

# INTERNATIONAL REVIEW

of the Red Cross

Humanitarian debate: Law, policy, action



# ICRC: 150 years of humanitarian action



ICRC

### Aim and scope

Established in 1869 the International Review of the Red Cross is a periodical published by the ICRC. Its aim is to promote reflection on humanitarian law, policy and action in armed conflict and other situations of collective armed violence. A specialized journal in humanitarian law, it endeavours to promote knowledge, critical analysis and development of the law and contribute to the prevention of violations of rules protecting fundamental rights and values. The Review offers a forum for discussion on contemporary humanitarian action as well as analysis of the causes and characteristics of conflicts so as to give a clearer insight into the humanitarian problems they generate. Finally, the Review informs its readership on questions pertaining to the International Red Cross and Red Crescent Movement and in particular on the activities and policies of the ICRC.

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### International Committee of the Red Cross

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It directs and coordinates the international relief activities conducted by the Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening international humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the International Red Cross and Red Crescent Movement.

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**INTERNATIONAL**  
**REVIEW**  
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**ICRC: 150 years of  
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## EDITORIAL: THE QUEST FOR HUMANITY 150 YEARS OF INTERNATIONAL HUMANITARIAN LAW AND ACTION

150 years ago, ideas were set in motion that heralded a new era of international solidarity. The creation of the International Committee of the Red Cross (ICRC) in 1863 and the adoption of the first Geneva Convention the following year mark the birth of modern international humanitarian law and action. The ICRC, together with its partners from what has become a universal the Red Cross and Red Crescent Movement (the Movement), endeavours to reach out to victims of armed conflicts and other situations of violence – from Syria to Afghanistan, from the Democratic Republic of the Congo to Colombia. With its over 13,000 employees active in more than eighty countries around the world, the ICRC uses a wide range of professional expertise in domains as diverse as law, advocacy, engineering, war surgery, sanitation and logistics.

The institution strives to provide humanitarian aid and protection response not only in some of the most mediatised crises of the day, but also in many of today's forgotten ones. While still relying on time-tested principles and methods, it continues to develop new, pragmatic responses to the ever-changing realities of war and violence.

In addition to the Movement, and following 150 years of progressive development, hundreds of NGOs and international organisations supported by public and private donors form the humanitarian sector today. From a purely Western enterprise, this sector is becoming increasingly diverse and multipolar.

After 150 years of a discrete yet persistent and sometimes obstinate presence in the most hostile environments – all violent zones of the modern era – one can only wonder at the longevity of the ICRC. What are the reasons that have made the organisation stand the test of time? What are the dynamics at work in the development of this humanitarian endeavour? How is the role of the organisation perceived by key players of the international community? How can the ICRC learn from its history to prepare for the future? These questions have guided us in the preparation of the anniversary issue of the *International Review of the Red Cross*.

Looking first at the state of the world at the time of the creation of the ICRC and the Movement, we will measure in what ways the project of the founders was forward-looking and how their initial impulse allowed for the continuous development and adaptation of the organisation throughout the years while remaining faithful to the same core ideal. Finally, we will explore some of the main challenges that the ICRC faces today.

## The world at the time of the creation of the ICRC

‘Murderous refinements of war should have correlative refinements of mercy.’<sup>1</sup> As illustrated by this early quote from two of the founders of the ICRC, there was a very early recognition that the unprecedented period of progress that the world was entering into was also creating new dangers and that it was necessary to anticipate and manage new risks.

### The acceleration of scientific and technological progress

Even though life in the nineteenth century was arguably harsher and more precarious than today for the vast majority of people, it seems that this period of time was also a moment of acceleration in scientific and social progress, a transition between an old immutable order and a new era of fast changes that continues until today. Ground-breaking discoveries were taking place in every domain, opening the way for unprecedented developments.

In 1863, the very limits of our own world had not yet been fully delineated: the explorers Speke and Grant located Lake Tanganyika and Lake Victoria that same year, and it was eventually proved to be the latter from which the river Nile flowed. In 1859, Darwin published his theory of evolution in his book *On the Origin of Species*; humanity itself was an uncharted territory that was yet to be explored.

At the same time, the world seemed smaller and smaller as transportation and communication technologies evolved: by 1863, the industrial revolution had spread from the United Kingdom to the rest of Europe and North America. The first section of the London underground was opened that year, the International Telegraph Union<sup>2</sup> was about to be created, and in the United States, the construction of the first transcontinental railway had just started.<sup>3</sup>

### The evolution of ideas

It was also a period of time when new ideas about social organisation, rights, and education were burgeoning and could draw overwhelming support. It seemed that such ideas could become reality for the first time in history, through new forms of social and political structures.

Of course, divisions and inequalities across social classes, religious groups, and genders – many of which persist today – were still deeply rooted in all societies and were sanctioned by law. Prompted by the progress taking place in science and technology, new ideologies were being put forward, offering their own global view of

1 Louis Appia and Gustave Moynier, *La guerre et la charité*, Cherbuliez, Geneva, 1867, cited in Caroline Moorehead, *Dunant's Dream: War, Switzerland and the History of the Red Cross*, Carroll & Graf, New York, 1999, p. 51.

2 Now known as the International Telecommunication Union, a UN specialised agency.

3 It would eventually be completed in 1869.

how humanity should be organised. Some of these ideologies would shape the history of the next century, sometimes with the most tragic consequences.<sup>4</sup>

In 1865, the United States, following many other nations, formally abolished slavery.<sup>5</sup> Despite such progress, colonial expansion was at its beginning. 'Humanity' was still very much a concept that applied narrowly only to the inhabitants of the so-called 'civilised' world, even though 'charitable' pretexts would later be used to justify the colonial enterprise. Until today, the humanitarian endeavour is often received with suspicion against a perceived Western imperialism.

Nonetheless, the struggle for political, social, and economic rights had started, inspired by the egalitarian ideas of the French Revolution and pioneered by workers in new industrial centres.<sup>6</sup>

## An unstable, multipolar world

Henry Dunant lived in a world in which war was still seen as a heroic enterprise and a perfectly legitimate way to solve international disputes between monarchs and states. The second half of the nineteenth century would be a period of instability and conflict, starting with the Crimean War (1853–1856). At the time of the foundation of the ICRC, the American Civil War (1861–1865) was still raging and France was engaged in a colonial war in Mexico. Europe was still in the process of drawing its own map, and conquest by force was a way to carve territories for new emerging nations. This was soon to be exemplified by the Austro-Prussian war of 1866 and the Franco-Prussian war of 1870, which would lead to the unification of Germany. The decline of the Ottoman Empire, called 'the sick man of Europe', was ongoing, with European powers competing for the spoils. The world had yet to wait more than eighty years and endure two world wars to see the universal prohibition of the use of force in international relations enshrined in the Charter of the United Nations.

## The eve of a new era in warfare

At the end of the eighteenth century, a combination of innovations had started to produce deadly effects on the battlefield, leading to an increased number of casualties – a trend which would eventually culminate during the First World War. First, the conscription system invented during the French Revolution and put in place by all major European powers was creating an immense reservoir of soldiers

4 For instance, Arthur de Gobineau had just published his 'Essay on the inequality of the Human Races' in 1855 – a very early example of pseudo-scientific racism that would later inspire the Nazi ideology. Karl Marx was still working on *Das Kapital*, (whose first volume would be published in 1867), planting the seeds of communism and indirectly, of an ideological struggle that would divide humanity for decades to come.

5 The Thirteenth Amendment to the United States Constitution abolishing slavery was ratified on 6 December 1865.

6 For instance, it was only in May 1864 that France abolished the criminalisation of strikes and coalitions, *de facto* authorising the founding of trade unions (*Loi Ollivier* of 25 May 1864).

whose lives were considered a disposable commodity. Second, progress in ballistics and explosives allowed for more accurate and more powerful rifles and guns, produced in industrial quantities. Finally, the railroads were enabling the concentration and movement of troops at an unprecedented speed and scale.

During the nineteenth century, battles had turned into mass disaster events in which tens of thousands of men could be injured or killed in a matter of hours. At the same time, the fighting was still limited to a geographically well-defined 'battlefield'. Civilians remained relatively unscathed by its direct effects. For instance, while 46,000 soldiers were put *hors de combat* (killed, wounded, missing, or captured) in a mere three days of fighting at the battle of Gettysburg in July 1863, only one civilian was killed. This was soon to change, however, and already in 1870 the Franco-Prussian war was having devastating effects on the civilian population.

## The birth of international humanitarian action and law

A few years earlier, Henry Dunant had been appalled by the fate of the wounded left to die in horrific pain in the fields after the battle of Solferino of 1859. Military medical services were completely inadequate and considered a nicety even by the great armies of the time. The fate of the individual soldier simply did not matter. Dunant took improvised measures to organise rescue and care for the wounded on both sides.

Out of his experience on the battlefield, Dunant planted the seeds of the creation of the Red Cross and Red Crescent Movement and international humanitarian law (IHL) in one of the most influential books of the time, *A Memory of Solferino*. Before the publication of this seminal work, the idea of organising relief and even introducing moderating principles to limit all-out violence in wars had several precursors in many corners of the world. Various religious orders, as well as famous philanthropists such as Florence Nightingale and Clara Barton, had also spontaneously organised medical care and relief to the wounded on the battlefields. Florence Nightingale was already advocating for the reinforcement of military medical services.<sup>7</sup> The situation was calling for new types of response which would go beyond ad hoc charitable initiatives.

Henry Dunant and the other founders of the Red Cross recognised this and mobilised international support firstly to create a new permanent capacity, independent from states, to assist the wounded soldiers in an impartial and neutral way, and secondly to formulate international obligations that bind states in the treatment of their wounded enemies and of medical or civilian helpers. The creation of the American Red Cross, pioneered medical relief during the American Civil War, by organising volunteer corps of nurses and doctors to tend to the areas where the war was raging. See Marian Moser Jones, *The American Red Cross: from Clara Barton to the New Deal*, Johns Hopkins University Press, 2013.

7 Florence Nightingale, a British nurse, became well-known for her efforts to organise the delivery of medical care to British soldiers in Scutari (Üsküdar) during the Crimean war (1854–1856) and to improve sanitation conditions on the war front. See Cecile Woodham-Smith, *Florence Nightingale, 1820–1910*, Constable and Company Ltd., London, 1950. C.J. Gill and G.C. Gill, 'Nightingale in Scutari: Her Legacy Reexamined', in *Clinical Infectious Diseases*, Vol. 40, No. 12, pp. 1799–1805. Clara Barton, the founder of the American Red Cross, pioneered medical relief during the American Civil War, by organising volunteer corps of nurses and doctors to tend to the areas where the war was raging. See Marian Moser Jones, *The American Red Cross: from Clara Barton to the New Deal*, Johns Hopkins University Press, 2013.

Geneva Convention one year later mark the birth of international humanitarian action and law.<sup>8</sup>

For Dunant and the founders of the Movement, beyond the well-defined and relatively narrow project of organising relief societies in peacetime to assist wounded soldiers in times of war lay the much grander ambition of humanising wars. While falling short of pacifism, this ambition may still sound like a very idealistic one. However, its actual implementation was carried out in a very focused and pragmatic way: through the creation of a network of national relief societies which were independent yet aligned towards the same goal, and through international legal codification.

## The capacity to develop, adapt, and deliver through 150 years of conflicts

Many concepts, methods, and approaches that are today perceived as typical of modern times were already very much present in the original thinking and method of the founders of the ICRC. Some of these also explain the capacity that the Movement has demonstrated over time to adapt and learn lessons from the past and innovate while working in extreme circumstances. We will highlight five of them here.

### Dialogue, persuasion, and humanitarian diplomacy

First, the foundation of the Red Cross illustrates the modern idea of the power of civil society in promoting international solidarity. The publication of *A Memory of Solferino* and the convening by a committee of private citizens in a provincial city of the International Conference of States in October 1863, which led to the creation of the Movement, was a true humanitarian advocacy campaign. It prefigures the role of modern civil society in setting or influencing the agenda not only of national but also of international politics. The ICRC and its partners in the Movement have accumulated extensive experience in ‘humanitarian diplomacy’ over the years.<sup>9</sup>

Henry Dunant did not have a Twitter account back in the day, but nevertheless made full use of the communication tools of the time and of networking to spread his ideas and address those in power. International solidarity would later on quickly grow with the evolution of modern communications, starting with the telegraph.<sup>10</sup>

8 After having established the Movement in a first international conference in October 1863, the Committee convened states to meet again in Geneva to adopt a first international treaty to protect wounded soldiers on the battlefield and establish the neutrality of medical staff (the original Geneva Convention of 22 August 1864).

9 See Marion Harroff-Tavel, ‘The humanitarian diplomacy of the International Committee of the Red Cross’, in *African Yearbook on International Humanitarian Law*, 2006, pp. 1–16, available at: [www.icrc.org/eng/resources/documents/article/other/humanitarian-diplomacy-articles-040310.htm](http://www.icrc.org/eng/resources/documents/article/other/humanitarian-diplomacy-articles-040310.htm).

10 In 1867, Louis Appia and Gustave Moynier would write about the public realisation of the need to regulate warfare: ‘The increasing rapidity, the very instantaneousness of communications, has favoured this awakening; for by this means we live much more in the intimacy of the army than we formerly did.’ In

Because of his direct experience of the battlefield, Dunant could convincingly engage with the political leaders of the time. The ICRC's engagement in action and its proximity to those who need assistance give the organisation its legitimacy when it speaks on behalf of victims of violence. These factors are also a precondition for its relevance and ability to propose innovative practices and responses in terms of humanitarian practices or development of the law.

Although it was created out of public outcry, over the years the ICRC has chosen to develop direct and confidential dialogue as its privileged method of engagement with its interlocutors. This approach, which is at the core of the organisation's identity, has been questioned often and is subject to growing doubt in an international environment demanding greater transparency. However, bilateral and confidential dialogue has proven its effectiveness from the humanitarian point of view. It is a key argument for obtaining access to the people the ICRC assists and protects. It is nevertheless not unconditional or definitive. In its dialogue with the authorities, the ICRC ensures that its approach is contingent on progress being made and on the quality of the dialogue in which it is engaged.<sup>11</sup>

### Principled approach to action, enabling access to people in need

The 1864 Geneva Convention established for the first time rules guaranteeing *neutrality* and protection for wounded soldiers, field medical personnel, and specific humanitarian institutions. In the aftermath of the Second World War and informed by the Cold War environment, the ICRC, led by Jean Pictet, established a coherent vision of the principles underlying the various activities of the ICRC and the Movement as a whole. The official version of the Fundamental Principles of the Red Cross and Red Crescent Movement was adopted in 1965 at the 20th International Conference of the Red Cross and Red Crescent in Vienna.<sup>12</sup> The principles of humanity, impartiality, independence, and neutrality have largely inspired the wider humanitarian sector.

For the ICRC, ensuring that parties to a conflict understand that it is independent of political pressure (notably thanks to the diversity of its sources of funding on the one hand and the mono-nationality of its governance, composed only of Swiss citizens, on the other), does not take sides, and is only interested in protecting and assisting *impartially* those suffering the consequences of armed conflict or other situations of violence is the key for securing access. As Fiona Terry writes, 'remaining neutral in conflict is not a moral position, but simply the most

substance, this quote would not be out of place in the mouth of an Internet-age guru. See A. Appia and G. Moynier, above note 1, p. 519.

11 See 'The International Committee of the Red Cross's (ICRC's) confidential approach', in *International Review of the Red Cross*, Vol. 94, No. 887, 2012.

12 The Fundamental Principles are available at: [www.icrc.org/eng/resources/documents/red-cross-crescent-movement/fundamental-principles-movement-1986-10-31.htm](http://www.icrc.org/eng/resources/documents/red-cross-crescent-movement/fundamental-principles-movement-1986-10-31.htm). They were later elaborated upon in greater detail by Jean Pictet in 1979 in the Commentaries written to accompany them.

effective basis found to date on which to negotiate access to people in need of humanitarian assistance, wherever they are.<sup>13</sup>

If neutrality and independence are largely tools to secure access to all communities in need, impartiality and humanity represent the essence of humanitarian philosophy. None of these principles can be compromised.

Since its birth, the ICRC has been quite vocal in upholding the need for principled humanitarian action in order to bring relief to those in need during armed conflict. These principles express the core values binding together the components of the Movement, but they also have a practical operational dimension. Over time, the principles have represented a key point of reference for addressing the dilemmas of humanitarian action and the constant risk of instrumentalisation of aid by political actors.

Today there are many more international organisations and NGOs involved in international solidarity, development or humanitarian work than 150 years ago. However, still very few humanitarian organisations are capable of operating in conflict areas. The ICRC believes that strict adherence to its principles and the backbone provided by a developed and periodically updated internal policies ('doctrines') remains key for reaching people in need.

## The power of the law

To this day, IHL and its implementation mechanisms continue to develop, adapting to the changing realities of conflicts. To this day, the combination of providing humanitarian relief in favour of victims of armed conflict and other situations of violence and reaffirming and developing the law applicable in those situations remains one of the main specificities of the ICRC. This constant process of providing relief and protection based on the proximity the ICRC and the Movement have with those in need could be well illustrated by the quote of André Malraux in *L'Espoir*: '*transformer en conscience la plus grande expérience possible*'.<sup>14</sup>

While the progressive development of the law regulating armed conflicts has been a constant since the adoption of the First Geneva Convention, it also remains a highly sensitive enterprise. This is partly due to the ever-present unfaltering tension between state sovereignty, security, and military considerations on the one hand, and humanitarian considerations on the other. Periods of progress have alternated with periods of stagnation and even sometimes questioning of previous achievements.

This is why ensuring the development of the law and new legal protection mechanisms requires constant vigilance in view of the ever-changing realities of warfare and weaponry. One can count a number of successes of the ICRC in this regard, either on its own initiative or together with other actors of the international community: from the adoption of the Geneva Conventions of 1949 and their

13 Fiona Terry, 'The International Committee of the Red Cross in Afghanistan: reasserting the neutrality of humanitarian action', in *International Review of the Red Cross*, Vol. 94, No. 881, 2011, p. 187.

14 André Malraux, *L'Espoir* (in English, 'Man's Hope'), Éditions Gallimard, Paris, 1937.

Additional Protocols to more recent conventions such as the Ottawa Treaty of 1998 or the 2008 Convention on Cluster Munitions.

Two other projects worthy of note include the ICRC study on customary IHL published in 2006, which is accompanied by an online customary IHL database,<sup>15</sup> and the project to update the Commentaries to the Geneva Conventions and the Additional Protocols, currently underway.<sup>16</sup>

The founders of the ICRC realised the ambivalence of scientific and technological progress, both as a risk and as an opportunity for mankind. The ICRC and the *Review* maintain the same vigilance today as illustrated by the *Review's* recent issue on 'New technologies and warfare'.<sup>17</sup> But ensuring the development of the law is also about avoiding setbacks and preserving the fragile progress achieved. In 1868, already, the ICRC had to resist suggestions to renegotiate entirely the 1864 Geneva Convention!<sup>18</sup> The ICRC needs to reaffirm the law every time the legitimacy or relevance of the existing law is put into question. During the last decade following the attacks in the United States on 11 September 2001, the declaration by the United States of a 'war against terror' caused new questioning of the progress and relevance of the law. The ICRC stood firm during difficult negotiations with the United States on issues such as the treatment of detainees in Guantanamo.<sup>19</sup>

## The power of humanity

Dunant's dream unleashed 'the power of humanity'.<sup>20</sup> The main intention of the founders of the ICRC was to facilitate the creation of a national mechanism in every country, which would be independent from government authorities so as to maintain its capacity to deliver assistance impartially. Thus 1863 marks not only the birth of the ICRC but also the birth of what is known today as the Movement: the National Societies, the International Federation of Red Cross and Red Crescent National Societies, and the ICRC.<sup>21</sup>

The strength of the Movement resides in its local anchoring and the commitment of its 97 million volunteers, members, and employees in 187 countries.<sup>22</sup> Such a diverse membership ensures not only proximity to victims but also efficiency in the assessment of their needs. Today big international humanitarian actors, such as some United Nations agencies or international NGOs, are increasingly aware of

15 The database is available at: [www.icrc.org/customary-ihl/eng/docs/Home](http://www.icrc.org/customary-ihl/eng/docs/Home).

16 See Jean-Marie Henckaerts, 'Bringing the Commentaries to the Geneva Conventions and their Additional Protocols into the twenty-first century', in this issue.

17 *International Review of the Red Cross*, Vol. 94, No. 886, 2012.

18 C. Moorehead, above note 1, p. 58.

19 See the opinion piece by John Bellingier in this issue.

20 'The power of humanity' was chosen in May 1999 as the slogan for Red Cross Red Crescent activities worldwide; see: <http://w3.ifrc.org/what/values/power.asp>.

21 The first National Society was created in 1863 in Wurttemberg. See Stefanie Haumer's article, in this issue. The International Federation of the Red Cross and Red Crescent Societies was created in 1919.

22 See the Federation website at: [www.ifrc.org/en/who-we-are/the-movement/](http://www.ifrc.org/en/who-we-are/the-movement/). The Movement also has its own website, available at: [www.redcross.int](http://www.redcross.int).

the need to find local partners and develop local capacities to respond to crises. This capacity has always existed within the Movement and represents a great asset in today's multipolar world. In many contexts, the work of the ICRC would simply be impossible without the mobilisation of the volunteers and staff of the National Societies. Furthermore, the Movement is well equipped to provide the multifaceted responses needed in today's complex, long-lasting crises.

Faced with pressures from governments, or sometimes solicited to become part of integrated international humanitarian responses, the Movement needs to maintain its cohesion around its fundamental principles. Keeping and developing the spirit of partnership within the Movement is essential if the ICRC is to tackle the complexity of humanitarian needs with which it is faced today.

### Learning from past experiences

The 150th anniversary of the ICRC gives the institution an opportunity to look back and reflect on past experiences. The history of the Red Cross is so rich that some of the most creative solutions for today's challenges can also be found in lessons from its past. Critically reviewing one's own history and current practice on a periodic basis is a healthy exercise. The very strengths of organisations can become their own weaknesses: while a clear mandate allows focused action, its narrow reading can also lead to an organisation losing sight of the ultimate objective of the humanitarian endeavour. This has already been the case in the past – as the President of the ICRC, Peter Maurer, has said, the ICRC 'lost its normative compass' when it failed to do its utmost to protect the Jewish and other civilian victims of Nazi persecution during the Second World War.<sup>23</sup>

### Today's challenges

In its 150th year, the ICRC is confronted with a world that is quite different from the one in which it was conceived. Just like in the 1860s, our world is undergoing great transformation, whether in terms of scientific and technological progress, social relations, the emergence of new regional powers, or the changing nature of violence and conflicts.<sup>24</sup> Yet, while there are recurrent humanitarian problems, the realities of conflicts continue to evolve and the ICRC is facing new types of challenges. With the growing exposure to public scrutiny, the demands of donors, and the development of the organisation and the humanitarian sector in general, there is a push towards professionalisation. This professionalisation has to be adapted to the humanitarian mandate, as it will ultimately be measured not by increased adhesion to corporate practices but by efficiency and innovation in the fulfilment of that mandate.

23 See the speech given by ICRC President Peter Maurer at the International Tracing Service in Bad Arolsen, 19 November 2012, published in this issue.

24 For more information on the current reading of the humanitarian challenges by the ICRC, see Claudia McGoldrick, 'The future of humanitarian action: an ICRC perspective', in *International Review of the Red Cross*, Vol. 93, No. 884, 2011, pp. 965–991.

## Frequency and complexity of humanitarian crises

While new challenges constantly arise, the *unpredictability* of humanitarian crises has remained their most *predictable* feature. The need to be ready for rapid response, to perpetually adapt to new humanitarian challenges, and to learn from mistakes and tirelessly and critically question one's own beliefs and practices has been a constant necessity in the history of the humanitarian sector. Already in 1862, Henry Dunant remarked:

[I]n this age when surprise plays so important a part, is it not possible that wars may arise, from one quarter or another, in the most sudden and unexpected fashion? And do not these considerations alone constitute more than adequate reason for taking precautions against surprise?<sup>25</sup>

It is the rising number of crises, their duration and the growing complexity of the needs of affected populations that represent perhaps the biggest new challenges for humanitarian actors: climate change can lead to more frequent large-scale disasters, including in urban areas, which are now much more densely populated than in the past; growing inequalities will continue to fuel injustice and violence, and state oppression can lead to more internal crises and violence. In countries affected both by armed conflicts and natural disasters, the convergence of economic, political, and environmental crises can lead to catastrophic results.

## Access and acceptance

While needs are on the rise, access to victims in conflict- and violence-affected areas remain a major challenge. On the one hand, attempts to subordinate international humanitarian action to military and political agendas persist and one can observe an increasing assertiveness of states in controlling the delivery of humanitarian relief. On the other hand, humanitarian actors need to interact with non-state armed groups. Such groups have become increasingly fragmented in recent conflicts, which adds to the complexity of dialogue with them.

In post-colonial contexts as well as in the current climate of religious radicalisation, the universality of core humanitarian values is put into question not just by governments and armed groups but also by populations. These values are often perceived as imported concepts and rejected as such. To be accepted, the ICRC needs to be trusted as a partner of choice by all. As Claudia McGoldrick writes:

The imposition of 'universal' principles and technical solutions devised by Western academia will be met with increasingly stiff resistance. There is a need for better dialogue with local authorities and affected communities, and for the promotion of principled but not standardized solutions.<sup>26</sup>

25 Henry Dunant, *A Memory of Solferino*, translated from the first French edition published in 1862, The American National Red Cross, Washington D.C., 1939.

26 C. McGoldrick, above note 24, p. 990.

Faced with this combination of growing needs and lack of access, the biggest frustration for humanitarians is that, contrary to the nineteenth century, the world would have now medical or technological solutions to offer to the populations in need, should the political will be there. In the current absence of global governance and still waiting of new regional powers to fill the gap, there is a tendency towards the containment of conflicts rather than their resolution or prevention. This has put humanitarian actors under growing pressure, with humanitarian action attracting disproportionate attention in the absence of credible political solutions.

## Challenges to international humanitarian law

Despite the undeniable constant progress of its legal protection tools and enforcement machinery, one can still witness blatant disregard for IHL in many contexts. In particular, the ICRC has recently alerted the world to the widespread erosion of respect for medical staff, facilities, and vehicles, with tragic consequences for the health of affected populations.<sup>27</sup> Sadly, just like at Solferino, the basic protection and care for the wounded and sick is again at the centre of humanitarian and legal concerns. The *Review* will devote its next issue to this subject.

For the ICRC, the main areas for legal developments today include the protection for persons deprived of their liberty in relation to non-international armed conflicts, and the ways of enhancing and ensuring the effectiveness of mechanisms of compliance with IHL.<sup>28</sup>

The discrete yet key role that the ICRC plays in spreading knowledge of IHL and supporting its integration into domestic legislation, military training, and civil education is more needed than ever.<sup>29</sup> It asks in particular for even deeper reflection and work in the field of effective influence on the behaviour of belligerents. Just as new technologies allow for increased military capabilities, they also allow for qualitative change in IHL-related prevention activities. In particular, online training as well as military virtual reality simulators have the potential to greatly improve education and training efforts.<sup>30</sup>

Given that most conflicts today are non-international, engaging with non-state armed groups will continue to prove essential. Thanks to its long-standing practice of dialogue with all parties to conflicts, the ICRC has accumulated a huge amount of experience in dealing with non-state armed actors. Capitalising on this expertise will be critical in continuing to secure access to victims of armed violence.

27 For more information, visit the ICRC website at: [www.icrc.org/eng/what-we-do/safeguarding-health-care/index.jsp?cpn=hcid](http://www.icrc.org/eng/what-we-do/safeguarding-health-care/index.jsp?cpn=hcid).

28 For more information and background documents, visit the ICRC website at: <http://www.icrc.org/eng/what-we-do/other-activities/development-ihl/strengthening-protection-victims-armed-conflict.htm>.

29 See 'International Committee of the Red Cross: prevention policy', in *International Review of the Red Cross*, Vol. 91, No. 874, 2009, pp. 415–430.

30 Ben Clarke, Christian Rouffaer and François Sénéchaud, 'Beyond the Call of Duty: why shouldn't videogame players face the same dilemmas as real soldiers?', in *International Review of the Red Cross*, Vol. 94, No. 886, 2012, p. 714.

## A special issue of the *Review*

This issue is also an occasion to remember the origin of the *Review* – or the *Bulletin international des Sociétés de la Croix-Rouge*, as it was called at the time was first published by the ICRC in 1869.<sup>31</sup> For decades, the *Review* was a mirror of the major concerns of the ICRC and of National Red Cross Societies and published a great deal of information on their activities. Its archives are a unique testimony to the development of the Movement and of humanitarian action in general. The entire collection has been digitalised and is now available online, distributed by Cambridge University Press.<sup>32</sup>

The *Review* first asked Peter Maurer, the new ICRC president, for his vision for the future of the organisation. We then asked ten privileged witnesses of the contemporary work of the organisation – coming from various continents and backgrounds – to give their perspectives on the significance of this anniversary. They give their frank and constructive assessment of the ICRC and the contemporary challenges to humanitarian action.

The second part of this issue's contents is devoted to the study of selected key moments in the history of the organisation, with various contributions from historians.

The *Review* then turns to current practice and challenges, giving the floor to ICRC practitioners to illustrate some of the contemporary challenges and approaches in the field of detention, tracing missing persons, and addressing the consequences of violence such as in Northern Ireland.

The ICRC has been permanently present in Israel and the Occupied Territories since 1967. Faced with an absence of dialogue on three core occupation policies (the annexation of East Jerusalem, the settlements, and the routing of the West Bank Barrier), the ICRC has decided to engage in a public debate over these issues. This debate is initiated in this issue of the *Review* with an article by ICRC's president Peter Maurer and a response piece by Ambassador Alan Baker, former legal adviser of Israel's Ministry of Foreign Affairs.

Beyond this issue, the *Review* has engaged in a series of events and discussions, such as web seminars and conferences, to reflect on the evolving humanitarian challenges.<sup>33</sup>

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31 The publication of the *Bulletin* was mandated by the Berlin Conference of 27 April 1969, convening the International Committee of the Red Cross, government representatives and delegates from the established National Societies at the time. See *Bulletin international des Sociétés de Secours aux Militaires Blessés*, No. 1, Le Comité International, Soullier & Wirth Publ., Geneva, October 1869, p. 4.

32 See <http://journals.cambridge.org/action/displaySpecialPage?pageId=2156>.

33 For regular updates, visit the *Review* webpages on ICRC.org or subscribe to the journal's newsletter; see: [www.icrc.org/eng/resources/international-review/index.jsp](http://www.icrc.org/eng/resources/international-review/index.jsp).

Beyond the history of the organisation, this anniversary also represents an opportunity to reflect on the contemporary humanitarian challenges to which the world must still respond. Humanitarian organisations are still engaged in a never-ending fight to secure safe access to victims and make the laws of war respected. In the conflicts and other situations of violence of the twenty-first century, as in the battlefields of the nineteenth, the question of how to protect people in the hands of their enemies remains fundamental. The tension between progress and barbarity is ever-present.

The human cost of conflicts and violence remains as unacceptable today as ever. The ICRC will continue to strive for humanity. Many people in need remain out of reach due to lack of access and security risks. Beyond humanitarian action, what is needed is the crucial political will to spare civilians and to respect IHL.

What is the significance of an anniversary? 'As for me, I regard the ICRC as having been born on the day that I came to know it', writes Sami El-haj in his contribution to this issue. He is referring to the day an ICRC delegate visited him in his cell in Guantanamo. As for millions of people over the past 150 years, the ICRC was born when it came to visit them in prisons, reunited them with their loved ones, or brought them much-needed family news, food, shelter, water, or medical care. Today as 150 years ago, the core mission remains the same: building respect for the law, saving life, and restoring human dignity.

*Vincent Bernard*  
*Editor-in-Chief*



## Interview with Peter Maurer

President of the ICRC



Thierry Gassmann, ICRC.

*Peter Maurer studied history and international law in Bern, where he obtained his PhD. In 1987 he entered the Swiss diplomatic service, and has since held various positions in Bern, Pretoria and New York. In 2000 he was appointed Ambassador and Head of the Human Security Division in the Political Directorate of the Swiss Department of Foreign Affairs in Bern and in 2004 became Ambassador and Permanent Representative of Switzerland to the United Nations in New York. In January 2010 Mr Maurer was appointed Secretary of State for Foreign Affairs in Bern. He succeeded Jakob Kellenberger as ICRC President on 1 July 2012.*

*In this interview, Mr Maurer reflects on the rich history of the ICRC, conveys his perception of the evolution of the organization, and presents his perspective on the challenges ahead for the humanitarian sector and the ICRC in particular.<sup>1</sup>*



***In your opinion, what is the significance of this 150th anniversary?***

The 150th anniversary represents an important opportunity in the ICRC's history to reflect upon the future orientation of the organization. While the founders of the ICRC had envisioned the creation of an international charitable organization spanning several continents, they were certainly unaware at the time of the surge of solidarity that would emerge in the following decades for the wounded and sick in the battlefields, the prisoners of war detained far from their countries of origin, and the millions of civilians affected by armed conflicts. This is a humanitarian vision and a movement that has lasted 150 years, confronting numerous challenges and providing unique contributions to alleviate the impact of armed conflicts and other situations of violence on vulnerable populations.

As a historian by education, I am well aware that the 150th anniversary of our organization has no major objective meaning; important events in history normally do not happen because of birthdays. But there is the power of a symbolic number, which suggests generations of experience to be captured. History provides us with a critical lens through which we can look into the future. This anniversary gives us an opportunity to understand our identity and origins and thoroughly analyse what we have achieved in the past in order to chart our way into the future and be better prepared for the challenges ahead. We should try to determine the areas likely to be particularly relevant in the years ahead, so that the ICRC's response to humanitarian crises and its ability to reach people in need be even more accurate and effective. Rather than an occasion for self-congratulation, the 150th anniversary should be a time for future-oriented reflection and rededication. After all, the motivation behind our work has not changed since the final pages of Henry Dunant's ground-breaking book *A Memory of Solferino*. What changes, however, is how the organization adapts its response to different patterns of conflict and different contexts. Therefore, I think that '150' is a powerful symbol that should prompt us to reflect, to adapt, and, in so doing, to draw new perspectives and energies for the future.

1 This interview was conducted at the ICRC Headquarters in Geneva on 10 October 2012 by Vincent Bernard, Editor-in-Chief and Elvina Pothelet, Editorial Assistant.

### *How would you describe the evolution of the ICRC's identity?*

What struck me during my first months in the organization is the strong identity around our *modus operandi*: the determination to be close to victims, to root action in response to needs and not to political agendas, to contextualize the humanitarian response, and to reunite assistance, protection, and prevention activities. In situations of armed conflict, populations are affected by armed violence and displacement as a direct result of decisions of the parties. In this context, assistance, protection, and prevention activities are unquestionably linked. One will not be able to provide either assistance or protection to vulnerable groups without addressing the role and policies of the belligerents with regard to these populations. Yet, as we have seen over recent years, parties to armed conflict are more amenable to the provision of relief assistance than the monitoring and scrutiny of their policies towards civilians. While assistance programmes require often-considerable logistics and operational capabilities, it is protection strategies that can ensure the timely and unhindered access to populations at risk. Linking the different concepts in an appropriate way will continue to be a great challenge, but also an opportunity for our organization.

Second, what we define as central to the ICRC's action also deserves careful consideration. In recent years, we have seen the ICRC strengthen its operations in situations of violence other than armed conflicts in the strict sense – in other words, those that fall below the threshold of application of international humanitarian law but are characterized by other forms of violence and regulated by domestic law and human rights law. We find ourselves increasingly working in fragile contexts outside armed conflicts, and I share the thinking that has led in this direction. At the same time, the impression that there are fewer armed conflicts seems to me misleading; the recent past has shown us quite the opposite. In fact, while there are surely fewer traditional inter-state armed conflicts, analysis of the situations in which we work today shows that we are moving towards a future in which there could be a persistence or even an increase in conventional conflicts between armed belligerents, i.e. state and non-state actors, including conflict patterns that we thought were outmoded several years ago.

So I think it is important to concentrate on the origin and core of the mandate, namely, armed conflicts and other situations of violence and the work of protecting civilian populations. Essential areas of activity include, quite logically, health, water, and sanitation, as well as food and nutrition in fragile societies. Beyond these core activities, we are all aware that the world is more complex, that problems are interrelated, that there are no strict boundaries between one thematic area and another, and that we have to be flexible, as in the past, so as to be able to direct our action towards the most pressing humanitarian needs. My first impression, after several months at the helm of the ICRC, is that we are very much on target and that our activities are addressing the core of our mandate.

***How do you see the ICRC's relations with the rest of the humanitarian community?***

The humanitarian community, its workers and organizations have changed substantially over recent decades. We see many more humanitarian organizations, or at least those that claim to have a humanitarian mandate or calling. I believe that we must try harder to define more clearly our relations with these organizations, either through closer cooperation, if possible, or clearer affirmation of our distinctiveness, depending on the respective contexts. In recent years, the ICRC itself has recognized – in its Strategy 2011–2014<sup>2</sup> – that our partnerships with the other actors in the humanitarian community must be defined. Personally, I believe that the ICRC increasingly needs to interact with other actors, both within and outside the International Red Cross and Red Crescent Movement, so that it succeeds in fulfilling its own objectives and mandate. Identifying appropriate partners and working with them seems to me conducive to greater efficiency in reaching our goal of getting access to victims.



In terms of assistance and protection activities, I believe that, as a rule, we must certainly work more intensively in areas where the ICRC has a definite added value in assisting and protecting vulnerable populations, particularly to obtain immediate access to those most affected. In view of the growing number of organizations, it is essential to coordinate aid so that victims get help in time and in areas most needed. What is new is the need to discuss and communicate with these other agencies, to understand what they are doing, and to think about the areas in which cooperation is possible or necessary and the areas that are specific to each of us. It is also necessary to think about the best ways of jointly mobilizing the resources required, in the interests of the victims, and responding to concerns of donors that aid may be insufficiently coordinated.

2 Editor's note: See *ICRC Strategy 2011–2014: Achieving Significant Results for People in Need*, available at: <http://www.icrc.org/eng/assets/files/publications/icrc-002-4050.pdf> (last visited November 2012).

The extent of cooperation may vary according to each context or area of activity. I had a clear confirmation of this during my visit to Syria. Just to mention two examples: first, while visiting a food aid warehouse, I noticed that the stocks provided for distribution to the Syrian population were put together and organized differently depending on the organization involved (that is, the Office of the United Nations High Commissioner for Refugees, World Food Program, the ICRC, and the Qatar Red Crescent Society). Would it not be useful to strengthen cooperation so that we could agree on the most accurate needs and the best way of distributing this aid? Second, that same day, I had discussions with the Syrian authorities on the issue of prison visits. One of the questions they were concerned about was to whom the ICRC's reports were addressed. Guaranteeing the confidentiality of the report and of the recommendations made to the authorities is crucial to obtaining – in return – the conditions that the ICRC needs, for example, individual interviews, comprehensive lists of prisoners, recurring visits to the same facilities, etc. In contrast to the food aid example, in this case it is essential to work on a bilateral basis with the authorities. For me, these are truly two examples of both the need for and the limits of cooperation between the ICRC and other organizations.

