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## François Bugnion's *The International Committee of the Red Cross and the Protection of War Victims*

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The English-language version of François Bugnion's remarkable book<sup>1</sup> could not appear at a more opportune time. The International Committee of the Red Cross (ICRC) has been under increased media scrutiny since the unauthorized publication in early May 2004 of its report on the treatment by Coalition forces of prisoners of war and other protected persons in Iraq. In some countries, the credibility or effectiveness of the ICRC's long-established confidential approach has been questioned.

Before that, the ICRC had to deal with the deliberate car bomb attack on its offices in Baghdad in October 2003, and the need to find ways to continue to carry out its humanitarian operations throughout Iraq, where it had been working for over 23 years. In 2003, three ICRC expatriate delegates and two locally recruited staff members were wilfully killed in Afghanistan and Iraq alone.

The aftermath of the attacks in the United States in September 2001 and the continuing response to global terrorism have increased the need for independent and neutral humanitarian action. The ICRC is the sole aid organization that has the status and capability to provide such protection to victims of armed conflicts, but it can do so only with the consent of the warring parties. It is therefore essential, now more than ever, for the ICRC to be known and accepted in every quarter.

What is the ICRC? How is it constituted? What tasks are assigned to it, and what principles guide its work? These are the contemporary questions that are answered in full in this fascinating overview of world events, humanitarian action and legal innovation. Until now there has been no text in the English language that explained in detail how the ICRC got to where it is today, that clarified its position and roles under international humanitarian law and its own place in the general international legal order. Now there is, and it is a veritable gold-mine of information for those interested in such subjects.

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Readers should not be deterred by the sheer size of this volume. Yes, it is an admirable reference work, supplemented by comprehensive bibliographies, footnotes, tables and indexes. Historians and legal scholars will find it to be of very high quality. But it is also written in a very readable style (the translators are to be commended), taking a broad historical and legal perspective, with each chapter preceded by an appropriate literary or other quotation. Even those who already have some knowledge of the history of the ICRC and international humanitarian law will benefit from the author's insights and appreciate the clear and useful summaries and assessments which end most chapters.

Bugnion's penetrating analysis and his long and varied experience working for the ICRC, helping to apply humanitarian law and carry out humanitarian activities and witnessing at first hand many of the events described in this book, make it rich in substance and give it a value a purely academic study would not possess. Nor is it the work of an apologist: he does not hesitate to criticize past actions of the ICRC or to make clear his disagreement with positions it has adopted, despite his obvious dedication to its humanitarian ideals and his firm belief in its value as an institution.

The original French version of the book was reviewed by the late Jacques Freymond in this journal<sup>2</sup>, and I shall not attempt to repeat his knowledgeable appraisal. It should, however, be mentioned that the English version includes a foreword in which former ICRC President Cornelio Sommaruga responds to many of Bugnion's main points or conclusions, and which itself merits careful reading. The focus of the entire work is on the ICRC's activities to protect war victims ("protection" being understood in its widest sense as encompassing all humanitarian activities, including relief). The volume is divided into three "books", and each one could constitute a book in itself in terms of quality and content: a historical account covering events and developments from Solferino to Hiroshima; an analysis of the duties and powers assigned to the ICRC under international humanitarian law to protect victims of armed conflict; and an examination of the ICRC's legal personality, composition and relations with Switzerland. The conclusions on future challenges for the ICRC, although written in 1994, address issues which have proved to be of continuing importance to the ICRC and in world affairs in general. They include challenges both within the ICRC, such as its priorities and human and financial resources, and outside, such as the

1 François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, ICRC and Macmillan, Geneva, 2003, lxviii & 1161 pages.

2 *International Review of the Red Cross*, Vol. 35, No. 307, July-August 1995, pp. 477-480.

changing nature of warfare, competition among humanitarian organizations, the politicization of humanitarian aid, the role of the media, and relations with the other components of the International Red Cross and Red Crescent Movement. The fact that the author, as a senior executive at the ICRC, has been in a position to influence the institution's response to internal and external challenges in recent years perhaps gives special interest to this section, but does not diminish the foresight it shows.

