *American Journal of International Law*, Vol. 81, 1987, at pp. 356-358 ff.

automatic application of Protocol II would transform situations of internal strife into matters subject to international law.¹⁶

It is therefore logical that the law of international responsibility, given its secondary normative nature, should respect the material postulates of IHL and have as its main objective the protection not only of the sovereignty and security of the State affected by an internal conflict, but also of the stability of its external relations. This is why we have distinguished between low-level, intermediate and high-intensity internal conflicts (civil wars); as we have seen, neither low-level nor intermediate conflicts are in principle covered by IHL, with the exception of the application to intermediate conflicts of common Article 3; they can therefore receive our full attention as situations which cannot be equated with internal armed conflicts or civil wars.

This also explains the current convergence of human rights law and IHL, since the qualification of a situation as a low-level or intermediate conflict can never be considered to preclude protection of the basic rights of the individual, whether a national or an alien; indeed, both sets of rules regulate the grey zone of internal violence and hostility which lies between total peace and a classic internal armed conflict (civil war).

Moreover, in the case of a low-level or intermediate conflict, both internal and international rules allow the suspension of certain human rights. These "escape clauses", as they are known, are to be found, for example, in the Covenant on Political and Civil Rights (Article 4), the European Convention on Human Rights (Article 15), and the American Convention on Human Rights (Article 27). But these conventions expressly bar any derogation from a nucleus of rules which includes the right to life, the prohibition of torture and hostage-taking, and the prohibition of arbitrary or retroactive penalties, to name but a few.¹⁷ In any event,

¹⁶ See *inter alia* the statements in plenary of Mr. Charry Samper (Colombia), in *Official Records, op. cit.*, Vol. VII, pp. 66 and 69, paras. 39 and 56; Mr. Clark (Nigeria), p. 70, para. 60; Mrs. Sudirdjo (Indonesia), pp. 72-73, paras. 70-71. Also the written explanations of votes submitted by Brazil (p. 78), Canada (pp. 78-79), Colombia (p. 80), India (pp. 82-83), Kenya (p. 83) and the Philippines (p. 85). See Bretton, P., "Les Protocoles de 1977 additionnels aux Conventions de Genève de 1949 sur la protection des victimes des conflits armés internationaux et non internationaux dix ans après leur adoption", in *Annuaire français de droit international*, Vol. XXXIII, 1987, at pp. 547-548.

¹⁷ Marks, *op. cit.*, pp. 192-193. Eide, *op. cit.*, pp. 243-245. Zayas, A. de, Moller, J. T., Opsahl, T., "Application of the International Covenant on Civil and Political Rights under the Optional Protocol by the Human Rights Committee", in

“... the different situations of violence considered here give rise to the application of norms pertaining either to international human rights law (IHRL) or to the international law of armed conflicts (ILAC), or to both at the same time. The level of protection afforded by IHRL is highest in time of peace and diminishes as a situation approaches war, as when, for instance, attacks on life due to lawful acts of war are permitted. Conversely, the level of protection afforded by ILAC is relatively limited in peacetime (obligation to disseminate the Conventions, to modify legislation, etc.), but is very developed when there is a situation of international war”.¹⁸

Let us now take a closer look at the basic rights and freedoms composing the minimum standard of treatment to which nationals and aliens are entitled under international law in peacetime and in the event of internal conflict.

III. THE MINIMUM STANDARD OF TREATMENT

The list of existing customary and treaty rules protecting the basic rights and freedoms of the individual is impressive. Suffice it to mention, for peacetime situations, Articles 3 to 10 of the Universal Declaration of Human Rights (10 December 1948), the Preamble and Articles 5 to 8 of the Declaration on the human rights of individuals who are not nationals of the country in which they live, adopted by consensus in United Nations General Assembly Resolution 40/144 (13 December 1985),¹⁹ and Article 4 of the International Covenant on Civil and Political Rights (16 December 1966), in effect since 23 March 1976; and, for situations of internal conflict, Article 3 common to the 1949 Geneva Conventions, which since their entry into force on 21 October 1950 have become almost universally accepted, and Additional Protocol II of 1977, in effect since 7 December 1978. Other treaties covering specific rights and freedoms include the Inter-

GYIL, Vol. 28, 1985, at pp. 61-63. Gros Espiel, H. and Zovatto, D., “La regulación jurídica internacional de los estados de emergencia en América Latina”, in *Coloquio sobre la protección jurídica internacional de la persona humana en las situaciones de excepción*, *op. cit.*, at pp. 38-42.

¹⁸ Marks, *op. cit.*, pp. 200-204 (p. 200 cited), and Eide, *op. cit.*, pp. 245-250.

¹⁹ For the origins of this resolution, see United Nations document E/CN.4/Sub.2/392/Rev. 1 (Study prepared by Baroness Elles), New York, 1980, in particular pp. 36-37 (paras. 249-254) and 57-58 (Annex I).

national Convention against the Taking of Hostages (adopted by consensus in General Assembly Resolution 34/146, 17 December 1979, in effect since 3 June 1983), in particular Articles 1, 12 and 13, and the 1984 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted by consensus in Resolution 39/46, 10 December 1984, in effect since 26 June 1987), in particular Article 1, para. 1, and Article 16, para. 1, defining types of conflicts, and Article 2, para. 2, on the application of the Convention in situations of internal conflict.

These rules are proof that much progress has been made in the general protection of the minimum basic rights of the person, independently of his national origin, because they prohibit, specifically and simultaneously, in peacetime or in an internal conflict of any sort, certain acts against the individual, in particular any attempt on his life or attack on his liberty, personal safety, or physical and moral integrity. They also guarantee the right to proper trial. As we mentioned earlier, in an internal conflict derogations may be permitted from such basic rules as those which protect the individual's right to freedom and security and to a fair administration of justice, but no derogation is permitted from the minimum humanitarian treatment provided for in common Article 3, irrespective of whether or not the conflict is taking place in the legal context of a state of emergency or martial law.²⁰

The minimum guarantees specified in IHL are simply the counterpart, adapted to the circumstances, of the "hard core" of basic individual rights and freedoms.²¹ Moreover, the appreciable substantive development of treaty law in the field of human rights and IHL has led most scholars to approve both their relative convergence and their material similarity (in respect, at least, of a nucleus of basic rules

²⁰ See Lillich, R.B., "The Paris minimum standards of human rights norms in a state of emergency", in *AJIL*, Vol. 79, 1985, at pp. 1076-1079, a note reflecting the consensus reached by the International Law Association at its 61st Conference, held in Paris in 1984; Abellan Honrubia, V., "La protección internacional de los derechos humanos: métodos internacionales y garantías internas", in *Pensamiento jurídico y sociedad internacional. Estudios en honor del Profesor D. Antonio Truyol Serra*, 2 vols., Madrid, 1986, Vol. I, at pp. 52-55; and Chowdhury, S.R., *Rule of Law in a State of Emergency*, Pinter Publishers, London, 1989, pp. 143-219. These papers all deal with the application of human rights law in situations of internal conflict as defined above, irrespective of whether those situations are formally designated as states of emergency or martial law.

²¹ There is no shortage of books on the relationship between humanitarian law and human rights. See ICRC, Henry Dunant Institute, *Bibliography of international humanitarian law applicable in armed conflicts*, 2nd ed., Geneva, 1987, *passim*, in particular p. 29 ff.

contained, as concerns IHL, in common Article 3, supplemented by Protocol II in the event of civil war), and the relationship of complementarity or even interdependence between their fields and conditions of application in situations of internal conflict, notwithstanding the fact that they obviously concern different people in different situations.²²

Specific differences there may be, but there can be no denying that IHL and human rights law have come to overlap *ratione materiae*. This process has in turn had an inevitable and obvious, and above all a declarative,²³ effect on the relationship between the traditional customary rules governing aliens and the contemporary development — eminently treaty-based — of human rights law and IHL. Indeed, there is at present a consensus on the substantive content of a minimum standard of protection for the individual, whether national or alien, both in peacetime and in the event of any type of internal conflict, based on the rights and freedoms cited above (i.e., the right to life, liberty and security, to physical and moral integrity and to a fair administration of justice), respect for which would seem well-established in custom and in international treaties.²⁴ This list of minimum rights and freedoms applies to all individuals *erga omnes*;²⁵ it is for

²² See in particular Calogeropoulos-Stratis, A.S., *Droit humanitaire et droits de l'homme. La protection de la personne en période de conflit armé*, Graduate Institute of International Studies, Geneva, 1980, pp. 47-52, 94-97, 165-168 and 223-228, and El Kouhene, M., *Les garanties fondamentales de la personne en droit humanitaire et droits de l'homme*, Nijhoff, Dordrecht, 1986, pp. 8-12, 97-98 and 161.

²³ See in this respect the body of rights said to make up the minimum standard, on the basis of international and arbitral jurisprudence, by Schwarzenberger, G., *The law of armed conflict — International law as applied by international courts and tribunals*, 4 vols., Stevens and Sons, London, 1957-1986, Vol. I (3rd ed.), pp. 200-207.

²⁴ See Nascimbene, B., *Il trattamento dello straniero nel diritto internazionale ed europeo*, Milan, 1984, pp. 11-16, 20-21, 95-99, 146-149, 176-184, 203-204 and 215-220 (p. 20 cited), and Zayas, Moller, Opsahl, *op. cit.*, pp. 31-42 and 44-51, which discusses the “jurisprudential” development by the Commission on Human Rights of the International Covenant on Political and Civil Rights, Article 6 (the right to life), Article 7 (the right not to be subjected to torture or cruel, inhuman or degrading punishment), Article 9 (the right to liberty and security of person), Article 10 (the right to humane treatment and respect for human dignity during imprisonment) and Article 14 (the right to justice); the Commission has had no opportunity to do the same for Article 8 (the prohibition of slavery and servitude). In our opinion these articles constitute a relatively well-defined legal basis for the recently-developed standard.

²⁵ See Meron, T., *Human Rights Law-Making in the United Nations. A Critique of Instruments and Process*, Clarendon Press, Oxford, 1986, pp. 183-189. By the same author, *Human Rights and Humanitarian Norms as Customary Law*, Clarendon Press, Oxford, 1989, pp. 188-201. Article 5 (approved at first reading) of Part Two of the ILC's Draft Articles on State Responsibility, in the ILC *Yearbook*, 1985, Vol. II (Part Two), pp. 26 *in fine* - 29, Article 5 and points 20-22 of the Commentary.

the most part non-derogable even in situations of internal conflict, and transcends any cultural particularism.

Evidence that the rules of IHL governing international conflicts intersect with the law governing aliens is to be found as early as 1949: Article 38 of the Fourth Geneva Convention states that “with the exception of special measures authorized by the present Convention, in particular by Articles 27 [measures of control and security in regard to protected persons that may be necessary as a result of war] and 41 [assigned residence or internment of such persons where State security makes it absolutely necessary: see also Article 42] thereof, *the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace*”.

Furthermore, the International Court of Justice itself removed all remaining reasonable doubt that there was a connection between the two sets of rules in its judgment of 24 May 1980 in the case of the diplomatic and consular personnel of the United States of America in Tehran,²⁶ recognizing that Iran was obviously not complying with the United Nations Charter and the principles set forth in the Universal Declaration of Human Rights, and thereby tacitly suggesting that Iran’s treatment of the American hostages was a violation of the rules of general international law. The American government had said as much in its brief, arguing that Iran had not complied with certain customary rules on the treatment of foreigners and had violated certain human rights contained, *inter alia*, in the International Covenant on Political and Civil Rights, to which the United States was not even a party.²⁷

Although the interaction between the customary rules governing aliens, treaty human rights law and IHL has resulted in the formal drawing up of a minimum standard of protection to which any individual, whether a national or an alien, is entitled, actual application of that standard has encountered serious difficulties. In fact, the States have hardly ever defended, as though their own nationals were concerned, the rights and freedoms of aliens who have suffered from violations of the minimum standard on the part of another State, including the State of which they are nationals. And when some degree of protection has been afforded to non-nationals, it has not had the full legal and reparatory nature of diplomatic protection exercised in behalf of nationals (which in principle includes both the restoration

²⁶ See ICJ, *Reports 1980*, p. 42.

²⁷ ICJ, *Memorial, United States Diplomatic and Consular Staff in Tehran*, pp. 179-183, in particular pp. 181-183.

of legality and compensation for injury suffered); it has rather taken the form of humanitarian protection (i.e., it has been political and very lax in nature, restorative but never compensatory, and therefore very different in its methods and objectives from diplomatic protection).²⁸

In other words, although the universally accepted minimum rules on treatment do give a degree of uniformity to substantive law and circumvent the principle of non-interference in the internal affairs of States in order to protect the basic rights and freedoms of foreign individuals,²⁹ the international legal system does not yet have the necessary institutional framework to enforce full compliance with those rules. The States' defence of the basic rights and freedoms of non-nationals is thus limited to humanitarian protection.