In my view, cooperation will not take place only at a practical field level. In order to work well together, you have to know what you are collaborating on and to what extent. In that regard, I have a role to play at the strategic level. It is a matter of having thorough discussions with our key partners, and of engaging regularly with the major non-governmental organizations (NGOs) such as Médecins Sans Frontières (MSF), OXFAM, or Save the Children, and working with the key United Nations humanitarian agencies, such as the High Commissioner for Refugees, the High Commissioner for Human Rights, the Director-General of the World Health Organization, the Executive Director of the United Nations Children's Fund, and of course the Office for the Coordination of Humanitarian Affairs (OCHA).

### ***What is unique about the ICRC today?***

ICRC's specificity lies in its core mandate. One of the questions I was very concerned about during my first missions to the field was whether the ICRC's action on the ground could be clearly identified and linked to the organization's main tasks and identity. Is what we are doing reasonably consistent with our mandate? There are areas of activity that to me seem strategically important. For example, I cannot imagine a future ICRC that does not have a very clear vision and very advanced knowledge in the area of medical assistance and the provision of health services in times of crisis. Likewise, I cannot imagine an ICRC that is not very strong in all matters relating to the protection of detainees: hospitals and prisons are places where the ICRC must be present. Beyond this, we can discuss what constitutes our core business and what goes beyond it. The fact that we live in a world where the word 'humanitarian' is used in such an inflationary way impels me to be as precise

about the fact that what we are doing is connected to a clear mandate and identity for the organization.

We must be clear about the fact that everything we do must be linked to armed conflicts and other situations of violence, and that we will always care for the wounded and sick in the battlefield, attend and monitor the situation of detainees, and strive to support effective health-care systems and other basic humanitarian needs that can save lives in times of crisis. The core of our action will continue to be delivering essential emergency aid to populations in need. For me, this is what really constitutes our identity.

On my recent visit to the ICRC orthopaedic centre in Kabul, it seemed obvious to me that what we are doing is not only useful, but also fundamental to the ICRC's mission of providing assistance and protection to all those in need. War casualties are treated there, but they are not the only ones. And I think it is essential to have an orthopaedic centre that is not limited to treating war victims, but that also meets the wider orthopaedic needs of the community. Nevertheless, it is still important that ICRC activities emerge from its core mandate. I do not see any advantage in allowing ourselves to be drawn into an overly wide area of operations. That would turn us into a traditional development agency. We would be short-changing ourselves, and the humanitarian community as well, if we did not always concern ourselves first and foremost with fulfilling our mission. The point is not to get involved in activities that others may be able to do better.

### *What challenges does the ICRC face today?*



Thierry Gassmann, ICRC.

My first observation was that our major challenge is to affirm and define through our action and cooperation with others what neutral, independent, and

impartial humanitarian action is. Nowadays, unfortunately, many parties are instrumentalizing humanitarian crises to achieve political goals that have absolutely nothing to do with humanitarianism. This should mobilize us to explain clearly to our partners, to aid recipients, to the international community, and to donors what we mean by neutral, independent, and impartial humanitarian action. We have to be a bit sharper in explaining and raising awareness of the core principles. For example, I am very concerned about medical work. When we see how hospitals are misused and militarized during conflicts, and the ever-increasing threats against medical workers and doctors, I think there is a need to state and restate that ambulances, medical facilities, and medical workers are not to be harmed or interfered with. Recent conflicts reported by the media have shown that, even in Europe, where we might expect to find a consensus in favour of humanitarianism, some politicians think that there are 'good' and 'bad' victims – some who are to be treated, and others who are entitled to less attention. So I think the challenge is to explain the genuine meaning of independent, impartial, and neutral action and the importance of respecting a principled approach in reaching all those in need.

Another important challenge stems from states' sovereignty. I find it a very positive development that governments wish to assert their leadership in many countries: governance and state sovereignty should be strengthened so that states are able to manage their problems by themselves. Unfortunately, such a wish can also at times be transformed into a desire to exert more control over independent organizations for political reasons or to exclude independent assessment or aid. In this context as well, it is critical that state and non-state actors understand the importance of independent humanitarian action as a cornerstone of a neutral and impartial approach. While governments may well consider integrating targeted relief and development programmes to political and peace enforcement agendas, such as in the case of Somalia, it is vital that they also respect the integrity of independent humanitarian action providing life-saving assistance to all those in need regardless of their political affiliation. In situations where the government or international coalitions are unable to assert their control, the ICRC must be able to reach vulnerable groups in an effective manner.

There are many other subjects as well. I continue to think that the nexus between access and security continues to be a big challenge, although I recognize the difficulty to measure access objectively. Subjectively, we have to recognize that today more humanitarian organizations deploy activities and more aid is being provided; but there are strategic areas that are under stress. This is what concerns me the most. Blows are being struck at the heart of one of the ICRC's characteristics and strengths – its proximity to conflicts, to victims, and to weapon bearers. When this proximity is questioned or jeopardized, it affects us more than other organizations. There are agencies that do extraordinary work, but that do not aspire to be close to the ground, to victims, and to weapon bearers. They are not exposed to risk in inaccessible places and are less likely to be attacked. If an organization monitors activities from headquarters and delegates responsibility to local NGOs, it is less directly affected by attacks and by the contraction of opportunities for

humanitarian action. For us, it is very different. One of the ICRC's great strengths and traditions is its engagement with all parties to the conflict and its proximity to the people in need of protection. We must not let ourselves be drawn into the logic of fear, which would mean allowing the person who attacks us to dictate our actions. What I have always admired about the ICRC from the outside, and have continued to admire since I have been here, is the ability to negotiate and get parties involved in order to change their behaviour. I think that we must continue to push ourselves in this direction.

I must say that I am very pleased, for example, by what we have succeeded in doing in northern Mali. A few months ago, governments would have said, 'It's impossible to operate in such a situation, it's too dangerous, you can't be active in these areas considering the difficulties of engaging with all the belligerents', but we sought to establish contacts, we strove to negotiate security arrangements. In my view, this is a very good example of how to respond to the challenge of getting access.

***We have talked about the external challenges. What are some of the internal challenges for the ICRC?***

Over the last 150 years the ICRC has become a major international organization, today employing over 13,000 employees in over eighty countries. Compared to other international agencies, the ICRC's mandate covers a number of domains from health to nutrition, tracing missing persons to monitoring detention centres. Such size and scope of activities require a substantive and flexible management structure in order to be able to perform in some of the most demanding environments in the world. As compared to where the ICRC was only few years ago, the organization has become more astute and nimble in its management processes, particularly through the use of smart technologies, but it will certainly have to take further steps in this direction.

I am not someone who believes that major management solutions come from new technologies. But I think that new technologies can support good management solutions. I believe, for example, that an organization that spends over 170 million CHF<sup>3</sup> a year on assistance goods across four continents has to professionalize itself still further in order to manage this flow of goods as effectively as possible. This requires a robust management of the supply chain and of channels that should, over time, enable us – if we make a qualitative leap into digitization – to reach people who need help more quickly and in a more targeted and appropriate way.

We also need to think thoroughly about how best to combine voluntary work, which is deeply rooted in the humanitarian community worldwide, with

3 Editor's note: See *ICRC Annual Report 2011*, Section 'Delivery of Assistance Items in 2011', pp. 482–483, available at: <http://www.icrc.org/eng/resources/documents/annual-report/icrc-annual-report-2011.htm> (last visited November 2012).

professionalizing humanitarian work in the future. One of the strengths of the humanitarian community is that it still relies on volunteers everywhere, especially in times of emergencies. On my travels, I am impressed to see the number of volunteers working to support humanitarian action. At the same time, conflicts are becoming more complex, the network of organizations is increasingly intricate, and expectations for the accountability of humanitarian workers grow continuously. We have difficult challenges and issues to manage and extremely complicated legal frameworks to deal with. We will not be in a position to cope without more specialized, focused, and effective training of humanitarian workers at all levels.

Finally, if we wish to improve humanitarian action further in the future – in five years, in ten years – in order to strengthen and professionalize the management and leadership of humanitarian action, we cannot avoid digitizing our work through electronic platforms, easier ways of exchanging information, and modern technology. Connecting an organization's staff members to a network will, over time, make it possible to link the organization's operational knowledge and legal capacity in the areas of assistance and protection. As long as we work in forms of hierarchical bunkers, we will have to subject ourselves to institutional limitations. But if we also use the next few years to communicate better and to forge links internally and with our key partners, I think that this will help strengthen the organization.

### ***How do you see the ICRC's role in the International Red Cross and Red Crescent Movement?***

When I started at the ICRC, and even before, when seeing it from the outside, I always thought that belonging to a movement was a great strength and a great privilege of the organization. It is something to which I give a lot of thought. I do not think that being unique in the world is a huge advantage in itself. We have a tremendous amount to gain by making good use of the fact that we are not alone, that we have a close-knit family and a supportive environment. And I believe that we must invest in relations within the Movement.

There are two things of which we are all aware. There are situations today in which National Societies are strongly placed to take leadership and where the ICRC is interested in strong partnerships. In most situations and large operations, we work with the local Red Cross and Red Crescent Societies, and it is to our mutual advantage to strengthen these relationships. We are seeing more and more National Societies that have international dimensions to their activities, and we have every interest in striving for a more unified response on the part of all those who come together as part of the same family and who are working on the basis of the same principles. In doing so, it is not always necessary to have a complex machinery or complicated coordination mechanisms in order to make decisions – but we have to talk to each other, we have to see whether we are heading in the same direction, whether we have a common narrative, and we need arrangements that are adapted

for different contexts. We have to use the strength of this Movement according to the particular contexts.



Thierry Gassmann, ICRC.

The proceedings of the most recent International Conference of the Red Cross and Red Crescent show the key areas and the resolutions of the Movement in which the ICRC has a great interest. It is entirely to our benefit to use the existing structures to expand the base of those who support such key areas of interest. So there is a whole range of areas where I see a huge advantage in engaging in further strategic cooperation and cooperation on the ground, as well as in advocating for humanitarian values within the Movement. I view the Movement as an opportunity for local, regional, and international engagements. I will certainly commit myself to ensuring that the ICRC continues to convey and to strengthen this perspective in the future.

***What is your vision of humanitarian diplomacy?***

When I speak of operations, development of the law, and humanitarian policy, I do not view them as separate spheres. Humanitarian policy consists of diplomatic platforms to be used to promote our interests and actions. Thus, if I go to a country or an international conference, I go there to make a connection between the debates that take place at these conferences – at the UN, within the Non-Aligned Movement, at the Pan-African Conference of Red Cross and Red Crescent Societies – but I also go there to promote the ICRC’s operations, to find support for the development of the law, and to get backing for what we are doing. In my previous posts, it always bothered me that in the diplomacy of states there was friction and disconnect between the bilateral and multilateral spheres. We must avoid having this

disconnect where humanitarian diplomacy is concerned. There is no abstract humanitarian diplomacy that takes place in abstract diplomatic and political discussions and in virtual conference rooms.

The great challenge of humanitarian diplomacy is to strengthen operational humanitarian action by engaging in diplomatic fora where humanitarian contexts are on the agenda. The challenge is to use humanitarian diplomacy to seek the political support needed for operations on the ground. I think that this dynamic must be created, maintained, and developed. As the ICRC we are attentively listened to when we attend an international conference and talk about the reality on the ground. We can significantly strengthen action on the ground when we have political support for humanitarian action. Humanitarian diplomacy means being able to enter into this mutually reinforcing cycle between the operations, the development of the law, and the diplomatic and political discussions.

***What about the dialogue with armed actors? How can we better induce them to respect international humanitarian law?***

I believe that talking to all weapon bearers is a baseline for this organization. ‘Talking’ not only means negotiating operational access and security arrangements in order to provide assistance; it also means seeking to influence behaviour: refining arguments, spreading important values and standards. I think that in this preventive and educational context we must give some thought to the best way to act. I believe that we must avoid acting like schoolteachers and instead try to anticipate what the openings will be and what arguments we can use. For some time we may have thought that the best way to work with armed groups and to influence their behaviour was to use the same products and the same arguments, and that all we had to do was to repeat something several times for them to decide that we were right. I do not think that this kind of work can be done that way. On the contrary, we must recognize that we will succeed only if we understand armed groups and their thinking, what the problems are, and if we can adapt our arguments without adapting our values, standards, and interests. This is more of a discussion about methods and practice, and I have no immediate answers. But I am aware that this is a dimension in which further improvement is needed.

***What are the key challenges today for international humanitarian law?***

Besides the mandates that we received at the most recent International Conference, and on which we are already working, there are issues in terms of adjusting the standards to reality. The nature and types of conflicts are changing, the characteristics of the parties to these conflicts are evolving, and the battlespace where armed hostilities are actually taking place is in mutation under the common pressure of new technology and the transnational nature of today’s wars. This is similar to what I was just saying about the interaction between legal affairs,

operations, and humanitarian diplomacy. We must be attentive to new problems as they arise and respond through legal interpretations, commentaries, or law development if necessary. So there must be a continual effort in terms of clarification of the norms as applied to current conflicts.

If my initial assumption is correct – namely, that in the years ahead we will continue to be faced with a significant number of conventional conflicts between armed entities – state and non-state – then it will be necessary to clarify the existing rules that have been developed for mostly traditional state militaries engaged in a symmetrical conflict. One of the priorities is not to look at legal challenges as relatively abstract issues between academics, but to be attentive to needs of protection and engagement as they arise on the ground. The ICRC should be able to respond in a fairly precise way when an armed group or a military commander asks how to comply with the obligations on precautionary measures, proportionality, and targeting in the conduct of hostilities. A twenty-page legal opinion, while important in the development of the ICRC doctrine, is not going to be the most helpful in these circumstances. We need to be able to translate in lay terms why the compliance of the rules of international humanitarian law makes sense in legal, moral, and professional terms.

### ***Is there a need to popularize international humanitarian law further?***

Popularize, adjust, and interpret – these are indeed big challenges. I think it is really important to be able to explain the law in practical terms. We must be able to answer the legitimate questions that weapon bearers have and to explain to them how they must behave. It is also necessary to take stock of circumstances that might not have been foreseen when international humanitarian law was created. For example, the conduct of hostilities in urban areas has become a real problem. How should we respond to a military commander who is not necessarily ill-intentioned and who has legitimate operational questions?

Apart from the mandates involving development and exploration of the law, it is essential to ensure that our legal capacity is useful at the operational level. Then there are obvious challenges and thematic areas: everyone is talking about cyber warfare, the use of drones and robotics in hostilities, and the like, so we too must be able to keep our end up in a discussion on development of the law, and consider whether it is necessary – and if so, how – to align these new phenomena with the existing body of law. There is work to be done to identify the possibilities for action. One can identify the gaps, or decide that the law is sufficiently clear. But one can also decide that it is necessary to educate in order to show exactly how the law applies and which provisions of the existing law are relevant to the new phenomena as we see them. It is important for the ICRC to have a voice in these matters.

Lastly, it is necessary to reflect on how the ICRC wishes to interact with states in developing and interpreting the law. Ever since I arrived at the ICRC, representatives of states have been telling me that governments are increasingly

interested in participating in the development, clarification and interpretation of the law. This requires a more sustained and transparent engagement with the High Contracting Parties. We must devise good methods of interacting with states that take into account their way of seeing things. After all, they are the signatories of the Conventions. And I do not want this to be perceived as a defensive position. In my view, the ICRC has a responsibility to take the lead in these matters, to raise good questions in an independent and objective manner, to support formulations that we consider to be the most appropriate and effective. But we must not be afraid of the interest that states have in discussing legal issues and steering the development of the law proactively. Personally, I regard this as an entirely positive phenomenon. We must welcome the fact that this interest exists. Then we need to seek out discussions, to identify the areas of consensus and the possibilities for action, and perhaps also to be unafraid of controversy.



## PERSPECTIVES ON THE ICRC



### Observations on the 150th anniversary of the ICRC

#### **John B. Bellinger III**

John Bellinger is a Partner at the law firm Arnold & Porter in Washington, D.C. He served as Legal Adviser for the Department of State from 2005 to 2009 under Secretary of State Condoleezza Rice, and as Senior Associate Counsel to the President and Legal Adviser to the National Security Council at the White House from 2001 to 2005. He headed the United States delegation for the negotiation of the Third Additional Protocol to the Geneva Conventions.



The 150th anniversary of the International Committee of the Red Cross (ICRC) offers me an excellent opportunity to reflect on my frequent interactions with the organisation over an eight-year period while I served in the United States (US) government.

Between 2001 and 2009, I met regularly with ICRC officials both in Washington and in Geneva, including in particular President Jakob Kellenberger, Director of Operations Pierre Krähenbühl, and Washington Head of Delegation Geoffrey Loane. These three individuals deserve great credit for their hard work in maintaining a diplomatic but candid working relationship with senior US officials across multiple departments during the extremely difficult period for the US after the terrorist attacks of 11 September 2001. They enjoyed great personal respect in Washington, even when their messages were not always welcome.

Dr. Condoleezza Rice was willing to meet regularly with President Kellenberger both when she was National Security Adviser at the White House and when she was Secretary of State. In her memoirs, Dr. Rice comments: ‘Though [Dr. Kellenberger] harbored deep reservations about our policies, he was more interested in solving problems than generating headlines.’ Based on her

recommendation, President Bush met with President Kellenberger in February 2005, and the two leaders had a constructive meeting.

My frequent interactions with the ICRC fell roughly into three categories: (1) discussions regarding the application of the Geneva Conventions and other applicable law to the detention of members of Al Qaeda and the Taliban after the 9/11 attacks; (2) discussions regarding the detention of, and ICRC visits to, specific individuals under US control at Guantanamo Bay and elsewhere; and (3) the negotiation of the Third Additional Protocol to the Geneva Conventions and admission of the Israeli and Palestinian humanitarian societies to the International Red Cross/Red Crescent Movement. During my last year in office, I also worked with the ICRC to negotiate the Montreux Document on Private Military and Security Companies.

## Application of the Geneva Conventions

One of the most vexing issues for the US government after 9/11 was determining which international rules and standards to apply to detained members of Al Qaeda and the Taliban. I spent hundreds of hours discussing the applicable law with President Kellenberger and many ICRC officials.

Although I had a constructive ongoing dialogue with ICRC officials, on occasions it appeared to me that the ICRC's views were based more on policy preferences than on an examination of what the Geneva Conventions actually require as a matter of law. In particular, I would have welcomed a more careful analysis of whether and precisely how the Third or Fourth Geneva Conventions apply to members of Al Qaeda and the Taliban.<sup>1</sup> The US government questioned some of the ICRC's recommendations because they were not supported by rigorous legal analysis.<sup>2</sup>

The Bush Administration, of course, was and continues to be criticised for not applying the privileges of the Third or Fourth Conventions to members of Al Qaeda and the Taliban as a matter of law. The Bush Administration did apply most Geneva provisions as a matter of policy. It is important to emphasize that the Obama Administration has not changed this legal position and has not treated

- 1 Editor's note: The ICRC's position in this regard is laid out in Knut Dörmann, "The legal situation of "unlawful/unprivileged combatants", in *International Review of the Red Cross*, Vol. 85, No. 849, March 2003, pp. 45–74.
- 2 During this same period, US officials expressed similar concerns about the lack of legal rigor in the ICRC's Customary International Humanitarian Law Study. On 11 November 2006, the General Counsel of the Department of Defense and I sent a lengthy letter to the ICRC criticizing the methodology of the study and the lack of evidentiary support for its conclusions that certain rules had achieved customary international law status. See 'Joint letter from John Bellinger and William Haynes to Jakob Kellenberger on Customary International Law Study', in *International Legal Materials*, Vol. 46, May 2007, p. 514. Also see the exchange in the *International Review of the Red Cross* between, on one side, myself and William Haynes ('A US government response to the International Committee of the Red Cross study Customary International Humanitarian Law'), and, on the other, Jean-Marie Henckaerts of the ICRC ('Customary International Humanitarian Law: a response to US comments'), in *International Review of the Red Cross*, Vol. 89, No. 866, June 2007.

Al Qaeda and Taliban detainees as prisoners of war or protected civilians. Nor has the Obama Administration concluded that Article 75 of Additional Protocol I applies to Al Qaeda and Taliban detainees.

Since the US Supreme Court determined in its 2006 *Hamdan* decision that Common Article 3 of the Geneva Conventions applies to Al Qaeda and Taliban detainees on the basis that the United States is in a non-international armed conflict with Al Qaeda and the Taliban, the United States has applied Common Article 3 as a matter of law.

Nonetheless, Common Article 3 does not provide guidance on many important questions applicable to the detention by a state of members of a non-state group in a non-international armed conflict, including:

- Which individuals are subject to detention?
- What legal process must the state provide to those detained?
- When does the state's right to detain terminate?
- What legal obligations do states have in connection with repatriating detainees at the end of detention?

I gave a comprehensive address on these issues at Oxford University in December 2007,<sup>3</sup> which I later discussed at great length with President Kellenberger in Geneva. At the time, ICRC lawyers resisted the idea that there are any 'gaps' or lack of clarity in the Geneva Conventions as applied to a conflict between a state and non-state actors. One can understand a desire that there be no 'law-free' zones, but allegedly applicable rules (especially purported rules of 'customary' international law) should not be invented simply in order to have rules.

Based in part on our discussions, I expanded these remarks into a lengthy article (written with my former State Department colleague Vijay Padmanabhan) for the *American Journal of International Law* in 2011.<sup>4</sup> In that article, we said that:

the continued relevance of international law in governing contemporary conflicts will require that states address, rather than ignore or avoid, the stress that conflicts with non-state actors exert on existing legal rules. Because of the pressing need to fill the gaps in the existing law of detention, we hope that the relevant actors will acknowledge the limitations of existing law and take effective steps to address them.<sup>5</sup>

Accordingly, I was pleased that at the 31st International Conference of the Red Cross and Red Crescent in November 2011, the States parties to the Geneva Conventions, together with the other components of the Movement, adopted a

3 See US Department of State Archive, *Oxford Leverhulme Programme on the Changing Character of War*, John B. Bellinger III, Legal Adviser Lecture at the University of Oxford, 10 December 2007, available at: <http://2001-2009.state.gov/s/l/rls/96687.htm> (last visited May 2013).

4 See John B. Bellinger III and Vijay M. Padmanabhan, 'Detention operations in contemporary conflicts: four challenges for the Geneva Conventions and other existing law', in *American Journal of International Law*, Vol. 105, No. 2, April 2011, p. 201.

5 *Ibid.*, p. 243.

resolution inviting the ICRC to study whether existing international humanitarian law is adequate, or needs to be strengthened and clarified, as applied to persons detained in armed conflicts.<sup>6</sup> In preparation for the Conference, the ICRC had drafted a report entitled ‘Strengthening legal protection for victims of armed conflicts’.<sup>7</sup> The report concluded that, although the Geneva Conventions remain important, they do not address, or do not sufficiently address, many questions relating to detention, especially in non-international armed conflicts between states and non-state groups. The report identified particular ‘gaps and weaknesses’ in the law and a ‘dearth of legal norms’ regarding conditions of detention, procedures governing security internment, and transfers of detainees.

Although the ICRC appropriately tries to stay out of public legal debates, I think it would have been valuable for the organisation to have contributed more to the public dialogue (as opposed to engaging only in private discussions with US officials) on whether detention of members of Al Qaeda and the Taliban should be governed by international humanitarian law or human rights law. Eleven years later, many international law ‘experts’ assert that there is not and never has been an armed conflict between the United States and Al Qaeda or the Taliban, and therefore that international humanitarian law (including the Geneva Conventions) is not the applicable legal framework of reference. It would still be useful for the ICRC to state its views publicly, in a neutral and non-critical way, on whether an international armed conflict can exist between a state and non-state actors. If the applicable ‘law’ is as clear as many observers believe, one would hope that there would be agreement between the ICRC and other legal experts on whether international humanitarian law or human rights law applies.

## Operational discussions in relation to detention

In addition to our robust dialogue on the law applicable to detained persons, I had regular meetings with ICRC officials on practical and operational details relating to the detention of members of Al Qaeda and the Taliban at Guantanamo Bay and elsewhere. These discussions were always ‘full and frank’ (in diplomatic parlance), and we made significant operational progress on many issues, including providing the ICRC with rapid access to all persons in Guantanamo Bay. ICRC officials were always professional and constructive in these meetings.

6 See John B. Bellinger III, ‘Red Cross Conference acknowledges “gaps” in international humanitarian law governing detention’, *Lawfare* blog, 3 December 2011, available at: [www.lawfareblog.com/2011/12/red-cross-conference-acknowledges-gaps-in-international-humanitarian-law-governing-detention/](http://www.lawfareblog.com/2011/12/red-cross-conference-acknowledges-gaps-in-international-humanitarian-law-governing-detention/) (last visited May 2013).

7 See ICRC, ‘Strengthening legal protection for victims of armed conflicts’, Draft resolution and Report, 31st International Conference of the Red Cross and Red Crescent, 28 November–1 December 2011, available at: [www.icrc.org/eng/assets/files/red-cross-crescent-movement/31st-international-conference/31-int-conference-strengthening-legal-protection-11-5-1-1-en.pdf](http://www.icrc.org/eng/assets/files/red-cross-crescent-movement/31st-international-conference/31-int-conference-strengthening-legal-protection-11-5-1-1-en.pdf).

## **Negotiation of the Third Additional Protocol to the Geneva Conventions**

One of the highlights of my tenure as Legal Adviser of the State Department was working together with ICRC officials to negotiate the Third Additional Protocol to the Geneva Conventions ('Third Protocol'), which created the Red Crystal as an alternative symbol to the Red Cross and Red Crescent and paved the way for both Israel's Magen David Adom and the Palestinian Red Crescent Society to join the International Red Cross/Red Crescent Movement.

As is well-known, the Organisation of the Islamic Conference (OIC) opposed the Third Protocol because it wanted to exclude the Magen David Adom from the Movement, at least until it could wrest certain political concessions from Israel regarding its treatment of Palestinians in the West Bank and Gaza. The OIC's effort to use the negotiation of the Third Protocol as leverage was perhaps understandable, but it was unfortunate that the OIC attempted to block a humanitarian convention for political purposes. The United States supported a balanced approach that would allow for adoption of the Third Protocol and for the admission of both the Magen David Adom and the Palestinian Red Crescent Society (even though Palestine was not itself a State party to the Geneva Conventions).

President Kellenberger showed great personal courage in announcing that if consensus could not be reached, he would support putting the Third Protocol to a vote, rather than delaying the matter further. As head of the US delegation at the time, I called for a vote, and the parties to the Diplomatic Conference overwhelmingly voted in favour of the Third Protocol (and later in favour of admitting both the Magen David Adom and the Palestinian Red Crescent Society to the Movement). I am convinced that, without President Kellenberger's personal leadership on this issue, the Third Protocol would not have been brought to a vote, and both the Magen David Adom and the Palestinian Red Crescent Society would still be excluded from the Movement.

## **The Montreux Document**

During my last year as Legal Adviser, I also supported the efforts of the ICRC and the Swiss government to negotiate the Montreux Document, which sets forth good practices for private security companies in armed conflicts. I was pleased to represent the United States at the meeting in Montreux in October 2008, at which the Document was adopted. The ICRC and the Swiss government adopted a pragmatic approach to the Montreux Document, opting to lay out the existing law and to state best practices rather than to try to develop controversial new legal principles that the US government might have resisted. The Document laid the foundation for the adoption of the International Code of Conduct for Private Security Service Providers in November 2010.

To conclude, I was honoured to work closely with the ICRC during my tenure in the US government on some of the most difficult international legal issues facing the United States. While we did not always agree, I enjoyed excellent professional and personal relationships with the ICRC's leadership and its Washington Delegation. I commend them on their work on behalf of humanity and congratulate the ICRC on its 150th anniversary.

## PERSPECTIVES ON THE ICRC



### A Guantanamo detainee's perspective

#### **Sami El-haj**

Sami El-haj was working as a photographer with the Al-Jazeera television channel when he was detained in Guantanamo where he spent six years. He was released in 2008. He is now the Manager of Public Liberties and Human Rights Department at Al-Jazeera Network

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My story of the International Committee of the Red Cross (ICRC) is not exceptional. It more or less reflects the situation of all those who have languished or are languishing in the depths of Guantanamo or any dark prisons of injustice. However, it is my hope that, by telling this story and by clarifying certain notions and presenting some proposals, I may help to improve the ICRC's humanitarian services and its relations with detainees.

The history of this time-honoured organization and its role in alleviating the suffering of victims of war, torture, and imprisonment are too well known to require an introduction. As for me, I regard the ICRC as having been born on the day that I came to know it and it came to know me, when I came to accept it – after rejecting it for a long time, because I was unaware of what it did and how, when it presented to me its system of values, which I had previously failed to understand.

Thus, my story began in January 2002, with a blank sheet of paper handed to me by the American investigator at Bagram who requested that I write a letter to my family and specify their address. I distrusted this request because I thought it was part of the investigation. My fellow prisoners and I felt the same distrust for the second time that year during our encounter with the ICRC in Kandahar prison when its delegates asked us to give them an account of how we had been detained and transferred there. The first instance of positive appreciation came shortly before

the Eid al-Adha (Feast of the Sacrifice) when the ICRC presented us with copies of the Holy Qur'an that it had brought to Kandahar prison. It also brought us dishes of mutton from ritually sacrificed sheep, which had a highly positive effect on us. Someone had remembered us during the Eid and compensated us to a certain extent for our privation on that great occasion.

I received the first letter from my family, through the Qatar Red Crescent, in September 2002. It enclosed a photograph of my baby son Muhammad, whom I had left while he was taking his first faltering steps. The feeling was indescribable: a strange mixture of solace and sadness; tears were my first reaction. All my fellow prisoners in the neighbouring cells also broke into tears because they thought that something bad had happened to my family. This continued for more than an hour during which time I was unable to explain the situation or even to read the letter. The mere fact that I had received it, together with that photograph, had a tremendous impact, and not only on me!

Subsequently, there was a regular exchange of letters with my family through the ICRC, and my trust in it, and in its role, increased with the arrival of the first Arab delegate, from the Arab Maghreb, in whom we had even greater confidence when we found that he knew the Qur'an by heart. My reason for mentioning this is to draw attention to the prevalent notion among the detainees that an organization displaying a cross as its emblem must be a crusader organization. The fact that the ICRC delegate was a Muslim who had memorized the Qur'an rectified the misconceptions that we were harbouring concerning the organization with which we had not previously had any dealings in our countries.

He was followed by a succession of Arab delegates, which had a very positive effect on our attitude towards the ICRC insofar as their presence made us feel comfortable and confident since they were fellow Arabs with whom we could communicate more easily. At the very least, we could understand their facial expressions in which we perceived genuine feelings and a sympathy that seemed more authentic to us because of cultural similarities.

Later, the ICRC brought specialists and doctors. The availability of medical care gave us a feeling of relief and this feeling became stronger with the arrival of jurists who answered our questions. The provision of a library was even more welcome since the ICRC supplied more than 10,000 books, ranging from the principal Islamic reference works to the best detective stories. We were able to take advantage of this store of knowledge in order to organize a programme between the sunset and evening prayers. During these evening sessions one of us would read a book and summarize it for the others. We read to those who did not know how to read, and some of them began to master the Arabic language. Even more importantly, reading and exercising our imagination was very helpful in enabling us to preserve our sanity. In this connection, it is noteworthy that a consultant from the prison's administration – this time of Arabic origin – deprived us of these books by warning the prison administration that it was 'training theologians'. After that we started receiving *Tintin and Milou* stories and books bearing offensive titles such as *A Donkey from the East!*

The ICRC improved its interaction with the detainees by developing the means of communication between them and their families to include the Internet and a telephone line.

In the light of my above-mentioned experiences, I can point out some negative aspects that could have been avoided in the ICRC's contacts with the detainees:

- 1 The dispatch of non-Arab delegates created a psychological barrier because of cultural and linguistic differences, resulting in a lack of trust in the ICRC on the part of the detainees.
- 2 Regarding the ICRC's emblem, it would obviously be unreasonable to ask the organization to change its emblem in order to build bridges of confidence with the recipients of its humanitarian services. However, it would be extremely helpful if the ICRC could pay attention to this point and endeavour to clarify the issue of the emblem by giving a historical explanation in order to dispel people's misconceptions, and especially those of people from Islamic backgrounds who might be unaware of the true facts.

In accordance with its confidential approach, the ICRC does not make public its observations from inside Guantanamo. At first sight, the services that the ICRC has succeeded in providing for the detainees seem to merit this heavy price. However, as a former detainee, I would venture to suggest that the ICRC's silence should be limited and not absolute<sup>1</sup> since there are aspects that could and should be criticized frankly and openly in the media. Clear examples of this are the refusal to allow the detainees at Guantanamo to benefit from the privileges provided for in the Geneva Conventions, including the right to study and receive appropriate medical care. It is paradoxical that we sometimes felt that we were the ones who were protecting the ICRC delegates and not vice versa. Their silence rendered them weak in the eyes of our jailers, while we wanted them to be accorded respect as persons of note.

The ICRC should therefore establish a mechanism for fruitful cooperation with the international media in order to expose all violations of the Geneva Conventions that degrade human dignity. Although we certainly applaud the Red Cross's success in gaining access to Guantanamo, at a time when leading personalities are loudly advocating for democracy and human rights, it is no longer acceptable to remain silent about Guantanamo's very existence, let alone what is happening inside its walls.

1 Editor's note: The ICRC reserves the right to issue a public condemnation of specific violations of international humanitarian law providing the following conditions are met: (1) the violations are major and repeated or likely to be repeated; (2) delegates have witnessed the violations with their own eyes, or the existence and extent of those violations have been established on the basis of reliable and verifiable sources; (3) bilateral confidential representations and, when attempted, humanitarian mobilization efforts have failed to put an end to the violations; (4) such publicity is in the interest of the persons or populations affected or threatened. See 'Action by the International Committee of the Red Cross in the event of violations of international humanitarian law or of other fundamental rules protecting persons in situations of violence', in *International Review of the Red Cross*, Vol. 87, No. 858, June 2005, p. 397.



## PERSPECTIVES ON THE ICRC

### The indispensable organization



#### **Kristalina Georgieva, European Commissioner for International Cooperation, Humanitarian Aid and Crisis Response**

Before joining the European Commission in February 2010, Commissioner Georgieva held various positions at the World Bank as Environmental Economist, then Senior Environmental Economist, and as Sector Manager on Environment for the East Asia and Pacific Region. From 2000 to 2004 she was Director in charge of World Bank environmental strategy, policies, and lending, and in 2004 became World Bank Director for the Russian Federation. From 2007 to 2008 she held the position of Director for Sustainable Development and was appointed Vice President and Corporate Secretary of the World Bank Group.

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If war is one of humanity's worst and most unnatural urges, then compassion and solidarity are war's most effective and self-sustaining antidotes. Since its birth 150 years ago as a humane reaction to inhumane suffering caused by the Battle of Solferino, the International Committee of the Red Cross (ICRC) has stood as a proud symbol of this compassion and solidarity.

And today, as we commemorate this 150th anniversary, we are called upon to recognize why the ICRC came to be, to celebrate its achievements, to pay tribute to its people, and to reflect on the challenges that will define it in the future.

As Europe's Commissioner for International Cooperation, Humanitarian Aid and Crisis Response, I have many opportunities to see the ICRC in action. Wherever I go, in the globe's darkest pockets of despair, in the hottest beds of war, in the squalid arenas of protracted conflicts, I endeavour to meet ICRC delegates. I am always impressed by the honesty and lucidity of their assessment, by their dedication, by their professionalism.

My first field experience of the indispensability of the ICRC was in Osh, a city in southern Kyrgyzstan. I travelled there in the summer of 2010, early in my mandate as European Commissioner, to assess the humanitarian needs triggered by the surge of ethnic unrest and to deliver European assistance. As in so many other conflicts, ICRC delegates had been first on the ground and as I arrived they were busy in their life-saving work: treating the wounded and bringing food and water to the families and communities affected by the clashes. Bullets were whistling in the distance as I was meeting residents of Osh and, understandably, there was a lot of fear among them. ‘Europe’s aid is very important for us right now, but equally important is that they are here’, a local woman told me, pointing at the people wearing the Red Cross-emblazoned vests. ‘Except for everything else they’re doing, their very presence protects us. We need them here’, she said. In today’s world of ever-unpredictable conflicts and complex crises, we need them more than ever.

## **Remarkable service to humanity**

And the needs are expanding, together with the fragility of our world. Climate change, population growth, urbanization, relocation of wars from battlefields to civilian dwellings – these factors are increasing both the frequency and the severity of humanitarian crises. The number of affected people is also rising, and, tragically, the poorest people are most likely to be affected first and hit the worst.

It is for these people, more than anything else, that the ICRC exists today and it is unrivalled in its commitment and capacity to reach them with life-saving aid and protection, with consolation, with the hope that they so badly need. The ICRC’s wide-ranging activities in conflict areas and its close proximity to the people who need help enable it to respond effectively – and often simultaneously – to a wide range of unfolding crises: from sudden onset violence like Syria since last year, or Libya the year before, to protracted crises like Yemen, Afghanistan, and Pakistan.

## **Advocacy through action**

The operational abilities of the ICRC are impressive on all fronts: medical care, food distribution, bringing water, sanitation, livelihood support, visits to detainees, restoring contact between people separated by violence or disasters. But equally important are the values the ICRC embodies better than any other organization. It is thanks to their dedication to international humanitarian law, their adherence to the principles of neutrality and impartiality of humanitarian aid that ICRC workers are able to do their job – often in places where no other relief agencies are allowed. To realize how unique this asset is, just consider war-torn Somalia, where the United Nations declared famine in the summer of 2011 at a time when the Al-Shabbab militia banished most relief workers from large parts of the country. There, in the areas worst hit by hunger, only the ICRC was allowed to bring food to hundreds of thousands of Somali on the verge of death. It was allowed because it was seen as

neutral and built bonds with local communities; and also because even militiamen, knowing no law but that of the gun, recognized ICRC workers as impartial and allowed them do their job.

This dedication to humanitarian principles as a practical and a moral imperative has often made me think of the ICRC as the conscience of the humanitarian community. Equally impressive is how the ICRC manages to stay focused on the principles although they are being applied in an ever-changing environment where mercenaries, asymmetric conflict, extremism, and terror are new factors piling new challenges on top of traditional ones.

This is why, when faced with tough decisions in my first years as Europe's humanitarian commissioner, my first call has often been to Jakob Kellenberger. Now it is to his successor, the current President of the ICRC Peter Maurer.

## **Bond on operations and on principles**

I rely on their honest advice and sense of perspective because of the strong bond between the ICRC and the European Commission's Humanitarian Aid Department, ECHO. We work with the ICRC in many of the hottest spots on our planet. But as important as our operational bond is, our bond on principles is equally strong. Thanks to this, I can make sure that Europe's solidarity aids the victims of conflicts in the best possible way.

Thinking about our bonds on the humanitarian principles, I remember Yemen, a country where hundreds of thousands of internally displaced people have been inaccessible for humanitarian workers due to insecurity and the frequent clashes between the Houthi rebels and the government. Antonio Guterres, the United Nation High Commissioner for Refugees, and I secured a meeting with the Houthi commanders and managed to convince these big men with big beards and big guns to grant the ICRC access to the territories they control. This success had less to do with Antonio Guterres and I than it had to do with the ICRC – the Houthi commanders simply realized that ICRC delegates are not there to take sides, but to save lives. This is just an example of how the soft power of principles that the ICRC embodies so well can prevail over the hard power of weapons.