Even those with a good historical knowledge of the ICRC will find Bugnion's succinct accounts both enjoyable and useful. As he observes, the ICRC's "history is like the drum of a seismograph which records all the crises through which humanity passes". Salient points in the institution's development are identified and help the reader to understand today's ICRC, its policies and working methods. The author notes that similar ideas to improve the care of the wounded on the battlefield had been proposed before the establishment of the original Committee of Five (the forerunner of the ICRC). The Committee's great achievement was to transform those ideas into reality, and that same initiative and constructive action have been central features of the organization ever since. Bugnion explains how the 1864 Geneva Convention covers volunteers even though there was no express reference to them in the text (answer: they were considered part of the military medical services). The importance of the ICRC's independence to enable it to help protect prisoners of war was highlighted during World War I. It became necessary to emphasize the ICRC's neutrality and impartiality during the Italo-Ethiopian War of 1935-36. The explanation given then would not be out of place in helping to respond to current issues, such as why the ICRC is granted special immunity from testifying before the International Criminal Court and other war crimes tribunals. There are nuggets of fascinating information, such as how IBM helped the ICRC to trace missing persons, especially members of the armed forces, during World War II (of some relevance today, when corporate social responsibility is under discussion and the said company is alleged to have enabled the Nazi regime to compile records of concentration camp victims). Some historical events still colour current perceptions, such as that of the ICRC's response to the Holocaust, and the author's appraisal is unfailingly fair.

His careful analysis of the ICRC's role under international humanitarian law to protect victims of armed conflict is admirable and could prove to be of practical use to government and military legal advisers. One or two points are made which, if read in isolation, might be queried; for instance, the text of Article 1.4 of 1977 Additional Protocol I has not turned out to be "a vitally important provision" in practice, except insofar as it has been a significant factor in dissuading some major States from becoming party to the treaty. Bugnion is correct to

note that the traditional ICRC view on the binding force of Article 3 common to the four 1949 Geneva Conventions (Common Article 3) for insurgents is less than wholly convincing, and right to suggest alternative approaches. Both in this connection and more generally, he attributes great importance to the role of custom, including the part played by it in the development of the ICRC's own work. He underscores the value of the ICRC's right of humanitarian initiative, and gives a useful account of the arguments frequently put forward to refuse the ICRC's offers of services. There is a helpful examination of the potential for the ICRC to act as a substitute for Protecting Powers, and the institution should be encouraged to give further consideration to performing this role, if only on a pragmatic basis, to assist in the implementation of international humanitarian law.

Champions of international humanitarian law are sometimes criticized for being legal absolutists whose main interest in regulation is to prevent all war. The author, while noting the nobility of this ideal, also recognizes that it is unrealistic. The sense of realism which informs his discussion of the ICRC and its efforts to protect war victims is reflected, too, in his consideration of international humanitarian law.

Bugnion's book could furthermore help to increase understanding within the International Red Cross and Red Crescent Movement: National Societies may be less familiar with the ICRC, and the explanation of its specific nature and mandate may serve to show why National Societies and the International Federation need to support the ICRC in carrying out its genuinely unique role. It also shows the need for complementary organizations to deal with the many humanitarian challenges outside of armed conflicts and internal violence or where the involvement of a neutral intermediary is unnecessary.

There are several basic works on the ICRC and the Movement which no collection on international humanitarian law or humanitarian action or policy should be without. To these works by Boissier, Durand and Pictet must be added this book by François Bugnion, a "magnum opus" in every sense of the term. It is to be hoped that he will some day be able to bring the present work up to date, perhaps by adding another chapter.

The ICRC and international humanitarian law have been criticized of late. This book serves to reaffirm the importance of both. It will be accessible to lawyers or other specialists and to non-legal readers alike. It is a work of timeless quality, which could be used creatively to develop the ICRC's potential to protect war victims. In our increasingly polarized world, where people of good will dedicated to humanitarian values exist on both sides, this book will help to demonstrate why the ICRC continues to deserve unified and universal support.