If this is the case for non-nationals, what about the diplomatic protection which should guarantee respect for the basic rights and freedoms of nationals abroad? The growing importance attached to respect for human rights has blurred the traditional distinction between foreigners and nationals on which the rules governing aliens are based. That distinction has no meaning in the field of human rights, where protection has tended to become increasingly indiscriminate, taking no account of the individual's nationality. This has had serious consequences for foreigners in States affected by an internal conflict, since it puts them on the same legal footing in practical terms as nationals of the State in question. Is it still possible to distinguish legally between the national and foreign victims of the mass forced disappearances which have occurred in many States caught up in internal conflicts? Could a State which is responsible for such forced disappearances make reparations to foreign victims and not its own citizens?

²⁸ The term "humanitarian protection" has a completely different meaning in this article from its meaning in IHL. It is used to mean a form of minor protection of a political nature, as distinct from diplomatic protection; this is also the meaning given it and similar expressions (for example, "humanitarian considerations") by United Nations bodies concerned with the defence and promotion of human rights.

²⁹ See Zourek, J., "Le respect des droits de l'homme et des libertés fondamentales constitue-t-il une affaire interne de l'Etat?", in *Estudios de Derecho Internacional. Homenaje al Profesor Miaja de la Muela*, 2 vols., Madrid, 1979, Vol. I, at pp. 616 ff. and 624. See also the "Final report" by Mr. G. Sperduti on "Protection of human rights and the principle of non-intervention in the domestic concerns of States", and Articles 2 and 3 of the Institute of International Law Resolution of 13 September 1989 on the same subject, in *IIL Yearbook*, Vol. 63, Part I (Santiago de Compostela Session, 1989), pp. 376-402; and *Revista española de derecho internacional*, Vol. XLI, 1989, p. 698.

In view of these questions, it is opportune to examine the situation of foreigners, especially foreign workers and volunteers, in States in which there are ongoing internal conflicts, so as to explain the apparent paradox that in such situations the minimum standard of protection for both nationals and foreigners is not actually applied, whether in terms of humanitarian protection for non-nationals or of the usual diplomatic protection for nationals abroad. To do this we shall consider current practice by analyzing some hostage situations in Africa and in Lebanon, although we shall also refer in passing to the killing of foreign workers and volunteers.

IV. THE TAKING OF FOREIGN WORKERS AND VOLUNTEERS AS HOSTAGES IN INTERNAL CONFLICTS

The abduction of foreign workers and volunteers, resulting more often than not in their murder or accidental death, is a new method of fighting the established authorities used by armed groups and various guerrilla movements, usually for propaganda purposes and to exert political pressure in the hope of gaining recognition or support for their ideas, in an attempt to sabotage the country's economy or even, exceptionally, to obtain economic or military aid from a foreign government affected by their activities.³⁰ It is a tactic employed mainly, and not coincidentally, in Africa, the Middle East and Latin America, and primarily in situations of intermediate internal conflict. Here we have confined our analysis to Africa and Lebanon.

³⁰ A definition of the crime of hostage-taking, in no case applicable to acts committed by States, is proposed in Articles 1, 12 and 13 of the International Convention against the Taking of Hostages, approved by consensus in United Nations General Assembly resolution 34/146 of 17 December 1979, and in force since 3 June 1983; see Salinas Burgos, H., "The taking of hostages and international humanitarian law", in *IRRC*, No. 270, May-June 1989, at pp. 198-199 and 297-210. The constituent elements of hostage-taking are the seizure or detention of a person against his will, knowingly and without authority to do so, for one of a number of possible reasons (to kill him, for profit, to obtain information, to intimidate or compel that person or a third party, including a State, to act in a specific way) which may or may not be an express condition for the release of the hostage. The scope of the Convention means perforce that there is an international factor, so that, among other options, the act involves nationals of more than one State or is carried out in more than one State; this would appear to correspond to a terrorist or guerrilla phenomenon (in time of peace or internal conflict). For a general analysis, see Veuthey, M., *Guerrilla et droit humanitaire*, ICRC, Geneva, 1983, pp. 115-127.

In fact, the abduction and killing of foreign workers and volunteers are above all evidence of the blurring of the traditional distinction drawn in IHL between the civilian population and combatants. Although guerrilla groups tend, for political reasons, to maintain that distinction and what it implies (the protection of innocent civilians and their property from the effects of the hostilities), the protection of certain categories of persons (for instance, diplomats, prominent political and economic figures, businessmen, workers and volunteers, many of whom are foreigners) has been systematically put in doubt, it being felt, for reasons of ideology and military strategy, that they are not *a priori* neutral in the conflict because they are presumed to help maintain the political and economic infrastructure of the establishment.

1. Hostage-taking in Africa

Until quite recently, the taking of foreign workers and volunteers as hostages was relatively rare, but in the eighties it became an almost daily and sometimes a mass phenomenon in some situations of internal conflict. (It would now seem to be on the wane, probably because of the end of the Cold War and the dizzying pace of political change in Europe.) The first cases occurred in Angola, during the internal conflict which followed the so-called civil war of 1975-1976. This conflict between the victorious MPLA government and Jonas Savimbi's UNITA forces persisted until a peace agreement was signed in Lisbon on 31 May 1991. UNITA was backed by the Republic of South Africa and other Western powers and operated in large areas of the country, in particular in the south-east, where it had its principal bases.

UNITA's military strategy was one of economic sabotage. It kept up a constant campaign of attacks on roads, bridges, railways, supply convoys and industrial and mining centres, disrupting communications and transport and making normal economic development of the country impossible. To give but one example, Zambia was unable to use Angolan ports to export goods and was therefore obliged to go through South Africa, because UNITA had blown up the railway, in particular the Benguela line.

Another aspect of this strategy was a parallel campaign to abduct foreign workers (manual labourers and technicians), volunteers and missionaries with the aim of cutting off external aid for the Luanda government, rendering any economic cooperation unviable and prompting foreigners to leave, as well as obtaining highly coveted

international political publicity. Always using similar methods, UNITA kidnapped hundreds of workers, volunteers and missionaries of many nationalities (mainly from Western and socialist States, but also from developing countries, including the Philippines), whom it usually released a few weeks, several months or even years later and repatriated via South Africa or Zaire through the intermediary of the ICRC. Nationals of the former socialist States were held for much longer than others, and the conditions for their release negotiated with the States concerned. UNITA always justified its strategy of taking hostages, and the inevitable deaths of foreigners resulting therefrom or from attacks, by referring to the known risk involved in staying in the country or being under the protection of a military convoy or garrison which came under guerrilla attack. UNITA's leaders and its representatives in Europe have often repeated that their objective was to bring to a halt all foreign cooperation with the Luanda government.

In one incident, at least seven Spanish nuns were kidnapped by UNITA. Two of them were released after the Spanish Head of State intervened and after they had signed a document promising not to return to Angola until the conflict was over. Asked about the matter, the Spanish government declared that the "nuns suffered no ill-treatment apart from the arduous walk to Jamba, and were released after three or four months in captivity and a media campaign". It stated that its own role was to "assist, protect and possibly transport the hostages to Spain as they were released".³¹

In fact, UNITA abducted over 50 missionaries during the guerrilla war; a further 20 met violent deaths, usually in clashes between government troops and the guerrillas. It is a well-known fact that under general international law missionaries enjoy no privileges or immunity, so when they are on foreign soil they are subject to the same rules governing aliens as any other individuals with this status, the only exception being the widely recognized right to practise and teach their religion.³² They are therefore entitled to benefit from the diplomatic protection of their own State, and are exposed to the same

³¹ See *Actividades, textos y documentos de la política exterior española* (Ministry of Foreign Affairs, Madrid), No. 43, 1984, p. 815, and No. 46, 1985, pp. 127-129 (pp. 129 and 815 cited). See also "Documentación sobre política exterior" in *Revista de Estudios Internacionales*, Madrid, Vol. 5, 1985, pp. 1032 and 1034. In fact, Spanish diplomatic action seems to have been aimed simply at obtaining information on the condition of the hostages and assurances as to their prompt release.

³² "Practice of the UK", in *International Comparative Law Quarterly*, Vol. 6, 1957, pp. 138-141. See Zimmerman, T., "Missionaries", in R. Bernhardt (ed.), *Encyclopedia of Public International Law*, Vol. 8, 1985, pp. 395-396.

objective risk in living and working in a country prey to internal strife, notwithstanding their spiritual motivation for taking that risk.

As has become customary in incidents of hostage-taking, neither Angola nor South Africa was requested to provide any form of compensation, nor did this strategy seem to result in any political backlash for UNITA in the way of reduction or withdrawal of political or material aid by the Western powers. The latter notoriously played both sides, by cooperating economically with the Luanda government (the proven case for the United States, the United Kingdom, Portugal, Spain and the Republic of South Africa, although the latter has no nationals in Angola), while resigning themselves to seeing their nationals subjected to repeated violations of the minimum standard of treatment at the hands of a pro-Western guerrilla movement, probably in exchange for the latter's undermining of the MPLA government, both politically and economically.

The phenomenon of hostage-taking has of course spread to other African States. In Mozambique, Renamo, a guerrilla movement which was also armed and trained by the Republic of South Africa, at least until the Nkomati Agreement was signed in 1984 by Pretoria and Maputo,³³ has used the same strategy against the FRELIMO government. It has been notably successful in preventing Zimbabwean exports from reaching Mozambican ports, forcing Zimbabwe to use the South African port of Port Elizabeth, and in seriously hindering and temporarily paralysing the production and transport of electrical energy from the huge Cabora Bassa dam in the north. Renamo has kidnapped missionaries, workers and volunteers of many nationalities (Brazilian, British, Chilean, Italian, Portuguese, Soviet and Spanish) for the same ends as UNITA. In this conflict, however, the FRELIMO government response has occasionally been more effective, in some cases resulting in the release of the hostages. Nevertheless, in January 1985 Maputo was forced to state that as "it could no longer guarantee the safety of foreigners in the country, all foreign aid workers were advised to

³³ Article Three, para. 2, of the Agreement on Non-Agression and Good Neighbourliness between Mozambique and South Africa, signed on 16 March 1984, requires the parties to forbid, prevent and control the organization, recruitment, transfer and assistance of irregular forces or armed groups, including mercenaries, in both territories; see *International Legal Materials*, Vol. XXIII, 1984, 283-284, and "Chronique", in *RGDIP*, Vol. 88, 1984, pp. 892-893. See also Caddux, C., "L'accord de Nkomati et les nouvelles perspectives de relations entre la Republique d'Afrique du Sud et ses voisins d'Afrique australe", in *AFDI*, Vol. XXX, 1984, at pp. 73 and 78-80. South Africa has had problems in applying the agreement, as there is proof that the South African armed forces have continued to back RENAMO: "Chronique", in *RGDIP*, Vol. 90, pp. 179-180, and *Keesing's*, 1986, pp. 34085-34086.

return to five regional centres and to cease working in remote areas".³⁴

Hostages have rarely been taken in other African States. In Ethiopia, the two Eritrean guerrilla groups (apart from other movements in other regions) which fought the Addis Ababa government to achieve independence for the northernmost part of the country, and which finally brought about the downfall of the Marxist military regime of President Mengistu Haile Mariam in May 1991, also embarked on a campaign of kidnapping foreigners in the summer of 1975, a time when the conflict was escalating on both sides. Since that date, a number of teachers, workers, volunteers and journalists, most of them of American, British, French or Italian nationality, have been abducted and released after periods ranging from one or several weeks to over six months. In some cases involving British and US nationals, the guerrillas attempted to impose conditions for release or demanded a ransom, apparently without success. We also know that the British government negotiated with the guerrillas through the Sudanese government for the release of four of its nationals.

Although hostage-taking in the Horn of Africa was much less frequent in the eighties, the last incident we know of is quite recent. On 24 January 1987, 10 French citizens belonging to *Médecins sans Frontières* were abducted from a camp for Ethiopian refugees in northern Somalia, where they had been providing medical aid, by the Somali National Movement, an Ethiopian-backed guerrilla force opposed to the authorities in Mogadishu. After having destroyed the equipment and furnishings in the organization's premises, the SNM reportedly took the hostages into Ethiopia, where it released them and handed them over to the authorities two weeks later, by a curious coincidence at the same time as two Italian technicians abducted in Ethiopia in December 1986 were released.

In June 1983 the Sudanese government announced that southern Sudan would once again be divided into three separate administrative regions (there had previously been fighting over the same issue between 1955 and 1972). The result was renewed fighting, with rebel attacks against foreign installations and companies operating in the south, leaving at least half a dozen dead and as many wounded among the foreign technicians and workers, for the most part American. The rebels, black Christians and animists who demand greater autonomy for the region *vis-à-vis* the Moslem north, have also kidnapped many Western workers, missionaries and journalists of different nationalities.

³⁴ *Keesing's*, 1986, pp. 34084-34085 (p. 34084 cited).

Some were freed by the army, but most were gradually released by the rebels themselves, sometimes after a year in captivity.