## **One of the most dangerous jobs in the world**

For ICRC staff, saving lives often means putting their own lives on the line. In Yemen, but also in Somalia and Afghanistan, in Pakistan, Sudan, and most recently in Syria, humanitarian workers are targeted more and more often – shot at, kidnapped, murdered. This is alarming for the humanitarian community, but even worse for the people who need its help and who are cut off from it when ambulances are shot at and relief workers are deliberately targeted. Where there is danger, there is also suffering, and those who go there unarmed and with no agenda but to help are the real heroes of our world – although they are modest and rarely recognized.

They deserve our deep respect and any effort in advocacy, protection, and awareness that we can provide.

## **What's next?**

The ICRC has a proud history and continues to live up to this track record in a difficult environment where the demands for its services are great, the challenges are varied, and the financial resources are scant. So tomorrow, this indispensable organisation will once again be put to the test.

The global financial and economic crisis has eroded the resilience of the poorest, increased their vulnerability, and made them more likely to rely on humanitarian aid. Needs are growing but all the while donor countries are struggling to return to growth and aid budgets are under pressure. This trend is unlikely to be reversed in the coming years, although I am proud that Europe is keeping its unwavering commitments as a humanitarian donor – and will remain a generous one. Yet, the risk is real that humanitarian organizations will have to reach out to more people but without more money. This raises questions about our ability to do our job as effectively as required – and the answer to these questions is aid efficiency: maximum value will need to be squeezed out of every cent we invest and of every operation we carry out. I have no doubt that the ICRC will keep doing that.

Along with the external constraints there are also challenges stemming from within the humanitarian community – an increasingly crowded environment where traditional donors interact with new, emerging ones and where the proliferation of organizations large and small, local and international, often complicates coordination, and where some actors use humanitarian objectives as a pretext to pursue political, military, or economic ones. This creates risks for the security of humanitarian staff in the field as well as risks for genuine humanitarians to be sidestepped by state actors, armies, or interest groups. In the face of these dangers, the ICRC will again be indispensable, as the guardian of the humanitarian principles – engaging, educating, and advocating that neutrality, independence, and human impartiality remain the common denominator among all humanitarians.

Our world will continue to be fragile and a particularly worrying trend is that the places around the world that are particularly vulnerable to climate change and natural disasters are also vulnerable to conflicts – the Horn of Africa, the Sahel, Yemen, parts of Southeast Asia. This explosive cocktail piles new and unpredictable problems and requires new solutions, adequate to the fast-changing reality. One of these solutions is the investment in resilience – an example of smart aid that supports communities to cope better with recurrent disasters and enables people to help themselves. An important aspect of effective investment in resilience is to build stronger bridges between humanitarian and development aid. This is a big priority for the European Commission and yet another area where we and the ICRC are working towards the same goal. This is only natural: we cannot stop the climate from changing or wars from erupting but we can do something about how people react to these disasters, about reducing their vulnerability and increasing their

chances of recovery and development in spite of all the difficulties. This is why the potential for resilience-building is huge – and one of the most important callings to us in the humanitarian community. I have no doubt that in this, as well, the ICRC will lead by its example.

Through our long and painful history of wars, Europe has learned the difficult lesson of living in peace. We see it as our obligation to spread the values of peace to all corners of the world, where people can only dream about it. We are proud of our track record in this respect – and have proudly joined the ICRC among the winners of the Nobel Peace Prize. The goals we share are the best of all – to serve humanity and to do it with no other agenda but that of saving lives and alleviating pain and suffering.



## PERSPECTIVES ON THE ICRC



# Forced displacement and the role of the ICRC: perspectives for the twenty-first century

### **António Guterres, UN High Commissioner for Refugees**

António Guterres became the tenth UN High Commissioner for Refugees on 15 June 2005, and was re-elected by the UN General Assembly in April 2010. Before joining UNHCR, Mr Guterres spent more than twenty years in government and public life, serving as Prime Minister of Portugal from 1996 to 2002.

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The contemporary humanitarian landscape is evolving rapidly. Since the beginning of 2011, we have witnessed a proliferation of new crises and persistent conflicts have intensified and accelerated, all with tragic humanitarian consequences. In the last two years, conflicts in countries such as Côte d'Ivoire, Somalia, Libya, Mali, Syria, Sudan, and the Democratic Republic of Congo have led to widespread civilian casualties and the forced displacement of more than one and a half million people as refugees, with countless more displaced within their own countries or trapped in conflict zones.

Forced displacement is growing in complexity, affecting more people and for longer periods of time. The immediate drivers of conflict – competition for resources, social marginalization, and incomplete democratization processes – are compounded and accelerated by an intersection of global trends: population growth, urbanization, food and water scarcity, and climate change. At the same time, the capacity of the international community for the prevention and timely resolution of conflict is diminishing.

Humanitarian action is more necessary, and more challenging, than ever. Securing the space for neutral, independent, and impartial humanitarian action is an increasingly complex endeavour in highly politicized environments where humanitarian aid becomes a substitute for effective political engagement. Today's conflicts are fought by a multiplicity of actors, with unclear lines of command and control and a range of ideological, political, economic, and criminal motivations. The language of counterterrorism is used by certain states to restrict engagement of humanitarian actors with non-state armed actors and even to justify violations of international humanitarian law. Ensuring access to protection and humanitarian assistance for civilian populations displaced by fighting or trapped in conflict zones is an increasingly acute challenge.

In this rapidly evolving operating environment, the role of the International Committee of the Red Cross (ICRC) is more critical than ever. From the perspective of the United Nations High Commissioner for Refugees (UNHCR), a number of key elements can be identified.

First, the ICRC's unique mandate, rooted in international humanitarian law, its commitment to operating in line with humanitarian principles, and its focus on proximity to populations in need enable it to continue to work even in acute conflict zones that have become largely inaccessible to the majority of other humanitarian actors, such as in Northern Mali, Yemen, and southern Afghanistan. The ICRC's consistent reassertion of neutrality, its commitment to realizing this through practical action, and its determination to engage in dialogue with all actors have very tangible consequences for the lives of conflict-affected populations.

Second, the ICRC's strong protection mandate provides the basis for a critical contribution to preventing and addressing the consequences of forced displacement (both within and across borders), operating in a complementary manner to that of UNHCR and other protection actors, including states. This translates into very practical cooperation at field level, which draws upon the distinct roles and mandates of the ICRC and UNHCR, on issues such as tracing and the re-establishment of family links, providing medical care for injured refugees, issuing emergency travel documents, maintaining the civilian and humanitarian character of asylum, contributing to durable solutions through clearance of landmines, and dissemination of and training on international humanitarian law.

The ICRC plays a particularly critical role in tracing the family members of unaccompanied and separated children and carrying out family reunification, including through the establishment of dedicated services such as that recently set up for Syrian refugees in Za'atri camp in Jordan. The organization frequently also provides life-saving assistance in new refugee emergencies, such as in Maban County in South Sudan where its contribution to improving access to clean water has been considerable. The ICRC's work with vulnerable migrants in situations of conflict and violence (as for example, in the Libya crisis) has also been extremely important.

Third, the ICRC fulfils an important guidance and standard-setting function. Its leadership in forging common approaches to protection is crucial, including through the recent revision of the *Professional standards for protection*

*work carried out by humanitarian and human rights actors in armed conflict and other situations of violence*, in which UNHCR was an active participant. Its analysis and guidance on the interface between protection actors working in the humanitarian sphere and international military and peacekeeping forces engaged in protection remains extremely valuable. UNHCR also benefits considerably from dialogue and shared analysis of the changing nature of conflict and emerging protection gaps.

Looking forward, a number of key issues would benefit from renewed or deeper attention from the ICRC.

The first relates to protection gaps arising from cross-border displacement linked to sudden-onset disasters, including those related to climate change. A group of states, led by Norway and Switzerland, has now launched the Nansen Initiative as a means of generating a debate on how these gaps might be addressed. The ICRC's engagement with this process would be extremely valuable in light of its protection expertise and its close relationship with national Red Cross and Red Crescent societies.

Second, a continued focus on 'other situations of violence' outside classic situations of armed conflict remains important. Such forms of violence, including those linked to organized crime in urban areas, are increasingly emerging as a cause of displacement, but lawyers and decision-makers do not always view this through a refugee protection lens. The ICRC's expertise in addressing other situations of violence through a protection framework is of considerable value.

Third, the ICRC's renewed attention to early recovery has the potential to make a real contribution to durable solutions for refugees and internally displaced persons, and we would urge that this commitment be strengthened. At the most recent session of the United Nations General Assembly, the ICRC rightly drew the attention of member states to the plight of individuals and communities living for decades on end in protracted displacement. It is critical that ways be found to enhance human dignity and self-reliance from the outset of new emergencies, and that we collectively find ways of facilitating access to existing services and supporting alternative settlement options rather than defaulting to the traditional camp-based models. In this regard, the ICRC has an important contribution to make in helping to reshape approaches to the provision of protection and assistance to refugees and displaced persons outside camps, and to the communities who host them.

The ICRC plays a unique role today, as in the past. In a context in which humanitarian actors within (and indeed, beyond) the UN system are under increasing pressure to operate as part of an integrated approach, which risks harnessing humanitarian action to broader political and security agendas, the ability of the ICRC to reach conflict-affected populations in the most acute situations of violence is a very tangible and practical demonstration of why humanitarian principles matter, and why the ICRC remains as relevant today as at its founding 150 years ago.



## PERSPECTIVES ON THE ICRC



### Thirty years of working within the Red Cross and Red Crescent Movement in a country affected by conflict

#### **Dr Ahmed Mohamed Hassan**

Dr Ahmed Mohamed Hassan is President of the Somali Red Crescent Society.

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During the Ogaden War between Somalia and Ethiopia (1977–1978), the International Committee of the Red Cross (ICRC) began providing medical and surgical assistance to wounded combatants and civilians in Mogadishu.

When the war broke out, I was Director of the Medical Services Department of the Ministry of Health, and I had been elected President of the Somali Red Crescent Society (SRCS) a few years earlier. In this dual assignment, I had the opportunity to observe the ICRC's operations in Somalia during the Ogaden War in providing humanitarian assistance to thousands of victims of war, prisoners of war, and refugees. Since then I have been working alongside the ICRC throughout the different phases of the conflict, on many different projects, and this has allowed me to gain a unique perspective on the way the organisation has approached its work in a war-torn country like Somalia.

## **The Ogaden war and its aftermath: pitfalls and opportunities of working in partnership**

During the Ogaden War, the National Societies in both Somalia and Ethiopia, in cooperation with the ICRC and in conjunction with the two countries' respective armed forces, were called upon to provide medical and surgical assistance to the war-wounded. The De Martini civilian hospital, which had a military department, had become the base of the first ICRC surgical team sent from Geneva. Over time, the ICRC started to provide medical and surgical assistance to other hospitals in the country, like Hargeisa Group hospital, Gabiley District hospital, Borame District hospital, and Beletwayn District hospital.

The Ogaden War resulted in over one million refugees. Refugee camps established by the ICRC, the United Nations High Commissioner for Refugees (UNHCR), and the Somali Red Crescent played a major role in the provision of medical services and food supplies to the refugees. Another sad consequence of the Ogaden war were the more than 4,000 Ethiopian prisoners of war captured by the Somali government. I was able to witness first-hand that the ICRC's humanitarian assistance programs during the war were based on the Red Cross and Red Crescent principles of independence, impartiality and neutrality.

The ICRC and the Somali Red Crescent have not always seen eye to eye, but overall the relationship has brought great benefits to both organisations and their ability to assist Somalis in need. The following episode demonstrates this, as well as the value of collaboration for both organisations.

At some point during my tenure as SRCS President in the 1980s, the ICRC head of the delegation for Somalia informed me that the ICRC was planning to open a hospital like the one in Lokichoggio (Kenya), in Ogaden.<sup>1</sup> I was of the view that, contrary to Lokichoggio, which is far from Khartoum, a hospital in Ogaden could be bombarded by Siad Barre's forces. I also called a meeting of the Somali Red Crescent Executive Committee, during which it became clear that the Somali Red Crescent was against the proposal of establishing in the Ogaden region a hospital like the one in Lokichoggio.

The issue remained one of contention and disagreement for a while, until, upon consultations between the ICRC delegation for Somalia, the government, and the SRCS, the dialogue was re-established. These frank but somewhat tense discussions allowed for a clarification of the sensitivities and nuances that existed in relation to any interventions in the contested region of Ogaden and opened the door for the ICRC and the SRCS to engage in a long-term commitment to working together. This anecdote demonstrates that despite the direct and sometimes difficult conversations between the two organisations, both the ICRC and the SRCS treated the mission to assist victims of conflict and disaster as their priority, and did not shy

1 Editor's note: the Lokichoggio hospital, located in the Turkana district in Kenya, provided war surgery and emergency medical care for war-wounded patients from southern Sudan. The ICRC handed the hospital over to the Kenyan authorities in 2006.



Figure 1. Orthopaedic centre, Somalia, 1979. © ICRC/Rémi Russbach.

away from addressing any challenges in the common fulfilment of this mission (Fig. 1).

## **The 1991 Civil War in Somalia: an ever-closer partnership within the Movement**

The partnership between the ICRC and the SRCS continued and became even stronger in 1991, when Somalia was torn apart by conflict and divided politically.

For the international aid community, Somalia in 1991–1993 has represented the largest overall humanitarian tragedy as well as a context in which the delivery of assistance was plagued and rendered more than difficult by the context and by the Somalis themselves. We can recall that at the time, the ICRC declared that the whole population of Somalia could be considered as victims of conflict and consequently needed both protection and assistance. During 1991–1993, the ICRC humanitarian operations in Somalia remained the largest humanitarian intervention since the Second World War (Fig. 2).

At their height, the ICRC/SRCS operations fed more than a million people through 1,000 soup kitchens throughout Somalia. The basis for providing cooked food (as opposed to general dry rations) was that it acted as a disincentive for



Figure 2. Food distribution in one of the ICRC community kitchens, Belet Uen, 26 January 1993. © ICRC/Pierre Bousssel.

looters, who otherwise systematically targeted food convoys as food was the only liquid asset available throughout the country. Cooked food provided immediate nutrition and was difficult to loot in any quantity (Fig. 3).

Since the collapse of Siad Barre's regime in 1991, humanitarian access and security have remained a major challenge in Somalia. For the ICRC and the Somali Red Crescent, it was vitally important to provide humanitarian assistance in Somalia on the basis of the Red Cross and Red Crescent principles of humanity, impartiality and neutrality.

Another important feature of the work was the inclusive dialogue with all actors, be they external (the American-led Operation Restore Hope in 1992, the United Nations Operation in Somalia from 1993–1995 and from 2004, and the still ongoing African Union Mission in Somalia) or internal (warlords, local authorities, the Transitional Federal Government and Al-Shabaab).

The break-up of all Somali institutions following the 1991 internal conflict challenged the SRSC in ways that it could not previously have imagined. With the support of the ICRC, the leadership of the SRSC withdrew to Nairobi – a neutral location at the time – from where it continued and continues to guide the multiple operations throughout the country. Despite the political divide (Somaliland and Somalia), the Somali Red Crescent is still operating throughout the country. The fact that the leadership of the SRSC has remained in exile has demonstrated the non-political allegiance of the National Society to any particular province, region or city. The Somali Red Crescent has done its best to demonstrate on the ground that it is delivering aid while respecting the principles of impartiality and neutrality.



Figure 3. Surgical hospital co-managed by the ICRC and the Somali Red Crescent, Berbera, December 1991. © ICRC/François de Sury.

The partnership between the ICRC and SRCS soon expanded to a partnership with the Norwegian Red Cross Society. For the sake of partnership and efficiency, both the SRCS and the Norwegian Red Cross were part and parcel of the ICRC delegation for Somalia based in Nairobi. Over the years 1991–1993, the SRCS and Norwegian Red Cross participated together in ICRC brainstorming and budget planning meetings. This was a win-win situation.<sup>2</sup> It was a time in which all Movement partners enriched themselves by exchanging with each other, and the ICRC’s ‘lead role’ was obviously a responsibility and not a privilege.<sup>3</sup>

As I write this opinion note today, the SRCS is still part and parcel of the ICRC delegation for Somalia. We are mindful of our two mandates, but we also complement each other in our partnership (Fig. 4).

- 2 As Sven Mollekleiv, the then Secretary-General and current President of the Norwegian Red Cross, has remarked during the conference on Somalia in Oslo in March 1995: ‘For the Norwegian Red Cross this local partner has naturally been the Somali Red Crescent Society. Without this organisation, rooted in local communities all over Somalia and Somaliand, it would have been impossible for the Red Cross Movement as a whole to succeed in one of the biggest operations ever established by the ICRC. One example which will illustrate what I am talking about: during a very critical period with many problems in food distribution, such as the question of giving every clan in a certain area rations according to their numbers and to avoid security problems related to unequal distribution, Dr Ahmed Mohamed Hassan, President of the SRCS, spent two weeks of painful negotiations with all local clans and assuring a fair and safe delivery of the food’.
- 3 Editor’s note: the ICRC’s ‘lead role’ in situations of international and non-international armed conflicts, internal strife, and their direct results is recognised in Articles 4 and 5.3 of the *Agreement on the Organisation of the International Activities of the Components of the International Red Cross and Red Crescent Movement* (the Seville Agreement), Seville, 25–27 November 1997.



Figure 4. Dissemination course for Red Crescent and ICRC staff on international humanitarian law and the Red Cross principles, Berbera, February 1993. © ICRC/Roland Bigler.

## Proximity and access: working with the Somalis

What has been the Somali experience throughout this long period of conflict? For Somalis, the euphoria that was felt after the overthrow of the regime of Siad Barre was quickly replaced by an overwhelming sense of shame from the tragedy that followed. The rapid disintegration of the infrastructure of Somalia, the erosion of strong moral and cultural values,<sup>4</sup> and the domination of careless and indiscriminate lawlessness without sanctions not only caused untold human suffering, but also forced over one million persons into exile as refugees. Somalia, which had a great tradition of pride, self-dignity, and independence, lay shattered and broken, and the dreams of its people and their wishes for a better future for their children lay around them in disarray.

The ICRC, as a leading member of the Red Cross and Red Crescent Movement, fulfilled its role not only towards the donors and its own mandate, but also towards those it tried to assist in providing humanitarian assistance. It did so in close collaboration with its local partner, the SRCS. Each member of the Movement had his own role to play. The success of each operation was due to the ability of the SRSC, the ICRC, the International Federation of the Red Cross and Red Crescent Societies and the Norwegian Red Cross to build confidence with local Somali communities, convincing them that they are responsible for the implementation of humanitarian operations. Constant dialogue and confidence-building between Somalis and Movement members ensured a certain level of shared responsibility.

4 Editor's note: on this point, see the publication *Spared from the Spear: Traditional Somali Behaviour in Warfare*, 2nd edition, ICRC and Somali Red Crescent Society, February 1998, pp. 1–3.



Figure 5. The ICRC has regularly worked with the Somali Red Crescent Society to assist displaced persons in several regions across the country, including Bakool, Baidoa, Lower and Middle Juba, and Mudug. 22 March 2007. © ICRC/Pedram Yazdi.

The incorporation of victims and local communities into decision-making processes is extremely important, not only in Somalia but in all complex emergencies. No victim wants to be treated as a mere recipient of assistance. They want to be recognised and given the responsibilities of persons in their own right, and not to be pejoratively judged as hopeless and incompetent because they happen to be victims of conflict.

Whilst the large ICRC/SRCS operations were often based on assistance delivery, the mechanisms whereby food aid recipients were often volunteers who managed and ran communal kitchens ensured that the recipients played an active role in planning and managing emergency aid and were empowered to do so. Such an inclusive approach that targeted the interests and needs of ordinary Somalis was greatly appreciated at the time for its respect of the local communities (Fig. 5).

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Throughout Somalia, there are many individuals, communities and institutions who are ready to defend the long-term humanitarian interest of the Somali people. In this respect, I would like to commend the Norwegian Red Cross for its efforts and tremendous support in organisational development given to the Somali Red Crescent during the last thirty years. The ICRC, meanwhile, has demonstrated repeatedly over these years that it is ready to take operational risks in order to reach those most vulnerable and to ensure that aid reaches those most in need. I can only commend its extraordinary leadership in this regard.



## PERSPECTIVES ON THE ICRC



### The ICRC and the changing humanitarian landscape

#### **Ban Ki-moon, Secretary-General of the United Nations**

Ban Ki-moon is the eighth Secretary-General of the United Nations. He received his Bachelor's degree in International Relations from Seoul National University and a Master's degree in Public Administration from the Kennedy School of Government at Harvard University. At the time of his election as Secretary-General, Mr Ban was his country's Minister of Foreign Affairs and Trade. His thirty-seven years of service with the Ministry included postings in New Delhi, Washington D.C., and Vienna, and responsibility for a variety of portfolios, including Foreign Policy Adviser to the President, Chief National Security Adviser to the President, Deputy Minister for Policy Planning, and Director-General of American Affairs. Mr Ban took office on 1 January 2007. He was unanimously re-elected by the General Assembly in June 2011 and will continue to serve until December 2016.

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We at the United Nations have the highest regard for the work and role of the International Committee of the Red Cross (ICRC). My own life was touched in a formative way by the Red Cross spirit, if not the ICRC specifically. Growing up in the war-torn Republic of Korea, I benefitted from the life-saving international aid brought into the country by those wearing 'UN blue' and by the men and women bearing the iconic red symbol of the Red Cross movement. My first travel abroad, as a high school student, was sponsored by the Red Cross and it transformed my views

of the world and my place in it. I was so moved by these expressions of global solidarity that I eventually chose to pursue my own career in international public service.

Today, as the ICRC marks its 150th anniversary, there is much to admire, and not simply its longevity.

First, there is the ICRC's ability to rapidly deploy and maintain a presence in situations of armed conflict and violence throughout the world. That includes places, remote or otherwise, where United Nations and other humanitarian actors may be unable to be present and where the ICRC may offer the only hope of survival for people in need of protection and assistance.

Second, there is the scope of activities that the ICRC undertakes, central to which is the notion that protection and assistance are two sides of the same coin. Some are unique to the ICRC, in particular its mandated role to promote and act as guardian of international humanitarian law. Others are complementary to those carried out by the United Nations family and its humanitarian, human rights, and development actors. These include protecting civilians; visiting detainees; reuniting families; ensuring access to medical care, water, food, and essential household items; and running programmes for sustainable food production and micro-economic initiatives.

Third, there is the professionalism and dedication of its staff, which extends to the global network of National Red Cross and Red Crescent Societies. Tragically, the ICRC has not been immune from the violence that has increasingly plagued humanitarian work, with too many brave colleagues making the ultimate sacrifice as they sought to help others.

Fourth, there is the ICRC's steadfast commitment to principled humanitarian action – to humanitarian action that is neutral, independent, and impartial: neutral in seeking to establish and maintain dialogue with all parties to conflict while not remaining indifferent in the face of violations of international humanitarian law; independent in being free from any political or military agendas; and impartial in that the ICRC's work benefits people without discrimination as to their race, origin, sex, religion, etc., and is prioritized on need and need alone. Talk to any ICRC delegate in the field and they will tell you the same thing: principled humanitarian action is the foundation of the ICRC's success in reaching people and gaining acceptance by state and non-state parties to conflict. Without acceptance, humanitarians do not have access. And without access, their ability to help those in need is severely constrained if not precluded altogether.

A fifth reason for which to admire the ICRC is its adaptability. This dynamism will be ever more necessary in the future, as the changing nature of conflict and violence, and of the humanitarian response system itself, will continue to pose new challenges.

A defining feature of many contemporary conflicts is the failure of the parties to respect international humanitarian law. Overcoming flagrant violations of the law is made all the more difficult by the proliferation and fragmentation of non-state armed groups and the increasingly asymmetric nature of conflict. This has had a profoundly negative impact on civilians, as some armed groups have sought to

overcome their military inferiority by attacking civilians and using civilians to shield military objectives. The risks for civilians are further heightened as militarily superior parties, in fighting an enemy that can be difficult to identify, may respond with methods and means of warfare that may violate the principles of distinction and proportionality, and civilians again bear the brunt.

Against this backdrop it is vital that ICRC delegates continue to engage parties to conflict. Beyond this, the ICRC also plays a critical role in promoting reflection and discussion with states and other relevant actors to clarify the understanding and interpretation of the law. This role will remain important given the need for open and collective analysis and debate on emerging issues such as the use of explosive weapons in densely populated areas and the development of new weapons technologies.

Just as the nature of conflict has changed dramatically through the course of the ICRC's 150 years, so too has the nature of the actors involved in responding to the emergency needs that conflicts create. While the ICRC is possibly the oldest international humanitarian organization, it is not the only one. The United Nations and other humanitarian organizations, including a significant number of national and international non-governmental organizations, play a long-established and crucial role in responding to humanitarian crises and providing protection and assistance.

Increasingly, a range of other actors, including from the military and private sectors, have entered the emergency response domain. While they have brought new and additional capacities, they also have ways of working that can be different from traditional approaches and are not always based on the humanitarian principles of neutrality, independence, and impartiality.

Peacekeeping missions have come to play a vital and complex role in emergency settings. They are increasingly authorized by the Security Council to protect civilians, bringing to bear a unique combination of civilian, military, and police capacities. They are often mandated to help establish the security environment needed for others to deliver humanitarian assistance. In addition, missions may undertake protection activities, involving child protection and protection from sexual violence, that complement those carried out by humanitarian actors. While peacekeeping missions mandated to protect civilians unquestionably provide an important service in enhancing safety and reducing casualties, traditional humanitarian actors have valid concerns that their access and security may be undermined if they are perceived by belligerents or segments of the population as aligned to the political objectives of such missions. The ICRC has repeatedly underlined that the distinct roles of the various actors involved in protection must be understood and respected – advice that the United Nations incorporates in its decisions on integration in mission settings. The ICRC has developed constructive relations with peacekeeping missions deployed in contexts where it is active. Its delegations reach out to troop- and police-contributing countries in their own capitals to train and brief peacekeepers before they leave. At headquarters, an institutional dialogue and regular contacts link the ICRC to the Department for Peacekeeping Operations.

As part of my action agenda for my second term as Secretary-General, I am focusing on strengthening the humanitarian system so that all partners can find ways to better respond to armed conflict, natural and man-made disasters and other emergencies. I very much look forward to the constructive engagement of the ICRC at the World Humanitarian Summit I plan to convene in 2015.

I commend the ICRC for faithfully fulfilling its role as guardian of international humanitarian law and maintaining its commitment to principled humanitarian action. The United Nations looks forward to building on an already strong partnership so that we can serve all those who turn to us for protection and assistance in their time of dire need.

## PERSPECTIVES ON THE ICRC



### The ICRC at 150: reflections of an Asian admirer

#### Tommy Koh

Prof. Tommy Koh is Ambassador-At-Large at the Ministry of Foreign Affairs of Singapore, Chairman of the Centre for International Law at the National University of Singapore, and Rector of Tembusu College at the National University of Singapore. He is co-chairman of the China-Singapore Forum, the India-Singapore Strategic Dialogue, and of the Japan-Singapore Symposium. Prof. Koh was Singapore's Permanent Representative to the United Nations in New York for 13 years. He has served as the UN Secretary-General's Special Envoy to Russia, Estonia, Latvia and Lithuania.

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I thank the *International Review of the Red Cross* for inviting me to contribute to its special issue on the auspicious occasion of the 150th anniversary of the International Committee of the Red Cross (ICRC).

I have served twice as Singapore's Permanent Representative to the United Nations (UN). It was during my second posting (1974–1984) that I had the opportunity to work closely with the ICRC to save Cambodian lives. I have also served as an adviser to the ICRC for several years. I regard myself as an old friend and admirer of the ICRC. In this reflective essay, I will touch on its past, present, and future.

#### The founding principles

I recall the fact that it all started in 1863, when a group of five members from a pre-existing charity from Geneva, led by Henry Dunant, were so horrified by what had

happened on the battlefield of Solferino that they decided to do something about the fate of the wounded on the battlefields. Their simple idea of providing humanitarian relief to wounded soldiers was founded on the three principles of humanity, neutrality, and impartiality. The success of their initiative is an example of the power of an idea whose time has come. It is also an example of a private initiative that has changed the world. I look forward to the day when Asian visionaries will also promote initiatives that will have such a benevolent impact on the world.

## **ICRC's unique role and functions**

I regard the ICRC as a unique and indispensable international organisation. I attach very high value to its functions, which include the following:

- (i) being the custodian and promoter of international humanitarian law (IHL);
- (ii) providing relief supplies to prisoners of war and detained civilians;
- (iii) visiting persons deprived of their liberty;
- (iv) providing relief supplies to people affected by humanitarian emergencies, caused either by man-made or natural disasters;
- (v) being present on the ground in conflict situations in order to ensure compliance with IHL;
- (vi) tracing missing persons;
- (vii) using quiet diplomacy to raise awareness of the needs of those affected by humanitarian emergencies, and to persuade decision-makers to alleviate the suffering of those so affected and to respect IHL; and
- (viii) acting as the partner of the International Federation of the Red Cross and Red Crescent Societies (IFRC).

## **War will always be with us**

War is inherently a cruel and destructive enterprise. However, given the nature of man, war will always be with us. According to a 2007 publication, there are 32 armed conflicts in 27 countries, affecting 2.3 billion people.<sup>1</sup> Because it is impossible to banish wars, we should do what we can to reduce their cruelties by promoting and strengthening IHL, which, inter alia, prescribes rules prohibiting

1 Jessica Williams (ed.), *50 Facts that Should Change the World 2.0*, The Disinformation Company, New York, 2007.

Editor's note: The Disinformation Company is a New York-based privately owned publisher, which defines itself as 'the search service of choice for individuals looking for information on current affairs, politics, strange science and "hidden information" that seldom slips through the cracks of corporate-owned media', available at: <http://disinfo.com/about/> (last visited 19 June 2013).

the use of certain weapons, such as chemical and biological weapons, and the targeting of civilians, and provides for the protection of prisoners of war, the protection of women and children.

## **The Association of Southeast Asian Nations and international humanitarian law**

My colleagues and I, in the High-Level Task Force on the drafting of the Association of Southeast Asian Nations (ASEAN) Charter in 2007, we agreed to include in Article 2, para (2)(j), a reference to IHL: 'ASEAN and its Member States shall [uphold] the United Nations Charter and international law, including international humanitarian law.' My impression is that, in Asia, there is insufficient knowledge, understanding, and ownership of IHL. The ICRC should consider enhancing its engagement with ASEAN to promote the better understanding of, adherence to, and ownership of IHL within ASEAN and in the wider Asian region. I note with approval the ICRC's activities with ASEAN and in Asia; for example, the annual Southeast Asia Teaching Session on IHL for government officials and academics, the national and regional moot court competitions, and the fact that, for the first time, the Pictet competition was held in an Asian country (Thailand) this year, in 2013.<sup>2</sup> We should, however, aim to raise the bar. The ICRC should work more closely with the Secretariats of ASEAN and the South Asian Association for Regional Cooperation. The ICRC should work harder to earn the trust of the governments in Asia. The ICRC should also offer its help to those governments in a way that is culturally acceptable.

## **Tribute to ICRC delegates**

ICRC delegates are present, on the ground, in almost all the conflict situations in the world. Some of the conflict situations are highly dangerous. As a result, some brave and dedicated men and women have lost their lives in the line of duty.

I would like to refer to a case where no ICRC lives were lost, but many Cambodian lives saved. In 1979, the world was shocked by the sight of hundreds of thousands of starving, sick, and dying Cambodians arriving at the Thai-Cambodian border. The UN and ICRC sprang into action. In a joint operation, co-led by the ICRC and UNICEF, with the legendary Sir Robert Jackson, acting as the Special Representative of the UN Secretary-General, the Cambodian refugees were given

2 See ICRC, 'Malaysia: South-East and East Asia teaching session on IHL', available at: <http://www.icrc.org/eng/resources/documents/interview/2012/malaysia-ihl-interview-2012-07-17.htm> (last visited 19 June 2013), and ICRC, 'International Humanitarian Law Moot Court competitions 2012, National and South Asian rounds', available at: <http://www.icrc.org/eng/resources/documents/event/2012/ihl-event-2012-07-25.htm> (last visited 19 June 2013). For a short presentation of the Jean Pictet competition, see <http://www.icrc.org/eng/resources/documents/misc/57jmgf.htm> (last visited 19 June 2013).

shelter and safety, food and medical care, both along the border and in special camps built on Thai territory. I visited one such camp, at Khao I Dang, and was immensely impressed by what I saw. What was accomplished on the ground would not have been possible but for the skilful diplomacy of three ICRC delegates at the UN, namely, Jean-Pierre Hocke, Jacques Moreillon, and Michel Veuthey. Although many years have passed since those critical years when we worked closely at the UN to save the Cambodians, I wish to remember their contributions and pay them my respect. The success of the ICRC is due, in no small part, to the excellence of its people.

## **The Singapore Red Cross Society**

I wish to conclude by mentioning the Singapore Red Cross Society. The National Societies and the ICRC have common origins, and the ICRC delegation in Kuala Lumpur, Malaysia, has been very supportive of the Singapore Red Cross Society. The National Society plays an active role inside Singapore. However, equally important is the role it plays in responding to appeals for help by sister Societies. The Singapore Red Cross Society is trusted both by the government and the public. It has a proud record of responding promptly, generously, and competently to appeals for help. The following examples illustrate this record.

### **The Indian Ocean tsunami**

In the aftermath of the Indian Ocean tsunami of 2004, the Singapore Red Cross Society received an outpouring of support, both in cash and in kind. The Society also coordinated the activities of many non-governmental organisations that rushed in to help. The money contributed by the public was used to rebuild infrastructure and housing, to build an orphanage, and to supply the people with an easy-to-use device to turn polluted water into safe drinking water in Indonesia, Sri Lanka, and the Maldives.

### **Myanmar, China, and Japan**

The Singapore Red Cross Society also responded promptly and effectively to assist the victims of the 2008 earthquakes in Sichuan and the 2008 Cyclone Nargis in Myanmar. In the aftermath of the Tohoku earthquake and tsunami in Japan in 2011, there was also an outpouring of public support for Japan. The Singapore Red Cross Society has used the money raised to build community facilities in three of the affected areas. I am happy to observe that the Singapore Red Cross Society has become extremely active and, in response to humanitarian crisis situations, especially those in Asia, has stepped up to the plate to help raise funds and emergency supplies for the victims.

## The promotion of IHL

The Singapore Red Cross Society also plays an active role in promoting IHL. For example, it regularly organises IHL debate series and assists our law students who participate in the Jean Pictet IHL competition and in the Hong Kong Red Cross IHL moot competition. The Society also works with the Ministry of Defence in the dissemination of IHL to members of our armed forces.

## Looking to the future

Looking ahead, I am confident that the International Red Cross and Red Crescent Movement will continue to be relevant in the future – a future full of new challenges and new opportunities. The new media and social media are examples of new opportunities. One of the challenges for the ICRC will be to keep up-to-date with developments in the field of armed conflict, such as the complicated role of non-state actors, revolutionary developments in defence technology, and paradigm shifts in global geopolitics.

In an increasingly globalised world, the ICRC should also reflect on how it can become a more globalised organisation. In some parts of Asia, the ICRC is viewed as a white man's organisation. Given the unhappy colonial history of these countries, this perception is an impediment to ICRC's acceptance and effectiveness. The ICRC should reflect deeply on what it can do to shed this image. Certain things, however, should not change. The ICRC's core principle of neutrality must not change. It is the basis on which trust is built. In conflict situations, trust is a rare and precious asset.

Happy Anniversary!



## PERSPECTIVES ON THE ICRC



### **Ms Farzana Sadat**

30, beneficiary of the ICRC orthopaedic programme in Afghanistan

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My family is from Logar Province in eastern Afghanistan. When I was a child, we fled from our home during the war to live in Kabul with relatives because it was not safe where we lived. As a child, I enjoyed playing outside with our neighbour's children. I lost my leg in a landmine accident when I was 14 years old. I was going to my neighbour's house when I stepped on a landmine that exploded and threw me into the air, raising lots of dust. I can remember the muffled voices of people shouting as I lay disoriented and bleeding on the ground.

My father and other people heard the explosion and came to my aid. I recall the horrid look on his face when he picked me up. My father and others rushed me to the hospital on a wheelbarrow. Although I cannot remember everything that happened on the way to the hospital, the crying of my mother and others who were there remains in my memory. When we arrived at the hospital's emergency room, the medical staff hurried to attend to me before I lost consciousness. I learned later that the ICRC was supporting the hospital to care for those who were wounded in the fighting in Kabul during the war.

I woke up with a cloudy head the next day – feeling very drowsy. Then the doctors informed me that my right leg had been severely injured in the mine accident and could not be saved. An amputation had been necessary. I felt a storm of emotions and I started crying. My parents, who were with the doctor, came to my side to comfort me. I stayed in the hospital for forty days to recover, and then I was discharged.

When I returned home, I discovered that my life would be difficult. I could not walk on my own so I could not go to school. My family helped me everyday to try to cope with the difficult situation. After two months at home I was taken to the ICRC's orthopaedic centre in Wazir Akbar Khan where a casting for a prosthetic leg was done. Two weeks later, I returned to the orthopaedic centre, was fitted with a

custom-built prosthetic leg, and began physiotherapy. The physiotherapy sessions helped me learn to walk again in a few weeks.

My family was, however, struggling financially, although the ICRC's medical assistance was without charge. Therefore I asked for a job at the orthopaedic centre in order to support them. As luck would have it, an additional person was needed in the laundry, and I had the opportunity to start working there.

I worked in the laundry at the ICRC's orthopaedic centre for seven months; then realized that I could be of more assistance. Therefore I approached the management to enquire as to how I could contribute to the care of patients and their physical rehabilitation. I was advised to return to school because basic education was essential as a foundation for training in orthopaedics. With the financial assistance of the ICRC I went back to school and studied until I graduated from ninth grade. I then started working at the orthopaedic centre as a trainee. While I was working as a trainee I continued with night school for two hours each day. When I completed my twelfth grade at school, the ICRC sponsored me to attend a four-year training course as an orthopaedic technician, following which I took a one-year upgrading course.

While I was training at the orthopaedic centre, I worked as a technician to improve my knowledge and skills, and gained experience in working with patients. The fulfilment that I get when I am able to assist a patient is always very rewarding. As a physically challenged person myself, I understand how patients feel and the challenges they face, which means that I can help them. I feel their pain and always do my best to help them cope with their difficulties.

The ICRC has given me the unique opportunity to help those who have suffered disabilities just like me. I wish to continue helping others and making an honest living from my work. I am single and the only breadwinner in my family of eleven. My parents are ill and therefore need my assistance for their treatment and daily requirements. All my siblings, except one sister who is married, depend on my earnings for their basic needs.

Since I started working for the ICRC fifteen years ago, I have witnessed the increase in orthopaedic assistance for disabled people. Some years ago the centre was moved from Wazir Akbar Khan to a larger facility opposite Kabul University in order to cater for the increasing number of people affected by the war. Some of my observations include:

1. The increase in the number of orthopaedic technicians and the improved quality of training has enabled the centre to cope with the increasing needs, but more technicians are needed as the demand for orthopaedic devices continues to increase.
2. The adaptation of better technologies, such as polypropylene, for fabricating orthopaedic devices that are light benefits the patients with easier-to-use devices, while it is simpler to work with as well.
3. With the increased demand for physical rehabilitation services, the orthopaedic centre has seen an equal expansion in staff and equipment. It is thus better equipped to attend to the needs of the patients.
4. The new social integration programme provides skills training and micro-finance that enable some patients to return to their communities with a means to start a small business and earn a livelihood to support their families.

## PERSPECTIVES ON THE ICRC



# Reflections on the ICRC's present and future role in addressing humanitarian crises

### **Matthias Schmale, Under Secretary General of National Society and Knowledge Development at the International Federation of Red Cross and Red Crescent Societies**

Matthias Schmale is Under Secretary General of National Society and Knowledge Development at the International Federation of Red Cross and Red Crescent Societies (IFRC). During his career with the International Red Cross and Red Crescent Movement, Mr Schmale has also served as IFRC Under Secretary General for Programme Services and as IFRC Under Secretary General for Development, and International Director at the British Red Cross from 2005 to 2009.

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While writing this opinion note about the International Committee of the Red Cross (ICRC) on the occasion of its 150th anniversary, I fondly remembered many encounters with ICRC colleagues over almost twenty years. During numerous field visits to hugely challenging environments, such as Darfur or Afghanistan under the Taliban regime, I have been privileged to witness the ICRC as an action-oriented agency that delivers humanitarian aid. Around the globe there are countless people who will tell you with deeply felt gratitude how the ICRC has saved their lives and helped them cope with immeasurable suffering caused by armed conflicts and violence.

An important factor making the ICRC a credible, neutral, and independent actor is its competent and dedicated staff members. Like for so many humanitarian agencies, perhaps the biggest asset for the ICRC – apart from international humanitarian law providing the legal basis for its action, and the protective power of the emblem – is its people. Having got to know a considerable number of ICRC staff over the years, I can testify that, for many of them, working for the ICRC is more than a job: in an almost religious sense, they are committed and totally passionate about what they are doing for the cause of humanity. I remember vividly a cooperation delegate explaining with conviction and credibility many years ago to several Federation colleagues, on a hot evening somewhere in the field in Africa, how the ICRC is ‘an organization I would die for’.

The ICRC has come a long way from being a very Swiss, male-dominated organization to being multinational and more gender balanced in its staff composition. Even some years ago, the ICRC's Director of Operations stated with pride in talks with British government representatives and the British Red Cross in London that among the 200 or so expatriate staff working in the then Sudan, the ICRC had almost fifty different nationalities represented.

For the ICRC, access to the most vulnerable people – often in places that others cannot reach – is based on NIIHA, neutral, impartial, and independent humanitarian action. It was particularly during a visit to Darfur that I understood how much effort the ICRC puts into maintaining dialogue with all parties to a conflict in order to ensure access to people in need. If I remember correctly, at one point there were – apart from the Sudanese national army – at least eighteen armed factions on the ground in Darfur, with all of whom the ICRC maintained regular and professional dialogue.

The NIIHA approach is often misunderstood as the ICRC not caring about and closing its eyes to injustices. In this regard one of my lasting memories is of a panel discussion in Nairobi in the mid-90s looking at how to deal with alleged perpetrators of the Rwandan genocide living amongst the numerous refugees housed in camps in north-western Tanzania. The event was organized to discuss the implications of a Médecins Sans Frontières (MSF) report suggesting that ‘humanitarian relief organizations may well be forced to halt their humanitarian relief activities’ due to the deteriorating security situation in the camps. During the panel discussion the ICRC's regional head of delegation eloquently outlined that neutrality does not mean sitting on the fence, and that in fact the ICRC always takes the side of the most vulnerable. He went on to explain that as long as the Red Cross and Red Crescent could reach the majority of people in desperate need of support it would and should stay and carry out its humanitarian work. He acknowledged the presence of people in the camps who had allegedly committed horrendous crimes against humanity, but insisted that it is not the job of humanitarians but of the police, the military, and governments to hunt down criminals and those violating international humanitarian law (IHL).

At the beginning of my own humanitarian journey, another ICRC colleague explained to me that working for Red Cross or Red Crescent ‘you need to be prepared to do business with devils’. When visiting Taliban-ruled Afghanistan

I experienced what this meant in practice: without any doubt the leadership of the Afghan Red Crescent at the time was closely linked to the Taliban regime, and this was hard to stomach for even the most seasoned Red Cross or Red Crescent workers. At the same time, maintaining dialogue and relations with the Taliban and the leadership of the Afghan Red Crescent allowed the ICRC and its Movement partners to reach hundreds of thousands of Afghan people – including very vulnerable women and children – and deliver life-saving and dignified humanitarian aid.

Staying focused on action does not mean that the ICRC shies away from controversy and from trying to influence opinion leaders and decision-makers. In 2007, the ICRC stopped its humanitarian work in Myanmar and publicly criticized the authorities for not giving it the humanitarian access it needed to be effective (the ICRC has since resumed its activities there). Much of its influencing or advocacy work happens away from the public limelight and is thus insufficiently appreciated. An example of this is the work the ICRC has been carrying out behind the scenes to work towards more acceptable conditions in prisons for those detained as a result of armed conflict and political disagreement. The ICRC's detention delegates are unsung heroes. When they were released from their long captivity under the apartheid regime, Nelson Mandela and other anti-apartheid activists acknowledged that receiving visits from ICRC detention delegates were a lifeline to the outside world and an important part of surviving with their sanity intact.

## **What does the future hold for the ICRC?**

Having expressed all these fully meant compliments about what the ICRC does and what it represents, the question is whether it will likely stay this way. We have to acknowledge that neutral, impartial, and independent humanitarian action is increasingly under threat, and not just in very recent times. In June 1996 I was working with the Federation's regional delegation in Nairobi – home to a big ICRC base – when the tragic news of ICRC delegates being targeted and murdered in Burundi came through. This profoundly shook friends and colleagues in the ICRC, not least as this was followed a couple of months later – in December 1996 – by the similarly murderous attacks on ICRC delegates in Chechnya. The ICRC's privileged access to vulnerable people in armed conflict and situations of violence suddenly seemed threatened by the proliferation of armed groups that did not understand or accept international humanitarian law, that were driven by a profound disrespect and disregard for humanity as well as a sense that an organization that has its roots in the West could not be truly neutral.

The ICRC leadership has understood that the world is changing rapidly and that the ICRC needs to adapt – potentially quite radically – if it wants to stay relevant. One of the reasons why the ICRC has increasingly focused on its operational partnerships with National Societies is the realization that access to sensitive conflict situations could no longer be guaranteed by relying on its own expatriate staff and its own relations with the respective national and local authorities. For a number

of years now, the ICRC has been investing considerable resources into what it calls 'cooperation with National Societies'. There are many examples in places like Afghanistan or Palestine where successful delivery of the ICRC's humanitarian services is made possible through the network of National Society volunteers and staff.

A legitimate question is whether the ICRC is instrumentalizing National Societies for operational survival reasons. I share the perception that there is some 'institutional arrogance' in the ICRC – deriving from its size and impressive track record – and that it will take time to fully weave into its DNA how to evolve its relationships from that of a donor with National Societies as its delivery organizations to equal and fully transparent partnerships.

There are also inherent limitations to what an organization with an international global mandate can operationally transfer to national organizations. As local actors, National Societies will continue to face conflict and war situations where they – with the best intentions – will not be able to provide fully neutral and independent humanitarian services to affected people. In such situations the responsibility for humanitarian action will likely continue to be with the internationally recognized neutral actor, namely the ICRC.

As it prepares itself for the future, the ICRC appears to be struggling to redefine its role and added value in the context of being part of a larger Red Cross and Red Crescent Movement. The ICRC's President and Director General have publicly stated that we have to acknowledge that in the outside world we – that is ICRC, National Societies, and the International Federation – are seen as one and that we have no choice but to work together. Some in the ICRC see it as essential to fully embrace the Movement, as well as to further diversify its portfolio in order to, for instance, include and/or broaden the scope of its operational work to other situations of violence and to diversify its developmental action (e.g. in livelihood protection and agriculture), organizational development, and capacity-building. Others advocate for remaining focused on preserving and strengthening the ICRC – almost irrespective of what goes on in the rest of the Movement – and staying as close as possible to its original mandate. Former President Kellenberger clearly expressed this view when I heard him state a number of times that his job was to be President of the ICRC and not of the Movement. He saw National Societies and the Federation as privileged, but not exclusive, partners of the ICRC.

From my perspective, the Red Cross and Red Crescent Movement will stay strong and relevant if all three – ICRC, National Societies, and the Secretariat of the International Federation – have a constructive dialogue about what the future might bring and what adjustments or changes will have to happen. A conventional view is that we have to keep all three components as healthy organizations, each delivering distinct services and value. And, not least of all given the tightening of financial resources, we will have to, at a minimum, avoid duplication as much as possible, provide our services in the most (cost-) effective manner and ensure that we each offer something unique and complementary. From this perspective, there are grounds to caution the ICRC not to give in to what is called 'mission creep' by

further diversifying its activities. While modernizing and adapting, the ICRC would be well advised to stick to its roots by remaining the international humanitarian organization of choice for neutral, impartial, and independent response in times of conflict and violence, giving a lifeline to humanity for prisoners and remaining the guardian of international humanitarian law.

A more 'out of the box' view would suggest that what is described in the previous paragraph amounts to 'fiddling while Rome is burning', and that we need to be more brave and daring in jointly designing a future architecture for the Movement. This approach could entail anything from merging the two international components of the Movement (especially if they were to end up doing more or less the same) to redefining what each one should be doing. It would come with a zero tolerance for duplication by, for instance, having only one of the international organizations carry out operational work and the other – standard-setting and maintaining the joint values and principles base.

Regardless of which one of these scenarios turns out to be more feasible and appropriate, the ICRC should not rest on its well-deserved laurels. If it wants the Movement as a whole to be strong and relevant, it will have to move beyond defending its own institutional interests and agreements outlining roles and responsibilities, such as the one reached at the Council of Delegates in 1997 in Seville. The ICRC should continue to identify and implement the mindset and organizational culture changes that will ensure that at its next major anniversary, it will receive similarly positive feedback on its role and performance as can be found in this edition of the *International Review of the Red Cross*.



## PERSPECTIVES ON THE ICRC



### Working towards a better world

#### **Admiral James G. Stavridis, NATO Supreme Allied Commander, Europe**

Admiral James G. Stavridis assumed duties as the NATO Supreme Allied Commander, Europe, in early summer 2009. A Surface Warfare Officer, Admiral Stavridis has also served ashore as strategic and long-range planner on the staffs of the Chief of Naval Operations and the Chairman of the Joint Chiefs of Staff, and as the Executive Assistant to the Secretary of the Navy and the Senior Military Assistant to the Secretary of Defense. He is a distinguished graduate of the U.S. Naval Academy and holds a PhD and a MALD in International Relations from The Fletcher School of Law and Diplomacy at Tufts University.

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It is both a privilege and pleasure to be asked to contribute to this special edition of the *International Review of the Red Cross*. As the Supreme Allied Commander Europe, I oversee all NATO's global operations and regard good relations between the International Committee of the Red Cross (ICRC) and the military as essential.

In today's world, with its complex conflicts and insurgencies, many see an inevitable friction between the military and civilian international and non-governmental organizations. Frankly, I do not. The ICRC has always been a steadfast companion to our uniformed men and women in combat.

Today the focus of the ICRC's work is more on behalf of civilians; but at its inception, the Red Cross was created in response to the plight of wounded soldiers. In 1864, the first Geneva Convention laid down obligations on armies to care for the wounded of all sides and created a new and universal standard of acceptable behaviour. Until then the fate of the wounded was often a matter of chance, but that Convention and the vision of the ICRC's founders was a critical step in spurring the

development of the standards of international behaviour in conflict that we rely on today.

That concern for combatants also dominated the first eighty years of the ICRC, and countless soldiers, sailors, and airmen saw the Red Cross symbol as a sign of hope and help. Through enabling prisoners of war to let their families know they were alive; through providing medical services; through providing care packages to POWs; through monitoring their conditions, the Red Cross was there for us.

Since the end of the Second World War, without changing its concern for protecting the rights of combatants, the ICRC has expanded its focus towards protecting the rights of non-combatants as well. As a leader in the field of international humanitarian law and human rights, the ICRC has consistently raised expectations as to acceptable standards of military behaviour in conflict, thereby improving conditions for military and civilians alike.

Nothing can eliminate the horror of war, but the ICRC by its actions has reduced many of the worst excesses and helped save countless lives. But it remains a sad fact that we still live in a world where atrocities are all too common and the need for the ICRC is as critical as ever.

It is of note that the Geneva Conventions of 1949, which shaped the new path of the modern ICRC, were signed in the same year as the NATO founding treaty, a significant pillar of Western defense. The Alliance fundamentally shares the values expressed in the conventions and greatly values the continuing work of the ICRC.

The ICRC core values that we in Supreme Headquarters Allied Powers Europe, and I personally, value are the ICRC's status as an impartial, independent, and neutral organization. There can be no doubt as to the benefits we all gain from those values, as they afford the Red Cross critical access to those affected by conflict and they support the respect for international humanitarian law.

NATO forces and ICRC members are involved in operations around the world. It is the ICRC's impartiality, independence, and neutrality that enable NATO and ICRC to pursue our respective, separate missions under a framework of similar fundamental values in response to crises.

Of course that neutrality can sometimes be uncomfortable. If we occasionally get it wrong – fortunately, I believe this is rare – or are seen as operating close to acceptable boundaries, then we know the Red Cross will speak up. But any discussions on perceived issues are and must be based on our mutual respect. In any event, we gain far more than we lose because we accept those same standards and share those same values. If there is a problem or potential problem we need to know and to be told. Conversely, when we get it right – which I believe is most of the time – it is good to receive outside validation from such impartial authority.

We also trust the judgement of the ICRC precisely because we know that its neutrality, impartiality, and independence are rigorously applied and I know it examines itself routinely to ensure it maintains the standards it has set for itself. Some organizations claiming to be impartial and neutral are perhaps more partial than they like to acknowledge, but our relations with the ICRC have always been clear, and to our mutual benefit.

At the NATO Summit in Lisbon in 2010, the Alliance formally recognized the need for a ‘comprehensive approach’ to crisis management. Such an approach is hugely challenging, but it cannot succeed without cooperation and dialogue with a broad range of non-military agencies and organizations. It was as part of this process that in June 2012, Dr. Jakob Kellenberger, the former President of the ICRC, signed a Memorandum of Understanding between the ICRC and NATO’s two strategic military commands: Allied Command Operations and Allied Command Transformation.

This will help to ensure that our organizations continue a long-term, vibrant relationship. Neither of us can rest on our laurels, but should see our proud histories as a spur to keep thinking with imagination, and to keep striving for continuing achievement.

In closing, I must highlight the courage and professionalism of ICRC delegates operating in hazardous environments over so many decades. We come from different professions, but our relationship is based on mutual respect and deeply held values.

So congratulations on your 150th anniversary, and we look forward to working together in the many years ahead. We are proud partners of the International Committee of the Red Cross. The world remains an often dangerous and always challenging place, but it is a little safer because of NATO and it is more humane because of the Red Cross.



# An institution standing the test of time? A review of 150 years of the history of the International Committee of the Red Cross

**Daniel Palmieri\***

Daniel Palmieri is the historical research officer at the ICRC. He is the author of numerous works on ICRC history and on the history of war.

## **Abstract**

*This article seeks to explain how the ICRC – the oldest international humanitarian organization still in activity – has managed to pass through 150 years of existence. By analysing some key moments in ICRC history and by examining both its inner workings and their interaction with the context within which the organization has functioned over time, this article finds two characteristics that may help explain the ICRC’s continuity: its unique specificity and its innovative capacity.*

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The International Committee of the Red Cross (ICRC) was born out of a wager on the future by five Geneva citizens. The five met on 17 February 1863 to consider the proposals made by one of them and to simultaneously form a ‘Permanent

\* This article was written in a personal capacity and does not necessarily reflect the views of the ICRC. The original version of this article is in French.

International Committee'.<sup>1</sup> The story is well known. However, the reasons that drove Dunant and his colleagues to consider their work as necessarily permanent are less well known, especially the objective reasons that enabled the ICRC to persevere through the many ups and downs of the last 150 years, even though, as we will see, varying events could have been its undoing.

It is not easy to sum up in one article 150 years of activity of the oldest humanitarian organization, and this task involves making some choices. Choosing, in turn, leads to demonstrating subjectivity, a feature accentuated by the fact that the author has worked for many years for the organization that is under analysis. The reader will therefore understand that the article reflects only the personal opinion of the author. Finding a logical thread to this history in order to avoid writing a linear narrative was another challenge. The option chosen was to address only some of the key moments in ICRC history and, through these turning points, ruptures, or stages of consolidation, to try to understand the evolution of the institution over the last century and a half, and hence explain its continuity over time.

## **1863–1864: the starting point**

Any understanding of the ICRC's longevity necessarily starts with its birth. Moreover, the two crucial years during which the institution was created and gained international recognition highlight the two elements that are intertwined throughout its history, interacting with each other: the inner workings of the institution and the context within which the institution functions.

The ICRC took the form of an association at its birth on 17 February 1863; that is, it brought together several people who pursued a common goal. The structure chosen was not unique. It corresponded to the structure most commonly used at the time, both in Europe and North America, for organizations of private individuals.<sup>2</sup> While the religious, professional, and business worlds were well acquainted with associations, the middle classes discovered them at the start of the nineteenth century in the context of sociocultural activities. The ICRC, therefore, was based on an existing model. The universal dimension of the organization was the innovation of the five Geneva citizens.<sup>3</sup> The innovation was twofold. First, the ICRC was distinguished from the local or, at best, the national character that was specific to other associations. Its ambitions went beyond borders and were clearly international, just as war, the basis of its intended activities, is itself. But the ICRC also gave this notion of 'internationality' a new meaning because it no longer involved regulating relations between nations, but rather those between a group of private citizens and states, or representatives legitimized by them (as would later be

1 ICRC Archives A PV, Minutes, Commission spéciale de la Société [d'utilité publique] en faveur des militaires blessés durant les guerres [Special Commission of the Society (of Public Welfare) in Favour of Soldiers Wounded During the Wars], 17 February 1863.

2 Jean Desfrane, *Histoire des associations françaises*, L'Harmattan, Paris, 2004.

3 This should, however, be put in perspective because the ICRC only intended to act in relation to European wars; ICRC Archives A PV, Minutes, Commission spéciale de la Société. . ., 17 February 1863.

the case for members of National Red Cross Societies). This intention alone could have terminated the ICRC even before it started because the state powers were not designed to listen to personal initiatives, especially to ones coming from citizens of a state well on the margin of the international chessboard. Moreover, by proclaiming itself international, the ICRC exposed itself to criticism because at the time its members were from only one small Swiss canton, Geneva.<sup>4</sup>

But, paradoxically, the ICRC would succeed in its activities precisely because of its distinctive composition. Enjoying considerable leeway due to its associative structure, which only came under Swiss regulation with the adoption of the Civil Code in December 1907,<sup>5</sup> the ICRC also benefited from the fact that the five founders not only came from the same city, but also belonged to the same class and the same religion.<sup>6</sup> Sharing a common world view (*weltanschauung*), they formed a cohesive group, driven by identical convictions.<sup>7</sup> Meanwhile, these five personalities in the ICRC also participated in the success of its plans. Having brought together a lawyer (Gustave Moynier), a tireless ‘publicist’ (Henry Dunant), two surgeons (Theodore Maunoir and Louis Appia),<sup>8</sup> and a military figure (Guillaume-Henri Dufour) who had taken part in military campaigns,<sup>9</sup> the ICRC was able to discuss different aspects of war based on real experiences. In addition, at its inception, the ICRC benefited from the personal networks of its members, both previous links<sup>10</sup> as well as those soon to be forged, especially during Dunant’s tour of the governments of several European capitals. These were elements that strengthened the ICRC’s position.

Finally, although controversial, the Swiss nationality of its members and the neutrality attached to that nationality would be valuable assets in a period of reviving nationalism in Europe, especially after the War of 1870.<sup>11</sup>

4 The ICRC’s mono-nationality was regularly criticized during the ICRC’s first century. See François Bugnion, ‘La composition du Comité international de la Croix-Rouge’, in *Revue internationale de la Croix-Rouge* [hereafter, *RICR*], No. 814, July–August 1995, pp. 473–493; in English see, ‘The Composition of the International Committee of the Red Cross’, in *International Review of the Red Cross* [hereafter, *IRRC*], No. 307, August 1995, pp. 427–446.

5 The Swiss Civil Code came into effect on 1 January 1912.

6 Diego Fiscalini, *Des élites au service d’une cause humanitaire: le Comité international de la Croix-Rouge*, mémoire de licence, Faculté des Lettres, Département d’Histoire, Université de Genève, two volumes, April 1985.

7 Including on the political level. See Daniel Palmieri, ‘Post *Tenebras Lux*. New Perspectives on the Foundation of the Red Cross’, in Wolfgang U. Eckart and Philipp Osten (eds), *Schlachtschrecken, Konventionen. Das Rote Kreuz und die Erfindung der Menschlichkeit im Kriege*, Freiburg, 2011, pp. 17–26.

8 Appia had experience in caring for the war wounded. See Roger Boppe, *L’homme et la guerre. Le Docteur Louis Appia et les débuts de la Croix-Rouge*, Muhlethaler, Geneva, 1959, pp. 30 ff.

9 In 1847, General Dufour commanded federal troops during the last civil war in Switzerland, the Sonderbund War.

10 Dufour was personally acquainted with the emperor Napoléon III.

11 Until this war broke out, the ICRC was in favour of opening up its membership to the members of the National Societies and had even taken the first steps in this direction. See François Bugnion, above note 4, pp. 474–476. The ICRC did not think that this change would put its own existence into question. Following the Franco-Prussian war, with its intensification of nationalism that did not leave the Red Cross societies untouched, the ICRC radically changed its position, henceforth defending its specifically Swiss character.

The second half of the nineteenth century created favourable conditions for the emergence of charitable ideas connected with war. ‘Progress’ in weapons development, especially in artillery and munitions firepower,<sup>12</sup> caused ever more numerous and more serious injuries. The appearance of this new weapons technology coincided with the return of particularly deadly conflict in Europe. The Crimean War (1853–1856) and then the second war of Italian independence (1859) resulted in thousands of casualties. The carnage caused by the Civil War in the United States (1861–1865) showed that war was not unique to the old continent, but corresponded to a turning point in the methods of warfare.

This violence, unknown since the Napoleonic era, moved public opinion even more as the army medical corps seemed powerless to cope with the injuries of war. There was, therefore, scope for third-party intervention to assist the sick and wounded. During the Crimean War, Florence Nightingale from Britain, as well as her Russian contemporary, the Grand Duchess Elena Pavlovna, and later Clara Barton in the United States proved the merits of third-party medical intervention and mobilized middle-class empathy towards their cause. Already sensitized to the need to assist injured soldiers by the pioneering role of these feminine icons of charity, the European middle classes readily focused on the ICRC and its plans.

This public interest fused with that of the European leaders,<sup>13</sup> many of whom had met Henry Dunant. The way was paved for the convening of the International Conference of Experts in 1863, and then for the Diplomatic Conference the following year. As we know, this led to the First Geneva Convention on 22 August 1864.

The adoption of this text – the first of modern international humanitarian law – by a dozen states enhanced the prestige of the ICRC and its founders, and gave it a moral and perhaps political force on the European scene. Indeed, for the first time members of what we now call civil society not only had an idea of universal scope, but above all they had seen it through its development, including at two international diplomatic conferences which the founders had organized and led themselves.<sup>14</sup> The recognition obtained as a result of this work in addition to a context favourable to charity initiatives on the battlefield, and the fortuitous chance that this had arisen in a country which was neutral on the military level, are so many factors which help to explain why the ICRC had won its first gamble, that is, to ensure that its activity would continue long after the initial enthusiasm had passed, and despite the loss of the inspirational figure of Dunant. The establishment of a network of contacts grouped in National Red Cross (and later Red Crescent)

12 Richard Holmes (ed.), *Atlas historique de la Guerre. Les armes et les batailles qui ont changé le cours de l'histoire*, France Loisirs, Paris, 1991, pp. 108–110; in English see, *The World Atlas of Warfare: Military Innovations that Changed the Course of History*, Mitchell Beazley, New York, 1988.

13 Note, however, that government motivations for participating in these meetings were not limited to ‘humanitarian’ aims; international politics also played a role. Daniel Palmieri, ‘De la persuasion à l'autopersuasion : le CICR et le droit humanitaire’, in *Revue Suisse d'Histoire*, Vol. 61, No. 1, 2011, p. 58.

14 This ‘bottom-up’ phenomenon would later be found in the international juridical protection of intellectual property. See the work of Blaise Wilfert.

Societies and the ICRC's role as a conduit between the various associations strengthened the ICRC's position, at least until 1914.

## 1914–1923: metamorphosis

The ICRC passed quietly through the first fifty years of its existence without major changes. The number of members increased slightly from five in 1863 to nine on the eve of the First World War and its structure, based on volunteerism, remained the same.<sup>15</sup> It is also true that it experienced a number of close calls concerning its future. The Russian government attacked the ICRC's composition at international conferences of the Red Cross three times in a fifteen-year period,<sup>16</sup> aiming at really internationalizing it. However, the proposals from St Petersburg were not endorsed by the other participants at the international conferences. In 1874 another Russian initiative threatened the autonomy of the Geneva Convention, aiming at bringing it into one single article within a much broader set of standards on the laws and customs in time of war. The advocacy of the ICRC to the various Red Cross societies, as well as the support of the Swiss Federal Council to the ICRC, successfully defended the integrity of the 1864 Convention<sup>17</sup> and proved that the Committee intended to protect itself energetically.

With the exception of the Franco-Prussian War (1870–1871) where the ICRC worked through its Basel-based International Committee for Relief to the Wounded, during this almost fifty-year period its main activity consisted of 'literary' work, exchanging correspondence with the Red Cross societies, and theoretical considerations on the relief in time of war, as is confirmed by the ICRC minutes from the time. In 1875, during the Eastern Crisis, the ICRC sent a mission – its first –<sup>18</sup> to a theatre of armed conflict to deal with victims of collateral damage.<sup>19</sup> But this was a short experience and would not be repeated before the outbreak of hostilities in August 1914.<sup>20</sup>

The First World War and its aftermath changed the face of the ICRC and modernized it to a degree it might otherwise never have known. The transformation of the small philanthropic association was unparalleled. Less than two months after the outbreak of hostilities, the ICRC membership had multiplied twelve

15 Including in its finances because the ICRC was mostly self-financed. See Jean-François Golay, *Le financement de l'aide humanitaire : l'exemple du Comité international de la Croix-Rouge*, Lang, Berne, 1990, p. 8.

16 In 1884, in 1887, and in 1897.

17 ICRC ARCHIVES, A PV, Minutes of the Committee, 22 June 1874 and 9 September 1874.

18 Contrary to the declarations found in institutional historiography, the mission sent during the Schleswig War of 1864 was not the work of the ICRC but of the Geneva section of the Red Cross. See ICRC ARCHIVES, A PV, Minutes of the meeting of the Geneva section, 17 March 1864.

19 This concerned aiding refugees who had fled Herzegovina and found asylum in Montenegro. See ICRC ARCHIVES, A AF, 21-12, Montenegro and Herzegovina, 1875–76.

20 In 1912, the ICRC delegated Dr de Marval to the Balkan theatre of the First Balkan War, but this was essentially an evaluation mission of the belligerents' medical system. See ICRC ARCHIVES, A AF, 25-8, Report by Marval.

times.<sup>21</sup> At the end of 1914, some 1,200 people worked for it in the *Agence internationale des prisonniers de guerre* (International Prisoners-of-War Agency) (AIPG), and some were even paid employees although the majority were volunteers. This resulted in the establishment of particular structures and methods of work and management for salaried employees, even if the volunteer workers remained a majority. However, the ICRC continued to see itself, in legal terms, as an association governed by the Swiss civil code as stated in its first statutes of November 1915.<sup>22</sup> In fact, it functioned as an organization. Moreover, the statutes concerned only members of the Committee, that is to say, the leaders of the institution who personally have signed them. However, the ICRC then mainly consisted of the AIPG, which was governed by other rules that first were tacit unwritten understandings which were later incorporated into written agreements.<sup>23</sup> It was the AIPG that decided and that issued reports.<sup>24</sup> The AIPG regularly sent out missions during the war to visit the prison camps,<sup>25</sup> and to take care of the repatriation of prisoners at the end of the conflict. These missions required that the ICRC permanently establish relations with expatriate collaborators (some of whom were non-Swiss delegates)<sup>26</sup> in several countries: the first delegations were born! And those delegations already employed 'local' staff.<sup>27</sup> It is thanks to the AIPG that the ICRC acquired competence and operational experience, and also gained visibility amongst the victims of war, helping them directly wherever they were, including on continents where previously the ICRC had no involvement, such as Africa or Asia.

While the ICRC essentially remained a reflective association, this was true mainly at its 'head' (the Committee), while its 'body' (the AIPG) was now an action organization. This dichotomy – which would later be translated into the 'head-quarters' and the 'field' – evolved in the conflict in 1914.

The Great War and its direct aftermath was a turning point in the history of the ICRC, not only giving it an international dimension, this time geographically, but also radically transforming it and adding specific activities to its field of operations. Before 1914 the ICRC only reflected on war; after that date it also became one of the actors in war.

21 ICRC Archives A PV, AIPG, Minutes, 30 September 1914. During this period, the ICRC went from a dozen people to 120.

22 ICRC Archives B CR 92/1, 1-00, ICRC Statutes, 15 November 1915.

23 ICRC Archives C G1 A 01.

24 Except for questions about the Committee's personnel (resignations and recruitment), which remained under the Committee's sole authority and were noted in specific minutes.

25 Some 40 ICRC delegates made 524 prison camp visits, mostly in Europe, but also in Asia and North Africa, from January 1915 to December 1919.

26 Although often thought of as an innovation introduced in the early 1990s, the tradition of non-Swiss delegates in fact goes back to the origins of the ICRC (see Brigitte Troyon and Daniel Palmieri, 'The ICRC delegate: an exceptional player?', in *IRRC*, No. 865, March 2007, pp. 102–105). It seems that it was under the presidency of Max Huber and in relation to the ever closer ties between the Helvetic Confederation and the ICRC that the ICRC decided to have only Swiss expatriate personnel, a policy that was fully justified during the Cold War and that came to an end with it.

27 For example, in the Moscow delegation that lasted during the interwar period. When the ICRC decided to close the delegation in 1938, its staff included fifteen local employees.

But the changes did not stop there. The First World War brought significant social upheavals, including women replacing men who had gone to the front. This also happened in the ICRC since, of the approximately 3,000 people employed by the AIPG, two-thirds were women.<sup>28</sup> The female employees were recruited mainly in one of the new professions open to women: typing. But this feminization process extended to the highest levels of the ICRC. In November 1918, Renée-Marguerite Cramer joined the Committee, the first woman to do so. The ICRC was fully aware of the innovation of this appointment, ‘the first in an international body’.<sup>29</sup> Despite the reluctance of some of its members, it concluded that this novelty was an inevitable result of the ‘full equality between man and woman highlighted and emphasized by the war’.<sup>30</sup> It seems that in this case the prevailing climate had led to the changes in attitudes toward women in the ICRC. There were also some women in the ICRC’s field operations. Although this was only a small percentage of the whole of the ICRC delegates,<sup>31</sup> it had created a precedent.

Another major change concerned the victims and conflicts that would become the focus of the ICRC. The immediate post-war period marked a break with the traditions of fifty years. Since its establishment, the ICRC had clearly defined its activities as within the framework of the ‘big conflicts between the major European powers’, even if it did not close the door, ‘later, after a few more years of experience’, on other types of conflicts and other continents to fulfil its vow of universality.<sup>32</sup> A similar restriction related to the beneficiaries of its activities, who were limited to wounded military personnel in armies in the field, as stated in the First Geneva Convention. Certainly, the ICRC had occasionally been interested in other affected populations prior to 1914 (civilian refugees in 1875–1876; prisoners of war in 1870–1871; soldiers or sailors injured during maritime combat), but these contacts were ephemeral, or even completely theoretical. The First World War and the post-war period forced the ICRC to deal with new combat methods (the use of gas),<sup>33</sup> new contexts of violence (civil wars, revolutions, and insurrections), and new categories of victims (political prisoners, civilians in occupied territories, hostages, missing people, children, and refugees).<sup>34</sup> To meet their humanitarian needs, the institution developed new activities in the fields of medicine and food aid in particular, both

28 From the *Liste des personnes ayant travaillé à l’Agence internationale des prisonniers de guerre (août 1914–décembre 1918)* [List of persons who worked for the International Prisoner-of-War Agency, August 1914–December 1918], in *L’Agence internationale des prisonniers de guerre, Genève 1914–1918*, ICRC, Geneva, 1919, pp. 113 ff.

29 ICRC Archives A PV, AIPG, Minutes, 11 June 1918.

30 ICRC Archives A PV, Minutes, Committee, 29 June 1918.

31 A list of the principal delegates of the institution up to the mid-1920s contains only two women’s names out of a total of 108, that is, some 2 per cent of the total. See *L’expérience du Comité international de la Croix-Rouge en matière de secours internationaux*, ICRC, Geneva, 1925, pp. 52 ff. Previously, the very few women who were present in ICRC delegations were limited to secretarial work (see, for example, the list of expatriate personnel in the *Bulletin international des Sociétés de la Croix-Rouge*, tome LII, No. 221, 15 January 1921, pp. 47–48).

32 ICRC Archives A PV, Minutes, Committee, 17 March 1863.

33 See *l’Appel contre l’emploi des gaz vénéneux* [Appeal Against the Use of Poison Gas] in *Bulletin international de la Croix-Rouge*, Vol. 49, No. 194, April 1918, pp. 185–192.

34 Categories that the ICRC has rediscovered only in recent years when launching specific campaigns on some of them.

alone and in collaboration with other international organizations, including some organizations that it had co-founded, for example, the International Save the Children Union (ISCU). From this action arose a reflection on international humanitarian law and the necessary additions to be made to ensure that these ‘new’ victims, such as prisoners of war and civilian populations that had fallen into the hands of an enemy, would have a legal protection. While the ICRC’s efforts for military captives led to the signing of the 1929 Convention, its diplomatic activity on behalf of civilians would remain, as we know, a dead letter prior to the outbreak of the second world cataclysm. It is an irony that even before its interest in prisoners of war the ICRC’s interests were focused on civilians.<sup>35</sup>

Finally, in the post-1918 period the ICRC almost disappeared. The threat came from the ‘Magnum Opus’ which the institution had undertaken. In February 1919, under the leadership of the powerful American Red Cross, the League of Red Cross Societies was founded. Its name was misleading because the League only brought together the Red Cross societies of the five major victors of the war (USA, UK, France, Japan, and Italy) and was reluctant to welcome the Red Cross societies from the defeated countries. With the support of the Entente (with Britain and the US at its head) and the League of Nations, which wanted to be its humanitarian counterpart, and riding the wave of universal pacifism following ‘the war to end all wars’, the League intended to expedite and modernize the work of the Red Cross by addressing social activities and preventive health care in peacetime. Given these new aims, the ICRC no longer had an active role because the League intended to take over many of its skills and responsibilities. The ICRC was therefore destined to become a ‘museum piece’.<sup>36</sup> This led to a real ‘Red Cross war’,<sup>37</sup> pitting the Genevese David against the Anglo-Saxon Goliath in a struggle that turned in favour of the former. While the ICRC benefited in this ‘fight’ from favourable external circumstances – starting from the fact that, contrary to euphoric predictions, war as such was still going on – its success was primarily due to internal factors, in particular, the composition of the Committee. In addition to being Geneva Protestants, its members all belonged to the local middle classes. Moreover, since 1870, they were linked together by close family ties that were further strengthened through the system of co-optation. Gustave Ador, who had been ICRC president since 1910, was related to five other ICRC members, either alive or deceased. These relationships enabled exceptional cohesion and discipline amongst Committee members in times of crisis. The League, however, did not have such close

35 The civil section of the AIPG was founded in September 1914 (ICRC Archives, A PV, Minutes, AIPG, 16 September 1914), and the first visits to prisoner of war camps took place in January 1915. More than to the ICRC, the civil section is indebted to the fighting spirit of its founder Dr Frédéric Ferrière who had to ‘fight’ against the opposition of other members of the Committee to keep it alive. See Rachad Armanios, *Le Dr Frédéric Ferrière. Les années de formation d’un médecin et d’un philanthrope*, Mémoire de licence en histoire générale, Université de Genève, 2003, pp. 166 ff.

36 Paul Grossrieder, ‘La mononationalité suisse du CICR : une étrangeté organisationnelle...’ [the Swiss mono-nationality of the ICRC: an organizational eccentricity], 14 February 2010, available at: <http://www.grotius.fr/une-etrangete-organisationnelle/> (last visited 11 July 2012).

37 Irène Herrmann, ‘Décrypter la concurrence humanitaire : le conflit entre Croix-Rouge(s) après 1918’, in *Relations internationales*, No. 151, Autumn 2012, pp. 91–102.

relationships, simply because of its multinational structure. In addition, since the First World War the ICRC had enlisted for its missions abroad people who, while they did not all belong to the same milieu, were selected on the basis of personal relationships or recommendations by Committee members. The elitist selection criteria helped weld the ICRC even closer together internally and strengthened its ties with Swiss society from which its delegates came. This point is important, because the rivalry between the League and the ICRC would lead to a rapprochement, including financial support,<sup>38</sup> of the latter with the Swiss Confederation. A major consequence of this rapprochement happened in 1923 with the appointment of the first members of the Committee who were not from Geneva.

### 1936–1946: consolidation

A period of decline by the end of the 1920s followed the period of growth of ICRC activities in the early 1920s. The self-centred contraction of the institution happened because of: a weak financial situation that limited the transnational institution's aspirations; a new chairman at the head of the ICRC<sup>39</sup> who was prone to doctrinaire and legal thinking rather than to action; a return to more traditional activities focused on international conflict; and most importantly, few state wars from the second half of the 1920s in favour of internal armed struggle in which the ICRC was more reluctant to intervene than previously.

The situation changed in the 1930s when major international conflicts resumed. In 1932, after the occupation of Shanghai by the Japanese imperial troops, the ICRC took advantage of a delegate sent to Japan and had him make a stopover in the Chinese province to report on the situation there. The following year, and then again in 1934, the ICRC sent missions – the first to the South American continent – to the Gran Chaco border war between Bolivia and Paraguay. Delegates undertook what are now the traditional activities of the ICRC, that is, camp visits, correspondence, and repatriation for prisoners of war, regardless of their country.<sup>40</sup> In 1935, in its first involvement in sub-Saharan Africa, the ICRC responded in the Italo-Ethiopian conflict. Of course, without knowing it, the institution was experiencing the nature of the coming world war: total and totalitarian.<sup>41</sup>

38 J.-F. Golay, above note 15, p. 49.

39 Max Huber became President of the ICRC in 1928, following the death of Gustave Ador.

40 Cécile Aubert, *Les premiers pas du CICR en Amérique latine. La guerre du Chaco*, mémoire de licence, Département d'histoire générale de la Faculté des lettres, Université de Genève, 2001; Daniel Palmieri, 'Mission humanitaire ou voyage d'étude? Le CICR et la guerre du Chaco', in Nicolas Richard, Luc Capdevilla and Capucine Boidin (eds), *Les guerres du Paraguay aux XIXe et XXe siècles*, CoLibris, Paris, 2007, pp. 49–61.