The declared strategic objective of these abductions was to paralyse the local activities of the companies concerned, which were working on industrial projects as basic to the country's development as prospecting for oil and constructing a pipeline. After making repeated threats and attacks in 1984 and 1985, the rebels achieved their aim and the majority of the Western technicians and employees of United Nations specialized agencies left the south in 1985, because of the intense fighting between the guerrillas and the Sudanese army and the rebels' warnings that foreigners were putting their lives at risk if they stayed on.

2. Hostage-taking in Lebanon

In Lebanon, a country ravaged since 1975 by what is erroneously called a civil war (see note 3), the last ten years saw frequent attacks against foreign individuals and interests in the framework of an especially aggressive campaign against the agents and premises of other States: diplomatic and consular agents have been kidnapped and killed, and diplomatic missions and residences bombed or shelled. Countries as diverse as Austria, France, Iraq, Jordan, Libya, Saudi Arabia, the Soviet Union, the United Kingdom and the United States have been the target of such attacks. Western workers, volunteers, journalists and clergymen have also been abducted. Most were American, British, French or German; some were killed by their kidnappers and others died while in captivity. Other foreigners more difficult to put in a legal category have met with violent deaths. At the end of 1990, following a number of releases, about a dozen Westerners were still being held hostage or were unaccounted for in Lebanon, most of them American. They were being treated as simple hostages whose lives and liberty were being bartered to put pressure on their own or friendly governments in order to obtain money, arms, the release of prisoners of war or terrorists who were detained or had been sentenced, or to force a change in foreign policy. The hostages' release — when it occurred — usually came after at least one year, and some hostages had been held for four years already. It would seem that they were all in the hands of radical, fundamentalist groups against which neither the Lebanese government nor the more powerful factions (Shi'ite Amal or the Druse of the Progressive Socialist Party), whose leaders have held ministerial posts, have adopted any type of preventive or repressive measure.

Moreover, the political consensus of the international community on this matter, as expressed in the clear and unanimous condemnation of hostage-taking by the UN Security Council in Resolution 638 of 31 July 1989 (which takes into account especially, although without expressly mentioning it, the case of Lebanon), came far too late.

A further paradox is that the French government negotiated the conditions for the release of French hostages in Lebanon openly and directly with the kidnapers, and through the intermediary of Iran and Syria, without consulting the Lebanese government or even the militias mentioned above. This reveals the extent to which organized authority in Lebanon has crumbled. Nevertheless, even the governments most affected, both by attacks against their premises and interests and by the abduction and murder of their agents or nationals (the case of France, the United Kingdom and the United States) have not lodged complaints and have maintained diplomatic relations with the Lebanese government, which has sunk into a state of permanent military, economic and political impotence, evidenced by its inability even to collect customs duties because most of the country's ports are controlled by the militias of the different parties to the conflict.

Following the abduction and murder of Westerners in Moslem West Beirut in April 1986 as a result of the Libyan-American crisis, the Western governments issued further warnings and gave strict orders to their diplomats and nationals. Since summer 1985, the Spanish embassy and chancellery have been in the eastern, Christian sector of Beirut, and Spanish diplomats admit that they have standing orders not to cross the Green Line separating the two sectors, even to help compatriots in distress on the other side. The American embassy, which reopened in the Christian sector after it had been destroyed in April 1983, first evacuated a group of Americans still resident in the Moslem part of the city, then notified the few Americans who wished to remain there that they did so at their own risk.

The warnings were redoubled after the wave of kidnappings of Western nationals in early 1987. At the end of January, the American Administration requested all American citizens still living in Beirut to leave the capital immediately, warning them that if they stayed it would be "under their responsibility and at their own risk", since "there is a limit to what the United States can do to protect its citizens in this chaotic city, which is at the mercy of bands of armed criminals". Congress harshly criticized the obstinacy and imprudence of

Americans refusing to leave Beirut.³⁵ The Spanish Ministry of Foreign Affairs, for its part, issued a communiqué on 30 January advising its nationals not to travel to Lebanon in the prevailing circumstances, and informed the Director of the Office of Diplomatic Information that people who travelled to Lebanon did so at their own risk, because “no one could guarantee the safety of anyone with a European appearance”.³⁶

It is highly appropriate here to refer to what we consider to be an extreme example, i.e., the attitude adopted by the ICRC in respect of injury and loss suffered by its delegates in the conduct of their activities. In situations of non-international armed conflict, the ICRC has a treaty right of initiative under common Article 3. In any other situation, including internal disturbances and tension (low-level or intermediate conflicts), the ICRC can always offer its services, which may or may not be accepted, by virtue of its traditional right of humanitarian initiative set forth in Article 5 of the Statutes of the International Red Cross and Red Crescent Movement. It comes as no surprise, in the deteriorating legal climate of many States at present, that ICRC delegates and other staff on humanitarian missions throughout the world are increasingly at risk.

Take, for example, the 10-month ordeal (from October 1989 to August 1990) of two ICRC orthopaedic technicians, both Swiss nationals, taken hostage by unidentified armed men belonging to one of the radical Islamic groups operating in Lebanon. The technicians were released thanks, as always, to the good offices of certain governments with interests in and influence on Lebanese affairs. This was one of the most serious violations of IHL suffered by the ICRC in Lebanon, and was the second time ICRC delegates had been taken hostage there because of their nationality (Swiss); the kidnapers demanded the release of a Moslem tried and sentenced in Switzerland to life imprisonment for a terrorist act committed in an aircraft.³⁷

³⁵ *El País*, 27 January 1987, pp. 1-2 (both pages cited).

³⁶ See *Actividades, textos y documentos de política exterior española*, No. 60, 1987, p. 79. See also *El País*, 31 January 1987, p. 15 (cited), and compare with 7 February 1987, p. 3.

³⁷ *IRRC*, No. 273, November-December 1989, pp. 575-576 and 579; No. 274, January-February 1990, pp. 45-46 and 54-55; No. 275, March-April 1990, pp. 135-136 and 154-155; No. 276, May-June 1990, p. 269; No. 277, July-August 1990, p. 355; and No. 278, September-October 1990, pp. 435-436 and 446-447. See also *ICRC Bulletin*, from No. 166 (November 1989) to No. 176 (September 1990). The first time an ICRC delegate was taken hostage in Lebanon because of his Swiss nationality was in November 1988. The delegate, Peter Winkler, was released in December of the same year: see *ICRC Bulletin*, No. 156, January 1989, p. 1.

This is why the ICRC recently pointed out, albeit unofficially, that “from the beginning an ICRC delegate must be aware that he is exposed to certain risks that his mere presence in such situations [of conflict] brings with it”, for the nature of the ICRC’s work necessarily puts the delegate in danger, kidnapping or capture as a hostage constituting a comparatively minor risk in this context.³⁸

Finally, although the ICRC recommends that the risks must always be calculated and taken “especially in function of the needs to supply aid to the victims”,³⁹ this does not mean that in the event of an incident affecting, slightly or seriously, the physical integrity and security or the liberty of its delegates, no matter how deliberate and prudent their behaviour, the institution will do any more than suspend its activities until it has once again been given due guarantees that its work can be conducted safely. The question of responsibility or compensation is therefore never raised, although this could be done, for example, through diplomatic representations by the victim’s country of origin. Indeed, any assessment of such incidents would have to take into account that the ICRC’s “humanitarian activists” had previous knowledge of the risks involved and accepted them. This has been confirmed by recent ICRC practice.⁴⁰ In other words, the ICRC would seem to accept for itself and for its delegates abroad the objective and very serious risks that tend to go hand-in-hand with its humanitarian activities, tacitly and generally renouncing, for the sake of the development and impartiality of its activities, the means of defence provided for by the international legal system against presumed illegal acts committed against its delegates and property.

³⁸ *ICRC Bulletin*, No. 116, September 1985, p. 4 (cited).

³⁹ *ICRC Bulletin*, No. 116, September 1985, p. 4.

⁴⁰ See for example *IRRC*, No. 204, May-June 1978, pp. 165-167, 172-174 and 178-180; or *ICRC Bulletin*, No. 169, February 1990, p. 1. One precedent does exist, however, to our knowledge: the ICRC filed a claim against the United Nations in the matter of G. Olivet, who disappeared in 1961 near Elisabethville (Katanga) with two nurses on board a Red Cross ambulance; the bullet-riddled ambulance and their bodies were found nearby days later. The commission of inquiry appointed by the parties established that the deaths had occurred in the zone controlled by United Nations forces and that the bullets came from weapons used by those forces. The United Nations compensated the ICRC with a sum of money to be distributed to the families of the victims; see Barberis, J.A., “El Comité Internacional de la Cruz Roja como sujeto del derecho de gentes”, in *Studies and essays on international humanitarian law and Red Cross principles, in honour of Jean Pictet*, Martinus Nijhoff Publishers, The Hague, ICRC, Geneva, 1984, at p. 640. The damages were, however, *ex gratia*; see Pérez González, M., “Les organisations internationales et le droit de responsabilité”, in *RGDIP*, Vol. 92, 1988, at pp. 82-83.

V. THE PHENOMENON SPREADS: FOREIGN HOSTAGES IN IRAQ

At the end of the 80s, it seemed that the phenomenon of hostage-taking was on the wane throughout the world, as the number of internal conflicts decreased or they became less intense. There was a resurgence, however, in 1990. When Iraq invaded and annexed Kuwait in August 1990, the Iraqi authorities forbade all foreigners to leave the country, a decree applying especially to citizens of Western States as an admitted measure of retaliation against the economic embargo and blockade imposed by the United Nations Security Council; a further and no less important aim was to prevent or at least delay Western armed action against Iraq. As a result, several thousand Westerners and others, most of them workers and volunteers living in Iraq and Kuwait, were held in Iraq waiting either for the Iraqi authorities to deign to let them leave the country, which they usually did after a visit and request by some non-governmental dignitary or delegation from the country concerned (about 1,300 Westerners had received permission to leave the country in this way by November 1990), or for the settlement of the international crisis brought about by the grave act of aggression and consequent violation of international law committed by Iraq when it occupied and annexed a neighbouring sovereign State which is a fully-fledged member of the United Nations. Although all remaining hostages were suddenly "freed" in mid-December 1990, it is nevertheless worth wondering what rules are applicable in this case and what international responsibility the Iraqi government might have incurred during the time in which the foreigners were held.

Iraq is not a party to the 1977 Additional Protocols, but it is a party, as is Kuwait, to the four 1949 Geneva Conventions. Even if Iraq were not party to the Conventions, their provisions would be applicable because of the universal consensus reached by the international community as to their mandatory nature, by virtue of the number of States which are party to them. It is true that there was not, during the time the foreigners were held, an international armed conflict between Iraq and the States which in August 1990 started to apply the economic sanctions decided on against Iraq in various Security Council Resolutions, in particular Resolutions 661 and 665 (1990), adopted legitimately within the framework laid down in Chapter VII of the United Nations Charter; the fact that Security Council Resolution 678 (1990) authorized the use of force against Iraq if it did not withdraw from Kuwait before 15 January 1991 did not change the situation. On the other hand, there was obviously an international

armed conflict between Iraq and Kuwait as of 2 August 1990; the provisions of the Fourth Geneva Convention (relative to the protection of civilian persons in time of war) were therefore applicable from that date on, and were equally binding on both parties.

Article 4 of the Fourth Convention protects, *inter alia*, all persons who, in the event of conflict or occupation, find themselves in the hands of a party to the conflict or occupying power of which they are not nationals. Paragraph 2 of Article 4, it is true, excludes from the field of application of the Fourth Convention nationals of neutral States while the State of which they are nationals has normal diplomatic relations with the State in whose hands they are. This exception did not apply in the case at hand, however, because as far as we know no State declared or formally claimed that it had neutral status in the conflict between Iraq and Kuwait. What is more, the obligations imposed by the United Nations Charter on member States and, more particularly, the encouraging application to this crisis of the mechanisms for collective security provided for in Chapter VII of the Charter, render the role which could have been played by neutrality in this case superfluous in the extreme.

On the other hand, although Article 35, para. 1, of the Fourth Convention provides that a party to the conflict may prevent foreigners from leaving its territory at the outset of or during a conflict if their departure is contrary to national interests, paragraph 2 of the same Article provides that a person refused permission to leave shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board. Article 34 unequivocally prohibits the taking of hostages (an act which Article 147 defines as a "grave breach"), and Article 28 the use of the presence of protected persons "to render certain points or areas immune from military operations". Article 38 specifies in passing that persons not repatriated shall continue to be governed by the provisions concerning aliens in peacetime, with the exception of such measures of control and security concerning them as may be necessary as a result of the war (Art. 27 *in fine*). Assigned residence or internment are mentioned as the most severe measures that may be taken, but only "if the security of the Detaining Power makes it absolutely necessary" (Arts. 41 and 42), and with the same guarantees as those described in Article 35, para. 2 (see Art. 43, para. 1). Finally, a foreigner in occupied territory may claim the right to leave the territory under the conditions set forth in Article 35, i.e., as if he were a foreigner on the territory of a party to the conflict.