41 The Red Cross installations were deliberately bombed by Italian planes in full view of the ICRC, which also had proof of the use of poisonous gas (yperrite) by the Italian troops. Poisonous gas had been forbidden by the Protocol of Geneva of 1925, ratified by Italy in 1928. Rainer Baudendistel, 'La force contre le droit: le Comité international de la Croix-Rouge et la guerre chimique dans le conflit italo-éthiopien,

The Ethiopian experience was followed by the Spanish Civil War (1936–1939), the atrocities of which – on both Franco’s side and the Republican’s side – were constant reminders, as well as a warning, to the ICRC of the dangers for civilians in armed conflict. The Spanish Civil War also marked two milestones in the history of the institution. First, it was the ICRC’s first involvement supporting of victims of a fratricidal war of such magnitude. The precedents of the Russian revolution and civil war did compare because the ICRC’s role was ‘diplomatic’. Although Russian victims were assisted, this was because of the terrible famine in the country, rather than because of the armed clashes that took place. The few other civil wars in which the ICRC had intervened – ‘Soviet’ Hungary in 1919, Ireland in 1923 – were neither of the magnitude nor the duration of the Iberian conflict. Second, and most important, from 1936 on there is a professionalization of the role of the delegate, and humanitarianism becomes a real ‘profession’ in the ICRC. Moreover, some of the people involved at that time became active again in 1939–1945.<sup>42</sup> This is not a trivial point because when the Second World War broke out the ICRC had a small set of relatively young and experienced volunteers who already knew the institution and its operations.

The 1939–1945 period was, for the ICRC, a repeat of 1914–1918, but in hitherto unequalled proportions. The 1,700-page ‘summary’ report of the institution’s work during the war years clearly demonstrates this.<sup>43</sup>

As in 1914, the ICRC staff numbers increased dramatically in a few months. By the end of December 1939, 360 employees worked for the ICRC in Geneva, mainly for the Central Prisoners of War Agency. There were 1,300 employees a year later and nearly 2,000 in December 1945. In the field, in 76 delegations around the world, the number of delegates and deputy delegates went from three in 1939 to 179 six years later.<sup>44</sup> These figures do not include the ‘subordinate’ staff employed in Switzerland and abroad.<sup>45</sup> Unlike the employees during the First World War, most of the people who worked for the ICRC during the Second World War did so as salaried employees.<sup>46</sup> Many of them made their career at the institution.

Activities in all areas broke the records of First World War activities, including camp visits (more than 11,000); assistance distributed;<sup>47</sup> number of

1935–1936’, in *RICR*, No. 829, March 1998, pp. 85–110; in English see, ‘Force versus law: The International Committee of the Red Cross and chemical warfare in the Italo-Ethiopian war 1935–1936’, in *IRRC*, No. 322, March 1998.

42 B. Troyon and D. Palmieri, above note 26, p. 99; Daniel Palmieri, ‘Une neutralité sous influence? Le CICR, Franco et les victimes’, in *Revue suisse d’Histoire*, Vol. 59, No. 3, 2009, pp. 279–297.

43 *Rapport du Comité international de la Croix-Rouge sur son activité pendant la Seconde Guerre mondiale* (1<sup>er</sup> septembre 1939–30 juin 1947), three vols., Geneva, May 1948; in English, see, *Report of the International Committee of the Red Cross on its activities during the Second World War*, three vols. and an annex, ICRC, Geneva, 1948.

44 *Ibid.*, Rapport, Vol. I, p. 58.

45 In Switzerland, between 1940 and 1947, the staff (*ibid.*, Rapport, Vol. I, p. 58) worked in 33 auxiliary sections of the *Agence centrale des prisonniers de guerre* [Central Prisoners of War Agency] that were spread throughout the country. Other than the delegates themselves, the number of persons – Swiss or foreigners – who worked in ICRC delegations abroad is unknown.

46 Rapport, above note 43, Vol. I, p. 99.

47 The ICRC estimates the value of aid it distributed at more than 3,000 million current Swiss francs.

individual records of the Central Prisoners of War Agency.<sup>48</sup> These activities were also a reflection of the ICRC's very large financial resources spent in the fulfilment of its humanitarian mandate. For example, money was spent acquiring the ICRC's first fleet of ships and then later trucks, purchases that were modernizing steps. Modernity did not stop there, and the Central Prisoners of War Agency used the first 'computers' for rapid processing of individual files.<sup>49</sup>

The amount and diversity of the work that the ICRC faced led to changes in its operation. Unlike during the First World War, when most of the decision-making was done by the AIPG and only incidentally by the Committee, during the Second World War, forums – in which a variety of issues were discussed – proliferated. Certainly during the interwar period the institution had recourse to internal thematic commissions (*Commission des oeuvres de guerre* [war activities commission], the Spanish and Ethiopian commissions, etc.) which were each responsible for a particular problem, but their number increased sharply with the outbreak of war. The ICRC had seven ad hoc bodies in 1939, including the Committee and the Bureau (the latter made up of members of the Committee). There were eleven ad hoc bodies in 1940, fourteen in 1941, fifteen in 1942, seventeen between 1943 and 1945, and eighteen in 1946.<sup>50</sup> Another feature of the Second World War period was the fact that these various bodies were no longer limited to members of the Committee, but also involved qualified 'subordinate' employees who, in this way, also participated in the decision-making process. Anecdotally, the ICRC started services during the war which were known as 'general services', including a news and information service that became an independent division in 1943, and paved the way for the development of increasingly intense humanitarian 'communications'<sup>51</sup> thanks to the use of audio-visual media.<sup>52</sup>

The institution was directly effected by the horrors of war. The ICRC had its first known hostage taking when members of its Berlin delegation were taken by Soviet forces following the capture of Berlin and detained for several months in a camp in the USSR. Even worse, many of its employees died violent deaths, which

48 Altogether there were over 35 million files, that is, some seven times more than in 1914–1918. See Rapport, above note 43, Vol. II, p. 340.

49 These were Hollerith machines, which used perforated cards, and were made available by International Business Machines Corporation (IBM). See Monique Katz, 'Quand des machines travaillaient pour la Croix-Rouge?', in *RICR*, No. 453, September 1956, pp. 507–511. On IBM perforated or punch cards, see <http://www-03.ibm.com/ibm/history/ibm100/fr/fr/icons/punchcard/> (last visited 12 July 2012).

50 Starting in 1947, the number of commissions declined rapidly, going from nine to six at the start of the 1950s and then to four for the rest of this period, indicating that the Committee and the Presidential Council were taking control of current affairs.

51 However, the ICRC did not wait until the Second World War to launch communications concerning its activities. The publication, starting in 1869, of the *Bulletin des Sociétés de la Croix-Rouge* (ancestor of the *RICR*) illustrates this.

52 The first ICRC films, however, date from 1921. See Enrico Natale, 'Quand l'humanitaire commençait à faire son cinéma : les films du CICR des années 1920', in *RICR*, Vol. 86, No. 854, June 2004, pp. 415–437; for English abstract, see 'Humanitarian organizations enter the world of cinema: ICRC films in the 1920s', in the same issue.

again was unprecedented:<sup>53</sup> Richard Heider, ICRC escort, drowned during the sinking of a cargo ship transporting aid for Greece; Johann Jovanovitz, medical delegate in Germany, was killed by a sentry; Matthaeus Vischer, delegate in Borneo, was executed with his wife, after a summary trial for charges of espionage;<sup>54</sup> Konrad Otto Anderegg, secretary of the delegation in Batavia, was ‘killed by the natives’ in 1946.<sup>55</sup>

This last death was related to the emergence of a new form of conflict, for which the ICRC mobilized for decades: wars of decolonization. In its humanitarian concerns the institution had completely ignored the colonial wars even though the creation of the ICRC coincided with the rise of European colonialism in the last third of the nineteenth century. It was not moved by the plight of indigenous peoples subjected to the yoke of whites, or by colonial massacres.<sup>56</sup> Moreover, coming from the Western world the ICRC had indirectly supported the ‘civilizing mission’ of Europe in the ‘heart of darkness’.<sup>57</sup> After 1945, when decolonization was becoming an even more important question in international relations than the phenomenon of colonialism itself,<sup>58</sup> the ICRC focused on the struggles of the colonized against the colonizers and offered its services in this context, as it had done in its important – but long forgotten – efforts in the (former) Dutch East Indies. Its involvement was not without difficulties because it later caused tensions with the Indonesian government when it was in the grip of its own ‘decolonization’ conflicts.

The 1940s also marked a turning point in the perceptions that the general public and actors in armed conflicts had of the ICRC. No longer seen only with benevolent consideration, the institution entered an era of criticism. While re-cremations against the ICRC were not entirely new – in 1919, for example, Poland accused the ICRC delegate-general, Edward Frick, of ‘political action contrary to the interests of the Polish state . . . [and of] Bolshevik sympathies’<sup>59</sup> – they now were more than rare individual cases. Admittedly, some individuals in the ICRC

53 Volume I of the *Rapport* gives an incomplete list of ICRC representatives who died while on mission, including those who died of natural or accidental causes. Note that for the ICRC, many natural deaths were due to ‘the overwhelming work load’ of the delegates. See *Rapport*, above note 43, Vol. I, pp. 64–65.

54 On the Vischer case, see Ernst Braches, *Bandjermasin Case. The Swiss authorities and the Execution of Dr. C.M. Vischer and B. Vischer-Mylius in Borneo, 20 December 1943*, available at: <http://www.ulimemorial.org/SwissAuthor.pdf> (last visited 13 July 2012).

55 *RICR*, No. 330, June 1946, p. 524.

56 Irène Herrmann and Daniel Palmieri, ‘Humanitaire et massacres : L’exemple du CICR (1904–1994)’, in Jacques Semelin, Claire Andrieu, and Sarah Gensburger (eds), *La résistance aux génocides. De la pluralité des actes de sauvetage*, Les Presses de Sciences Po, Paris, 2008, pp. 237–245.

57 Parallel to his activities as President of the ICRC, Gustave Moynier was also Consul General of the Congo Free State. The ICRC headquarters and the consulate shared the same premises. On the Leopoldian Congo, see Adam Hochschild, *Les fantômes du Roi Léopold : La terreur coloniale dans l’État du Congo, 1884–1908*, Tallandier, Paris, 2007.

58 While the European powers confronted each other over the question of colonialism, it was over the limits of the colonial spheres of influence (as was illustrated by the famous incidents of Fachoda and Agadir), rather than over the methods employed by colonization.

59 ICRC Archives, A PV, Minutes, AIPG, 27 October 1919.

continued to be the objects of criticism,<sup>60</sup> but the most serious complaints were aimed at the institution itself, its activities, and its principles. After the war, the ICRC was accused of not having denounced ‘violations of the Conventions committed by German, Italian and Spanish fascists’.<sup>61</sup> It was also accused of having facilitated the escape of war criminals by issuing false travel documents.<sup>62</sup> It was criticized for its inaction on the questions of captured partisans, Soviet prisoners of war in Germany, and the Holocaust. More generally, its relief activities helping those who had been defeated in the war, especially the Germans, were questioned and aroused misunderstanding and mistrust.

Meanwhile, the belligerents challenged humanitarian law, which, in effect, was a challenge to the ICRC. The most notable aspect of this policy took the form of a refusal, and concerned soldier combatants who had fallen into the hands of an enemy; for example, the Germans who took Italian soldiers prisoner following the 8 September 1943 armistice, as well as the Allies who captured members of the German and Japanese armies, following the unconditional surrender of these two armies, and refused them prisoners of war status.<sup>63</sup>

In addition to the aggressions against ICRC staff, these above elements demonstrate that humanitarian action is not always successful and that it is therefore fallible. Admittedly, it is difficult to demonstrate that this a posteriori analysis was that of the institution at the time. There is the impression that the ICRC’s public discourse denied such explanation. The 1,700 pages of the aforementioned activities report are evidence that the ICRC made every possible effort during the six years of the Second World War. This is also the case concerning the report it published on its activities for the victims held in the Nazi concentration camps.<sup>64</sup> Yet the wealth of detail and the rapidity with which the ICRC published its document on the German concentration camps – the first edition came out in January 1946 – would tend to prove that the ICRC was well aware of having partially failed, but nevertheless tried to answer the criticisms in the report on its work for civilian detainees in German concentration camps. After the publication of

60 Many ICRC delegates were accused of spying for Germany or dealing in looted goods. See Division de presse du CICR, ‘L’action du CICR pendant la Seconde Guerre mondiale’, in *RICR*, No. 821, September–October 1996, pp. 606–611; this article was completed in April 1997 by François Bugnion in the light of further research done by the ICRC in its archives and in the federal Swiss archives, available at: <http://www.icrc.org/fre/resources/documents/misc/5fzgc.htm> (last visited 12 July 2012).

61 These accusations were advanced by the Yugoslav Red Cross, but were picked up by other Communist bloc states. See Catherine Rey-Schyr, *Histoire du Comité international de la Croix-Rouge (1945–1955)*, De Yalta à Dien Bien Phu (1945–1955), Georg, Geneva, 2007, p. 71.

62 Gerald Steinacher, *Nazis on the Run. How Hitler’s Henchmen Fleed Justice*, Oxford University Press, Oxford, 2011. For a critique of this thesis, see Irène Herrmann and Daniel Palmieri, “‘Refugees on the Run’: The ICRC travel documents after the Second World War”, in *Contemporanea, rivista di storia dell’800 e del’900*, 1, 2013, in press.

63 Rapport, above note 43, Vol. I, pp. 558–566.

64 *L’activité du CICR en faveur des civils détenus dans les camps de concentration en Allemagne (1939–1945)*, Geneva, 1946; in English see *Documents relating to the work of the International Committee of the Red Cross for the benefit of civilian detainees in German concentration camps between 1939 and 1945*, ICRC, Geneva, 1975, 125 pp.

the report it repressed these events in its collective memory for more than 40 years.<sup>65</sup>

A final point about this period is that, just as after 1918, the end of the war meant threats to the integrity and permanence of the ICRC. Once again the question of the mono-nationality of the Committee and its relations with the League of Red Cross Societies was at the heart of the matter. An increase in the authority of the League, at the expense of the ICRC, was raised. It was even suggested that the two entities amalgamate. The sharpest criticisms once again came from within the Red Cross Movement. The question of the internationalization of the Committee – a recurrent topic since the First International Conference of the Red Cross in 1867 – was raised by the Swedish Red Cross, a ‘partner’ with whom the ICRC had a difficult confrontation during the war.<sup>66</sup> Ultimately, the status quo prevailed. When drawn into east-west ideological confrontations, the Red Cross considered it necessary to preserve the ICRC’s role as well as its specifically Swiss, and thus neutral, character. The institution was, therefore, saved by the outbreak of the Cold War.<sup>67</sup>

## 1967–1974: restructuring

The ICRC was a weakened organization at the end of the second world conflict. In financial terms, in 1946 the ICRC was on the ‘brink of bankruptcy’ and was threatened with ‘liquidation’,<sup>68</sup> a difficult situation that would continue for a number of years. With the Italian, German, and later the Japanese capitulations, the ICRC was no longer able to recover the financial advances it had granted these governments to help their nationals, funds that were blocked by the Allies and would only be gradually released at the start of the 1950s. These defeated states were no longer able to financially assist the ICRC, although their citizens were the primary beneficiaries of ICRC’s work in the post-war period and this work had to be financed through the institution’s own resources. Meanwhile, the ICRC was engaged in a series of new national or international conflicts (Greece, Korea, India-Pakistan, Indochina, and Indonesia), which also used much of its regular budget.<sup>69</sup> Donor

65 Jean-Claude Favez’s work (*Une mission impossible ? Le CICR, les déportations et les camps de concentration nazis*, Nadir Payot, Lausanne, 1988; in English see, *The Red Cross and the Holocaust*, Cambridge University Press, Cambridge, 1999) was the first scientific study of this subject. Concerning the white paper, Fabrice Cahen spoke of an ‘intention of internal orientation with the objective of welding the entire staff around an official defensive line’, in Fabrice Cahen, *Le Comité international de la Croix-Rouge et la Shoah. Une controverse entre histoire et mémoire*, mémoire de maîtrise d’histoire, Université Versailles, Saint-Quentin, 1999, p. 45.

66 Irène Herrmann and Daniel Palmieri, ‘Two crosses for the same aim? Switzerland and Sweden charitable activities during World War II’, in Johannes Paulmann (ed.), *The Dilemmas of International Humanitarian Aid in the Twentieth Century*, in press.

67 This is the opinion of Catherine Rey-Schyr in her analysis of the hostile attitude of Communist countries towards the ICRC. C. Rey-Schyr, above note 61, p. 52.

68 *Ibid.*, p. 38.

69 Jacques Freymond (ed.), *Le Comité international de la Croix-Rouge*, Georg, Geneva, 1984, p. 66; table p. 71.

responses to ICRC financial appeals were limited.<sup>70</sup> Nonetheless, the institution itself had to cover its expenses; therefore expenses regularly exceeded revenue. It was not until the early 1970s that this situation was reversed.

The financial problems affected the staff. Towards the end of the Second World War (in March 1945), the ICRC had 3,700 collaborators, half of whom were paid employees.<sup>71</sup> But as of this date, and parallel to the reduction in the activities of the Central Prisoners of War Agency, as well as the continuing financial difficulties, staff numbers reduced. There were only 722 people – headquarters and field workers combined – working for the ICRC in June 1947,<sup>72</sup> which declined to 420 in January 1949. Personnel numbers reduced further throughout the 1950s. It is estimated that five out of six employees left the institution.<sup>73</sup>

A moral crisis was added to the material one. The institution confronted a ‘vacuum’ in its governance. In December 1944,<sup>74</sup> President Max Huber, elderly, tired, and ill, ceded his position to his ‘right arm’, Carl Jacob Burckhardt. Only just nominated – he took office on 1 January 1945 – Burckhardt was chosen by the Federal Council to serve as Swiss minister (ambassador) to Paris.<sup>75</sup> Huber once again took up the ICRC leadership – temporarily he hoped – in February 1945 as president *ad interim*. His interim presidency lasted until January 1947, however, when joint vice-presidents, Martin Bodmer and Ernest Gloor, took office. Burckhardt, however, remained ICRC president, albeit on leave.<sup>76</sup> The situation at the head of the institution was unclear and precarious, and persisted for more than three years until the appointment of Paul Ruegger in 1948.<sup>77</sup> Of course, alongside the Committee itself and its appendix, the Bureau,<sup>78</sup> the ICRC instituted a Directorate that managed the administration and everyday affairs. But the Directorate was directly dependent on the Bureau and had no real autonomy.<sup>79</sup> It was therefore not in a position to make its own decisions and was not a counterweight to the weakness in the upper echelons of the Committee. The absence of strong personalities at the head of the institution was a factor that weakened the institution in the threatening context of the immediate post-war years.

Before discussing the ‘revolution’ that affected the ICRC – as it did others – twenty years later, two decades elapsed during which the ICRC saw

70 *Ibid.*, p. 85, except for the very great crises such as Palestine (1948) or Hungary (1956).

71 *Ibid.*, p. 134.

72 Rapport, above note 43, Vol. I, p. 58; J. Freymond, *Le Comité international de la Croix-Rouge*, above note 69, p. 139.

73 J. Freymond, *Le Comité international de la Croix-Rouge*, *ibid.*, p. 134.

74 ICRC Archives, A PV, Minutes, Committee, 4 December 1944.

75 ICRC Archives, A PV, Minutes, Committee, 24 February 1945.

76 ICRC Archives, A PV, Minutes, closed session of the Committee, 29 January 1947.

77 Paul Ruegger, the first Catholic president of the ICRC, was elected in February 1948, apparently as a result of an ad hoc procedure. He took office in July 1948.

78 Founded in March 1943, this Bureau took on the functions that had previously been those of the Central Commission which, in November 1940, became the Coordination Commission. The Bureau was the general manager of all ICRC activities and was in charge of all its various committees. This Bureau should not be confused with the previously mentioned Bureau.

79 The fact that the Directorate did not edit its own specific minutes, as did other ICRC autonomous bodies, illustrated this fact (Bureau, Committee, etc.).

important moments, such as the signing of the Four Geneva Conventions of August 1949, which marked the culmination of a long process of reflection and negotiations. At the operational level, the institution was not inactive; from Germany to Palestine, through Korea, Hungary, Algeria, the Congo, and Yemen – to name just a few places of conflict – it was present, often to a significant degree, in all major crises and on all continents. The territorial expansion of ICRC activities, which began in the First World War, was now rooted in the field as general delegations in Africa (Salisbury and Dakar), the Middle East (Beirut), and Asia (Phnom Penh) were opened. At the beginning of the 1970s, the globalization of the ICRC again intensified with the opening of regional delegations<sup>80</sup> from which delegates radiated out to neighbouring countries, whether in peace or in war. However, the institution did not really change its habitual method of working. At most, it reclaimed some areas of work that it had abandoned, such as medical work, for example.

The real turning point took place with the simultaneous involvement of the ICRC in the two major armed conflicts of 1967: The Six Day War and the Biafran War. Each in their own way, these two events led to significant changes in both the internal operations of the ICRC as well as in its perception of the world.

The third Arab-Israeli conflict (5–10 June 1967) provoked a fundamental shift in the behaviour of the institution as it now *anticipated* its possible interventions. As emphasized in the 1967 Annual Report, '[m]indful of the growing tension that prevailed in the Middle East during the first half of 1967, the ICRC *took preparatory steps ten days before the conflict broke out*'.<sup>81</sup> This indicated a shift in the ICRC's attitude toward armed conflict: from being generally reactive, it became proactive, preparing for concrete action before the crisis erupted.<sup>82</sup> This new policy, combined with the ICRC's geographical expansion of its field operations and therefore of its presence in several conflicts simultaneously, had implications for the recruitment of delegates. ICRC funds from 1950–1960 did not allow it to permanently engage a large number of delegates, and at the end of the 1950s the ICRC lacked sufficient staff to meet its commitments. At the instigation of the ICRC President, a *Groupe pour missions internationales* [International Missions Group] (GMI) was created in 1963 which was intended to provide the institution with 'a pool of quality delegates,<sup>83</sup> [who had] undergone a thorough theoretical

80 The first regional delegations were opened in Ethiopia, Cameroon, and Venezuela.

81 *Annual Report*, ICRC, Geneva, 1967, p. 5, emphasis added. (All page references to the *Annual Report* are to the French editions.)

82 In September 1938, during the Munich crisis and prior to the outbreak of the Second World War, the ICRC set up a *Commission des œuvres de guerre* in charge of preparing the ICRC's activities in case of a 'European cataclysm' (ICRC Archives, A PV, Minutes, Committee, emergency session 15 September 1938), a commission that continued its work until September 1939. However, the innovation in the preparation of the ICRC action in the Six Day War was to deploy personnel in the field where the confrontation would take place. Delegates were already in position in the capitals of the future belligerents by the end of May 1967.

83 Members of the GMI were recruited in Switzerland from the universities, the army, the administration, etc. They were highly skilled, especially in the medical field as well as in communications, and were available for missions of two consecutive months.

training<sup>84</sup> and who would be ‘available on call’ and ready to leave at a moment’s notice.<sup>85</sup> However, for various reasons, the ICRC made only modest use of the GMI.<sup>86</sup> The 1967 conflict therefore obliged the institution to (re)think about a recruitment and staff training policy, a process that took ten years before the creation of the policy that, in its broad outlines, is still in force today.

A reflection on ‘expatriable’ human resources was all the more necessary as, starting with the Six Day War, the ICRC was mobilized permanently into armed conflict. This involvement was not unique to the Middle East, as over time it would also concern other continents (Latin America, Africa, and Asia). The long-term involvement of the ICRC in these areas of tension, *ipso facto*, obligated it to have representatives present at all times. Therefore, the proportion of expatriate ICRC staff continued to increase. While field delegates represented 27 per cent of ICRC staff in December 1971, ten years later it was 66 per cent.<sup>87</sup>

The very functioning of the ICRC was changed by the continuing warfare worldwide. Activities aimed at improving the living conditions of people living in conflict, for example, through ensuring water and sanitation, or aimed at giving people a ‘sense of normalcy’ through the distribution of seeds for the cultivation of land or through orthopaedic rehabilitation activities were gradually added to emergency relief (be it assistance or medical care).

The increasing numbers of delegates in the fields of war, as well as the growing number of tasks, had implications on the financing of humanitarian aid, which were highlighted by the Nigeria-Biafra War (July 1967–January 1970). While this conflict was of limited duration, the ICRC’s efforts and mobilization grew to unprecedented proportions, and its action was the most important of the post-war period. In 1968 and 1969, the majority of the overall ICRC budget was devoted to this bloody civil war.<sup>88</sup> The volume of distributed assistance exploded and never again declined to its pre-1967 level. The relief effort coordinated by the ICRC in Nigeria and Biafra ultimately cost 663 million Swiss francs. The ICRC carefully explained that this figure ‘[was] statistical information, not an accurate estimate of expenditures!’<sup>89</sup>

All this led the ICRC to redefine the way it financed itself. Aware that it might become involved in actions going far beyond its means and capabilities, the institution considered it necessary to foresee as much as possible in advance: ‘In light of a situation such as the Nigerian-Biafran War, relief efforts spanning several years . . . can no longer be regarded as emergency aid and therefore financed outside of the regular budget.’<sup>90</sup> The ICRC then integrated such expenses into its regular budget, under the heading of temporary activities (other activities are permanent or extraordinary). Soon, only two items remained: the ordinary, both permanent and

84 ICRC Archives, A PV, closed session of the Committee, 2 July 1964.

85 On the GMI, see J. Freymond, above note 69, p. 137; table p. 140.

86 *Ibid.*, p. 137.

87 Calculations derived from J. Freymond, above note 69, table p. 140.

88 *Ibid.*, p. 61, note 2.

89 *Annual Report*, ICRC, Geneva, 1970, p. 133.

90 J. Freymond, above note 69, p. 63.

temporary, whether at headquarters or in the field, and the extraordinary that today take the form of ‘appeals’. These accounting ‘reforms’ were aimed at greater transparency vis-à-vis the donors. Given the often-huge sums at stake, ‘trust alone is not enough, we must demonstrate that we are capable of properly managing the funds entrusted to us’.<sup>91</sup> Starting with the Nigeria-Biafra activity, fundraising became essential to the conduct of humanitarian action. It was also recognized as such by the creation of a ‘1974 fundraising’<sup>92</sup> sector. Moreover, the ICRC sought and obtained political financial sponsorship, through agreements with the European Economic Community (EEC) and the Swiss government that provided regular support to the institution.<sup>93</sup> Rather than ‘apply the policies of its means’ as it had routinely done since the end of the Second World War, the ICRC was now going to give itself ‘the means of its policies’.<sup>94</sup>

But the ICRC’s ‘growing pains’ (as quoted by Thierry Hentsch) during the Six Day War and the Biafra War also had other internal implications for the institution because these conflicts cast a harsh light on the shortcomings of its operation, particularly with regard to the conduct of field activities. The lack of a real project manager in Geneva to administer the Nigerian crisis led to difficulties in the implementation of action because of a lack of a ‘critical administrative machinery’.<sup>95</sup> Internal reflections arising from this experience, as well as from the extension of ICRC activities throughout the world, led to structural changes, in particular, the creation in 1970 of geographic operational regions, led from headquarters by the Directorate of Operations. The Directorate also brought together support services participating in activities outside the institution (emergency service, medical service, Central Tracing Agency, etc.). Additional structural changes took place and led either to the creation of new services<sup>96</sup> or to greater autonomy for pre-existing ones (for example, financial, personnel). In other words, an administration worthy of the name was established and – in light of the increased activities of the ICRC – organized an increasingly sharp differentiation of internal functions. From 1974 onwards, the administration of the ICRC was by a management body that acted as an executive, and the Committee continued to exercise ‘legal’ power.<sup>97</sup> The fundamental changes to the ICRC were born directly from the changes in the 1967–1974 period. The ICRC was now thought of as a great humanitarian organization and had to manage its activities as such.<sup>98</sup>

91 *Ibid.*, p. 68.

92 *Annual Report*, ICRC, Geneva, 1974, p. 96.

93 J. Freymond, above note 69, p. 86.

94 *Ibid.*, p. 161.

95 Thierry Hentsch, *Face au blocus. La Croix-Rouge internationale dans le Nigeria en guerre (1967–1970)*, Institut universitaire de hautes études internationales, Geneva, 1973, p. 245.

96 A Press and Information Division directly attached to the Presidency was established. The importance of ‘communication’ and the uses made of it during the Biafran conflict, as well as the important role played by the media and its attitude towards the ICRC, certainly explain the creation of this new division.

97 J. Freymond, above note 69, p. 128.

98 *Annual Report*, ICRC, Geneva, 1970, pp. 132–134.

## 1991–2011: expansion

As a result of the methods that evolved during the Biafran War, the years 1970–1980 were marked by ‘humanitarian gigantism’ in the ICRC operations.<sup>99</sup> This is not surprising when one considers that these two decades were characterized by conflicts the duration of which was often inversely proportional to the resulting humanitarian consequences. Thus while the Indo-Pakistan War of December 1971 lasted only thirteen days, the repatriation of prisoners, for which the ICRC was mobilized, lasted almost two-and-a-half years. Other conflicts were longer even beyond this period, for example, the civil wars arising from the Portuguese decolonization, the Iran-Iraq War, etc., and involved the ICRC’s human and financial forces on a long-term basis. However, the management of such operations was not without consequences, and the ‘real’ problems arising from the activities of these years were, in particular, ‘how to manage this growth and its consequences, this bureaucratic mushrooming and the growing number of fields in which the ICRC ... decided to intervene’.<sup>100</sup>

Questions also arose about international humanitarian law and its relevance to conflicts in the 1970s. While the ICRC made a breakthrough in this area, thanks to the adoption of the four Geneva Conventions, these conventions governing war between states were directly inherited from the nineteenth century and seemed outdated in the face of civil wars, such as in Angola, Mozambique, El Salvador, and Nicaragua, in which the ICRC had large-scale operations. And what about the national liberation struggles in Africa (Rhodesia, Namibia, Eritrea, etc.) and Asia (East Timor), which were marked by a particular form of combat – guerrilla struggle? However, while the ICRC was convinced that ‘the fundamental principles of humanitarian law can and should be applied by all and in all circumstances, even in guerrilla warfare’,<sup>101</sup> it lacked the necessary legal instruments to ensure that this wishful thinking would in fact be applied. However, in 1977, two Additional Protocols to the Geneva Conventions, 8 June 1977, were adopted and the second of these protocols applied to ‘non-international armed conflicts’.

Doctrinal issues<sup>102</sup> underlay the 1979 request to an independent historian to analyse the ICRC attitude when confronted with the Nazi concentration and extermination camps. The study, which was published in 1988, was not necessarily appreciated by the Committee,<sup>103</sup> but it at least provided the institution with a scientific – and not emotional – argument in answer to the questions and criticisms about this tragic episode in its history, questions and criticisms that it had received since the end of the Second World War. Moreover, as a result of this

99 Expression used by Simone Delorenzi in *Face aux impasses de l'action humanitaire internationale. La politique du CICR depuis la fin de la guerre froide*, ICRC, Geneva, 1997.

100 *Ibid.*, p. 30.

101 Michel Veuthey, *Guérilla et droit humanitaire*, ICRC, Geneva, 1983 (1st edition, 1976), introduction (1976), p. xvi.

102 This was the hypothesis advanced by Simone Delorenzi along with the purely historical aspects of the question. Based on the results obtained, the ICRC would be able to decide what stance to take in case it was confronted with a similar situation. S. Delorenzi, above note 99, p. 24.

103 See the ICRC postface to the first edition of the work of Jean-Claude Favez, above note 65.

publication – but only following a long process of internal discussions – in 1996 the ICRC decided to open part of its archives, including the 1939–1945 period, to the public. The 1996 decision, renewed in 2004 for an additional period for 15 years, enabled the institution to escape the controversy over its past as interested parties could directly consult the documents, thereby establishing a relative appeasement concerning its own history.<sup>104</sup>

The 1970s and 1980s were marked at the institutional level by the administration taking over some of the roles of the Committee, and of the Presidency. The fact that successive ICRC presidents (Samuel Gonard, Marcel Naville, and Eric Martin) held office only for short periods of time, averaging four years, and were not really able to impose themselves as leaders, led to this ‘reversal’ of roles. Meanwhile, the Committee itself was rejuvenated. In 1970, some 41 per cent of its members had been active in the organization for five years or less. In 1980, 50 per cent of the membership had been active for no more than five years, and in 1990 almost two-thirds of the membership fell into that category. The geographical location of members, most of whom lived outside of Geneva, and their own professional obligations, limited the time they had available for involvement in ICRC activities. In 1960, for example, when of the fifteen members that then made up the Committee, nine were of Geneva origin or residence, and nearly half of them were either retirees or persons of independent means, the time Committee members had for ICRC involvement was greater than thirty years later. The end of the 1960s saw the arrival of a cohort of young delegates who pledged to meet the needs arising from the conflicts in the Middle East and West Africa, and some of whom would rise in the hierarchy to key positions in the administration (general management, operations, etc.). Fortified by this experience and responsibility, it was this skilled staff, both at headquarters and in the field, that would direct the general course of activities – at least until the early 1990s. A sharp reversal<sup>105</sup> took place in 1987 with the arrival of Cornelio Sommaruga at the head of the institution. His appointment confirmed the return, already initiated by his predecessor, of a long-term presidency<sup>106</sup> with the ambition of restructuring the ICRC. The most notable change, which took place in May 1991, was the incorporation of the Directorate – which had previously deliberated in separate way – into an Executive Board, the membership of which now included the members of the Committee and the administration.<sup>107</sup> If it is assumed that the setting up of this new structure constituted a takeover of the Directorate by the presidency (or the Committee) it may at the same time be assumed that by bringing the ‘two powers’ together into

104 In 2011, the Committee decided against a new declassification of ICRC documents in spite of the rules governing access to the archives that this same Committee had adopted in 1996. The decision to open an additional part of its archives was postponed to a later date.

105 Simone Delorenzi even wrote of a ‘rupture’ with his predecessors. See S. Delorenzi, above note 99, p. 31.

106 Alexander Hay, President of the ICRC between 1976 and 1987.

107 Prior to May 1991 the Executive Council, which was the successor of the Bureau and the Presidential Council, was – like its predecessors – composed only of members of the Committee. The new system lasted until 1998 at which point an autonomous Directorate was created.

one place, the ICRC's capacity to face many of the challenges of the post-Cold War period was increased.

From 1991 the institution has had to simultaneously manage an international coalition war (the Second Gulf War), a civil war in a country without a state (Somalia), a civil and later international war (ex-Yugoslavia), as well as more traditional armed conflicts (in Angola, for example), to which have been added the 'new conflicts' or 'anarchic conflicts' – to use the ICRC terminology – in Africa and the former Soviet empire. The 1990s marked the ICRC's entry into new geographical areas<sup>108</sup> – for example, in the countries belonging to the former Soviet Union where the ICRC had not been active since 1938 when its permanent delegation in Moscow was closed – as well as into an era of unprecedented violence of war. Since 1991, more than thirty ICRC staff members have died violently in the course of their humanitarian mission.<sup>109</sup> And there have been dozens, if not hundreds, of other security incidents – a negative trend that affects all humanitarian actors. New working methods, which were the first in the history of the institution, stemmed from this tragic situation, for example, the use of armed escorts in Somalia. Somalia would also see the creation of community kitchens in 1992 – a model that was later exported to other contexts and helped to avoid the problems of storage and theft of food, and the extortion of beneficiaries receiving aid.<sup>110</sup>

Apart from the (too) real violence, the institution also had to manage the potential violence of war. On 17 January 1991, at the beginning of the allied air raids on Iraq and in the face of a very real threat, the ICRC explicitly, in a *note verbale*, warned the warring factions to refrain from the use of atomic weapons.<sup>111</sup>

Also for the first time in its history, in 1994 the ICRC directly lived through a genocide in Rwanda, and faced the same dilemmas as during the Second World War in light of the limited nature of its response, especially considering the scale of the massacres.

But the most remarkable feature that started in 1991 is the phenomenal growth of the institution, both in the number of its personnel – particularly in the field – as well as in its budget and financial expenditures. Although this growth commenced in 1970, from 1991 the growth became exponential. Thus, even if the comparison is not easy because of differences in accounting methods, expenditures for 1990 alone represent a total greater than for the entire decade 1970 to 1979.<sup>112</sup> The year 1991 marked another turning point because in that year the ICRC spent 160 per cent more than in the previous year. Since then, finances have reached levels never before achieved by the institution. During the last twenty years, annual spending has not dropped below 600 million Swiss francs. Moreover, since 2007,

108 The ICRC representatives in the field (delegations, regional delegations, and missions) went from around fifty in 1991 to more than eighty twenty years later, that is, an increase of nearly 60 per cent. This increase, however, should be put in perspective in view of the creation of new states starting in 1990, particularly the ruins of Yugoslavia and the former Soviet empire.

109 This estimation, which unfortunately is incomplete, is based on internal documents.

110 S. Delorenzi, above note 99, p. 46.

111 *Annual Report*, ICRC, Geneva, 1991, p. 97.

112 This calculation based on the annual ICRC reports from 1970 to 1979.

annual spending has been well over a billion francs. This surge, of course, has been accompanied by a considerable and constant increase in ICRC activities and, in turn, in the number of beneficiaries of its actions. As proof, just compare the size of the annual reports at both ends of this period (1991 and 2011) and note that the later one – which is about 500 pages – is twice as thick as the first.

However, this growth has had an impact on the institution itself, giving it a whole new look. From being a humanitarian organization, over the last decade the ICRC has become, although it is still difficult to admit this, a humanitarian *enterprise*.<sup>113</sup> While, of course, its aims differ categorically from that of for-profit companies, the ICRC has adopted certain attributes that formerly existed in the private sector only, for example, its language or terminology. This is not a trivial point because it shows a change of attitude. It is striking to note the recurring use in recent years, in the general vocabulary of the institution, of terms that come directly from marketing (target populations), from the economy (efficiency, result-based management) or from trade (strategic anchor). In the public communications of the institution one can see the particular importance attached to quantifiable results, often to the nearest unit. This is clearly evident in recent ICRC activity reports, where indicators, statistics, and figures play an ever more important role. In the 2001 Annual Report, in the chapter about the activities carried out by the ICRC regional delegation in Nairobi,<sup>114</sup> statistical tables occupy almost a third of this chapter and the text has, in turn, forty-six statistical references. Also in this annual report, the purely financial section has seventy-two pages of tables (pp. 423–495 of the French edition, or 14 per cent of the entire document), which is almost the same number of pages as those on all the ICRC activities for the previous year (pp. 6–76), excluding operations. Certainly, the institution has the duty of justification (accountability) to those who finance it, which obliges it to have very detailed reports on its work, and the duty to constantly adapt its analytical tools, which explains the introduction in 1999 of cost-accounting methods alongside traditional accounting. Today, everything seems to happen as if, through the extensive use made of figures without any accounting framework, numerical data alone can summarize the extent of humanitarian needs and the response that the ICRC should apply through its work with victims of armed violence.