The Iraqi government failed to respect the letter and the spirit of the Fourth Convention because it did not establish — as far as can be determined — any procedure allowing for rapid revision of its refusal of permission to leave Iraqi territory, with the exception of the exit visas granted at the discretion of its leader as part of the propaganda war unleashed by the military occupation of Kuwait. Nor were the Iraqi authorities reluctant to admit from the beginning that they had posted groups of foreigners (all of them apparently Westerners) in military bases and industrial centres scattered throughout Iraqi territory for the stated purpose of preventing those installations from becoming military targets in the event of hostilities against Iraq. As if that were not enough, the deplorably propagandistic nature of the bargaining over the sporadic “releases” of groups of hostages starting in August would seem to refute any arguments claiming that the hostages had to be held for technical reasons and to maintain services essential to the Iraqi economy and administration until such time as Iraq had found a satisfactory solution for their replacement.

Finally, if the Iraqi government considered that there was no international armed conflict, interpreting the annexation of Kuwait as *sui generis*, but that Iraq was in a state of internal emergency owing to the economic sanctions imposed by the Security Council and the risk of an imminent international war, a state of emergency which — still according to the Iraqi government — would also have allowed it to adopt the measures we have already discussed in respect of foreigners, it is obvious that the applicable measure would have been the minimum standard of protection for the individual accepted by custom under Article 3 common to the Geneva Conventions. That standard guarantees freedom and safety for the individual, whether a national or a foreigner, and prohibits *erga omnes* and without exception the taking of hostages.

In conclusion, the Iraqi government turned thousands of foreigners into hostages and held them illegally on its territory from August to December 1990, unquestionably violating Articles 27, 28, 34 and 35 of the Fourth Geneva Convention, and committing several grave breaches under Article 147, which lists the acts regarded as grave breaches when committed against the persons and objects protected by the Convention.⁴¹ Therefore, the position of the Iraqi government is legally untenable. The political reasoning behind it, however, stems from the acquiescent reactions of the States, analyzed above, in the

⁴¹ See Salinas Burgos, *op. cit.*, pp. 219-220.

face of similar occurrences in situations of internal conflict when they have affected only individuals, and not their own agents and bodies.

The conflict is now over, but it is not possible to tell whether the international community in general and Kuwait in particular will hold Iraq responsible for damages in connection with the foreign hostages, in accordance with the provisions of Articles 146 to 149 of the Fourth Geneva Convention relating to grave breaches of its provisions.⁴² The Security Council has, it is true, denounced and expressly condemned those violations, in particular in its Resolutions 670 (1990) and 674 (1990), which make direct reference, moreover, to the Fourth Geneva Convention, among other treaties. However, Security Council Resolution 687 (1991) and later resolutions are very general in that they deal with the responsibility incurred by Iraq as a result of the invasion, the annexation of Kuwait and subsequent events, and have so far mentioned only missing Kuwaitis and nationals of third States and property which they have not recovered.

VI. CONCLUSIONS

In the light of the cases discussed above, it cannot be said that the minimum international standard of treatment, i.e., the point of convergence of human rights law and the rules governing aliens, and ultimately the international law of State responsibility, is effective, at least in the event of an internal conflict. The States whose nationals have been taken hostage or died violently in situations of internal conflict in other countries have not exercised humanitarian protection (not at all similar to the strict, formal and retributive nature of diplomatic protection) *vis-à-vis* the State or the guerrilla or rebel movement which is presumably in charge once it gains power. They have thus accepted *de facto* the treatment meted out to their nationals by the parties to the conflict. This failure to implement the rules providing for a minimum standard of protection of the individual, whether a national or an alien, can also be seen by the extent or nature of the reparations asked for, which have lost their full character of restitution,⁴³ becoming mere

⁴² Article 148 of the Fourth Convention reads as follows: "No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article" (which lists grave breaches of the Convention). All the obligations in Article 147, such as the prohibition on taking hostages, therefore have an *erga omnes* or non-derogatable nature.

⁴³ As formulated by the ICJ in its judgment in the Chorzów Factory case (claim

requests for a stop to the illegal situation (restitution *lato sensu*) rather than demands for compensation for the injury caused (damages and satisfaction). Why have reactions been so restrained?

First of all, the formal legal structure of today's international order, which is very attached to the eminently relational and conservative principles of sovereign equality and non-intervention, together with the undoubtedly institutional and innovative doctrine of peaceful and equitable cooperation, has certainly contributed in both senses to a radicalization of the traditional restrictions on the human rights of the foreign worker or volunteer. Those rights have been sacrificed for the sake of the *ad intra* security of the States and the *ad extra* stability of the relations of cooperation between them, whether relational or institutional, especially when armed conflict in one of them renders its security and stability particularly vulnerable.

Secondly, the specific protection that the traditional order afforded foreigners within the international community has become less effective as the substantive rules governing aliens have been incorporated into the framework of human rights law, which makes no distinction of nationality. This framework does admittedly lack a sufficiently well-developed institutional structure for the application of such advanced rules, rendered pointless by the lack of parallel progress in sectors such as international order and jurisdiction. Moreover, experience has shown that injury to the foreign worker or volunteer is above all the work of groups of individuals organized in armed bands, guerrilla groups or rebel factions, which gives an added collective dimension to the problem of protecting those foreigners. What happens to foreigners is therefore materially the same as what happens to nationals. The foreigners may even be more seriously affected, since the parties to the conflict do not usually grant them any form of "privileged" treatment, not even *de facto*, and may even discriminate against them (as has been the case in some conflicts where the hostages were only or mainly foreigners). Many internal conflicts may well stem from grave violations of a people's right to self-determination. They then become much more than internal conflicts and result in an outright rejection of any special or "privileged" legal status which might be assigned, not *de jure* (which is not possible) but *de facto*, to the foreigner.

for compensation, Fund) of 13 September 1928: "... la réparation doit, autant que possible, effacer les conséquences de l'acte illicite et rétablir l'état qui aurait vraisemblablement existé si ledit acte n'avait pas été commis" (*Cour permanente de justice internationale*, Série A, No. 17, pp. 29 and 47).

We have also observed that foreign workers and volunteers, as a high-risk group in the event of internal conflict, are closely associated with the institutional structure of present-day international development law which, as we know, is based on the principle of cooperation. It is this structure which suffers most in an internal conflict; it is shunned because of doubts concerning the activities of a group that forms the advance guard of these relations of cooperation, and that publicizes and promotes them. The reasons for contesting the human rights of this group of foreigners may lie in the fact that the institutional structure they represent also serves to lend legitimacy to the governments of many developing States, providing them in different fora with the political support, economic aid and technical assistance without which they could not formally survive as independent entities or consolidate their political regimes. The struggle to control or challenge this network of cooperation is a vital matter for the groups or factions in conflict, and the group of foreigners in question inevitably bears the brunt.

In short, all this leads us to conclude that the foreigner who has suffered injury (especially if he has been taken hostage) and *who has knowingly and freely accepted the foreseeable risk arising from his mere presence* in a State affected by a low-level or medium-level internal conflict (excluding the hypothesis of civil war) *does not normally benefit from the diplomatic protection* of his own State, but only from *humanitarian protection* of a political and very poorly defined nature which is restitutive but never compensatory.⁴⁴ These internal conflicts therefore provide the States in which they take place and which may be liable to claims on behalf of foreigners with a rich supply of legal arguments in their defence. This has been the case for many newly independent developing States, where the rule of law and respect for human rights are usually notoriously poor.

Another matter entirely is the total lack of legal justification for the conduct of the Iraqi government (holding thousands of foreigners on its territory by force), which is a grave breach of IHL but finds a political explanation in the dangerous complacency with which most governments have treated hostage-taking when it has affected their nationals (in particular workers and volunteers), rather than their institutions and agents. The phenomenon has taken on such proportions that governments should be much more severe in their legal condemnation and material repression of this practice if they wish to keep it

⁴⁴ Jiménez Piernas, C., *La conducta arriesgada y la responsabilidad internacional del Estado*, University of Alicante Publications Service, Alicante, 1988, pp. 303-312.

from becoming an accepted requirement for diplomatic protection or a circumstance that modifies international responsibility, in that it changes the nature of the objective risk accepted by foreign individuals working in States affected by internal conflict (not civil war). This would also check, with all the attendant consequences, the alarming expansion of the phenomenon through the direct participation of State bodies or agents in the crime of hostage-taking in the event of an international armed conflict, as was the case in Iraq. For this reason, the Iraqi government should be required to pay exemplary damages.

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His research on public international law has focused on the methodology, development and application of this body of law and on State competence. Among his recent publications are the following two monographs:

La conducta arriesgada y la responsabilidad internacional del Estado, University of Alicante Publications Service, 1988;

La revisión del estatuto territorial del Estado por el nuevo Derecho del Mar, University of Alicante Publications Service, 1990.

Dissemination of international humanitarian law and of the Principles and ideals of the Red Cross and Red Crescent

DISSEMINATION IN THE NINETIES

The dissemination of international humanitarian law is more than an obligation laid down by the Geneva Conventions and their Additional Protocols for all the States party to them. To spread such knowledge is to play a vital part — if not the most important part of all — in limiting the suffering caused by armed conflict.

To promote the Principles and ideals of the Red Cross and Red Crescent is the duty of all members of the Movement. It also and above all means fostering a spirit of cooperation and peace.

In this unstable world of ours, where peace restored as in Angola and Cambodia constantly alternates with unspeakable suffering in places like Somalia and Yugoslavia, we must continue to work energetically on two fronts, seeking to prevent the outbreak of war where possible and limiting the suffering it causes when it cannot be avoided. And there we have two of the main objectives of dissemination.

The adoption of the Additional Protocols in 1977 coincided with a rapidly growing awareness of the importance of dissemination. Since then, the momentum has been maintained throughout three successive programmes of action adopted by the International Conference in 1977, 1981 and 1986.

When the 26th International Conference was postponed, the report that had been prepared for it became a report to the 1991 Council of Delegates. It describes the many dissemination activities carried out in particular by the various States, the National Societies, the ICRC and the International Federation of Red Cross and Red Crescent Societies, but also concludes that a great deal remains to be done. We must therefore spare no effort in our continuing campaign to promote knowledge of and respect for this body of law.

But dissemination can do more than meet our obligation to relieve current suffering and to be prepared for future events. Many people in our rapidly changing world have lost their bearings and now need to regain a sense of fundamental values, of legal and ethical stability. While international humanitarian law and the Movement's Principles cannot provide the whole answer, they can make a real, universally recognized contribution. We have to say this loud and clear, and spread knowledge of them accordingly.

*In order, therefore, to keep up the momentum of the previous three programmes of action and to meet present requirements, the ICRC and the Federation drew up the "**Guidelines for the '90s**" for approval by the 26th International Conference and, following its postponement, submitted them to the Council of Delegates in November of last year. In adopting these guidelines (Resolution 8), the Council endorsed a body of advice and rules for action to be taken by all concerned. They suggest a number of universal priorities for the coming decade while being flexible enough for the humanitarian message to be adapted to different cultures and to the technical means available (see pp. 175-178).*

To ensure that these guidelines receive the widespread attention they deserve, they are now being published in the Review and will shortly be printed in the form of a booklet.

For the purpose of broader distribution, the report prepared for the Budapest Conference is also being reissued in mimeographed form.

René Kosirnik
*Head, Legal and
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GUIDELINES FOR THE '90s

1. Definition

Dissemination is the spreading of knowledge of international humanitarian law (IHL) and of the Fundamental Principles and ideals of the Red Cross/Red Crescent Movement so that they may be understood, accepted and respected; it is also intended to facilitate humanitarian work.

2. Objectives

- 2.1 Through a knowledge of and respect for IHL, *to limit the suffering* caused by armed conflicts and by situations of disturbances and tension.
- 2.2 To ensure that humanitarian activities are carried out in *safe conditions* and in particular that Red Cross/Red Crescent staff are respected so that effective assistance can be provided to the victims.
- 2.3 To strengthen *the Movement's identity and image*, to enhance its unity through promoting knowledge and understanding of its principles, history, structures and activities.
- 2.4 To help propagate a *spirit of peace*.

3. Recommendations

WHAT?

- 3.1 The *subject matter* for dissemination comprises two main topics:
 - (a) IHL, in particular the four 1949 Geneva Conventions and their two 1977 Additional Protocols;
 - (b) The Fundamental Principles, the Movement's ideals, its activities and its historical background.

- In certain cases, it may be useful to link the dissemination of IHL with that of other branches of law, such as human rights or refugee law.
- The choice of dissemination material and the degree of detail appropriate depend on the objective, the audience and the social and cultural context:
 - IHL — or the law of armed conflicts or the law of war — is in general the primary topic for dissemination among the military, in government circles and in universities;
 - dissemination programmes for National Societies and young people should focus on the Fundamental Principles and the RC ideals and on the general principles of IHL;
 - since the role of journalists is to inform, they are especially interested in humanitarian work and in facts concerning ongoing operations and the application of IHL.
- In countries which are not yet bound by certain IHL treaties, in particular the 1977 Additional Protocols, one of the primary objectives of dissemination must be to persuade the States concerned to ratify or accede to those treaties.
- Comments and examples relevant to each specific culture or society should be added for the sake of effectiveness, with due regard for the universal nature of IHL and the Fundamental Principles.

BY WHOM?

- 3.2 By virtue of IHL and the Statutes of the Movement, *dissemination* is primarily the responsibility of:
- The military and civilian *authorities*, whose task is to implement IHL treaties;
 - All the *National Societies*, which must provide training for their own members and encourage, assist and, when necessary, stand in for the State authorities;
 - The *ICRC*, whose mandate includes upholding the Fundamental Principles and promoting and developing IHL, and which has the primary responsibility for dissemination at the international level;
 - The *Federation*, which assists the ICRC in promoting and developing IHL and cooperates with it in disseminating both this body of law and the Fundamental Principles amongst the National Societies.

Over and above those special responsibilities, all persons and organizations concerned have a moral — and in some cases a legal — responsibility to promote the essentials of IHL according to their means, circumstances and mandates.

FOR WHOM?

3.3 In 1986, eight main *target groups* were identified, namely:

- *The armed forces*
- *National Societies*
- *Government circles*
- *Universities*
- *Schools*
- *Medical circles*
- *The mass media*
- *The general public.*

This list is still valid, but it is necessary to narrow it down to the groups that the Movement should preferably focus on over the next few years, namely:

- The *armed forces* and other *authorities* responsible for applying IHL;
 - National Society leaders, staff and *volunteers*;
 - *Young people* and *teachers*.
- The attention to be devoted to other target groups must be determined at the national and local levels according to short- and long-term humanitarian requirements and resources that are already available or can be mobilized.
 - The *media* will always constitute a priority in terms of the Movement's public relations activities, considering their impact on the public at large and their role in enhancing the image of the Movement and its components.
 - Target groups that are not listed above but may become a priority depending on the circumstances are, for example, governmental and non-governmental organizations and certain categories of victims.
 - Training National Society staff and volunteers requires considerable and persistent effort if National Societies are to remain or become effective participants in the Movement's overall dissemination programme and

useful partners of the ICRC or the Federation, possibly even of government authorities, in seeing it through.

- In many countries National Society dissemination projects must focus primarily on young people and teachers.

HOW?

- 3.4 The golden rule is to use the means of communication and teaching methods and aids best suited to a particular cultural environment and level of knowledge and the resources available.
- Each National Society, on its own or in cooperation with the authorities concerned, should first of all assess the needs and resources required and then draw up a plan of action which should be dynamic but remain realistic.
 - Dissemination as an end in itself is not productive. It must be related to and/or reflect other community-oriented activities carried out by the National Societies.
 - The objective of setting up or strengthening dissemination activities or units within each National Society must be maintained.
 - The complementarity of dissemination, information and public relations objectives and activities must be taken into account and strengthened.
 - Since resources are always limited, emphasis should be placed on training other disseminators and instructors.
 - Voluntary support and cooperation should be sought from experts such as lawyers, officers, teachers and public relations specialists.
 - With help from the Federation, the ICRC must continue to produce and supply material and devise methods that can be used in most countries.
 - Priority should be given to the most suitable methods and means of developing local initiatives and projects.
 - Financial, technical or educational considerations are undoubtedly major aspects of dissemination work, but sensitivity, imagination, creativity and dedication are by far its most important components.

Dissemination of international humanitarian law in Ecuador

by **Ricardo Camacho Zeas**

International humanitarian law is the body of rules (the four 1949 Geneva Conventions and their two Additional Protocols of 1977) governing the rights and obligations of the belligerents in war.

In signing and later ratifying the Conventions and their Protocols, the States party thereto undertake not only to respect and ensure respect for humanitarian law in all circumstances, but also to disseminate the relevant texts as widely as possible in time of peace as in time of war, among both the armed forces and police and the civilian population. This is stipulated in Articles 47, 48, 127 and 144 of the four Geneva Conventions respectively, which also require States to include the study of humanitarian law in programmes of military instruction. Moreover, States are duty-bound to incorporate the provisions of humanitarian law in their internal legislation.

In Latin America, unfortunately, and in Ecuador in particular, funds are rarely set aside for introducing such courses into programmes of military instruction, either because the governments in power have made no policy decision in that respect or because scarce financial resources are earmarked for other priorities.

In Ecuador, dissemination activities were few and far between until 1989. Thanks to the initiative of the International Committee of the Red Cross and the National Society, a dissemination and principles department was set up at the Ecuadorean Red Cross in that year. The first thing we had to decide was what to disseminate and what target groups we wanted to reach, questions I think dissemination officers ask themselves the world over.

The answers were obvious. We would promote knowledge of the International Red Cross Movement and international humanitarian law,

and our principal target groups would be the armed forces, the national police and academic circles.

Although the Conventions and their Additional Protocols contain articles on the dissemination of their respective provisions, national authorities and in particular the armed forces see those provisions as far removed from their everyday concerns. Our first objective, therefore, was to sign a cooperation agreement with the armed forces clearly defining the rules of the game for both sides. The declaration of cooperation has two main points (*see below*).

First, the Ministry of National Defence agrees to allow the Red Cross to organize courses and seminars provided that they do not disturb day-to-day routine within the army, navy and air force units concerned.

The second and, in my opinion, key point, is that a coordinator was to be appointed for each branch of the armed forces, that coordinator being the Secretary General of the branch concerned. This was of vital importance because it allowed us to establish regular working relations on a more personal basis. Some months later, the first outside participants in a National Society internal dissemination seminar were members of the armed forces, who mingled with Red Cross members and shared their experiences. At present, the three coordinators are members of the Ecuadorean Red Cross dissemination department.

Once the agreement was signed, our next problem was to decide what to disseminate and how. Many talks and seminars were given to members of the armed forces and the national police before we found what appeared to be the most satisfactory method.

Similar cooperation agreements were signed with the Ministry of the Interior and the National Police. These solemn agreements have made it possible for the Ecuadorean Red Cross to make rapid progress in the dissemination of knowledge of international humanitarian law among the country's armed forces and police.

Courses and seminars (on average two per month) have been given at all levels, from recruits up to judge advocates of the Supreme Military Tribunal.

It was these agreements that paved the way for our programmes, but the links thus established have since grown closer, and dissemination work is now much more than simply a matter of meeting an obligation.

The talks and seminars do not take the form of *ex cathedra* lectures; they involve active participation and group work. They have aroused great interest and enthusiasm, and the Ecuadorean Red Cross

has received many requests for courses on international humanitarian law as a result.

Ricardo Camacho Zeas
Secretary General
Dissemination
Ecuadorean Red Cross

MINISTRY OF NATIONAL DEFENCE

ANNEX

**DECLARATION OF COOPERATION BETWEEN
THE ECUADOREAN RED CROSS AND
THE MINISTRY OF NATIONAL DEFENCE**

Preamble

The Republic of Ecuador ratified the 1949 Geneva Conventions in 1954. In 1979 it ratified the two Additional Protocols, being the second Latin American country to do so. It thereby undertook to respect international humanitarian law and to promote knowledge of its provisions, especially among the armed forces and the national police, so as to ensure that combatants, medical personnel and chaplains in particular are aware of the rules pertaining to them.

Declaration of cooperation

Primo:

In compliance with the undertaking made by the State, the Ecuadorean Red Cross and the Ministry of National Defence have signed this declaration of cooperation for the dissemination of knowledge of the Geneva Conventions and their Additional Protocols to army, navy and air force units of the armed forces.

Secundo:

a. The Ministry of National Defence undertakes:

- To allow talks and seminars to be held for army, naval and air force units provided that they do not interfere with routine activities within those units. The talks and seminars shall take place on premises designated by the branch of the armed forces concerned.
- To appoint a coordinator to work out the schedule for the seminars and talks to be given to the armed forces, with the support of the Training and Education Department concerned. The said coordinator shall be the Secretary General of the branch in question.

b. The Ecuadorean Red Cross undertakes:

- To provide the staff and audiovisual equipment required for the seminars and talks. It will provide the participants in the seminars with materials consisting specifically of the Conventions, the Protocols, the Essential Rules, posters, etc. During talks it will distribute basic materials such as the *Rules for Behaviour in Combat* and posters.
- To bear the cost of transport, meals and accommodation for its staff and of the materials used in the seminars and talks.

Tertio:

The cooperation provided for in this declaration shall be of a permanent nature, but may be modified or terminated if the Ministry of National Defence feels it has sufficient institutional grounds for doing so.

In witness whereof, the present declaration was signed in Quito on 5 October 1989.

DR. HUGO MERINO GRIJALVA
President
Ecuadorean Red Cross

JORGE FÉLIX MENA
Major General
Ministry of National Defence

THE HUMANITARIAN DIMENSION OF WAR

Protection of the individual, whether military or civilian

by Aristidis S. Calogieropoulos-Stratis

Recently, a number of armed conflicts have broken out in Europe or not far away: armed conflicts between States — the Gulf War, for example, authorized by UN Security Council resolution 678 — or wars of national liberation, such as the armed conflict in Yugoslavia or the revolt in Kurdistan. Whether or not the use of force was legitimate in each of these situations, and even though the classic notion of a “just war” no longer exists, all parties to any armed conflict have a moral, legal and humanitarian obligation to abide by the laws and customs of war in the conduct of hostilities and indeed throughout the entire conflict.

Although war is by its very nature the negation of modern international law, it is nevertheless governed and conditioned by part of that law: the international humanitarian law of armed conflict, which sets limits and forbids certain practices, concerning not only the treatment of individuals but also the use of various means of combat. This law (*jus in bello*) is based on the principle that belligerents must not cause their adversaries harm that is disproportionate to the objective of war, which is to destroy or weaken the enemy’s military potential.

International humanitarian law governing armed conflicts has two major branches:

(a) *humanitarian law* proper, or the *Law of Geneva*, comprising the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977; and

(b) the *Law of The Hague*, composed of all the international conventions and agreements adopted in the context of the peace conferences held in The Hague in 1899 and in 1907.

In addition, there is a whole series of “autonomous” international agreements concerning the law of war. These include the *Declaration of St. Petersburg* of 1868, which prohibits the use of certain projectiles, the *Geneva Protocol* of 1925 for the prohibition of the use in war of asphyxiating, poisonous or other gases and of bacteriological methods of warfare, the *UN Convention* of 10 October 1980 on prohibitions or restrictions on the use of certain conventional weapons deemed to be excessively injurious or to have indiscriminate effects, and *The Hague Convention* of 1954 for the protection of cultural property in the event of armed conflict, concluded under the auspices of UNESCO.

The *Law of Geneva* essentially tends to protect victims of armed conflict, that is, members of the armed forces no longer able to fight because they are wounded, sick, shipwrecked or taken prisoner, the civilian population and all others directly or indirectly affected by war. The *Law of The Hague* sets down the rights and duties of those conducting hostilities and limits the choice of means that can be used to harm the enemy. In short, international humanitarian law applicable in times of armed conflict is inspired by humane feelings and thus ensures respect for human dignity, while at the same time taking the imperatives of armed conflict into account. The *International Committee of the Red Cross (ICRC)* plays an essential role in the implementation of international humanitarian law.

That being said, ultimately the application of humanitarian law is always dependent, *de facto* if not *de jure*, upon the determination of the States concerned to respect their obligations. No institution has been set up to define a given situation in ways that would be considered binding, and even the ICRC does not have the means to impose its point of view. So Iraq refused to apply the Fourth Geneva Convention in Kuwait because it did not consider the situation to be one of military occupation. This is also the case today in the territories occupied by Israel, and in the part of Cyprus occupied by the Turkish army.

In contrast, the application of *international human rights law* does not present any apparent difficulties in this respect. The conditions for its application are the same in peacetime as in wartime and are monitored by permanent institutions. A State at war can suspend the application of most rights, but the exercise of this prerogative comes under international supervision. If one considers, on the one hand, the rights that are inalienable under the human rights conventions and, on the other, the provisions of humanitarian law, it becomes clear that humanitarian law and human rights law largely overlap, in particular

with regard to the humane treatment of individuals: see for example the Universal Declaration of Human Rights of 1948, the 1966 International Covenant on Civil and Political Rights (ratified by Iraq), and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In the Gulf conflict, the belligerent States were bound to respect both humanitarian law, including the Geneva Conventions (contracting States undertake to respect and ensure respect for these treaties), and human rights, in particular civil and political rights, and above all the fundamental rights of the individual, which are essentially the same under both systems of law, even in times of armed conflict. The fundamental rules in question are:

- The life and physical and mental integrity of all persons who are *hors de combat* (wounded, sick or shipwrecked members of the armed forces), who are not taking part in hostilities (civilians) or who are no longer taking part (prisoners of war) must be respected. It is strictly forbidden to wound or kill an adversary who is surrendering or who is *hors de combat*. By the same token, these people are entitled to respect for their convictions and their individual rights, and must be protected from all acts of violence and reprisals.
- Wounded, sick or shipwrecked members of the armed forces must be collected and cared for by the party to the conflict into whose hands they fall. In addition, it is imperative to respect medical personnel, medical establishments, means of transport and material, and the emblem of the red cross or of the red crescent (the latter is used in Islamic countries).
- All persons, whether aliens or nationals of the State in whose power they are, must be granted fundamental judicial guarantees in times of armed conflict and/or military occupation. No one may be subjected to physical or mental torture, to corporal punishment or to cruel or degrading treatment.
- The right of States and their armed forces involved in hostilities to choose methods and means of combat is not unlimited. The use of weapons (chemical, for example) and methods of warfare likely to cause superfluous losses and excessive suffering are prohibited.