The entrepreneurial nature of the institution is also reflected in its Directorate. Having once again become a decision-making body in its own right since 1998, it not only has control over the daily administration of the ICRC, but it has also taken an increasing role over the years in defining the strategies and guidelines of the institution. By itself it embodies the will to ‘optimize’ (another

113 The usual definition of an enterprise is: ‘The enterprise is a term that refers to a combination of human, material, intangible (services) and financial resources, combined in an organized manner to achieve for-profit or non-profit aims, and most often involves the supply of goods or services to a more or less open group of customers or users in a more or less competitive environment.’ Ignoring the ‘for-profit’ character of the enterprise and replacing the terms ‘clients’ and ‘users’ by ‘beneficiaries of humanitarian action’, this definition covers the mandate of the ICRC as it is today, including the idea of competition with other humanitarian organizations. See <http://fr.wikipedia.org/wiki/Entreprise> (last visited 16 August 2012); for the English, see <http://en.wikipedia.org/wiki/Business>

114 Chosen at random from the *Annual Report*, ICRC, Geneva, 2011, pp. 186–191.

economic concept) ICRC functioning.<sup>115</sup> Calling for staff from the private sector, sometimes without previous professional experience in humanitarian or social action but highly qualified for important administrative functions within the institution, is also part of this policy of searching for efficiency, as are the (many) bodies/ad hoc programmes developed for the planning and monitoring of activities and projects. The overall policy aims to, as indicated by the credo of the institution, obtain first-order results (result-based management). Projecting into the future, as well as developing a vision and a strategy to achieve projected aims and results, are also main characteristics of entrepreneurship.<sup>116</sup>

Moreover, by its desire to be present globally while keeping its main decision-making centre in Geneva, but also through the 'relocation' of some of its services abroad for financial reasons, the ICRC corresponds, in a sense, to the common definition<sup>117</sup> of the multinational, although, again, its fundamental objective differs radically from that of multinational firms. This phenomenon is accentuated by the internationalization of the institution, which (since 1990<sup>118</sup>) has more expatriates than it has staff in its headquarters, but also by the fact that the proportion of foreign staff<sup>119</sup> over the last ten years has been significantly greater than the number of Swiss employees.

These changes, however, are not unique to the ICRC, but mark a trend that can be found to varying degrees in the humanitarian world. This evolution highlights what appears to be a paradox: either economic primacy in an area of activity that in essence should be abstracted from economic rules and criteria, or we recognize that humanitarianism obeys – and perhaps always obeyed – the laws of the market, as it matches an offer (humanitarian needs and means) with a demand (third-party financing). However, in a sluggish macro-economic climate that has seen a series of crises since 2000, we can understand why the specific behaviour of market actors is also demonstrated – certainly unconsciously – by humanitarian organizations. This is a phenomenon further exacerbated by 'natural' competition between them, in a world in which financial resources are shrinking. If money is the sinews of war, it is also those of the humanitarians. The real question is how long the ICRC's growth can last.

## Conclusion

The question of how long the ICRC's growth can last was absent from the minds of its founders in 1863 when they chose to deal with victims of war. Their activity was in fact based on the (very) long term. Certainly, the ICRC immediately minimized the risks of a short existence by relying on 'goodwill' that was not going to disappear

115 'Optimize the ICRC's performance', *Annual Report*, ICRC, Geneva, 2011, p. 51.

116 See <http://fr.wikipedia.org/wiki/Entrepreneuriat> (last visited 20 July 2012); for the English, see <http://en.wikipedia.org/wiki/Entrepreneurship>

117 See Charles-Albert Michalet, *Le capitalisme mondial*, Presses Universitaires de France, Paris, 1998.

118 The locally hired staff are not taken into account here.

119 B. Troyon and D. Palmieri, above note 26, p. 110.

overnight. Moreover, by wanting its action to be to ‘humanize war’,<sup>120</sup> and not to try to abolish it, the five Geneva citizens also kept their future field of action ‘intact’, even to the point of attracting misunderstanding and criticism from pacifist circles.<sup>121</sup> However, this does not sufficiently explain the durability of the ICRC because other similar initiatives, some of which were even contemporaneous, were unsuccessful.<sup>122</sup> It was not enough to be interested, and to attract the interest of others, in war and the suffering it causes in order to aspire to continue through the centuries.

As is true throughout history, chance has certainly played a role in the longevity of the institution, especially in its early stages when it was only a tiny structure. Thus, the fact that General Dufour had previously established links with Louis-Napoleon Bonaparte (the future Napoleon III) when he was an exile in Switzerland was one of those fortuitous events that helped the ICRC – in which sat the same Dufour – when it came to requesting the support of France, then the most powerful state on the continent, for the organization of an international conference in 1864,<sup>123</sup> the prestige of which would also reflect on the Committee of Five. Over time, however, the role of chance diminished as the ICRC’s experience acquired over an ever-increasing number of years enabled it to meet the challenges.

The mention of General Dufour offers a second line of thought about the impact that great personalities had on the future of the institution. Without the tenacity and hard work of Gustave Moynier (first ‘real’ president),<sup>124</sup> the ICRC would have been, despite its title, a minor association vegetating in a provincial town. The fact that the institution emerged victorious from its fight against the League in the early twenties was largely due to the fighting spirit and the ability of Marguerite (Frick) Cramer and Gustave Ador. Under the leadership of Paul Ruegger, the ICRC coped with the combined attack of the Eastern bloc and the Swedish Red Cross after the Second World War. Conversely, some of the ‘great men’ risked all to destroy it, for example, William Rappard, who although a member of the Committee, defended the interests of the League, and Carl Jacob Burckhardt, with his ambiguous role in relation to Hitler’s Germany.<sup>125</sup>

Of course, external events were significant factors in ensuring the permanence of the institution. For example, without the First World War of 1914–1918 and its direct results, the ICRC might not have faced a baptism of fire

120 Dr Louis Appia, *Rapport sur ma mission au Schleswig* [Report on my mission to Schleswig], 1864, quoted by André Durand, *Histoire du Comité international de la Croix-Rouge, De Sarajevo à Hiroshima*, ICRC, Geneva, 1978, p. 160; for the English version see, *History of the International Committee of the Red Cross, From Sarajevo to Hiroshima*, ICRC, Geneva, 1984.

121 André Durand, ‘Gustave Moynier et les sociétés de la paix’, in *RICR*, No. 821, September–October 1996, p. 588.

122 For the example of Henri Arrault, see Véronique Harouel, *Genève-Paris, 1863–1918. Le droit humanitaire en construction*, Société Henry Dunant/CICR/Croix-Rouge Française, Geneva, 2003, pp. 105–110.

123 *Ibid.*, pp. 80 ff., Véronique Harouel even writes, concerning this event, of a ‘conference held under a “French protectorate”’.

124 Officially the first ICRC president was General Dufour (ICRC Archives, A PV, Minutes, Commission spéciale de la Société, 17 February 1863), but he only held office very briefly and his role was marginal.

125 Paul Stauffer, *Sechs furchtbare Jahr: Auf den Spuren Carl J. Burckhardts durch den Zweiten Weltkrieg*, NZZ Verl., Zurich, 1998.

and experienced the transformation from a small-scale 'artisanal' structure into a real international organization with transnational activities. Also, without the East-West confrontation the true value of its role as a neutral humanitarian actor in a divided world would not have been recognized.

The context within which the ICRC evolved also threatened its future. The reluctance of the French general staff (the French army was considered the best on the continent) to support Dunant's plans and the first negative reactions of the French representatives at the 1863 Conference could have been enough to bury the ICRC before it was established. But, paradoxically, the most serious threats came from the organization to which it was the most familiar because it had itself created it: the Red Cross. It was among its 'allies' that the institution finally found its most dangerous opponents – from the Russian Red Cross in the late nineteenth century to the Swedish National Society after 1945, as well as the creation of the League. All these 'enemies' from within attacked it on one point *sui generis* that, however, accounted for its strength vis-à-vis the exterior: the Swiss mono-nationality of the ICRC's members.

However, the institution's 150 years of activity are also largely (if not primarily) due to its unique specificity. Far from being a truism, this element is revealed through two main aspects.<sup>126</sup> First, the ICRC has long functioned as a homogeneous structure that, during its first sixty years, took the form of a Geneva family group. Opening up the institution's management to nearby (Swiss) foreigners in 1923 did little to change the organization's composition because the newcomers were selected on the basis of common political and social criteria for easy integration into the Committee. In the 1930s there was a similarly based selection of personnel engaged in the field, a choice made directly or indirectly by the highest authorities of the ICRC. This meant that its base as well as its head functioned in unison. While some<sup>127</sup> have described the operation of the ICRC as elitist – which it was – in fact, this allowed the institution to be successfully united in its aims in times of crisis.<sup>128</sup> In this case, the relatively small size of the institution,<sup>129</sup> which might be seen to be a handicap, proved to be an additional cohesive force, as did the criterion of the single Swiss nationality. This pattern continued, including from the late 1960s to the early 1970s, when the institution recruited a large staff for operations abroad and the Committee withdrew from the day-to-day management of the institution's activities, leaving it to the administration. But by this time there were entire 'flocks' of delegates with common experiences who ensured the homogeneity and identity of the institution as well as its still semi-familial character.<sup>130</sup> Elitism from the bottom was added to the elitism of the top.

126 The confidential way in which the ICRC acts could also, at least since the 1930's, explain the institution's permanency. Ironically, this confidentiality is what has been the most criticized by the outside world.

127 D. Fiscalini, above note 6.

128 However, this does not mean that the ICRC has not experienced internal dissensions that were often settled in a summary fashion (see the resignations of Rappard or of Sydney Brown, the ICRC General Secretary).

129 Before the 1980s, the ICRC was a relatively small organization. While its numbers increased significantly during important crises (world wars, Biafra, etc.) this was only for short periods.

130 This is illustrated by the delegates' use of nicknames: Doudou, Coco, etc.

Second is the innovative capacity of the ICRC and its employees. Indeed, it has often been through personal initiatives that the institution took up new fields of activity and occupied itself with new categories of victims who previously had not been part of its mandate. The precedent came from the top and members of the Committee were the first to open up new fields of humanitarian action, for example, Dr Frédéric Ferrière and his work in the civil section of the AIPG,<sup>131</sup> a section that he had built from scratch. This innovative capacity also occurred in the field of war where the ICRC delegates, confronted with the needs of victims, tried to alleviate their suffering. The best example took place in Hungary in 1919, where the delegate Rodolphe Haccius replied of his own accord to the invitation of the revolutionary authorities and visited political prisoners for the first time, outside any existing legal framework. This precedent was endorsed two years later, when the Tenth International Conference of the Red Cross recognized the ICRC's authority to intervene in civil wars or revolutionary disorder. Similarly, during the Second World War, delegates delivered 'travel certificates' on their own initiative to people (Yugoslav prisoners of war in Italy, the Jewish population in Romania, etc.) to facilitate their return to their homes or their emigration. Taken up at an institutional level after the war, these activities gave rise to the creation of the ICRC travel documents that are still in force today.<sup>132</sup> Long a constant in ICRC history, the humanitarian gesture has always preceded its codification. These 'advanced actions' were favoured both by external events – which required an immediate response from the delegates, and without time to refer to Geneva<sup>133</sup> – as well as by the ICRC's rudimentary hierarchical structure which gave a greater liberty of action and initiative to its personnel, even if they were subsequently repudiated once the headquarters became aware of them!

Has this very particular dual functioning not ultimately been the explanation of how the ICRC has been able to overcome numerous crises throughout the 150 years of its history? Should not the organization also question itself about its own future when its size, composition, management, its ever more closely supervised working methods,<sup>134</sup> and the very way in which it sees and presents itself represent an unprecedented rupture with its past?

131 Jessica Pillonel, *La Grande Guerre 1914–1918, un nouveau défi pour le CICR ? L'Agence internationale des prisonniers de guerre et son action en faveur des civils*, mémoire de Master, Faculté des Lettres, Université de Genève, 2012.

132 I. Herrmann and D. Palmieri, *Refugees on the Run*, above note 62.

133 This was made even worse by the geographic distances and by the slow and limited means of communications that existed at the time.

134 The counterpart to the higher level of professionalism at the ICRC.

# Birth of an idea: the founding of the International Committee of the Red Cross and of the International Red Cross and Red Crescent Movement: from Solferino to the original Geneva Convention (1859–1864)

## **François Bugnion\***

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\* This article, which is based on new research and on original documents, further develops and supplements the first two chapters of the author's book *The International Committee of the Red Cross and the Protection of War Victims*, ICRC, Geneva and Macmillan, Oxford, 2003, pp. 6–28. English translation by Glynis Thompson.

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## Abstract

*The trauma of coming face to face with the horrors of a battlefield and witnessing first-hand the abandonment of the war-wounded led Henry Dunant to two ingenious concepts: the creation of permanent volunteer relief societies and the adoption of a treaty to protect wounded soldiers and all who endeavour to come to their aid. On the initiative of Gustave Moynier, a committee was established in Geneva to implement Dunant's proposals. That committee – which soon took the name 'International Committee of the Red Cross' (ICRC) – convened two international conferences, the first of which laid the foundation for the future relief societies while the second adopted the initial Geneva Convention. This article considers the circumstances that led to the founding of the ICRC and then to that of the International Red Cross and Red Crescent Movement, starting with Solferino and culminating in the adoption of the Geneva Convention.*

**Keywords:** Red Cross, ICRC, Henry Dunant, Gustave Moynier, Guillaume-Henri Dufour, war-wounded, *A Memory of Solferino*, Geneva Conventions.

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## The aftermath of battle

A great battle has rarely been fought with such disastrous short-sightedness, improvisation and negligence. The incompetence of the leaders has rarely led to such a bloodbath.

When, on the evening of 22 June 1859, the Austrian Emperor ordered his army, which had assembled on the previous evening to the east of the River Mincio, which flows out of Lake Garda and marks the border between Lombardy and Venetia, to conduct a countermarch so as to occupy the hills around the little town of Solferino on the other side of the river, he was in no doubt that the line of the Pieve would hold up the progress of his enemies for several days, since the Austrians had destroyed all the bridges across that river as they withdrew. Having neglected to give orders for reconnaissance, the Emperor was unaware that the Franco-Piedmontese were already crossing the Pieve on bridges built by the engineers corps.

As for the Franco-Piedmontese, they were convinced that the decisive battle would be fought – as in 1848 – to the east of the Mincio, in the area delimited by the four fortresses of Peschiera, Mantua, Verona, and Legnago, Austrian strongholds that commanded access to Venetia. Even worse, the general staff officers were so sure of themselves that they refused to give credence to the report sent by

Commander Morand of the first Zouave battalion. Having ventured as far as Solferino, as day dawned on 23 June, Morand looked down from the imposing mediaeval tower, which rose high above the entire area, to see long columns of Austrian soldiers, easily identified in their white uniforms, who had crossed the Mincio and were moving westward. The French and the Piedmontese armies were in marching formation and did not even have liaison officers. Therefore, throughout 23 June, two huge armies, with a total of over 300,000 men, were in the same part of the territory, just a few kilometres from each other, without either of them suspecting the presence of the enemy.

The two armies clashed at daybreak on 24 June – without a plan of operations, without artillery preparation, and . . . without medical services. In such circumstances, disaster was inevitable. The commanders of both armies committed ever-greater resources to seizing the tower on the heights above Solferino. They hoped that – once captured – it would enable them to see what was going on and to regain control of the operations. The artillery fire and shelling wreaked havoc among the regiments who were mounting the attack in serial ranks.

When the fighting was over, the French army was in no state to make the most of its victory. The exhausted troops were trapped by an exceptionally fierce rain-and-hail storm. Appalled by the extent of the disaster and terrified at the thought that prolonged sieges and a third major battle – following Magenta and Solferino – would be needed to liberate Venetia, Napoleon III wanted nothing more than to put an end to the campaign, even if it meant betraying his Piedmontese ally. The very next day he sent an emissary to Emperor Francis Joseph. An armistice was signed a few days later.<sup>1</sup>

A costly victory for the Franco-Piedmontese after long hours of intense fighting, the battle of Solferino paved the way for the independence and unification of Italy but it was also the bloodiest massacre that Europe had known since Waterloo. Fifteen hours of fighting left 6,000 dead and nearly 40,000 wounded.<sup>2</sup> The medical services of the Franco-Sardinian armies, which had to deal with the consequences of the battle, were completely overwhelmed and the negligence of the supply corps was exposed. The French army had four veterinary surgeons for 1,000 horses, but only one medical doctor for every 1,000 men; the medical service's

- 1 Pierre Boissier, *History of the International Committee of the Red Cross, From Solferino to Tsushima*, Henry Dunant Institute, Geneva, 1985 (first French edition published in 1963); Richard Brooks, *Solferino 1859: The Battle for Italy's Freedom*, Osprey, Oxford, 2009; Raymond Bourgerie, *Magenta et Solferino (1859), Napoléon III et le rêve italien*, Éditions Economica, Paris, 1993; Mino Milani, *Le battaglie di Solferino e San Martino*, GAM editrice, Rudiano (Brescia), 2008; Pierre Pelissier, *Solférino, 24 juin 1859*, Perrin, Paris, 2012; Lt Col. Patrick Turnbull, *Solferino: The Birth of a Nation*, Robert Hale, London, 1985; Colonel Harold Carmichael Willy, *The Campaign of Magenta and Solferino, 1859: The Decisive Conflict for the Unification of Italy*, Leonaur (s.l.), 2009 (first edition, London/New York, 1907), in particular pp. 127–175.
- 2 Dr J.-C. Chenu, *Statistique médico-chirurgicale de la Campagne d'Italie en 1859 et 1860*, Librairie militaire de J. Dumaine, Paris, 1869, Vol. II, pp. 851–853. What made things worse was that the troops had been given new munitions, ogival-cylindrical bullets with a diameter of 11–12 millimetres, which inflicted terrible wounds, far worse than those caused by the spherical bullets previously used.

means of transport were requisitioned to convey munitions and crates of dressings were left behind in the rear, only to be sent back to France, still sealed, at the end of the campaign.<sup>3</sup> According to the report submitted by General Paris de la Bollardière, the French army's quartermaster-general, it took six days – yes, six days – to remove 10,212 wounded soldiers from the field.<sup>4</sup>

When the first shots rang out, the French army had only one field hospital in the vicinity of Solferino, the one attached to the General Headquarters that had been set up at Castiglione delle Stiviere, a few kilometres from the centre of the battle. It had three doctors and six auxiliaries – almost as good as none. Most of the medical corps – some 180 doctors – had been left behind because of insufficient transport.

Helped along by their fellow soldiers or transported on local peasants' carts, the wounded soldiers were taken to the nearby villages in the hope of obtaining a little water, food, first aid, and shelter. More than 9,000 wounded soldiers thus arrived in Castiglione,<sup>5</sup> where the wounded soon outnumbered the able-bodied. There were wounded soldiers everywhere – the more fortunate among them being sheltered in houses or schools, while others lay in courtyards and churches, on the town squares, and in the narrow streets. More than 500 wounded soldiers were packed into the town's main church, the *Chiesa Maggiore*. One can only imagine what it was like.

That same day, 24 June, a businessman from Geneva, Henry Dunant, arrived in Castiglione. He was not a doctor and had urgent business to attend to. He hoped to meet Napoleon III, who was the only one able to take the decisions that could save his debt-ridden enterprise in Algeria.<sup>6</sup>

3 Unopened crates containing 169 tonnes of dressings were sent back to France at the end of the campaign. Jean Guillermand, 'Le Service de santé militaire français au XIX<sup>e</sup> siècle', in Roger Durand (ed.), *Le creuset de la Croix-Rouge: Actes de voyages d'étude à Solferino, San Martino, Castiglione, Cavriana et Borghetto les 6–8 mai 1983 et les 25–27 mai 1995*, Henry Dunant Society and International Red Cross and Red Crescent Museum, Geneva, 1997, p. 87.

4 Paris de la Bollardière, *Opérations administratives pendant la campagne d'Italie*, quoted by Dr J.-C. Chenu, above note 2, Vol. I, p. XVI; P. Boissier, above note 1, p. 22.

5 Dr J.-C. Chenu, above note 2, Vol. I, p. 378.

6 In his writings, Henry Dunant endeavoured to conceal the real motives for his travels in Italy behind humanitarian considerations. For instance, at a conference in the United Kingdom, Dunant claimed that he had gone to Italy because he felt concerned about the fate of war wounded and that he had been guided by the example set by Florence Nightingale. However, Professor Alexis François has shown that Dunant went to Italy in the hope of meeting Emperor Napoleon III with a view to pleading the cause of the Company of the Mons-Djémila Mills, of which he was the chairman. See Alexis François, *Le berceau de la Croix-Rouge*, Librairie Jullien, Geneva, and Librairie Édouard Champion, Paris, 1918, pp. 19–23 and 70–78; similarly, P. Boissier, above note 1, pp. 7–16. The idea of meeting the Emperor in Italy, where he had assumed command of his troops, was not quite as absurd as it may first seem today. The Crimean War (1854–1856), which turned into endless siege warfare, was still fresh in people's minds. Things were expected to go much the same way in Italy, particularly as the Austrians had four impressive fortresses commanding access to Venetia. Moreover, the French army had transported a large supply of siege equipment to northern Italy. Once he had set siege to those fortresses, Napoleon would have been condemned to wait around for weeks on end. He would have had plenty of time to receive visitors. The rapidity with which the fighting came to an end was to upset Dunant's plans, as well as those of the governments and the military command.



Henry Dunant (1828–1910 AD) in 1863, at the time of the foundation of the Red Cross.  
© Photo Library ICRC (DR)/BOISSONNAS, Frédéric.

However, Dunant was not the kind of man to harden his heart to the distress that he witnessed. He spent three days and three nights tending the wounded and the dying. He bathed their wounds, changed their dressings, gave the thirsty something to drink, took note of the last words of dying soldiers, and sent his coachman to Brescia to buy cloth, material for dressings, herbal teas, fruit, cigars, pipes, and tobacco. He mobilized volunteers – mostly women and girls – in an attempt to stem the flood of suffering and urged them to follow his example and take care of those in need regardless of which side they belonged to. *Tutti fratelli*, they repeated after Dunant, who encouraged them to show the same concern for wounded Austrian soldiers as for those from France or Piedmont. He wrote to the Countess Valérie de Gasparin to ask her to launch a fundraising subscription in Geneva and to purchase relief supplies.<sup>7</sup>

Having spent three days and three nights at the bedside of the wounded, Dunant, utterly exhausted, went to Cavriana, the French army headquarters. He pleaded – unsuccessfully – the cause of the company that he headed in Algeria, but

7 The Countess de Gasparin, who had taken the initiative of launching a subscription on behalf of those wounded in the Crimean War, sent long excerpts from Dunant's letter to the *Journal de Genève*, which published them in its edition of 9 July 1859, p. 3. See Henry Dunant, *Mémoires*, edited and introduced by Bernard Gagnebin, Henry Dunant Institute, Geneva, and Éditions L'Age d'Homme, Lausanne, 1971, pp. 39–42; in his *Mémoires*, Dunant states, erroneously, that the letter was published on 8 July.

he also took the opportunity to ask for the release of the imprisoned Austrian doctors so that they could tend the wounded, a request that was granted.<sup>8</sup>

On his way back to Geneva, he stopped in Brescia and in Milan to visit the military hospitals, where he found some of the wounded of whom he had taken care in Castiglione, and witnessed virtually the same distress, suffering, and death. He finally arrived in Geneva on 11 July 1859, the day on which Napoleon III and Francis Joseph met in Villafranca and, in just two hours, laid the foundation for peace.<sup>9</sup> After a few days of rest, Dunant again focused on his business affairs in Algeria.

Altogether, Dunant had only spent about two weeks attending the wounded of the battle of Solferino but he had established – without being aware of it – two of the pillars of what was to become the Red Cross and international humanitarian law: impartiality in the provision of medical care and the principle of the neutrality of medical action.

## The power of testimony

It is, however, not because Dunant cared for the wounded in Solferino that he is remembered today.<sup>10</sup> The names of other willing helpers who demonstrated just as much commitment – at Solferino and elsewhere – have long been forgotten.

- 8 Henry Dunant, *ibid.*, pp. 36–37. Strangely enough, in *A Memory of Solferino*, Dunant devoted a few lines to that expedition to Cavriana without mentioning what he had done on behalf of the Austrian doctors. We only know about that from his *Mémoires*, which were written with an apologetic aim more than thirty years later. At the time of his journey to Cavriana, Dunant could not have known that Baron Larrey, Surgeon-General in the French army, had taken similar steps. See Dr J.-C. Chenu, above note 2, Vol. I, p. 341. He might therefore have genuinely believed that his representations had led to the release of the Austrian doctors. Even before the imperial decision had been taken, sixteen Austrian doctors, who had been part of a convoy of prisoners of war who were being evacuated to the rear and were passing through Castiglione, had been requisitioned to provide medical care for the wounded. Napoleon III ordered that they should be released first. In witnessing those events on the Solferino battlefield, Dunant had discovered the principle of neutrality of medical action that was to be the cornerstone of the original Geneva Convention.
- 9 H. Dunant, above note 7, pp. 32–47; P. Boissier, above note 1, pp. 17–33; Corinne Chaponnière, *Henry Dunant, La croix d'un homme*, Perrin, Paris, 2010, pp. 98–113; Roger Durand, *Henry Dunant, 1828–1910*, Humanitarian Geneva, Geneva, 2011, pp. 28–32; A. François, above note 6, pp. 24–39. For a long time the only information on Dunant's activity in Castiglione came from his own account of it. In the ICRC archives Micheline Tripet found four letters from Eugène Margot-Dornier, watchmaker to the French army during the campaign in Italy, that corroborate the report by Dunant. See Micheline Tripet, 'La présence de Dunant dans les archives de la Croix-Rouge', in Roger Durand (ed.), *De l'utopie à la réalité: Actes du colloque Henry Dunant tenu à Genève au Palais de l'Athénée et à la Chapelle de l'Oratoire les 3, 4 et 5 mai 1985*, Henry Dunant Society, Geneva, 1988, pp. 42–47. Furthermore, Dunant's testimony met with resounding confirmation in that, on 19 January 1860, Victor Emmanuel, King of Piedmont-Sardinia, conferred the Order of Saints Maurice and Lazare on Henry Dunant and Louis Appia 'in considerazione di particolari benevolenze' (in consideration of particular benevolence) (A. François, above note 6, p. 64).
- 10 Some of Dunant's hagiographers, not to mention some film-makers short of spectacular effects, have thought it appropriate to glorify his role in Solferino and to portray him as a superhero setting off to provide relief for the wounded, at the head of a whole host of volunteers. There is nothing to support that view in Dunant's writings. In fact, it is contradicted by what he actually wrote: 'One's sense of utter inadequacy in such extraordinary and solemn circumstances is a source of unspeakable anguish' (*A Memory of Solferino*, translated from the first French edition published in 1862, The American

If Henry Dunant is remembered today, it is first and foremost because he reported on what he had seen and done in northern Italy.

In fact, Dunant was unable to forget the wounded of Solferino. As soon as his business dealings in Algeria permitted, he went into retreat in Geneva, studied the campaign in Italy, and committed his testimony to a book that became a historical milestone, *A Memory of Solferino*.<sup>11</sup>

The first pages of the book give a vivid account of the battle, in an epic style that is typical of military writing of that period – flags wave in the wind, bugles call, drums beat, uniforms shine brightly, and intrepid battalions mount an attack under enemy fire. Then suddenly the tone changes:

When the sun came up on the twenty-fifth [of June], it disclosed the most dreadful sights imaginable. Bodies of men and horses covered the battlefield; corpses were strewn over roads, ditches, ravines, thickets and fields; the approaches to Solferino were literally thick with dead.<sup>12</sup>

The hidden face of war was exposed: the protracted anguish of the wounded, who were removed from the battlefield one at a time, of the mutilated, of those dying of thirst, of those whose wounds had had time to become infected and who had become delirious with pain and fever; the *Chiesa Maggiore* packed full with wounded and dying soldiers; the screams of the wretched men undergoing hasty amputations without anaesthetic or hygiene; the smell of decay; the clouds of flies, thirst, hunger, neglect, despair, and death.

Dunant used his description to denounce the terrible injustice to which the soldiers were subjected. During the battle, their country expected them to accept every kind of trial and sacrifice. Once they had been wounded, they were deserted. “Oh, Sir, I’m in such pain!” several of these poor fellows said to me, “they desert us, leave us to die miserably, and yet we fought so hard!”<sup>13</sup>

However, Dunant was not satisfied by merely testifying to the horrors of war. He concluded with two questions, which were, at the same time, two appeals:

But why have I told of all these scenes of pain and distress, and perhaps aroused painful emotions in my readers? Why have I lingered with seeming complacency over lamentable pictures, tracing their details with what may appear desperate fidelity?

National Red Cross, Washington D.C., 1939 (original French: *Un souvenir de Solferino*, Imprimerie Jules-Guillaume Fick, Geneva, 1862), p. 55 (revised translation). That is a far cry from triumphalism!

11 *Ibid.* To mark the 150th anniversary of the publication of Dunant’s book, the Henry Dunant Society and the International Committee of the Red Cross published a facsimile reproduction of the original French edition of 1862, followed by the first complete edition in English (1939), together with a historical note by Roger Durand and Philippe Monnier, Henry Dunant Society and International Committee of the Red Cross, Geneva, October 2012. With regard to the genesis of the book, reference should be made to the aforementioned note by Roger Durand and Philippe Monnier: ‘Reworked twenty times . . . Note on the genesis of *A Memory of Solferino* and its subsequent editions in French’, pp. XXIII–XLVI. For a literary analysis of *A Memory of Solferino*, see Francois Bugnion, ‘Henry Dunant et l’amour de la géométrie’, in *Bulletin de la Société Henry Dunant*, No. 20, 2000–2002, pp. 1–18.

12 Henry Dunant, above note 10, p. 35.

13 *Ibid.*, p. 47.

It is a natural question. Perhaps I might answer it by another: Would it not be possible, in time of peace and quiet, to form relief societies for the purpose of having care given to the wounded in wartime by zealous, devoted and thoroughly qualified volunteers?<sup>14</sup>

The International Red Cross and Red Crescent Movement was born of this first question, this first appeal. But there was more. For those ‘zealous volunteers’ to be able to carry out a mercy mission on the battlefield, they would have to be recognized and respected. Hence the second appeal:

On certain special occasions, as, for example, when princes of the military art belonging to different nationalities meet at Cologne or Châlons, would it not be desirable that they should take advantage of this sort of congress to formulate some international principle, sanctioned by a Convention inviolate in character, which, once agreed upon and ratified, might constitute the basis for societies for the relief of the wounded in the different European countries?<sup>15</sup>

That second question marks the starting point of contemporary international humanitarian law.

The book came off the press in early November 1862, and 1,600 copies were printed, 400 of which were marked ‘Not for sale’. It was an ‘open letter to world leaders’, a manifesto that Dunant sent to his friends and relatives, as well as to sovereigns, government ministers, army generals, writers, and well-known philanthropists.<sup>16</sup>

Helped by the author’s unparalleled gifts as a communicator and a style which earned the recognition of eminent writers of his time, the book immediately resonated with Dunant’s contemporaries. In the following months two further editions were printed. The book was translated into Dutch, Italian, and German (three times), and Charles Dickens published substantial excerpts in his journal *All the Year Round*.<sup>17</sup> Like *Uncle Tom’s Cabin*, which had been published ten years earlier,<sup>18</sup> and like *Les Misérables*, which was published the same year, 1862, *A Memory of Solferino* has stirred people’s emotions and changed something in the course of history. Congratulatory letters and messages of support flooded in from all quarters, particularly from sovereigns, government ministers, and other influential people.<sup>19</sup>

14 *Ibid.*, p. 85.

15 *Ibid.*, p. 93.

16 H. Dunant, above note 7, pp. 49–63.

17 Daisy C. Mercanton, *Henry Dunant, Essai bio-bibliographique*, Henry Dunant Institute, Geneva, and Éditions L’Age d’Homme, Lausanne, 1971, pp. 23–38.

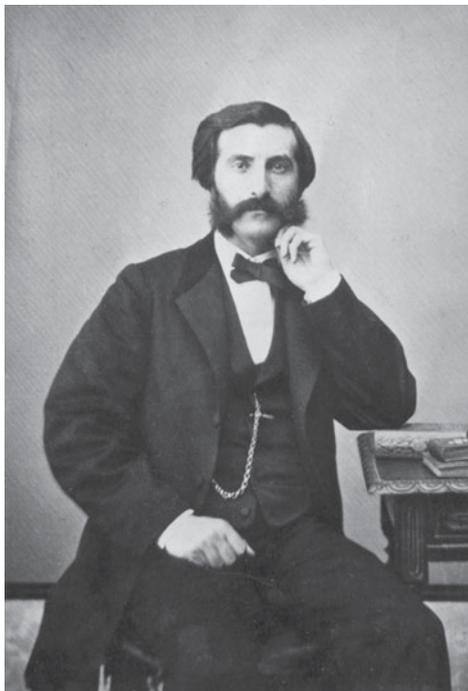
18 A sworn opponent of slavery, Dunant had met Harriet Beecher-Stowe when she was touring Europe. His *Mémoires* refer to the deep impression made by the author of *Uncle Tom’s Cabin* on his thinking, as her writing had helped to bring about the abolition of a detestable practice (H. Dunant, above note 7, pp. 29–31). Dunant doubtless had that example in mind when he wrote *A Memory of Solferino*.

19 P. Boissier, above note 1, pp. 40–43; Bernard Gagnebin, ‘Comment l’Europe accueillit le *Souvenir de Solferino*’, in *Revue internationale de la Croix-Rouge*, No. 378, June 1950, pp. 419–429; Anne-Marie Pfister, ‘A hundred years since the publication of “A Memory of Solferino”’, in *International Review of the Red Cross* (hereinafter *IRRC*), Vol. 2, No. 20, November 1962, pp. 575–580.

Nonetheless, presenting an ingenious new idea and stirring up emotions by means of a cleverly orchestrated promotion campaign would be doomed if the idea was not converted into action. One of Dunant's fellow citizens, Gustave Moynier, two years his senior, proposed the strategies that would transform the dream into reality and the idea into action.

## Gustave Moynier

The many public figures to whom Dunant sent a copy of his book included, naturally enough, Gustave Moynier, who was the chairman of a local charity in his native city, the Geneva Public Welfare Society.<sup>20</sup> The two men knew each other. As teenagers, they had met at a ball in Céligny, in the countryside near Geneva. Both of them were members of the Geneva Geographical Society.<sup>21</sup>



Gustave Moynier (1826–1910), one of the founders of the Red Cross, member of the Geneva Committee. © Photo Library ICRC (DR)/BOISSONNAS, Frédéric.

20 Bernard Lescaze, *Pauvres et bourgeois à Genève, La Société genevoise d'utilité publique en son temps, 1828–1978, Contribution à l'histoire économique et sociale de Genève*, Société genevoise d'utilité publique, Geneva, 1978; Jean de Senarclens, *La Société genevoise d'utilité publique, Creuset des réformes sociales à Genève aux XIXe et XXe siècles*, Éditions Slatkine, Geneva, 2003.

21 C. Chaponnière, above note 9, pp. 26–27 and 83–84.

A lawyer by training, with a mind that was as positivist and pragmatic as Dunant's was idealistic and visionary, Gustave Moynier was not a man to be carried away by his emotions.<sup>22</sup> However, remembering, forty years later, his first reading of *A Memory of Solferino*, he admitted that his heart 'had been profoundly stirred as he read those moving pages'.<sup>23</sup>

Hardly had he closed the book than he contacted the author, to discover that, while Dunant had presented two ideas that were to have a remarkable impact on the course of history and was actively promoting his book in a public relations campaign that was far ahead of its time, he did not seem to have a strategy in mind for the implementation of those ideas. Moynier recounted that first meeting:

I thought that he must have reflected on how to realize his dream and that he could perhaps give me some helpful suggestions with regard to establishing that institution that, until then, he was the only one to have thought of. In the latter regard, I have to admit that I was mistaken, as I caught him off guard, before, he assured me, he had conceived the slightest plan for the implementation of his invention.<sup>24</sup>

Whereas Dunant did not have a strategy, Moynier was able to make use of his position as the chairman of the Geneva Public Welfare Society and his experience of the international welfare congresses that he had attended in Brussels (1856), Frankfurt (1857), and London (1862).<sup>25</sup> He therefore proposed to refer Dunant's proposals to the Society.

## The founding of the International Committee of the Red Cross

On 15 December 1862, Moynier presented Dunant's proposals to the Society's General Commission, which was, in effect, its executive body. The proposals received a cool reception. While everyone acknowledged the generosity of Dunant's intentions, they were keen to point out, in particular, the obstacles to their implementation. 'It was decided that it was not our Society that could deal with that' was the conclusion recorded in the minutes of the meeting.<sup>26</sup> It is easy to understand

22 Jean de Senarclens, *The Founding of the Red Cross: Gustave Moynier, its Master Builder*, Éditions Slatkine, Geneva, 2005; François Bugnion, *Gustave Moynier, 1826–1910*, Humanitarian Geneva, Geneva, 2011.

23 Gustave Moynier, *Mes heures de travail*, Société générale d'imprimerie, Geneva, 1907, p. 35.

24 G. Moynier, *ibid.*, pp. 55–56. Unfortunately, Dunant left no account of that first meeting, which was to play a decisive rôle in the future of his proposals. However, a careful reading of the short reference he makes in his *Mémoires* to that first contact would seem to indicate that it was Moynier who took the initiative (H. Dunant, above note 7, p. 65). That is also the reading of Red Cross historians and of Dunant's principle biographers (P. Boissier, above note 1, pp. 45–48; C. Chaponnière, above note 9, pp. 125–127; R. Durand, above note 9, pp. 35–36).

25 Jean de Senarclens, above note 22, pp. 75–83.

26 Archives of the Geneva Public Welfare Society (Geneva, Palais de l'Athénée), minutes of the Society's General Commission, meeting of 15 December 1862, manuscript, quoted by Jean de Senarclens, above note 22, p. 99.

why the Commission members retreated in the face of the challenge presented to them. As Moynier wrote many years later:

How could it be presumed that an association modestly devoted to the consideration of local interests, placed in a small country, and having at its disposal no means of action beyond its own limited sphere, should dream of launching into an adventure of such gigantic magnitude as the subject on which it had been consulted?<sup>27</sup>

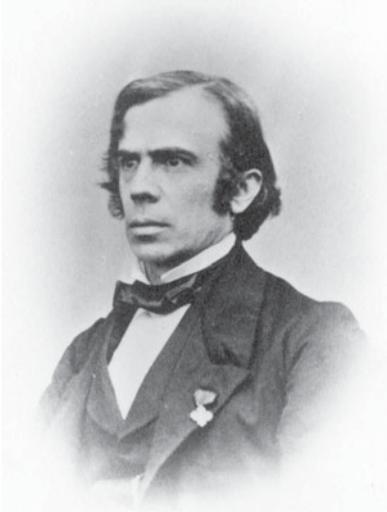
Moynier, however, was not the kind of man to admit defeat. He renewed his efforts at the next meeting of the General Commission on 28 January 1863. Having learned from his defeat on 15 December 1862, he set his sights on a clearly defined target: as an international welfare congress was to be held in Berlin in September 1863, Moynier suggested that the Society submit Dunant's proposals to the congress and that it appoint a small drafting committee for that purpose. As that suggestion did not – at least in appearance – commit the Society to a great deal, it was accepted.