- A distinction must be drawn between combatants and civilians, even though both categories must be granted minimum protection (fundamental rights) at all times. Humanitarian law takes the specific nature of armed conflict into account and limits attacks to military targets; civilians must be spared. Acts of terrorism are therefore strictly prohibited.

To sum up, belligerent parties have a moral and legal obligation to comply with the rules of international humanitarian law and of international human rights law in the conduct of hostilities and in the treatment of all persons affected in any way by the armed conflict. Members of the armed forces no longer able to fight, prisoners of war and civilians must never be subjected to violence of any kind, including terrorist acts. Even if, according to the law of war, the primary right of belligerents is the right to kill, this right may be exercised only in well-defined cases. Respect for these restrictions and for the other rights mentioned above contributes to the humanization of war and thus prepares the way for the return to peace; and peace remains the final goal and the grounds for the existence of international law as it is currently evolving within the United Nations.

Aristidis S. Calogeropoulos-Stratis

Aristidis S. Calogeropoulos-Stratis, D. Pol. Sci. (University of Geneva) and Press Counsellor at the Greek Embassy in Paris, is the author of: *Droit humanitaire et droits de l'homme. La protection de la personne en période de conflit armé* (Humanitarian law and human rights. The Protection of the individual in times of armed conflict), Sijthoff/IUHEI, Leyden/Geneva, 1980.

NEWS FROM HEADQUARTERS

New members elected to the Executive Board ICRC appoints new Director General

At its meeting of 19 March 1992, the Assembly of the International Committee of the Red Cross elected **Mr. Jacques Forster** and **Dr. Peter Fuchs** to the ICRC's seven-member Executive Board. Dr. Fuchs was appointed Director General and will take up his duties on 1 May 1992.

Mr. Jacques Forster, a professor at the University of Geneva Graduate Institute for Development Studies, has been a member of the International Committee since 1989. He replaces a 13-year member of the Executive Board, **Mr. Rudolf Jäckli**, who will remain a member of the Committee.

Dr. Peter Fuchs is taking over the post of Director General from **Mr. Guy Deluz**, who recently expressed his desire to step down and devote himself to other activities. At its meeting of 20 February, the ICRC Assembly accepted Mr. Deluz' resignation and thanked him for the commitment and skill that he had brought to his work in the institution. The ICRC will continue to benefit from Mr. Deluz' experience as he will serve as a consultant on a number of studies in which he has been closely involved.

Dr. Peter Fuchs was born in 1946. He is from Wettingen in the Canton of Argau, and is domiciled in Bondo, Canton of Graubunden. He studied medicine at Zurich University, where he was later a lecturer, and held a number of positions at the Zurich Cantonal Hospital before becoming head of the medical department of the Zurich Prisons Service. Dr. Fuchs joined the ICRC in 1982. He carried out numerous medical missions in Latin America, Asia and the Middle East, and was appointed Deputy Director of Operations in 1988, a post he occupied until February 1990. Afterwards he conducted occasional missions and headed the task force set up in early 1991 to coordinate ICRC activities in the Gulf crisis.

When the ICRC adopted a new executive structure in May 1991, general management became the task of three Executive Board members, in charge respectively of Principles, Law and Relations with the Red Cross and Red Crescent Movement, Operations and General Affairs. As Director General, Dr. Fuchs will be responsible for general coordination and matters concerning communication, personnel, finance, administration, data processing and telecommunications.

MISSIONS BY THE PRESIDENT

Mr. Cornelio Sommaruga, President of the ICRC, has conducted a number of missions since the beginning of the year. They have taken him to the United States, to the Council of Europe in Strasbourg, and to Germany, Portugal and Norway.

● **New York (6-8 January 1992)**

From 6 to 8 January, President Sommaruga took part in the opening session of the ninth seminar on international humanitarian law for diplomats accredited to the United Nations. Following the seminar, which was organized jointly by New York University and the ICRC, Mr. Sommaruga met members of the UN Security Council, the new Secretary-General and a number of permanent representatives to the world body.

At a lunch given by the ICRC for Security Council members, Mr. Sommaruga spoke of the regrettable postponement of the International Conference of the Red Cross and Red Crescent and the need for the ICRC to maintain a well-defined framework for multilateral dialogue with the governments. Drawing a distinction between the right to assistance and the "right of intervention", he warned of the danger of politicizing humanitarian endeavour.

He went on to outline the serious financial problems faced by the ICRC in carrying out its work in the territories occupied by Israel, in Afghanistan, in Somalia and elsewhere, appealing to governments to be generous in their contributions.

Mr. Sommaruga then reviewed the ICRC's activities around the world, in particular expressing his concern about Kuwaiti prisoners who had disappeared in Iraq and the plight of the civilian population in that country. He welcomed the recent adoption by the General Assembly of a resolution on strengthening coordination of humanitarian assistance and reiterated the ICRC's desire to work in full and open cooperation with the United Nations, while maintaining the ICRC's independence and its specific character.

In reply, Mr. Thomas L. Richardson, the United Kingdom's ambassador and Security Council President for January, expressed his own appreciation and that of the other Council members for the ICRC's work. He declared that there would be enhanced cooperation between a better coordinated United Nations and an independent ICRC.

President Sommaruga then had talks with Mr. Boutros Boutros Ghali, the UN's new Secretary-General. He told Mr. Boutros Ghali that the ICRC had always appreciated his legal expertise, his humanitarian commitment and his steadfast support for the institution's endeavours.

Praising the General Assembly resolution on strengthening the coordination of humanitarian work while respecting the independence and specificity of the ICRC, President Sommaruga expressed the hope that contacts with the UN in general and its Secretary-General in particular would be maintained and indeed expanded.

The two men then reviewed ICRC activities in various regions of the world affected by armed conflict and its consequences: Somalia, the territories occupied by Israel, Yugoslavia, Western Sahara, East Timor, etc. Mr. Sommaruga deplored the fact that in a number of cases there was some confusion between political negotiations and humanitarian action. This, he said, could be harmful to the victims.

Touching finally on the postponement of the International Conference of the Red Cross and Red Crescent, Mr. Sommaruga stressed the need for the ICRC to continue its dialogue with the States party to the Geneva Conventions, with particular reference to the development, promotion and implementation of international humanitarian law.

The ICRC's New York delegation also organized a number of meetings with permanent representatives to the United Nations, during which President Sommaruga again affirmed that multilateral dialogue with the States was essential.

ICRC operations were discussed, as were the safety of the institution's delegates in the field and its financial concerns.

Finally, Mr. Sommaruga welcomed the General Assembly's recent

resolution on the coordination of humanitarian work and reiterated the ICRC's position on the matter.

An invitation to a meeting of Human Rights Watch — bringing together Africa Watch, Americas Watch, Asia Watch, Helsinki Watch and Middle East Watch — gave Mr. Sommaruga an opportunity to pay tribute to this non-governmental organization and the important work it does to raise awareness of and promote respect for human rights.

Mr. Sommaruga reviewed the institution's main operations with special reference to the Gulf, the ongoing problem of prisoners of war held by Iran and Iraq, the territories occupied by Israel, Yugoslavia, Somalia, East Timor and Peru.

● **Strasbourg (4 February)**

President Sommaruga was accompanied by Mr. Zidane Mériboute, deputy head of the ICRC's International Organizations Division, on a mission to the Council of Europe in Strasbourg on 4 February.

Mr. Sommaruga began by taking up an invitation to attend a meeting of the Committee on Migrations, Refugees and Demography, where he gave a talk on the ICRC's mandate and current activities. He then met Ms. Catherine Lalumière, the Council's Secretary-General, to discuss the cooperation that has grown up between the two institutions. They also reviewed problems relating to humanitarian action, which requires not only the mobilization of the entire international community but also respect on the part of humanitarian organizations for the principles of neutrality and impartiality. Ms. Lalumière described a plan to set up a European system to give early warning of large-scale movements of refugees and displaced persons.

Mr. Sommaruga also met Sir Geoffrey Finsberg, President of the Parliamentary Assembly, Mr. René Felber, Chairman of the Committee of Ministers, and a number of other senior Council officials.

● **Bonn (17-18 February)**

Mr. Sommaruga spent 17 and 18 February in Bonn, where he took part in festivities to mark the 65th birthday of Prince Botho zu Sayn-Wittgenstein-Hohenstein, President of the German Red Cross and member of the Movement's Standing Commission.

At German Red Cross headquarters, he reviewed current ICRC operations with leading officials of the National Society and attended a meeting of the Society's Committee on International Humanitarian Law to discuss the reconvening of the 26th International Conference.

Mr. Sommaruga went to the Ministries of Foreign Affairs and Economic Cooperation where he met, respectively, Ms. Ursula Seiler-Albring, Minister of State, and Ms. Michaela Geiger, State Secretary, to discuss the ICRC's acute financial problems and the question of coordination with the UN in the humanitarian field. Mr. Sommaruga also visited the Bundestag where he was received by Dr. Hans Stercken, Chairman of the Foreign Affairs Committee, and Mr. Friedrich Vogel, Chairman of the Subcommittee on Human Rights and Humanitarian Assistance.

● **Lisbon (24-26 February)**

Mr. Sommaruga made an official visit to Portugal from 24 to 26 February in the company of Mr. Paul Grossrieder, Deputy Director of Operations.

The ICRC delegation was received during its visit by President Mario Alberto Soares, Prime Minister Aníbal Cavaco Silva, Minister of Foreign Affairs João de Deus Pinheiro and the Secretaries of State for Foreign Affairs and Defence. Mr. Sommaruga and Mr. Grossrieder also had a working meeting at the Ministry of Foreign Affairs and held a press conference. At the Portuguese Parliament they met three members of the Foreign Affairs Committee, including its Chairman, Mr. Bareto.

The ICRC President's stay was marked by the Prime Minister's announcement that Portugal had ratified the Additional Protocols. One of the main objectives of this mission was to inform the authorities in Portugal — which will hold the presidency of the European Community's Council of Ministers until July 1992 — about ICRC activities in Yugoslavia, Somalia and the Commonwealth of Independent States and to discuss matters relating to the coordination of humanitarian assistance.

Several subjects of particular interest to Portugal were covered, such as the plight of the civilian population in Mozambique, where the ICRC encounters many difficulties in its work, and problems of humanitarian concern in East Timor.

Mr. Sommaruga also met leading officials of the Portuguese Red Cross with whom he discussed, among other things, the National Society's new draft statutes. Finally, he gave a talk to the Society's staff.

● Oslo (25-27 March)

The ICRC President, accompanied by Mr. Jean-Daniel Tauxe, Delegate General for Africa, and Mr. Christian Kornevall, head of the External Resources Division, was in Norway on 25 to 27 March, where he was received by King Harald V in the presence of the Queen. The ICRC delegation also had talks with Mr. Thorvald Stoltenberg, Minister of Foreign Affairs, Ms. Grete Faremo, Minister of Development Cooperation, and leading officials of the Norwegian Red Cross.

Working meetings were held with National Society officials and with government representatives under the chairmanship of Mr. Jan Egeland, Secretary of State at the Ministry of Foreign Affairs. The main subjects of these talks were the right of initiative and the "right of intervention", coordinating humanitarian work within the United Nations and between the UN and the ICRC, Norway's support for the ICRC, the institution's operations in Somalia, Mozambique, Israel and the occupied territories, Iran and Eastern Europe, financial matters and the next International Conference of the Red Cross and the Red Crescent.

The ICRC delegation noted that the Norwegian government continued to attach great importance to humanitarian assistance. The Ministry of Foreign Affairs has set up a special department to deal with such matters and has appointed a Secretary of State to lead it. Moreover, 10% of Norway's development aid is earmarked for humanitarian assistance.

The Norwegian government decided to increase its contribution to the ICRC's headquarters budget and will allocate a large sum to the initial 1992 field budget. Over 50% of this will go to ICRC work in Africa.

Mr. Sommaruga gave a talk to officials from various ministries, members of the armed forces, Norwegian Red Cross staff, media representatives and others on the provisions of humanitarian law designed to help war victims and how those rules are implemented in practice.

Finally, the National Society organized a visit to its reception centre for refugees, and the Society's Akerlund branch gave a first-aid demonstration.

In the Red Cross and Red Crescent World

NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

THE RED CROSS SOCIETY OF PANAMA 1917-1992

A. Origins and development

In the years following independence, there were serious shortcomings in health care in Panama. This prompted Lady Matilde Obarrio de Mallet to approach the government, private bodies and other benevolent and concerned people with the idea of setting up a social-welfare organization. Her initiative resulted in the founding of the Red Cross Society of Panama, which was officially recognized by Executive Decree No. 34 of 1 March 1917.

One of the Society's achievements was to open the country's first day-care centres. It benefited from the professional support of Dr. Nicolás Solano in organizing voluntary services in Panama's first tuberculosis clinic. One of its top priorities has always been to look after the interests of children in difficulties.

In June 1925, the National Society was recognized by the International Committee of the Red Cross and became a member of the International Red Cross, acquiring the right to use the emblem of the red cross on a white ground.

The Red Cross Society of Panama was constituted on the basis of the Geneva Conventions, which have served as a framework for its activities since the Republic of Panama became party to those treaties on 2 February 1967.

Following reorganization, the National Society adopted its present General Statutes in 1968, under Decree 1451. The Statutes state that the Red Cross Society of Panama is duly recognized by the government as an autonomous voluntary aid society auxiliary to the public authorities, in particular the armed forces, that it is the only National Society in Panama and that it extends its activities to the entire territory of the Republic.

The Society adopted its Internal Regulations in 1977-1978. The Regulations are in strict conformity with the 1968 Statutes. They list the Funda-

mental Principles of the Red Cross and describe the Society's objectives, its governing bodies and their duties, and its organization and structure.

With respect to organization, the Regulations clearly define the different levels, starting from the highest governing body at national level, the General Assembly, down to the smallest units, the local committees, of which there is one for each administrative area of the country.

The National Society has four volunteer sections with nationwide activities: Youth, First-Aiders, Women Volunteers and Legionaries.

The Society's current President is Mr. Carlos H. Ruíz Valdés, and the Secretary General is Mr. José A. Béliz.

The Red Cross Society of Panama also has the administrative staff required to plan, coordinate and carry out its activities in accordance with established policy.

B. Operational and technical structure

The operational and technical structure consists of two main departments, responsible for all the Society's projects:

- Administrative Services
- Operations and Services.

All activities are comprised in the health, assistance, community development, first-aid or training programmes; there is also a fund-raising programme.

1. Health

- *Assistance to rural communities.* Every month, National Society volunteers (doctors, nurses, paramedics and social workers) visit rural communities to provide medical services, which include the distribution of medicines and vaccination campaigns. The volunteers also distribute food, in particular for children, clothing, hygiene items and toiletries, and give instruction in maternal and child health care and preventive measures.
- *“Information and Community Action for Eradication of the Aedes aegypti Mosquito”.* Under this programme, run by the Red Cross Society of Panama with financial support from the Netherlands Red Cross and the American Red Cross, Red Cross brigades of schoolchildren are organized and teams of young people trained to help their communities exterminate *Aedes aegypti*, which transmits several diseases. The National Society has already trained about 400 *brigadistas* who are presently working in the provinces of Panama (San Miguelito, La Chorrera), Herrera, Los Santos and Chiriquí.

- **“AIDS Information and Prevention Programme”.** This project is sponsored by the Norwegian Red Cross and supported by the Ministry of Health. Its objectives are:
 - to provide a large number of young people from all parts of the country with advice, guidance and training in AIDS prevention;
 - to develop activities with the communities to heighten awareness of the problem among young people;
 - to give parents the opportunity to learn about AIDS prevention programmes.

2. Assistance

- **Child shelter.** This project aims to help abandoned and malnourished children, and those who have been physically or mentally abused. It was started by the Red Cross as a means of seconding the juvenile courts, which are responsible for child welfare. The shelter, which is open 24 hours a day, offers the children a place to stay, clothing, food, medical care, medicines and so on. It is run by qualified staff and provides a refuge for 20 to 25 children every year.
- **Day-care centres.** The purpose of this project is to help pre-school children whose mothers work and have a low income. The children are fed and cared for, and take part in activities conducive to their overall development.
- **Home for the elderly.** Under this project, the National Society provides homeless people who are 60 years of age or over with shelter, medical care, clothing, food and the possibility to participate in recreational activities.
- **Community assistance and disaster relief.** About 25,000 people around the country are assisted every year. Some receive clothing, footwear and medical services during visits by National Society volunteers to their communities, others are given relief supplies when disaster strikes (assistance was provided, for example, to 5,000 victims of the Bocas del Toro earthquake).

3. Community development

In recent years, the Red Cross Society of Panama has paid special attention to projects for needy communities, with emphasis on direct participation by the community concerned. The projects are detailed below.

- ***Agricultural project.*** The National Society has farms in Colón and La Chorrera. Their purpose is twofold: to create jobs by developing agricultural activities, poultry raising and egg production, and to improve the nutritional status of the population, especially children. The project is sponsored by the Spanish Red Cross.
- ***Occupational training project.*** The Society's Women Volunteers offer low-income housewives courses in skills allowing them to supplement the family earnings. The classes are free. The participants can learn to paint on sweaters, arrange flowers, decorate hairpins, hairbands and combs, make *piñatas* (pots for sweets), sew and cook.
- ***Fisheries project.*** With the participation of the indigenous community in Kuna Yala and the financial support of the Netherlands Red Cross, the National Society has set up a traditional fisheries project to provide those taking part with a source of income and the volunteers of the local Red Cross chapter with a stable activity.

4. First aid

- ***Ambulance and first-aid services.*** The Red Cross Society of Panama is the only national institution to offer round-the-clock ambulance services free of charge. The service, which is staffed by volunteer doctors, paramedics, nurses and first-aid specialists, receives financial support from the International Committee of the Red Cross, the Spanish Red Cross and the National Societies of the Nordic countries. The National Society also runs first-aid services during major national events, and in summer the country's beaches are patrolled by trained lifeguards.

All first-aid and rescue services are coordinated by the national Emergency Operations Centre.

5. Training

The National Society's First-Aid Training Centre provides in-service training for volunteers, to encourage full participation in the Society's activities. The classes available — first-aid, swimming, lifesaving, cardiopulmonary resuscitation and disaster relief — are also open to the general public.

C. Red Cross activities during the armed conflict of December 1989

Not only did the American invasion of December 1989 take a peaceful people unawares, it also caught by surprise a National Society with no previous experience of large-scale, perilous relief operations apart from the participation of a few of its members in similar activities run by sister Societies. Nevertheless, the humanitarian work carried out by the Red Cross Society of Panama demonstrated that its volunteers are well prepared to carry out relief operations in compliance with the Fundamental Principles. It should be added that the National Society's image was greatly enhanced by its activities in connection with the conflict.

During and after the events of 20 December 1989, the Red Cross Society of Panama assisted 1,017 civilian and 850 military casualties, escorted 500 foreigners to the airport so that they could return to their countries, and took 129 bodies to hospital morgues. The conflict left 14,000 people homeless; they were looked after by the National Society, the government, the United States Agency for International Development and other organizations. The Albrook refugee camp was managed by Red Cross personnel until November 1991. Through its tracing programme, the National Society ascertained the whereabouts of 1,513 people.

The International Committee of the Red Cross set up an office in Panama during the conflict. At present, the ICRC regional delegate based in Costa Rica comes to Panama to visit persons detained as a result of the invasion.

D. Looking to the future

In the words of one high-ranking international delegate who visited us, the Red Cross Society of Panama is a small Society which is developing in a big way. Thanks to the support of the Federation, the International Committee and various sister Societies, we can celebrate 75 years of activity in the knowledge that we have brought hope to those in need and honoured our Movement's Fundamental Principles.

With a view to its further development, the National Society has drawn up a Five-Year Plan for 1992-1996 along three main lines: protection-dissemination, assistance, and health and social welfare. Our objectives are as follows:

- to carry out a comprehensive programme for the dissemination of knowledge of the Fundamental Principles of the Red Cross and of international humanitarian law;

- to restructure the Emergency Plan at the national level with a view to increasing operational capacity;
- to extend community work to all parts of the country;
- to increase the number of trained volunteers working on a permanent basis in National Society programmes;
- to step up fund-raising in order to achieve financial independence at national level;
- to extend and develop Red Cross Youth programmes both in and outside schools;
- at the end of the five-year period, to have a coordinated structure in all chapters throughout the country.

José A. Beliz
Secretary General
The Red Cross Society of Panama

Declaration by the United Arab Emirates

On 6 March 1992 the United Arab Emirates made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission:

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

The United Arab Emirates are the **twenty-sixth State** to make the declaration regarding the Fact-Finding Commission.

International Fact-Finding Commission holds its first meeting

(Bern, 12-13 March 1992)

On 12 and 13 March 1992, the International Fact-Finding Commission provided for in Article 90 of Protocol I held its first meeting in the Swiss capital Bern, where it has established its headquarters. It was convened by the Swiss government, acting in its capacity as depositary for the Geneva Conventions and their Additional Protocols.

Now that the Commission is operational, its main task will be to enquire into allegations of serious violations of the Geneva Conventions or Protocol I. Any Party that has accepted the Commission's competence may request it to institute an enquiry concerning any other

Party that has likewise accepted its competence. Such an enquiry may also be requested by a Party which declares its acceptance on an *ad hoc* basis, but in that case the enquiry is subject to the other Party's consent.

At the meeting, it expressed its willingness to investigate *any* alleged violations of international humanitarian law, including those occurring during civil wars*.

Prominent among the items on the Commission's agenda were the election of its President and two Vice-Presidents and the adoption of its rules.

The Commission elected Dr. Erich Kussbach of Austria as its President, and Prof. Ghalib Djilali of Algeria and Sir Kenneth J. Keith of New Zealand as its first and second Vice-Presidents respectively. It was not possible in the two days of deliberation to adopt in their entirety the rules of the Commission, which will cover not only procedural matters but all aspects of the Commission's subsequent investigations. This text should be completed by early July.

Twenty-six States have so far declared, under Article 90 of Protocol I, that they recognize *ipso facto* and without special agreement the Commission's competence. Those States are (in chronological order): Sweden, Finland, Norway, Switzerland, Denmark, Austria, Italy, Belgium, Iceland, Netherlands, New Zealand, Malta, Spain, Liechtenstein, Algeria, Russian Federation, Belarus, Ukraine, Uruguay, Canada, Germany, Chile, Hungary, Qatar, Togo and the United Arab Emirates.

The President of the Commission was received at ICRC headquarters on 9 April 1992 by President Sommaruga and several members of the Committee.

The ICRC reaffirmed that it was willing to cooperate within the framework of the respective mandates of the two bodies. Both sides stressed the complementarity and independence of the Commission and the ICRC.

The establishment of the Fact-Finding Commission is an important landmark in the development of international humanitarian law. It is now up to States to show that they are not afraid of the Commission

* In this connection, see the article by J. Ashley Roach, "The International Fact-Finding Commission — Article 90 of Protocol I additional to the 1949 Geneva Conventions" and the one by Françoise Krill, "The International Fact-Finding Commission — The ICRC's Role" in the March-April 1991 edition of the *IRRC*, No. 281, pp. 167-189 and 190-207, respectively. In addition, the list of the 15 members elected to the Commission in 1991 for five years appears in the July-August 1991 issue of the *IRRC*, No. 283, pp. 411-412.

by accepting its binding competence and using it to cast light on alleged violations of humanitarian law. Of course, pitfalls will be placed in the path of the Commission's work but it is to be hoped that, in addition to its role in the services of truth, it will contribute to the cause of peace.

CORRIGENDA

No. 286 — January-February 1992

1. List of States party to the Protocols of 8 June 1977

Page 108:

1991

99 89 Canada 14 February R Declarations;
Int. Commission

Instead of *Canada*, read *Germany*.

2. Change of name for the League

Page 73 — Second paragraph should read as follows:

“The organization began life in 1919 as the ‘League of Red Cross Societies’, a name it retained until 1983 when it became the ‘League of Red Cross and Red Crescent Societies’”.

HUMANITY FOR ALL

*The International Red Cross and Red Crescent Movement*¹

When Hans Haug presents us with another book, his friends and acquaintances know they can look forward to something special. Their certainty is based not only on Haug's personality and lifelong experience of the Red Cross (he has held almost all the senior positions one man possibly could — Secretary General and President of an extremely active National Society, Vice-President of the League of Red Cross and Red Crescent Societies,² member of the International Committee of the Red Cross) but also on his comprehensive knowledge of the subject matter and, last but not least, his polished prose and unflinching presentation of essentials with clarity and precision.