Bolstered by this support, Moynier convened a general assembly of the Society on 9 February 1863. Taking up his proposal, the general assembly appointed five members to the drafting committee: Dunant, Moynier, Dr Louis Appia, Dr Théodore Maunoir, and General Dufour, who conferred his authority and tremendous prestige on the project.<sup>28</sup> What was drafted on that occasion was the birth certificate of the International Committee of the Red Cross.<sup>29</sup>

27 Gustave Moynier, *The Red Cross, its Past and its Future*, translated by John Furley, Cassel, Peter Galpin & Co, London, 1883, p. 14.

28 Archives of the Geneva Public Welfare Society (Geneva, Palais de l'Athénée), minutes of the meeting of 9 February 1863, manuscript. Those minutes were reproduced, with several stylistic corrections, in *Bulletin international des Sociétés de la Croix-Rouge*, No. 126, April 1901, pp. 79–80, and in *IRRC*, No. 24, March 1963, pp. 115–117; Roger Durand, 'Le "non-événement" du 9 février 1863', in *Bulletin de la Société Henry Dunant*, No. 10, 1985–1988, pp. 33–47. The minutes of the meeting of 9 February 1863 of the Geneva Public Welfare Society refer to the creation of a committee of three members. The number 'three' was subsequently crossed through and replaced by 'five'. Appointed commander-in-chief of the federal army when Switzerland plunged into civil war, General Dufour was able to bring the war to a victorious conclusion and to restore the unity of the Confederation in under three weeks, thus preventing any intervention by the Major Powers, which would have turned Switzerland into Europe's battlefield. Moreover, he had conducted operations in such a way as to prepare for the reconciliation of the Confederates. The instructions that he gave to the divisional commanders and to the troops, and which he wrote himself on the eve of his taking office, testify to his humanity and prefigure the Geneva Convention. See Guillaume-Henri Dufour, 'Recommandations sur la conduite à tenir envers les habitants et les troupes', 4 November 1847 (excerpts), and 'Proclamation à l'Armée', 5 November 1847 (excerpts), quoted in Olivier Reverdin, *La guerre du Sonderbund vue par le Général Dufour, Juin 1847–avril 1848*, Éditions du Journal de Genève, Geneva, 1948, pp. 42–44. Furthermore, as a colonel in command of the military school at Thun, Dufour had among his officer cadets the young Louis-Napoleon Bonaparte, who was to become Napoleon III. The two men professed their mutual esteem and remained in contact until the former emperor's death in 1873. Dufour's influence probably accounts for the support given by Napoleon III to the plans of the Geneva Committee, despite the opposition of the imperial administration and the army.

29 In the beginning, there was a degree of uncertainty about the name to be given to the International Committee. At its meeting of 20 December 1875, the Geneva Committee adopted the name International Committee of the Red Cross, which appeared on the 31<sup>st</sup> circular to the Central Committees, dated 10 February 1876, and on all subsequent documents.



Dr Louis Appia (1818–1898), one of the co-founders of the Red Cross, member of the Geneva Committee. © Photo Library ICRC (DR)/BOISSONNAS, Frédéric.



Mr Théodore Maunoir (1806–1869), one of the co-founders of the Red Cross, member of the Geneva Committee. © Photo Library ICRC (DR)/BOISSONNAS, Frédéric.



General Guillaume-Henri Dufour (1787–1875), one of the co-founders of the Red Cross, member of the Geneva Committee, signatory of the Geneva Convention of 22 August 1864, ICRC President (1863–1864) © Photo Library ICRC (DR)/BOISSONNAS, Frédéric.

## From the founding of the ICRC to that of the Red Cross

The drafting committee held its first meeting on 17 February 1863. Its five members immediately decided to set it up as the Permanent International Committee for the Relief of Wounded Soldiers. That decision was surprising as it obviously exceeded the limits of the mandate that the Geneva Public Welfare Society conferred on the Committee. However, it can be explained by the objectives that its five members had set themselves and that emerged with an astounding clarity at their first meeting.<sup>30</sup> To understand these objectives, it is appropriate to recall the situation of the military medical services in the second half of the nineteenth century.

30 Although that is not suggested in the minutes of the meeting of 17 February 1863 or in contemporary accounts, there is every reason to think that Dunant, who seemed to be the kingpin of the Committee until he became implicated in the collapse of the *Crédit genevois* in 1867, met each of his four colleagues individually to prepare for that meeting. Without preparations of that kind, it is difficult to imagine that agreement on such an ambitious programme could have been reached at just one meeting, particularly as the most influential of the participants – General Dufour – doubted whether it would be possible to establish permanent relief societies in peacetime, as is apparent from his letter to Dunant dated 19 October 1862 and his remarks during the debates of the Geneva Public Welfare Society.

Despite medical progress at that time, those services were in a state of utter decay. The French Revolution was largely to blame. Conscription had relegated the medical services to the bottom of the quartermaster-generals' list of concerns, whereas the increased size of armies led to greater numbers of soldiers being killed and wounded. Under the *Ancien Régime*, armies were expensive to maintain because the men were mercenaries who had to be recruited, kitted out, trained, and paid. A first-class medical corps was seen as the best way to maintain the royal armies' limited strength. With conscription, the quartermaster-generals ceased to rely on surgery, and instead counted on new levies to make up for the losses. Moreover, from 1815 to 1854, Europe enjoyed a long period of peace and stability. The size of the medical corps was reduced to peacetime needs. However, there is no similarity between the needs of an army in barracks and those of an army in the field.<sup>31</sup> The results were plain to see: wound for wound, the chances of survival for soldiers serving under Napoleon III were far less than for their counterparts in the army of Napoleon I and probably worse under Napoleon I than under Louis XV.<sup>32</sup>

But that was not all. Before going into battle, it was customary practice among *Ancien Régime* generals to agree on the location of their medical posts, which had to be respected. That wise precaution meant that medical posts could be set up in the immediate vicinity of the battlefield. That custom – the existence of which was unknown to the five members of the Committee – was abandoned at the time of the Revolution.<sup>33</sup> Without a distinctive emblem recognized by all countries, the stretcher-bearers could not collect the wounded until the fighting was over as they otherwise risked finding themselves caught in the enemy's firing line.<sup>34</sup> To protect them from enemy fire, first-aid posts and field hospitals were established well away from the battlefield. This meant, however, that the wounded had to endure lengthy transport times, during which fractures were displaced and wounds festered.<sup>35</sup> During a retreat, doctors and nurses had no choice but to abandon the

31 P. Boissier, above note 1, pp. 131–134; Médecin Général Albert Fabre (ed.), *Histoire de la médecine aux armées*, Vol. II, *De la Révolution française au conflit mondial de 1914*, Éditions Charles Lavauzelle, Paris and Limoges, 1984, pp. 183–209; Roger Mayer, 'Le Service de Santé des armées françaises dans la première moitié du XIXe siècle', in Roger Durand (ed.), *Aux Sources de l'Idée Croix-Rouge*, Henry Dunant Society and International Red Cross Museum, Geneva, 1984, pp. 76–86.

32 P. Boissier, above note 1, pp. 128–129; Ferdinando Palasciano, *La neutralità dei feriti in tempo di guerra*, speech given at the Accademia Pontania in Naples on 28 April 1861, no editor indicated.

33 At the Conference in October 1863, Dr Löffler, chief medical officer of Prussia's Fourth Army Corps and a delegate of Prussia at this conference, pointed out this practice, but without giving any further details. Following that meeting, Dr Brière unearthed four treaties concluded under the *Ancien Régime* for the protection of field hospitals and medical posts (*Secours aux blessés, Communication du Comité international faisant suite au compte rendu de la Conférence internationale de Genève*, Imprimerie Fick, Geneva, 1864, pp. 30–33). A few years later, Dr Gurlt listed 291 treaties of that kind, the most recent of which dated from 1800 (Dr E. Gurlt, *Zur Geschichte der internationalen und freiwilligen Krankenpflege im Kriege*, Verlag F. C. W. Vogel, Leipzig, 1873). The Conference of October 1863 was obviously the starting point for historical research that rescued those precedents from the oblivion into which they had fallen.

34 Inspector-General Lucien Baudens had noted that situation during the Crimean War and had described it in an article published in *Revue des Deux Mondes*: 'Une mission médicale à l'Armée d'Orient', in *Revue des Deux Mondes*, 27th year, 15 February 1857, pp. 881–882.

35 The Neapolitan doctor Ferdinando Palasciano had correctly analysed the situation in two communications, one of which had been presented at the Accademia Pontania and the other at a medical congress

wounded if they were to avoid being taken captive and sharing the fate of the vast numbers of prisoners of war. During the Italian campaign the Austrian doctors who fell into the hands of the coalition forces were locked away in the Milan fortress.<sup>36</sup> They would have been more useful if they had been able to assist their French colleagues. That was the disastrous situation that Dunant had witnessed in Solferino and described in his book. That was the starting point.

To respond to this state of affairs, Dunant's idea was to establish volunteer relief societies that would rely on private support. So that they would be ready to act when needed, the societies would be set up on a permanent basis during peacetime. They would not wait for hostilities to start before establishing relations with the military authorities because the authorities would then be too busy fighting the war to discuss other matters. Governments had therefore to be associated with efforts to help the wounded from the outset. The main tasks of the societies would be to recruit and to instruct volunteer nurses, who would be available in times of conflict to provide support for their country's army medical corps and, if the situation arose, for the medical personnel of a belligerent country if the nurses' country of origin remained uninvolved in the conflict. If war broke out, the societies would send their volunteer nursing staff to follow the armies. This staff would place themselves at the disposal of the military commanders whenever they were needed. They would care for the wounded of all sides without distinction.<sup>37</sup> To be able to work safely and effectively, the volunteers had to be recognizable. They therefore had to be given a distinctive sign:

a badge, uniform or armlet might usefully be adopted, so that the bearers of such distinctive and universally adopted insignia would be given due recognition.<sup>38</sup>

But that was not enough. What point was there in sending volunteer nurses after the armies if medical personnel were exposed to enemy fire and if supplies could be

in Lyon; in those publications he advocated recognizing the principle of the neutrality of wounded soldiers (F. Palasciano, above note 32; Ferdinando Palasciano, *De la neutralisation des blessés en temps de guerre et de ses conséquences thérapeutiques*, paper presented at the meeting held on 1 October 1864 at the Medical Congress in Lyon, Imprimerie d'Aimé Vingtrinier, Lyon, 1864). Nonetheless, Palasciano did not understand – even after the Geneva Convention (the authorship of which he unjustifiably claimed) had been adopted – that recognizing the neutrality of the wounded would be ineffective unless the neutrality of the military medical corps was also recognized.

36 P. Boissier, above note 1, p. 29.

37 Minutes of the meeting of 17 February 1863, English translation published in *IRRC*, No. 23, February 1963, pp. 63–65; *Procès-verbaux des séances du Comité international de la Croix-Rouge, 17 février 1863 – 28 août 1914*, edited by Jean-François Pitteloud with the collaboration of Caroline Barnes and Françoise Dubosson, ICRC and Henry Dunant Society, Geneva, 1999, pp. 16–19. The notebook containing the minutes of the first seven meetings of the ICRC was found among Henry Dunant's papers after his death and was given to the ICRC by his nephew, Maurice Dunant, who was also the executor of his will. Those minutes were published by Jean Pictet under the title 'The foundation of the Red Cross: Some important documents', in *IRRC*, No. 23, February 1963, pp. 60–75, and by Jean-François Pitteloud in the aforementioned volume of the minutes of the ICRC, pp. 15–29. The minutes of the first six meetings are in Dunant's handwriting; the minutes of the seventh meeting were written by Moynier. The minutes of the meeting of 17 February 1863 are appended to the present article.

38 *IRRC*, No. 23, February 1963, p. 64; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, p. 18.

seized and diverted? Medical personnel and the volunteer nurses had to be shielded from the fighting.

The five founding members seemed to agree on everything: on the fact that the small drafting committee set up by the Geneva Public Welfare Society was to be established as the Permanent International Committee for the Relief of Wounded Soldiers, without – of course – consulting those who had given it its brief; on the appointment of General Dufour as its president, of Moynier as the vice-president, and of Dunant as the new organization's secretary; on the organizational structure of the future relief societies; on their dealings with the military authorities; on a uniform distinctive emblem – the same in every country – to designate the volunteer nurses, etc. However, a careful reading of the minutes of the meeting shows that there was at least one point on which agreement had not been reached. The last paragraph of the minutes states:

Finally, Mr Dunant particularly underlined the hope he expressed in his book *A Memory of Solferino*: that the civilized Powers would subscribe to an inviolable, international principle that would be guaranteed and consecrated in a kind of concordat between Governments, thus serving as a safeguard for all official or unofficial persons devoting themselves to the relief of victims of war.<sup>39</sup>

What was at stake was the principle of legal protection for the members of the medical corps and the volunteer nurses on the battlefield. Although the minutes of the meeting do not say so, the impression is that, on that point, Dunant was on his own. Had he obtained the support of his colleagues on that crucial matter, it was unlikely that Dunant, who was keeping the minutes, would have failed to note it. Here was the first source of friction, the first blemish – barely perceptible at the time but with consequences that would not fail to become apparent later on.

As Dunant went back to Paris to attend to his Algerian business affairs, nothing of significance happened for the next five months. The Committee held its third meeting on 25 August 1863. It started with a thunderbolt: Moynier announced that the international welfare congress that was to be held in Berlin in September would not take place. However, he immediately suggested, with Dunant's backing, that the Committee convene its own congress in Geneva.<sup>40</sup>

The Committee agreed and instructed Moynier and Dunant to write letters of invitation and to finalize the 'draft concordat' which had been prepared by Dunant and which laid the foundations of the future relief societies. On 1 September, the letters of invitation, accompanied by the draft concordat finalized

39 *IRRC*, No. 23, February 1963, p. 65 (revised translation); *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, p. 19.

40 Minutes of the meeting of 25 August 1863, English translation published in *IRRC*, No. 23, February 1963, pp. 69–70; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 23–24. At the International Welfare Congress in London (1862), Moynier announced that the Geneva Public Welfare Society would be willing to host the next congress in Geneva. See J. de Senarclens, above note 22, p. 82.

by Moynier and Dunant, were dispatched.<sup>41</sup> It was expected that the draft concordat would form the basis for the deliberations of the planned international conference.<sup>42</sup>

Was agreement easily reached on the content of the draft concordat? Probably, but at what price? The idea – dear to Dunant – of ensuring the neutrality of the volunteer nurses and of the military medical personnel was not included in the circular of 1 September or in the draft concordat.

As there were eight weeks before the start of the congress, Dunant took advantage of the time to travel to Berlin, at the invitation of his friend Dr Johan-Christian Basting, the chief medical officer in the Dutch army. An impenitent Calvinist and Pietist like Dunant himself, Basting had translated *A Memory of Solferino* into Dutch. Berlin was hosting a meeting of the International Statistical Congress – with the participation of the leading military physicians of the time.<sup>43</sup>

Thanks to Dr Basting's support, Dunant was able to attend the International Statistical Congress. The two men wrote a speech that Basting gave to the fourth section of the congress, which was attended by military doctors.<sup>44</sup> Was Dunant given the support of those military doctors as he claimed? That is not certain.<sup>45</sup>

In any event, Dunant took advantage of the occasion to have a new circular printed in Berlin on behalf of the Geneva Committee – but without having consulted his colleagues. In it he broadened the scope of the October conference and suggested that the matter of granting neutral status to the army medical corps be also discussed: 'The Geneva Committee proposes... The Geneva Committee requests ...'. The approach was admittedly somewhat cavalier. The circular was dispatched from Berlin on 15 September.<sup>46</sup>

41 The circular of 1 September 1863 and the draft concordat were reproduced in *Compte rendu de la Conférence internationale réunie à Genève les 26, 27, 28 et 29 octobre 1863 pour étudier les moyens de pourvoir à l'insuffisance du service sanitaire dans les armées en campagne* (excerpt from *Bulletin* No. 24 of the Geneva Public Welfare Society), Imprimerie Jules-Guillaume Fick, Geneva, 1863 (hereinafter: *Compte rendu ...*; 1863), pp. 1–2 and 14–16, and in *Actes du Comité international de Secours aux Militaires blessés*, Imprimerie Soullier et Wirth, Geneva, 1871 (hereinafter: *Actes du Comité international, 1871*), pp. 1–4.

42 Minutes of the meeting of 25 August 1863, English translation published in *IRRC*, No. 23, February 1963, pp. 69–70; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 23–24.

43 One might wonder what interest mid-nineteenth-century military doctors had in statistics. However, at that time, doctors had none of the diagnostic instruments on which their successors rely today. Moreover, this was before the discoveries of Pasteur, meaning that the causes and spread of infection were not understood. Statistics were therefore practically the only basis upon which doctors could determine which treatment offered the best prospects of a cure. The fourth section of the congress therefore addressed the topic of comparative statistics of health and mortality among civilians and the military forces. The Federal Council had invited Gustave Moynier, who was probably the main promoter of the Swiss Statistical Society before becoming its first chairman, to represent the Swiss Confederation at that congress; however, Moynier declined because his wife was about to give birth to their third child.

44 Letters of 13, 15 and 17 September 1863 from Henry Dunant to Gustave Moynier, ICRC Archives, A AF 20/1-3, file 'Comité international 1863–1880'; H. Dunant, above note 7, pp. 75–78.

45 C. Chaponnière, above note 9, pp. 144–146.

46 *Actes du Comité international, 1871*, above note 41, pp. 5–6. According to what he wrote to Moynier on 15 September 1863, Dunant had 500 copies of that circular printed and a large number of them were distributed immediately (ICRC Archives, A AF 20/1-3, above note 44).

On the return journey, Dunant stopped in Dresden, Vienna, Munich, Stuttgart, Darmstadt, and Karlsruhe. In each city he was given a princely welcome. His book opened every door. He took advantage of the situation to plead the cause of the wounded and that of granting neutrality to the medical services, and to make sure that the various German states were going to accept the Committee's invitation.<sup>47</sup>

He arrived back in Geneva on 19 October, probably feeling very pleased with the results of his trip. His colleagues gathered to hear what he had to say. No doubt, they would congratulate him. That is where he was mistaken. The Committee members had first learned of the Berlin circular on opening their correspondence and the news had obviously stuck in their throats.<sup>48</sup> The minutes of the meeting held on 20 October note:

After the Statistical Congress, Mr Dunant had thought it wise to print, at his own expense, a new circular dated September 15, in which neutral status was requested for the wounded, ambulances, hospitals, medical corps and officially recognized voluntary relief services.<sup>49</sup>

Had one of his colleagues voiced a word of approval, Dunant, who wrote the minutes, would not have failed to record it. 'We thought you were asking the impossible', Moynier told him drily.<sup>50</sup> As it was too late to withdraw that unfortunate circular, the Committee decided to ignore it. In any case, the delegates were already on their way to Geneva.

The Geneva International Conference to Study Ways of Overcoming the Inadequacy of Army Medical Services in the Field was opened by General Dufour on 26 October 1863 at the Palais de l'Athénée. It was attended by thirty-six people, eighteen of whom had been sent as delegates *ad audiendum et ad referendum* by fourteen governments; six delegates represented various charitable organizations; seven people were there in a private capacity; and of course the five members of the Geneva Committee were also present.<sup>51</sup>

The hybrid nature of the group should not be considered odd. In fact, it was inherent in the nature of the Geneva Committee's undertaking, since the objective was not to create a new branch of the bureaucracy in each country but to establish relief societies that would mobilize private resources. Nonetheless, the societies

47 Letters of 4, 12 and 18 October 1863 from Henry Dunant to Gustave Moynier, ICRC Archives, A AF 20/1-3, above note 44; H. Dunant, above note 7, pp. 83–89; C. Chaponnière, above note 9, pp. 153–157. As Dunant's travels in Germany predate the creation of the German Empire, Saxony, Bavaria, the Grand Duchy of Baden, Württemberg, Hesse, etc., were still sovereign states.

48 The ICRC Archives have preserved a note from Dr Maunoir to Gustave Moynier, dated 28 September 1863, which reveals a great deal about his indignation.

49 Minutes of the meeting of 20 October 1863, English translation (revised) published in *IRRC*, No. 23, February 1963, p. 71; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 24–25.

50 H. Dunant, above note 7, p. 91.

51 *Compte rendu ... 1863*, above note 41, pp. 16–20; *Actes du Comité international, 1871*, above note 41, p. 18.

could not send volunteer nursing staff to the front without the protection of their respective governments. As the support of those governments had to be requested in advance in peacetime, they had to be associated with the undertaking from the start. That explains the mixture of public and private participation at the 1863 Conference. Indeed, all International Red Cross and Red Crescent Conferences since 1863 have been attended by delegations from the National Red Cross and Red Crescent Societies, as well as by representatives of the states party to the Geneva Conventions.<sup>52</sup>

After making a welcome speech, General Dufour handed the chair to Moynier, who elaborated on the draft prepared by the Geneva Committee. Dunant was appointed secretary of the meeting. The Conference adopted the draft concordat prepared by the Geneva Committee as the basis for its discussion. The general debate centred on the organization of the national committees and, in particular, on the feasibility of sending volunteer nurses to follow the armies. Very divergent opinions emerged during the debate: some participants, especially Dr Basting, the delegate from the Netherlands, and Dr Löffler, the Prussian delegate, were enthusiastic.<sup>53</sup> Dr Rutherford, the United Kingdom delegate, had reservations. In his view, it was the responsibility of the states, and of them alone, to take care of those wounded in war; what was needed was a reform of the military medical corps, rather than the creation of relief societies which would let governments off lightly.<sup>54</sup> At the time, England was the only nation to have a medical corps worthy of that name. The lessons of the Crimean War (1854–1856) and the example set by Florence Nightingale had borne fruit. As for the French delegates – the deputy quartermaster-general de Préval and Dr Boudier – they were resolutely hostile: there should be no civilians on the battlefield. As they saw it, the volunteer nurses would not be able to withstand the rigours of military campaigns and they would never be at the right place when they were needed. Mules were all that was required. They would be far more useful than volunteer nurses to collect the wounded when the fighting was over. ‘Mules, mules, that is the Gordian knot in this matter!’ Dr Boudier exclaimed in a flight of eloquence deserving of a better aim.<sup>55</sup> After those observations, the Geneva Committee’s undertaking looked as if it were doomed. Two doctors were to save the situation: Dr Maunoir, who skilfully demolished the objections raised by the French delegates by recalling the stark denial which

52 Statutes of the International Red Cross and Red Crescent Movement, adopted by the Twenty-Fifth International Conference of the Red Cross, meeting in Geneva in October 1986, Article 9, in *IRRC*, No. 256, January–February 1987, p. 37; *Handbook of the International Red Cross and Red Crescent Movement*, 14th edition, International Committee of the Red Cross and International Federation of Red Cross and Red Crescent Societies, Geneva, 2008, p. 527; Richard Perruchoud, *Les résolutions des Conférences internationales de la Croix-Rouge*, Henry Dunant Institute, Geneva, 1979, in particular pp. 45–49; François Bugnion, ‘The International Conference of the Red Cross and Red Crescent: challenges, key issues and achievements’, in *IRRC*, No. 876, December 2009, pp. 675–712, in particular pp. 676–688.

53 *Compte rendu ... 1863*, above note 41, pp. 33–38.

54 *Ibid.*, pp. 57–58.

55 *Ibid.*, pp. 50–55 and 60–70, in particular p. 70. The supreme advantage was that mules were not likely to come up with the ludicrous idea of reporting on the unfathomable incompetence of the Quartermaster-General’s Office, which was in charge of the medical service.

the quartermaster-general's claims received at Solferino, and Dr Basting, who contrasted Dunant's experience with the French delegates' gloomy predictions:

Mr Dunant also has some experience of the things we are discussing, as he himself tried to provide relief for the wounded members of the French army after the Battle of Solferino . . . He is not presenting us with a desk-based theory but with facts.<sup>56</sup>

The Conference then proceeded to scrutinize, one article at a time, the draft concordat prepared by the Geneva Committee and adopted it with some slight editorial adjustments that had no impact on its content. The Conference was thus drawing to a close without any discussion of the Berlin proposals. However, that was to reckon without the vigilant Dr Basting, who laid bare a serious misunderstanding. When Basting asked Moynier when he planned to open the discussion on the Berlin proposals, Moynier replied that the Geneva Committee had not envisaged debating those points. To which Basting replied that 'he feared that the honourable Geneva Committee had not really understood why the delegates had taken up its invitation'. He recalled the support of the Berlin congress and stressed that granting neutrality to the medical services was the very matter in which the governments were most interested.<sup>57</sup>

As the secretary to the conference, Dunant could not take part in the debates. Did he use Dr Basting to launch a discussion of an idea that was very dear to his heart but which his colleagues on the Geneva Committee would have preferred not to raise because they thought it a pipe dream? We will probably never know. But is it possible that his colleagues thought nothing of the kind?

Whatever the case may be, the misunderstanding was clear. The Geneva Committee wanted to avoid discussing the Berlin proposals because it feared that they would be unacceptable to the government delegates, whereas it was those very proposals that most interested those delegates – especially, the military doctors. Indeed, those doctors knew better than the members of the Geneva Committee how many doctors, nurses and stretcher-bearers were killed during battle, which did not benefit anyone as they were not combatants.

To be fair to Moynier, as soon as his mistake became clear, he became, like Dunant, a fervent advocate of the principle of granting neutrality to the medical services.<sup>58</sup> He chaired the Conference with great skill. After four days of deliberations, the Conference adopted ten resolutions that laid the foundations of the future Red Cross and Red Crescent Societies.

<sup>56</sup> *Ibid.*, p. 70.

<sup>57</sup> *Ibid.*, pp. 112–114.

<sup>58</sup> Moynier was later to stress the interdependence between the relief societies and neutral status for the medical services. He wrote of the 1863 Conference: '... it regarded the abolition of old customs, and the granting of juridical protection to all sanitary services, as an indispensable condition of success for relief societies. It had reason to fear that if all the personnel as well as material provided by private benevolence were incessantly liable to be appropriated by an enemy and diverted from its proper destination, the most enthusiastic philanthropy would become weary of bringing tribute to this new Danaïdes' vessel', in Gustave Moynier, *The Red Cross, its Past and its Future*, above note 27 (revised translation), p. 26.

## **Resolutions of the Geneva International Conference of 1863**

*Article 1. Each country shall have a Committee whose duty it shall be, in time of war and if the need arises, to assist the Army Medical Services by every means in its power. . . .*

*Article 2. An unlimited number of Sections may be formed to assist the Committee, which shall be the central directing body.*

*Article 3. Each Committee shall get in touch with the Government of its country, so that its services may be accepted should the occasion arise.*

*Article 4. In peacetime, the Committees and Sections shall take steps to ensure their real usefulness in time of war, especially by preparing material relief of all sorts and by seeking to train and instruct voluntary medical personnel.*

*Article 5. In time of war, the Committees of belligerent nations shall supply relief to their respective armies as far as their means permit; in particular, they shall organize voluntary personnel and place them on an active footing and, in agreement with the military authorities, shall have premises made for the care of the wounded.*

*They may call for assistance upon the Committees of neutral countries.*

*Article 6. On the request or with the consent of the military authorities, Committees may send voluntary medical personnel to the battlefield where they shall be placed under military command.*

*Article 7. Voluntary medical personnel attached to armies shall be supplied by the respective Committees with everything necessary for their upkeep.*

*Article 8. They shall wear in all countries, as a uniform distinctive sign, a white armlet with a red cross.*

*Article 9. The Committees and Sections of different countries may meet in international assemblies to communicate the results of their experience and to agree on measures to be taken in the interests of the work.*

*Article 10. The exchange of communications between the Committees of the various countries shall be made for the time being through the intermediary of the Geneva Committee.*

Thanks to Dr Basting's insistence, the Conference also debated the neutrality of medical services. However, considering that it was not qualified to adopt resolutions

in that regard, it confined itself to adopting three recommendations directed at governments:

*A. that Governments should extend their patronage to Relief Committees which may be formed, and facilitate as far as possible the accomplishment of their tasks;*

*B. that in time of war the belligerent nations should proclaim the neutrality of ambulances and military hospitals, and that neutrality should likewise be recognized, fully and absolutely, in respect of official medical personnel, voluntary medical personnel, inhabitants of the country who go to the relief of the wounded, and the wounded themselves;*

*C. that a uniform distinctive sign be recognized for the Medical Corps of all armies, or at least for all persons of the same army belonging to this Service; and that a uniform flag also be adopted in all countries for ambulances and hospitals.*<sup>59</sup>

The resolutions of the Constitutive Conference of October 1863 laid for more than sixty years the statutory foundations of the International Red Cross. In fact, it was not until the end of the First World War and the creation of the League of Red Cross Societies<sup>60</sup> that it was decided to give the International Red Cross and Red Crescent Movement a more complete statutory framework. Several years of negotiations resulted in the Statutes of the International Red Cross, which were adopted by the Thirteenth International Conference of the Red Cross meeting in The Hague in October 1928.<sup>61</sup> Until then, the resolutions of the October 1863 Conference were the Movement's fundamental charter. The resolutions and recommendations of the October 1863 Conference thus constituted, as it were, the birth certificate of the International Red Cross and Red Crescent Movement. As ICRC historian Pierre Boissier wrote:

The resolutions and recommendations adopted at the conference of October 1863 constitute the fundamental charter for the relief of persons wounded in war. They are among the few fundamental texts which have positively influenced the destiny of man. They have not eliminated war but they have diminished its hold over man and have deprived it of innumerable victims. In the great book of humanity, it pleads in favour of the human being.<sup>62</sup>

59 *Compte rendu ... 1863*, above note 41, pp. 147–149; *Handbook of the International Red Cross and Red Crescent Movement*, above note 52, pp. 515–516; Dietrich Schindler and Jiri Toman (eds), *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions and Other Documents*, 4th edition, Martinus Nijhoff Publishers, Leiden & Boston, 2004, pp. 361–363.

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

61 Statutes of the International Red Cross, adopted by the Thirteenth International Conference of the Red Cross meeting in The Hague, October 1928, *Treizième Conférence internationale de la Croix-Rouge tenue à La Haye du 23 au 27 octobre 1928, Compte rendu*, Imprimerie nationale, The Hague, 1929, pp. 182–186. Those Statutes were revised by the Eighteenth International Conference, which met in Toronto in 1952, and then by the Twenty-Fifth Conference, which met in Geneva in 1986.

62 P. Boissier, above note 1, p. 80.

At the closing meeting of the Conference, the delegates, conscious of the importance of the resolutions that they had just adopted and convinced of the ‘immense resonance that the measures planned by the conference [would] have in all countries’, adopted by acclamation a motion presented by Dr Basting, which paid tribute to the initiatives of Dunant and Moynier:

Mr Henry Dunant, by bringing about through his persevering efforts the international study of the means to be applied for the effective assistance of the wounded on the battlefield, and the Public Welfare Society of Geneva, by its support for the generous impulse of which Mr Henry Dunant has been the spokesman, have done mankind a great service and have fully merited universal gratitude.<sup>63</sup>

## From the founding of the Red Cross to the original Geneva Convention

‘The Committee has every reason to be pleased with the favourable achievements of the conference’ is the sober statement in the minutes of the meeting of the International Committee held on 9 November 1863.<sup>64</sup> In fact, it was a complete success as the conclusions of the conference far exceeded the expectations of the Committee members.

However, the good intentions still had to be translated into deeds. In response to a proposal by Moynier, the Committee decided to send a letter to the delegates who had taken part in the conference to encourage them to set up national committees in their respective countries and to ask them to inform the Geneva Committee of the extent to which their governments were willing to adhere to the resolutions and to the recommendations of the conference. The letter was sent on 15 November 1863.<sup>65</sup> In the following months, the first National Societies were established in Württemberg, in the Grand Duchy of Oldenburg, in Belgium, and in Prussia. In the following year, a National Society was established in Italy.<sup>66</sup> Having returned to Paris, Dunant was the primary founder of the French Red Cross.<sup>67</sup>

At the same time, the Recommendations of the Constitutive Conference of October 1863 had to be codified into a rule of law that would be binding on the states that accepted it. A diplomatic conference therefore had to be convened. The Geneva Committee, a simple association established on the basis of a

63 *Compte rendu ... 1863*, above note 41, p. 145; P. Boissier, above note 1, p. 81.

64 Minutes of the meeting of 9 November 1863, in *IRRC*, No. 23, February 1963, p. 71 (revised translation); *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, p. 25.

65 Minutes of the meeting of 9 November 1863, above note 64, pp. 71–72; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 25–26; circular of 15 November 1863 and communication of 15 June 1864, *Actes du Comité international, 1871*, above note 41, pp. 9–10 and 17–36.

66 P. Boissier, above note 1, pp. 87–89.

67 H. Dunant, above note 7, pp. 131–140; C. Chaponnière, above note 9, p. 177.

private initiative, did not consider that it was qualified to convene a conference of plenipotentiaries. A government that was willing to take on the task was needed, and that issue seems to have been a new source of friction between Dunant and his colleagues. Dunant, an impenitent Bonapartist, was convinced that the patronage of France, the dominant continental power since her victories in the Crimea and in Italy, was indispensable to the success of the diplomatic conference. His colleagues – Dufour and Moynier, in particular – considered that it would be preferable for the conference to be held under the auspices of Switzerland and wanted the Federal Council to send the invitations.<sup>68</sup>

In the end, as the Committee wanted the diplomatic conference to take place in Geneva, the French Foreign Ministry tossed the ball back into the court of the Federal Council, but promised its support:

As the meeting will take place within the Swiss Confederation, diplomatic usage dictates that the official invitations to the various governments should be addressed by the Federal Council.<sup>69</sup>

In the meantime, however, an obscure dynastic dispute over Schleswig triggered a war that pitted Denmark against Prussia and Austria. On 1 February 1864 the Austro-Prussian armies crossed the Eider and began their invasion of Denmark. Prima facie, that situation did not directly affect the Geneva Committee as, in accordance with the terms of the Resolutions adopted by the October 1863 Conference, it was the remit of the National Committees – and not of the International Committee – to provide relief for the wounded on the battlefield. Nonetheless, the opportunity to demonstrate on the field of battle the feasibility of the Geneva Committee's proposals was too good to miss.

At its meeting on 13 March 1864, the Committee decided – ‘if we [are] to preserve our character as an impartial and international body’ – to send two delegates to Schleswig, one to the Danish side, and another to the side of the Austro-Prussian allies. It appointed to that task Captain van de Velde, a delegate sent by the Netherlands to the October 1863 Conference, and Dr Appia, a member of the Geneva Committee.<sup>70</sup> Concerned not to encroach on the competencies of others, the Committee thought it wise to instigate the establishment of a Geneva Red Cross Section that would take responsibility for sending those delegates – thus sowing the seed of a future Swiss Red Cross Society.<sup>71</sup> Their mandate required

68 P. Boissier, above note 1, pp. 103–114; C. Chaponnière, above note 9, pp. 167–171 and 174–182; J. de Senarclens, above note 22, pp. 199–203.

69 Letter from Mr Drouyn de Lhuys, French Foreign Minister, to Dr Kern, Minister of the Swiss Confederation in Paris, 21 May 1864, authenticated copy, ICRC Archives, historical collection, file ‘Correspondance avec la France, 1863–1870’; P. Boissier, above note 1, p. 109.

70 Meeting of 13 March 1864, in *IRRC*, No. 23, February 1963, pp. 72–73; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 26–27.

71 Meeting of the Geneva Section, 17 March 1864, in *IRRC*, No. 23, February 1963, p. 74; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 28–29. The intervention of the International Committee explains what might appear an anomaly: the fact that the Geneva section was founded before the Swiss Red Cross, which was not established until 1866.

them ‘to give whatever help they could to the wounded and, by so doing, to show the Committee’s keen interest in the fate of victims of war’ and, in particular, ‘to examine, on the spot, how the decisions of the Geneva Conference were being, or might be, implemented’.<sup>72</sup> In fact, the two delegates harvested a significant number of observations. On the delegates’ return, the Geneva Committee hastened to publish their reports in a volume entitled *Secours aux blessés* (Relief for the Wounded). That volume also included a study by Dr Brière, a divisional doctor in the Swiss army and a Swiss delegate at the October 1863 Conference, who had just unearthed four treaties concluded under the *Ancien Régime* for the protection of hospitals and medical services on the battlefield; it also included a study by Dr Maunoir on the remarkable work carried out by the Sanitary Commission – a voluntary relief organization – on behalf of the victims of the American Civil War.<sup>73</sup>

Why assemble those four documents, at first glance so dissimilar, in one volume? The link between them is sufficiently clear: what they have in common is an apologetic objective; to use specific examples from the past and the present to show that voluntary assistance and legal protection of the military medical services on the battlefield was not just wishful thinking.

The Geneva Committee was preparing to play a difficult game. Following up on the request of the Geneva Committee and bolstered by the diplomatic support of France, the Federal Council sent an invitation on 6 June 1864 to all the governments of Europe (including the Ottoman Empire), as well as to the United States of America, Brazil, and Mexico.<sup>74</sup> It enclosed a draft convention prepared by the Geneva Committee – in reality, by Moynier and General Dufour. At the forthcoming conference, the Committee would not be dealing with a heterogeneous assembly, composed in part, as in 1863, of philanthropists who could be expected to be well intentioned, but with a gathering of diplomats concerned for the interests of their own governments.

The Diplomatic Conference took place from 8 to 22 August 1864 at Geneva Town Hall and was attended by delegates from sixteen states.<sup>75</sup>

72 *Secours aux Blessés*, above note 33, p. 45; mandate of Captain van de Velde, 22 March 1864, ICRC Archives, file ‘Comité international, 1863–1880’.

73 *Secours aux Blessés*, above note 33, pp. 30–33 (Study by Dr Brière), pp. 45–144 (Report by Dr Appia), pp. 145–177 (Report by Captain van de Velde), and pp. 179–187 (Note on relief work in the United States of America by Dr Th. Maunoir).

74 Letter from the International Committee to the Federal Council, 26 May 1864, *Actes du Comité international, 1871*, above note 41, pp. 15–16; *Message du Conseil fédéral à l’Assemblée fédérale touchant la convention conclue à Genève pour l’amélioration du sort des militaires blessés dans les armées en campagne*, Federal Chancellery, Berne, 21 September 1864, pp. 3–4.

75 *Compte rendu de la Conférence internationale pour la Neutralisation du Service de Santé militaire en Campagne, réunie à Genève du 8 au 22 août 1864* (hereinafter: *Compte rendu ... 1864*). A manuscript version of the proceedings is held by the ICRC library; it is reproduced (in French) in De Martens, *Nouveau Recueil général de Traités*, Vol. XX, pp. 375–399, and in the *Revue internationale de la Croix-Rouge*, No. 425, May 1954, pp. 416–423; No. 426, June 1954, pp. 483–498; and No. 427, July 1954, pp. 573–586.