But even for this unparalleled authority on the Red Cross and Red Crescent, presenting the entire Movement between the covers of one book is a literary *tour de force*. Only very few authors accomplish such a feat in their own specialized domain. Hans Haug is the first to have ventured — and succeeded — on the topic of the Red Cross. His 1966 book *Rotes Kreuz: Werden; Gestalt; Wirken* probably stood him in good stead as preparatory work. But this new book has a loftier aim. In his introduction, Haug says that the real purpose of the book is to rally many more people in all countries, all sectors of society and all age groups to the rewarding cause of the Red Cross.

In his preface, ICRC President *Cornelio Sommaruga* points out that the book reflects the many forms the author's commitment to the Movement's universal message has taken, and he thanks his friend for his masterly work. The Federation President, the Venezuelan *Mario Villarroel Lander*, praises Haug's versatility, his contribution to the development of the Red Cross, his legal scholarship and above all his intellectual honesty.

This voluminous work is divided into seven chapters. Chapter I relates the origins of the Red Cross. The history of the horrors of war, and of humanity in war, unfolds before us. Examples are given of both, from Antiquity to the mid-nineteenth century; they are followed by the actual story of how the Red Cross was founded. Especially impressive is the characterization of the

¹ Hans Haug, *Menschlichkeit für alle — Die Weltbewegung des Roten Kreuzes und des Roten Halbmonds*, Henry Dunant Institute, Verlag Haupt, Berne and Stuttgart, 696 pp. (currently being translated into *English*).

² Now the International Federation of Red Cross and Red Crescent Societies.

founders themselves, the "Committee of Five". All five are vividly portrayed, with Henry Dunant, of course, described in particular detail.

The second chapter, which is almost 400 pages long and is the main part of the book, presents the International Committee of the Red Cross (ICRC), the National Societies and the League.

Strange as it may seem, misunderstandings about the ICRC are rife to this day. Even the most well-intentioned explanations can create an aura that only serves to obscure it. Haug helps clear up these misunderstandings by sticking to the essentials in what is a purely factual presentation. His historical review of ICRC activities from 1863 to 1990, in particular during both World Wars (1914-1918 and 1939-1945), is one example. Of great interest even to long-standing Red Cross members is Haug's detailed description of the roles, duties and activities of the ICRC, showing not only the extensive possibilities of Red Cross work but also its inherent limits. Indeed, much of the criticism periodically directed at the ICRC arises from ignorance of those limits. The section on the institution's "characteristics" lets us take a glance behind the scenes. Here Haug deals with such key topics as the choice (by cooptation) of the Committee members, their Swiss nationality, the ICRC's governing bodies and administration, financial matters, its specific independence, neutrality and impartiality, which go beyond those of the National Societies, and its legal nature. Anyone who frequently has occasion to speak about the ICRC in public will recognize these subjects as those which arouse particular interest in any discussion.

The next section gives examples of recent activities and was written by *Françoise Perret*, a research officer at the ICRC. She gives a series of carefully compiled examples of ICRC protection and assistance operations in the second half of this century. The reader will come across familiar names, such as Algeria, Hungary, Israel and the Arab States, and be disappointed by the absence of others: Vietnam and Cambodia, for example. This is inevitable whenever a selection has to be made.

Chapter II then moves on to the National Red Cross and Red Crescent Societies, another major part of the book. Most of this section consists of the profiles of 16 National Societies chosen to represent all parts of the world, small and large Societies and their manifold activities.

The third main part of Chapter II deals with the League of Red Cross and Red Crescent Societies. The outline is identical to that used for the ICRC — development, roles, activities and characteristics — making comparison easy. Again, the general observations are followed by examples of recent activities, written in this case by *Jean-Pierre Robert-Tissot*. For many years head of the League's Relief Department, Robert-Tissot was in charge of numerous assistance operations and hence writes from first-hand knowledge.

The fourth main part of Chapter II looks at the Red Cross and Red Crescent Movement as a whole. A historical overview and a study of the Movement's legal nature are followed by a discussion of the Movement's statutory bodies, in which the author quite understandably focuses on the International Red Cross Conferences. His description of them alone is a small masterpiece.

This essential chapter ends with an analysis of the relationship between the ICRC and the League, and a description of the Henry Dunant Institute.

Chapter III is a study of the Fundamental Principles of the Red Cross and Red Crescent. Although Haug has often written or spoken about the Principles, individually or as a whole, in this book he gives a newly conceived and integrated analysis of them. Haug follows the line taken by Max Huber and Jean Pictet, enhancing their thoughts with his own reflections, which are deeply rooted in ethical considerations.

The fourth chapter is on international humanitarian law. Although Haug is an eminent expert on the subject, he entrusted the task of writing this part of the book to the ICRC's legal adviser *Hans-Peter Gasser* to ensure that the Red Cross point of view would be taken into due account. Not content simply to summarize the existing provisions of international humanitarian law, Gasser also looks at certain complex questions such as the relationship between the law of Geneva and the law of The Hague, at wars of national liberation and at peripheral issues such as internal unrest, disturbances and tension. He also makes constant reference to human rights in general.

The final three chapters deal with topics which have for some time been the subject of intense discussion within the Red Cross and Red Crescent Movement.

In Chapter V, Haug gives us a thoughtful analysis of the Movement as a factor of peace. Although it has long been agreed that the Red Cross and Red Crescent play a key role in fostering world peace, opinions differ on the basis for that role and the best means of filling it. Hans Haug was closely involved in the relevant discussions from the outset and is therefore particularly well placed to explain the current situation.

Chapter VI looks at cooperation between the components of the Red Cross and Red Crescent Movement and other national and international organizations. The Movement's partners are revealed in all their bewildering variety. Yet, however much cooperation varies in form in each individual case, there is nevertheless a clear general tendency to believe that, while the Red Cross and Red Crescent can usefully and indeed must cooperate with all these institutions, it must at the same time preserve its specificity; it cannot merge with or become subordinate to them. This also holds true for the United Nations and its specialized agencies. Haug calls on the National Societies as well to observe this limit when cooperating with other organizations.

In the book's final chapter, Haug considers the Red Cross and Red Crescent Movement and human rights. He starts by listing the various human rights treaties and examining their applicability and possibilities for successful implementation. The need for close interconnection between international humanitarian law and human rights treaties notwithstanding, Haug rejects the idea of integrating international humanitarian law and human rights agreements, or even only grouping them together under the general heading "international humanitarian law". By doing so he takes the position adopted by the ICRC, for example by Pictet and Schindler, and which most accurately reflects actual practice. He emphasizes the need, on the other hand, for the

Red Cross and Red Crescent institutions to call for stronger human rights agreements and to work for their implementation. He ends the book with four conclusive reasons for doing so, and thus indicates the future course to be taken.

I shall end with a word about the book's appearance: it is attractively bound, the print, on high quality paper, is easy to read, and the illustrations are clear and well-chosen. In short, it is highly recommendable from every point of view.

Anton Schlögel

ACCOUNTS OF THE TREATMENT OF PRISONERS OF WAR DURING THE FIRST AND SECOND WORLD WARS

- *The trials and tribulations of Romanian prisoners of war in Alsace-Lorraine, 1917-1918**

The author, a colonel in the French Army, took part in campaigns in Indochina and Algeria. A Doctor of Literature and member of the French Military History Commission, he is an assistant lecturer at the University of Strasbourg.

His work describes the inhuman conditions in which Romanian prisoners of war lived after having been captured by the German Army and interned in Alsace and Lorraine during the First World War.

Assigned to work in potash and iron mines in the combat zone, near the French/German front, these prisoners suffered from hunger, cold, exhaustion, and ill-treatment, and some were even summarily executed. The detaining authorities never allowed the Spanish Embassy in Berlin — the Romanian prisoners' Protecting Power — or the ICRC to visit the detainees in this strategic region.

The archives concerning the prisoners of war interned and employed in Alsace-Lorraine by the German Army were taken to Germany and reportedly disappeared during the Second World War. The author consequently had to carry out meticulous research at town halls, municipal archives and cemeteries in Alsace and Lorraine at places where the Romanian prisoners had been housed. Since no record published by former Romanian prisoners exists, the author had also to draw on the recollections of elderly people. Thanks to them he was able to compile a list of Romanian detainees who had lived in each department and district and had been buried there.

At the same time, the book cites examples of the sympathy shown by the people of Alsace and Lorraine for these unfortunate prisoners, and of the assistance they gave to them.

Jean Nouzille's book deals with a subject for which there are few sources of information and only scant documentation; it is a valuable contribution towards knowledge of a particular chapter of history and of the suffering endured by prisoners during the First World War.

* Jean Nouzille, *Le calvaire des prisonniers de guerre roumains en Alsace-Lorraine, 1917-1918*, Editions militaires, Bucharest, 199 pp.

● *My war without a rifle (1942-1945) — A law-court chronicle of captivity*

The author of this book,* a prisoner of war in Stalag V A in Ludwigsburg and a legal expert, between 1942 and 1945 defended prisoners appearing before German military courts of justice. He pleaded 250 cases before Stuttgart's Vth Military Region Tribunal, with jurisdiction for Stalags V A, V B and V C and sitting in Ludwigsburg; he obtained some 40 acquittals, plus lighter sentences in almost half the cases. So successful was he that this prompted the German Army Staff Headquarters in November 1944 to rebuke the Ludwigsburg Tribunal because it was being surprisingly lenient towards prisoners.

During the time he spent defending prisoners of war, the author constantly based his work on the 1929 Geneva Convention. He was unstinting in his efforts to have it applied.

My war without a rifle contains countless, valuable details on everyday life in the prison camps and illustrates a particular aspect of captivity which has been studied very little to date. Thus in a succession of typical scenes the author evokes daily life as reflected in all the cases which he defended before the German war tribunal, giving an account of the numerous offences committed by the prisoners of war:

- common-law offences: poaching, petty theft, manslaughter;
- military offences: unruly behaviour, rebellion, untidiness, refusing to obey orders;
- political offences: listening to foreign radio broadcasts, undermining army morale or that of the German people;
- “amorous offences”: having affairs with German women.

Whether minor offences or not, those who committed them were likely to end up doing forced labour at the fortified town of Graudenz on the banks of the Vistula.

This book is a lively, instructive and very humorous description of an era which is still the subject of research by historians, academic staff, students and ex-servicemen's associations.

Florianne Truninger

* Stéphane Delattre, *Ma guerre sans fusil (décembre 1942-avril 1945) — Une chronique judiciaire de la captivité*, Edition Rumeur des Ages, La Rochelle, 1991, 159 pp.

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA (Republic of) — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Angola Red Cross, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, Wiedner Hauptstrasse 32, Postfach 39, A-1041, *Vienna 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red 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 Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 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) — Red Cross of Cape Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N' Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA (People's Republic of) — Red Cross Society of China, 53, Ganmien Hutong, *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO (People's Republic of) — Congolese Red Cross, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Red Cross Society of Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Prado 206, Colón y Trocadero, *Havana I*.
- THE CZECH AND SLOVAK FEDERAL REPUBLIC — Czechoslovak Red Cross, Thunovská 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjölds Allé 28, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Red Crescent Society of Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, calle de la Cruz Roja y Avenida Colombia, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, *San Salvador*, Apartado Postal 2672.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. Box 168, 00141 *Helsinki 1415*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMANY — German Red Cross, Friedrich-Erbert-Allee 71, 5300, *Bonn I*, 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 — Red Cross Society of Guinea, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Red Cross Society of Guinea-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.ª Calle, 1.ª y 2.ª Avenidas, *Comayagüela D.M.*

- HUNGARY (The Republic of) — 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 Delhi 110001*.
- INDONESIA — Indonesian Red Cross Society, II Jend Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Baghdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, 1-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Ammann*.
- 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, *Pyongyang*.
- 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, (provisional address) Al Salmiya, *Kuwait*.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LATVIA — Latvian Red Cross Society, 28, Skolas Street, 226 300 *Riga*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*, West Africa.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LITHUANIA — Lithuanian Red Cross Society, Gedimino Ave 3a, 232 600 *Vilnius*.
- 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, avenue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, 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 — Mozambique Red Cross Society, 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. Box 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 — Nicaraguan Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. 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. Caminos del Inca y Av. Nazarenas, Urb. Las Gardenias — Surco — Lima (33) Apartado 1534, *Lima 100*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND (The Republic of) — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of Romania, Strada Biserica Amzei, 29, *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*.
- SAO TOME AND PRINCIPE — Sao Tome and Principe Red Cross, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- 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*.

- SOLOMON ISLANDS — The Solomon Islands Red Cross Society, P.O. Box 187, *Honiara*.
- SOMALIA (Democratic Republic of) — 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, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku'Alofa, 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 Baskanligi, Karanfil Sokak No. 7, 06650 *Kizilay-Ankara*.
- UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- 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.S.S.R. — The Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., I, Tcheremushkinskii proezd 5, *Moscow, 117036*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado, 3185, *Caracas 1010*.
- VIET NAM (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN (Republic of) — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a*.
- YUGOSLAVIA — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

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