Signature of the Geneva Convention of 22 August 1864 (painting by Armand Dumaresq, displayed at Geneva Town Hall) © Photo Library ICRC (DR).

General Dufour and Gustave Moynier took part as Swiss delegates.<sup>76</sup> As the senior representative of the state hosting the conference, Dufour was appointed as chairman, but he called on the support of Gustave Moynier who, as the main writer of the draft treaty, was in a better position than anyone else to advise him and to explain the content of the different articles to the delegates. The other members of the International Committee were authorized to follow the work of the Conference 'but merely as observers, without the right to speak or vote'.<sup>77</sup>

That Diplomatic Conference was unlike any other: its purpose was not to reach a post-conflict settlement or to mediate between opposing interests, but to lay down general rules for the future so as to protect the medical services and those wounded in wartime. The report sent by the Swiss plenipotentiaries to the Federal Council clearly shows the nature of the conference:

As is rarely the case at diplomatic congresses, there was no question of a confrontation over contradictory interests, nor was it necessary to reconcile opposing requests. Everyone was in agreement. The sole aim was to reach formal agreement on a humanitarian principle which would mark a step forward in the law of nations, namely the neutrality of wounded soldiers and of

<sup>76</sup> The Swiss delegation also included Dr Lehmann, doctor-in-chief of the federal army.

<sup>77</sup> *Compte rendu* ... 1864, above note 75, p. 10.

all those looking after them. This was the wish expressed by the Conference of October 1863 and the starting point for the 1864 Conference.<sup>78</sup>

The Diplomatic Conference adopted as the basis for discussion the draft convention prepared by the International Committee.<sup>79</sup> The only bone of contention concerned the granting of neutral status to volunteer nursing staff sent to follow the armies by the Societies for Relief to Wounded Soldiers, the future National Red Cross and Red Crescent Societies. The French delegates said that they had no authority to sign a convention mentioning volunteer nurses, while other delegates wanted to ensure the neutrality of those nurses. In the end, the Conference adopted a compromise solution: since volunteer nurses called to follow armies during military campaigns would be subject to military discipline, they would be considered part of the military medical corps; this would ensure their neutrality, although they were not specifically mentioned in the Convention.<sup>80</sup>

The Geneva Convention was signed on 22 August 1864. No treaty has ever had such an impact on relations between belligerents. It is as follows:

***Convention for the amelioration of the condition of the wounded  
in armies in the field***

*Article 1. Ambulances and military hospitals shall be recognized as neutral and, as such, protected and respected by the belligerents as long as they accommodate wounded and sick. ...*

*Article 2. Hospital and ambulance personnel, including the quarter-master's staff, the medical, administrative and transport services, and the chaplains, shall have the benefit of the same neutrality when on duty, and while there remain any wounded to be brought in or assisted.*

*Article 3. The persons designated in the preceding Article may, even after enemy occupation, continue to discharge their functions in the hospital or ambulance with which they serve, or may withdraw to rejoin the units to which they belong. ...*

*Article 5. Inhabitants of the country who bring help to the wounded shall be respected and shall remain free.*

*Generals of the belligerent Powers shall make it their duty to notify the inhabitants of the appeal made to their humanity, and of the neutrality which humane conduct will confer.*

78 *Le Congrès de Genève, Rapport adressé au Conseil fédéral par MM. Dufour, Moynier et Lehmann, Plénipotentiaires de la Suisse*, Imprimerie Fick, Geneva, 1864, p. 3. (The report is included in *Actes du Comité international, 1871*, above note 41, pp. 44–49).

79 *Compte rendu ... 1864*, above note 75, p. 9; *Le Congrès de Genève*, above note 78, p. 3.

80 *Compte rendu ... 1864*, above note 75, pp. 10–12; P. Boissier, above note 1, pp. 139–165; Véronique Harouel, *Genève–Paris, 1863–1918: Le droit humanitaire en construction*, Henry Dunant Society/ICRC/French Red Cross, Geneva, 2003, pp. 79–105.

*The presence of any wounded combatant receiving shelter and care in a house shall ensure its protection. An inhabitant who has given shelter to the wounded shall be exempted from billeting and from a portion of such war contributions as may be levied.*

*Article 6. Wounded or sick combatants, to whatever nation they may belong, shall be collected and cared for.*

*Commanders-in-Chief may hand over immediately to the enemy outposts enemy combatants wounded during an engagement, when circumstances allow and subject to the agreement of both parties.*

*Those who, after their recovery, are recognized as being unfit for further service shall be repatriated.*

*The others may likewise be sent back, on condition that they shall not again, for the duration of hostilities, take up arms.*

*Evacuation parties, and the personnel conducting them, shall be considered as being absolutely neutral.*

*Article 7. A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuation parties. . . .*

*An armband may also be worn by personnel enjoying neutrality but its issue shall be left to the military authorities.*

*Both flag and armband shall bear a red cross on a white ground.*

*Article 8. The implementing of the present Convention shall be arranged by the Commanders-in-Chief of the belligerent armies following the instruction of their respective Governments and in accordance with the general principles set forth in this Convention.*

*Article 9. The High Contracting Parties have agreed to communicate the present Convention with an invitation to accede thereto to Governments unable to appoint Plenipotentiaries to the International Conference at Geneva. . . .*

*Article 10. The present Convention shall be ratified and the ratifications exchanged at Berne, within the next four months, or sooner if possible.*

*In faith whereof, the respective Plenipotentiaries have signed the Convention and thereto affixed their seals.*

*Done at Geneva, this twenty-second day of August, in the year one thousand eight hundred and sixty-four.*<sup>81</sup>

The Convention of 22 August 1864 was revised in 1906, 1929, and 1949. It was supplemented by new treaties granting protection to hospital ships, prisoners of

81 *Compte rendu . . . 1864*, above note 75, Annexe B; Georg Friedrich De Martens, *Nouveau Recueil général de Traités*, première série, Vol. XVIII, pp. 612–619; *Handbook of the International Red Cross and Red Crescent Movement*, above note 52, pp. 21–22; *The Laws of Armed Conflicts*, above note 59, pp. 365–368.

war, and civilians in wartime. As the first treaty that was adopted in peacetime to protect the victims of wars to come, it marked the starting point of international humanitarian law as it is known today.

At the time, the members of the Geneva Committee and the delegates who took part in the 1864 Diplomatic Conference were convinced that they had written *ex nihilo* a new chapter in the law of nations. In fact, as we know today, rules intended to limit wartime violence have existed throughout history and in every civilization. However, generally speaking, those rules were inspired by religion. That was both their strength and their weakness – they were respected because they were thought to have been dictated by the revered divinity and were thus respected by adversaries from the same culture and with the same convictions. But when faced with an adversary who did not belong to that cultural group, combatants would often ignore such rules. We are familiar with the behaviour of the ancient Greeks and the Romans in dealing with those whom they considered as ‘barbarians’ and with the excesses of the Crusades.

By anchoring the protection of those wounded in war and of the military medical services in positive law, that is, on the consent of states enshrined in a convention, the International Committee and the Diplomatic Conference of 1864 took a decisive step forwards for humanity as they drafted and adopted humanitarian rules that could be accepted universally.

## Conclusion

Much ground was covered in just a few years after Solferino! Only five years separated the battle and the adoption of the initial Geneva Convention; barely two years passed between the publication of Dunant’s book and the Diplomatic Conference. Dunant was able to turn the trauma of Solferino into a book – which took his era by storm – and two ideas with an exceptional future: the Red Cross and the Geneva Convention. Nonetheless, neither of those ideas would have come to anything if Dunant had not had the help of four of his fellow citizens, who, with him, formed the International Committee.

At its beginning, it was no more than an initiative committee, intended to promote those ideas, but set to be dissolved as soon as they had been given practical form: ‘We shall be content to have promoted an institution which will gradually expand, and whose charitable work will certainly elicit universal support’, Gustave Moynier stated when presenting the Committee’s proposals at the first meeting of the October 1863 conference.<sup>82</sup> That was echoed in Article 10 of the Resolutions of that conference: ‘The exchange of communications between the Committees of the various countries shall be made for the time being through the intermediary of the Geneva Committee’. If there had been the least doubt about how to interpret the words ‘for the time being’, that was dispelled by the report on

82 *Compte rendu ... 1863*, above note 41, p. 10.

that conference: ‘The provisional position of the Geneva Committee will cease when the committees in other countries have been formed’, declared one of the participants.<sup>83</sup> Moreover, two documents dating from 1864 show that the members of the Committee planned to disperse – with a sense of having done their duty – once the treaty was adopted.<sup>84</sup>

It was expected that once the national committees had been set up, they would start corresponding with each other directly rather than through the intermediary of the Geneva Committee. It was also believed that the states party to the future treaty would feel honour bound to comply with its provisions. Lastly, it was thought that war was too trivial an affair to compromise the fine harmony that seemed to prevail between the young relief societies. In a flush of optimism, the editor of the *Bulletin international des Sociétés de secours aux militaires blessés* wrote in July 1870:

The essentially international feature of the societies under the aegis of the Red Cross is the spirit that moves them, the spirit of charity that causes them to come to the rescue wherever blood is shed on a battlefield, and to feel as much concern for wounded foreigners as for their own wounded countrymen. The societies constitute a living protest against the savage patriotism that stifles any feeling of pity for a suffering enemy. They are working to pull down barriers condemned by the conscience of our times, barriers that fanaticism and barbarity have raised and still too often strive to maintain between the members of a single family, the human species.<sup>85</sup>

That was to harbour a number of illusions. From the very first days of the Franco-Prussian war of 1870–1871 – the first conflict to which the Geneva Convention applied – the young National Societies could be seen at each other’s throats. Furthermore, the war led to the breakdown of diplomatic and postal relations between the belligerent countries. The French Red Cross and the German Societies asked the Geneva Committee to take charge of forwarding their communications. Governments soon followed this stance.

That is how the Geneva Committee’s role as a neutral intermediary came about – that is, not initially planned, but dictated by events. Paradoxically, that is probably what has enabled the International Committee to weather a century and a half of conflicts, including two world wars: its existence is not the outcome of a predetermined plan, but the result of a need.

More generally, a piece was missing from the clever mechanism put in place by the 1863 and 1864 conferences: a central body in charge of protecting the general

83 *Ibid.*, p. 131.

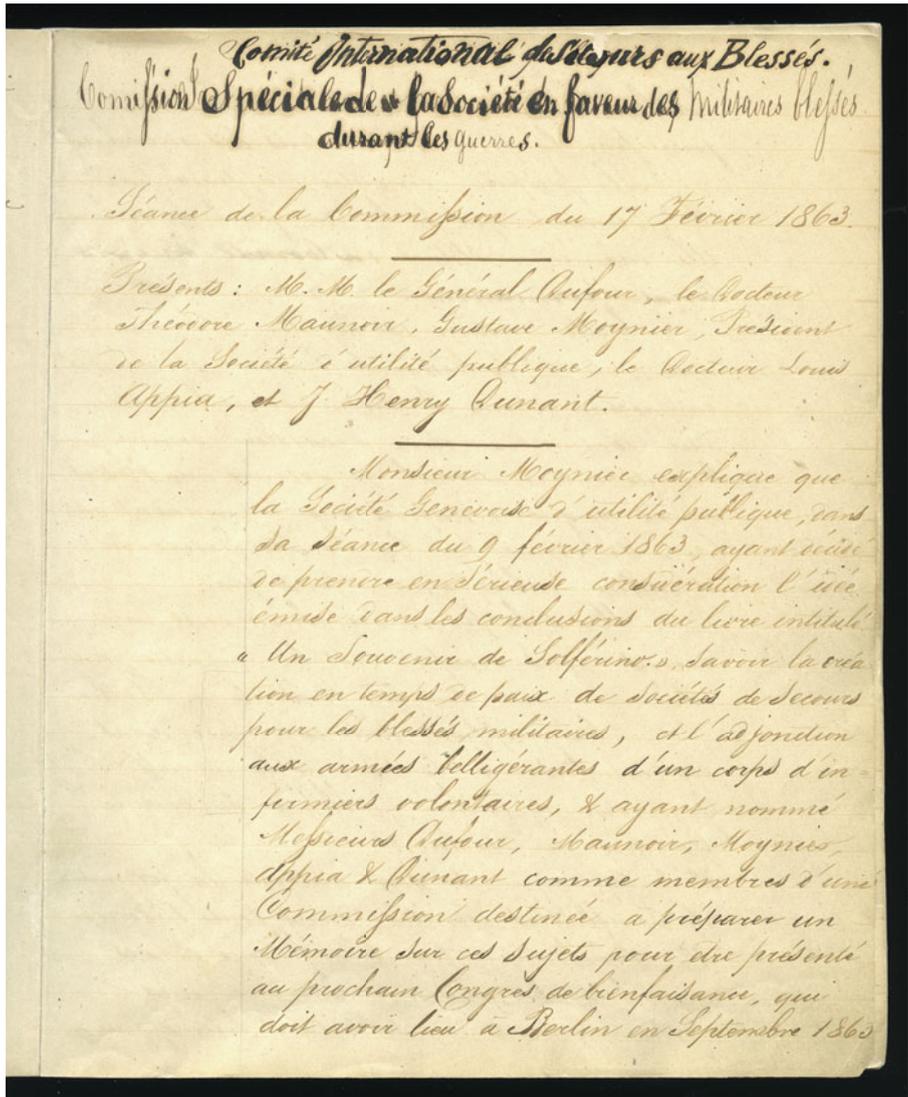
84 Letter from Gustave Moynier to Henry Dunant, 1 June 1864 (ICRC Archives, A AF 20/1-3, file ‘Comité international 1863–1880’) and ‘Appel aux amis genevois du Comité international’, 15 June 1864, (ICRC Archives, A AF 21/3b, file ‘La Convention de 1864’).

85 ‘Du double caractère, national et international, des Sociétés de secours’, in *Bulletin international des Sociétés de secours aux militaires blessés*, No. 4, July 1870, p. 160. Although the article was not signed, it was written by Moynier.

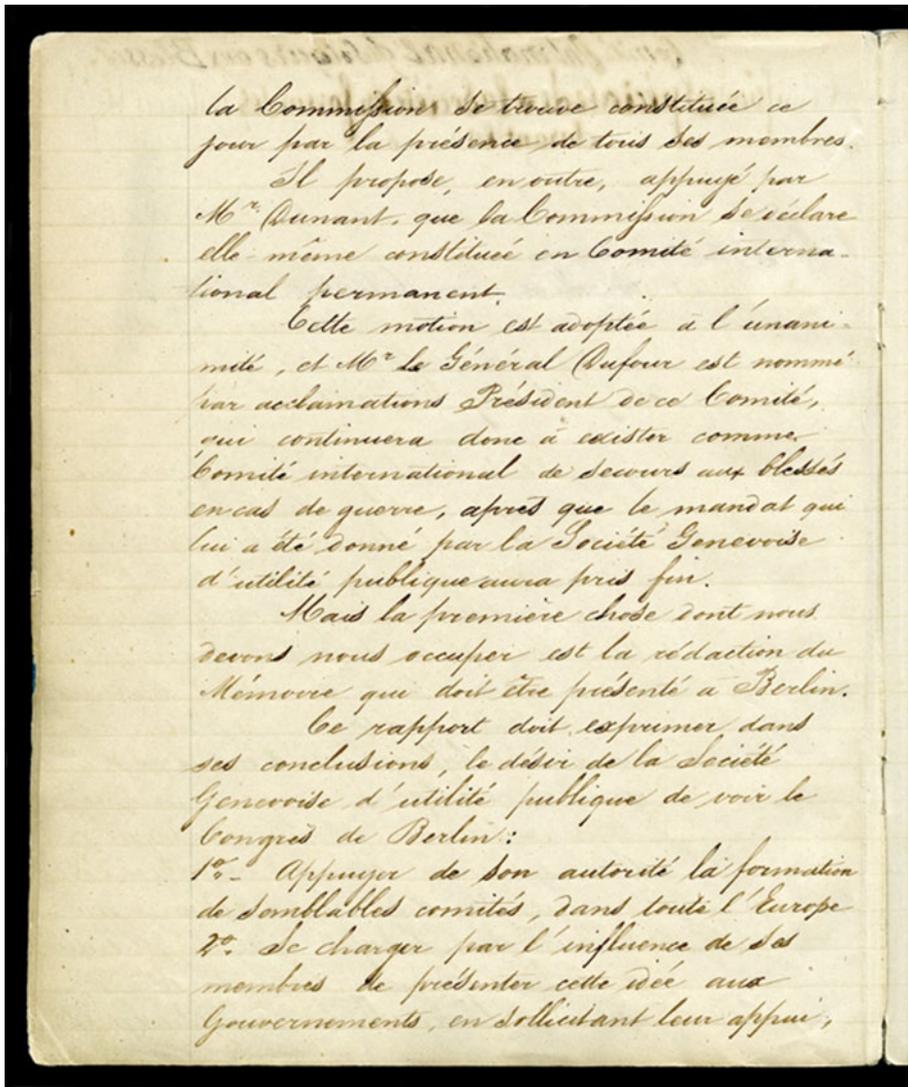
interests of the work and of maintaining its fundamental principles. Whatever the proclaimed intentions, national bodies are inevitably absorbed by national tasks and guided by national interests, which dictate their priorities. A complex international movement with branches in all countries cannot survive without a central body mandated to support the work of the national branches while remaining independent from all of them. That is the role that the International Committee of the Red Cross has played from the start, 150 years ago.

## Annex

Minutes of the first meeting of the International Committee for the Relief of Wounded Soldiers (International Committee of the Red Cross), 17 February 1863.



Handwritten minutes taken by Dunant. © CICR/GASSMANN, Thierry. Page 1.



Handwritten minutes taken by Dunant. © CICR/GASSMANN, Thierry. Page 2.

leurs bons avis et leurs conseils.  
De plus, le rapport doit développer l'idée elle-même des Sociétés de secours aux blessés en temps de guerre, et la présenter au public sous une forme qui éloigne toute objection.  
Il faut d'abord poser des bases générales; puis préciser ce qui peut déjà se faire dans tous les pays de l'Europe, en laissant toutefois à chaque pays, à chaque contrée, à chaque ville même, la liberté de se constituer sous la forme qu'elle préférera, et d'exercer son action de telle ou telle manière qui lui conviendra.  
M<sup>r</sup> le Général Ruffeur pense que le Mémoire doit établir d'abord la nécessité d'obtenir le consentement unanime des Princes et des nations de l'Europe; puis préciser quelles seront les bases générales d'action. Il faut qu'il se forme des Comités, & non des Sociétés, mais il faut que ces Comités soient organisés partout en Europe, afin de pouvoir agir simultanément au moment d'une guerre. Il faut des gens qui viennent en aide et qui se mettent à la disposition des

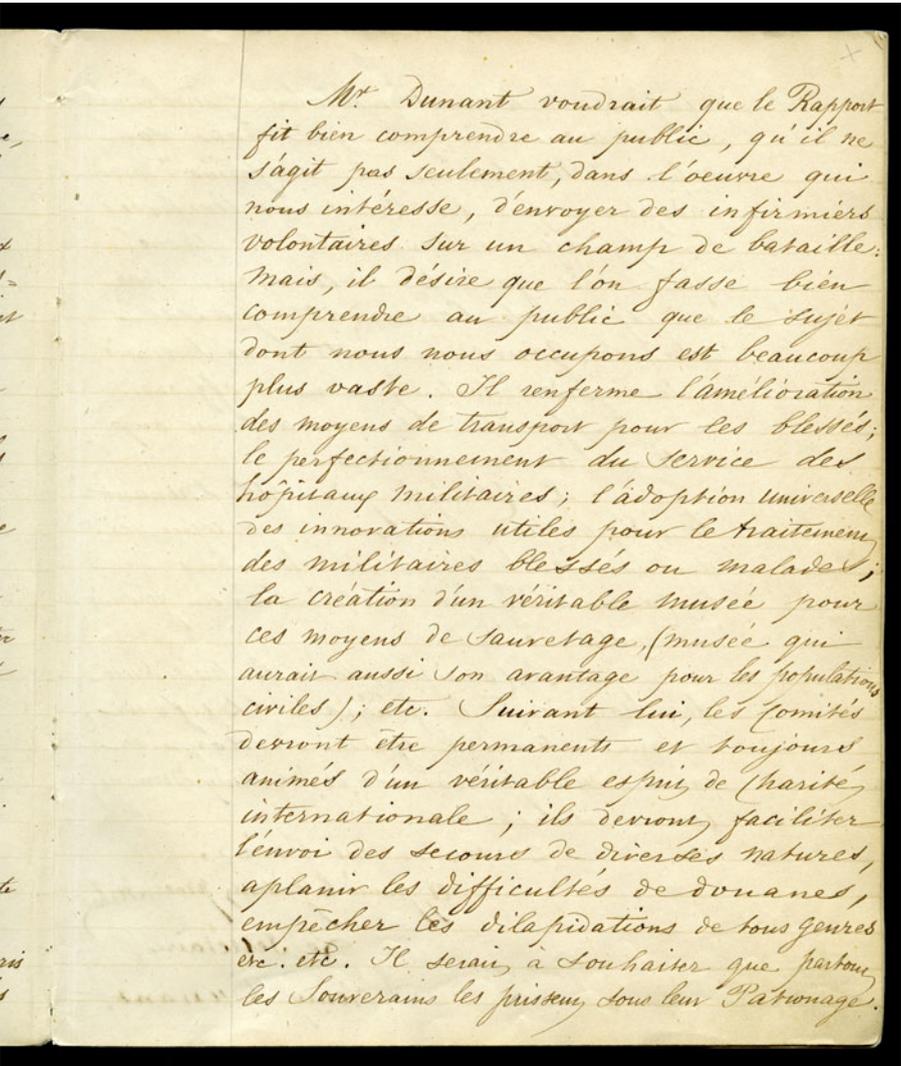
Handwritten minutes taken by Dunant. © CICR/GASSMANN, Thierry. Page 3.

Etats-Majors, nous ne voulons pas nous mettre en lieu & place de l'Intendance, ou des infirmiers militaires. Enfin, il serait bon d'adopter un signe, un uniforme, ou un brapard, afin que ceux qui se présenteront avec cette marque distinctive, adoptée universellement, ne soient pas repoussés.

M<sup>r</sup> le Docteur Maunier désire que le public soit préoccupé le plus possible de la question des sociétés internationales de secours, car il faut toujours un certain temps pour qu'une idée pénètre dans les masses. Il serait bon que le Comité entretînt une agitation, si l'on peut s'exprimer ainsi, pour faire adopter nos vues par tout le monde, en haut et en bas, chez les souverains de l'Europe, comme dans les populations.

M<sup>r</sup> le Docteur Ajaja voudrait que l'on fit venir tous les documents qui peuvent nous être utiles, et que nous nous missions en rapport avec la haute autorité militaire en divers pays.

M<sup>r</sup> Rognier a déjà fait venir de Paris des documents qui pourront nous être utiles



M<sup>r</sup>. Dunant voudrait que le Rapport fit bien comprendre au public, qu'il ne s'agit pas seulement, dans l'oeuvre qui nous intéresse, d'envoyer des infirmiers volontaires sur un champ de bataille. Mais, il désire que l'on fasse bien comprendre au public que le sujet dont nous nous occupons est beaucoup plus vaste. Il renferme l'amélioration des moyens de transport pour les blessés; le perfectionnement du service des hôpitaux militaires; l'adoption universelle des innovations utiles pour le traitement des militaires blessés ou malades; la création d'un véritable musée pour ces moyens de sauvetage (musée qui aurait aussi son avantage pour les populations civiles); etc. Suivant lui, les comités devront être permanents et toujours animés d'un véritable esprit de charité internationale; ils devront faciliter l'envoi des secours de diverses natures, aplanir les difficultés de douanes, empêcher les dilapidations de tous genres etc. etc. Il serait à souhaiter que partout les Souverains les prissent sous leur Patronage.

Handwritten minutes taken by Dunant. © CICR/GASSMANN, Thierry. Page 5.

Enfin, M<sup>r</sup> Dunant insiste tout spécialement sur le vœu émis, par lui, dans son volume "Un Souvenir de Solferino": savoir l'adoption par les Puissances civilisées d'un principe international et sacré qui serait garanti et consacré par un espèce de Concordat passé entre les gouvernements : cela servirait à sauvegarder toute personne officielle ou non-officielle se consacrant aux victimes de la guerre.

Le Comité prie M<sup>r</sup> Dunant de rédiger le Mémoire; et celui-ci demande à plusieurs des Membres de la Commission de vouloir bien lui fournir des notes écrites.

Le Comité, sous la présidence de Monsieur le général Dufour, désigne Monsieur Gustave Moynier comme vice-président et M<sup>r</sup> Henry Dunant comme secrétaire.

La séance est levée.

Approuvé le présent procès-verbal

Le Secrétaire,

J. Henry Dunant.

## **Transcript of the Minutes of the first meeting of the International Committee for the Relief of Wounded Soldiers (today: International Committee of the Red Cross), 17 February 1863<sup>86</sup>**

### **International Committee for the Relief of the Wounded**

#### **Committee of the Society for the Relief of Combatants Wounded in Time of War Meeting of the Committee held on February 17, 1863**

Present: General Dufour, Doctor Théodore Maunoir, Mr Gustave Moynier, President of the ‘Public Welfare Society’, Doctor Louis Appia and Mr J. Henry Dunant.

Mr Moynier explained that the Geneva Public Welfare Society having decided, at its meeting of February 9, 1863, to give serious consideration to the suggestion made in the conclusions to the book entitled *A Memory of Solferino*, that Relief Societies for wounded soldiers should be set up in peacetime, that a corps of voluntary orderlies should be attached to belligerent armies, and having appointed General Dufour and Messrs Maunoir, Moynier, Appia and Dunant as members of the Committee charged with the preparation of a Memorandum on these matters for submission to the Welfare Congress to be held in Berlin in September 1863, the Committee was deemed to be duly constituted, all members being present.

He furthermore proposed, and Mr Dunant seconded, that the Committee should declare itself constituted as ‘Permanent International Committee’.

The proposal was adopted unanimously. On a show of hands General Dufour was elected President of the said Committee, which would thus continue to exist as an International Committee for the Relief of Wounded in the Event of War, after the mandate that it received from the Geneva Public Welfare Society had expired.

The first task before us was to draw up the Memorandum to be presented at Berlin.

In its conclusions, the said report should express the desire of the Geneva Public Welfare Society that the Berlin Congress should:

1. lend its authority to the creation of such Committees throughout Europe;
2. undertake to submit this project to Governments through the good offices of its members, and to request the support, opinions and advice of the said Governments.

Furthermore, the report should enlarge upon the concept of Relief Societies for wounded in time of war and present it to the public in such a way as to preclude all possible objections.

<sup>86</sup> Minutes of the meeting of 17 February 1863, above note 37, pp. 63–65; *Procès-verbaux des séances du Comité international de la Croix-Rouge*, above note 37, pp. 16–19.

We should first lay down general principles and then state what action could be undertaken immediately in all European countries, whilst leaving each country, district, and indeed town, free to organize itself according to its own wishes and to pursue its work in the manner best suited to it.

General Dufour thought that the Memorandum should first state the need for the unanimous consent of the sovereigns and peoples of Europe, and should then determine the general line of action. Committees should be formed, rather than Societies, but such Committees should be organized throughout Europe, so that they might act simultaneously should war break out. Volunteer helpers were required who would place themselves at the disposal of the general staffs; we did not want to take the place of the Quartermaster's Department or of the medical orderlies. Finally, a badge, uniform or armband might usefully be adopted, so that the bearers of such distinctive and universally adopted insignia would be given due recognition.

Dr Maunoir wished the question of international relief societies to be kept in the public mind as much as possible, since it always takes time to bring an idea home to the masses. It would be useful if the Committee 'kept agitating', if the expression might be allowed, for the adoption of our ideas by all, both high and low, by the rulers of Europe, no less than by the peoples.

Dr Appia thought that all documents likely to be of use should be procured, and that we should get into touch with the supreme military commands in the various countries.

Mr Moynier had already obtained documents from Paris which could be of service to us.

Mr Dunant thought the report should make it perfectly clear to the public that the present undertaking was not merely a matter of sending voluntary orderlies to a battlefield; he would like it to be carefully explained to the public that the question we had taken up was much wider in scope. It embraced the improvement of means of transport for the wounded; the amendment of the military hospital service; the general adoption of new methods of treating sick or wounded soldiers; the establishment of a veritable museum for these appliances (which would also be of benefit to civilian populations), and so on. In his opinion, the Committees should be permanent and should always be guided by a true spirit of international goodwill; they should facilitate the dispatch of relief supplies of various kinds, resolve customs difficulties, prevent any sort of waste and misappropriation, and so on. It was to be hoped that all European Sovereigns would take them under their patronage.

Finally, Mr Dunant particularly underlined the hope he expressed in his book *A Memory of Solferino*: that the civilized Powers would subscribe to an inviolable, international principle that would be guaranteed and consecrated in a kind of concordat between Governments, serving thus as a safeguard for all official or unofficial persons devoting themselves to the relief of victims of war.

The Committee requested Mr Dunant to draw up the Memorandum, and the latter asked members to supply him with written notes.

The Committee, under the chairmanship of General Dufour, appointed Mr Gustave Moynier vice-president and Mr Henry Dunant secretary. The meeting then adjourned.

The present minutes approved.

J. Henry Dunant  
Secretary

# 1863: the creation of the first National Society at the beginning of the Movement's history

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**Keywords:** German Red Cross, first National Society, ICRC, Henry Dunant, Christoph Ulrich Hahn, Geneva International Conference, Württembergische Wohltätigkeitsverein.

⋮⋮⋮⋮⋮

Would it not be possible, in time of peace and quiet, to form relief societies for the purpose of having care given to the wounded in wartime by zealous, devoted and thoroughly qualified volunteers?<sup>1</sup>

We all know by heart the story of Henry Dunant being shocked by what he experienced when coming to the region of Solferino in Northern Italy just after the battle between Austrian and French soldiers on 24 June 1859. We also know that the creation of the International Committee of the Red Cross (ICRC) 150 years ago and the drafting of the original Geneva Convention are both rooted in Dunant's memories of what he experienced in Solferino.

What is perhaps less known is the fact that Dunant's idea to form relief societies, presented in his book *A Memory of Solferino*, was first followed in the German region of Baden-Württemberg. Back then, it was the State of Württemberg under King Wilhelm I.<sup>2</sup> Documents prove that in December 1863 the first organisation under the emblem of the Red Cross outside of Geneva was founded in Stuttgart.<sup>3</sup> The history of the German Red Cross is, to a large extent, the history of

its local branches.<sup>4</sup> To get an impression of the commitment of the stakeholders of the south-western German regions during the creation of the first National Societies, let us have a closer look at the main figures and their individual endeavours.

During the creation process in Württemberg, one man stands out: Dr Christoph Ulrich Hahn. Born 1805 in Stuttgart, Hahn became a Protestant priest and worked as a teacher. He was literate and was published at an early age. Hahn often travelled to Geneva to see his brother Karl, who ran a pharmacy there, and to get fresh scientific input for his publications. In addition, Hahn was active in the field of public welfare and was chair of the local public welfare association, the Württembergische Wohltätigkeitsverein.<sup>5</sup> Later the Württembergische Sanitätsverein emerged from this public welfare association, and eventually the first National Red Cross Society was created.

Amongst Hahn's friends we find Paul Appia, another priest. He is the father of Louis Appia, who opened a surgery in Geneva and in 1859 voluntarily worked on the battlefield in Northern Italy, in various field hospitals in Turin, Milan, Brescia, and Desenzano del Garda, for some time. Hahn first learnt about Henry Dunant via Crown Princess Olga and Grand Princess Helene Pawlowna, with whom he kept regular contact. These women met Dunant on various occasions. Dunant also first sent his book *A Memory of Solferino* to their courts; this was very much appreciated. Following this, Dunant visited these courts and announced the upcoming international meeting which was planned for 26 October 1863. Gustav Moynier, the chairman of the Geneva Society for Public Welfare, had given notice of Dunant's visit in advance via mail. Such a letter by Moynier also reached Dr Hahn in Stuttgart, who was in touch with Moynier concerning the exchange of publications between the Württembergische Wohltätigkeitsverein and Geneva.<sup>6</sup> The invitation to the international meeting had already been accepted before Dunant even arrived in Stuttgart.

Together with Dr Hahn from Stuttgart, two other men from the south-west of Germany were to come to this first international meeting in Geneva. One of them was Dr Adolf Steiner, a medic of the Grand Duke regiment. He participated in the

1 Henry Dunant, *A Memory of Solferino*, English version, ICRC, Geneva, 1939, p. 115.

2 King Wilhelm I died in 1864 and was succeeded by King Karl I.

3 For further details, see below. 'Liste des Comités Centraux, d'après l'ordre chronologique de leur fondation', in *Bulletin international de la Croix-Rouge*, No. 15, April 1973, p. 137; Walter Gruber, *125 Jahre Rotes Kreuz*, Schwaikheim, 1988. Crucial inventories relating to the time from the creation of the first organisation until the end of World War II of the specific archive in Potsdam-Babelsberg went missing or were scattered due to disturbances at the archive at the end of World War II. Alfred Quellmalz even dates the creation of the first organisation back to 12 November 1863; see Alfred Quellmalz, *Dr Christoph Ulrich Hahn, Lebensbilder aus Schwaben und Franken*, Stuttgart, 1962, p. 197; see also Arnold Weller, *Sozialgeschichte Südwestdeutschlands*, Stuttgart, 1979, p. 182; Walter Gruber, 'Baden-Württemberg: eine Wiege des Roten Kreuzes in Deutschland', in *Hundert Jahre im Dienst der Menschlichkeit*, Deutsches Rotes Kreuz Schriftenreihe, Bonn, No. 30, 1963, p. 99.

4 For more detailed information see 'Baden-Württemberg', in W. Gruber, above note 3.

5 This association had emanated from the Central Foundation for Poverty Relief, which Queen Katharina of Württemberg created in 1817. As chair of the Württembergische Sanitätsverein, Hahn was in contact with Gustave Moynier, president of the Geneva Society for Public Welfare (*la Société genevoise d'utilité publique*) at that time. See *ibid.*, p. 102.

6 *Ibid.*



Figure 1. Dr Christoph Ulrich Hahn of the Württemberg Central Foundation for Poverty Relief, representing Württemberg in the International Conferences of 1863 and 1864. Hahn attended the 1863 International Conference as the delegate for Württemberg and was Ambassador Plenipotentiary to the 1864 conference. © ICRC photo library (DR).

conferences from 1863 until 1868 as authorised delegate for the Grand Duchy of Baden. The second was Dr Ernst Rudolf Wagner, a priest. Dr Wagner accompanied Dr Hahn to represent the Waiblinger local charity association. Later Wagner published a German translation of the book *A Memory of Solferino*, together with a report about the First Geneva Conference.<sup>7</sup>

After having received Dunant's book and in fact after Dunant had approached the courts in person, the interest of Germany in participating in the October 1863 International Conference organised by the newly founded ICRC (originally called 'Permanent International Committee for the Relief of Wounded Soldiers') in Geneva was immense. Nine delegates from the dynasties of Baden, Bavaria, Hesse, Prussia (sending three delegates), Saxonia, Hanover, and Württemberg participated.<sup>8</sup> Overall at the meeting in Geneva, 36 participants,

7 In 1876, Dr Wagner would offer Dunant a home when the latter was poor and very much in need.

8 See Walter Gruber, *Das Rote Kreuz in Deutschland*, Wiesbaden, 1985, pp. 14 ff.



Figure 2. The Geneva International Conference, August 1864, with the names of those taking part and their countries of origin. © ICRC photo library (DR)/Boissonnas, Frédéric.

including 18 official delegates from 14 states,<sup>9</sup> gathered and drafted ten Guidelines which stated, among other things, the function of voluntary relief societies that were to be created as a follow-up to the meeting.

What role did Drs Hahn, Steiner, and Wagner play at the Geneva International Conference from 26 to 29 October 1863? These three delegates asserted, especially during the negotiations and drafting process concerning the first article, that in every state that joined the agreement, a national committee should be established which should endeavour to rectify the insufficiency of army medical services. Dr Steiner opposed the proposal to extend such a national committee to an international one if need be. The reason for his concerns was the assumption that some governments might mistrust and oppose such a regulation. In addition, Steiner proposed to speak of a ‘central committee’ instead of a ‘national committee’, because he did not consider it a good idea to have as many different national committees as there were sovereign states within Germany at that time. Already

9 Baden, Bavaria, France, Great Britain, Hanover, Hesse-Darmstadt, Italy, The Netherlands, Austria, Prussia, Russia, Saxony, Sweden, and Spain. There were also six delegates of various associations, seven unofficial foreign participants, and the five members of the ICRC.



Figure 3. Dr Adolf Steiner, Medical Officer, representative of Baden at the Geneva International Conferences of 1863 and 1864. © ICRC photo library (DR).

back then, Steiner recognised the problems arising around the question of who would represent Germany at the Diplomatic Conference in Geneva in August 1864 that would adopt the original Geneva Convention. Should it be the German Confederation<sup>10</sup> only, or representatives of the individual states? At the end of the day, the wording of the regulation did not clearly define the committees to be created, either as 'central' or as 'national'.

Dr Steiner also took a firm stand during the discussions on the issue of whether voluntary relief personnel on the battlefield should be incorporated directly into the armed forces. According to Steiner, the voluntary nature of their service might have been jeopardized through such incorporation. Steiner was against absolute regulation that left no freedom for these personnel, and felt that this should be reflected in the wording of the regulation. He thus proposed the negotiated wording to be that voluntary relief personnel 'can' rather than 'should' or 'must' establish hospitals.<sup>11</sup> During the negotiations on the drafting process, Steiner was backed by Dr Louis Appia on this point.

10 For the Member States of the German Confederation see the list at German Historical Museum, available at: [www.dhm.de/lemo/html/reaktion/deutscherbund](http://www.dhm.de/lemo/html/reaktion/deutscherbund).

11 W. Gruber, 'Baden-Württemberg', above note 3, pp. 108 ff.

All three delegates from the south-west of Germany were deeply affected by the atmosphere and development of the meeting, though from the record of the meeting, one would not assume that it was Dr Hahn rather than Dr Steiner who stood out when it came to the implementation of the meeting results. Already within two weeks after the meeting had ended, on 12 November 1863, Dr Hahn reported to the Württembergische Wohltätigkeitsverein about the events in Geneva. According to the official record, Dr Hahn said it was adopted by consensus that, in view of the current devastating warfare, the official medical services were insufficient, that only through additional private companies could this status be resolved, and that for this purpose the whole medical service should receive the status of inviolability and be protected through a specific emblem.<sup>12</sup> Medical personnel as well as hospitals were to be regarded as neutral. Furthermore, he reported that the urgent wish was expressed in Geneva to create associations on the national level in every state which in times of peace would prepare for the care of the wounded by training personnel and providing equipment. The governing board of the Württembergische Wohltätigkeitsverein asked Dr Hahn to put his words on paper and immediately submit the document to King Wilhelm I for his approval. The king inspected Hahn's report 'with interest'.<sup>13</sup>

Dr Hahn also informed the general public about the meeting, describing the engagement of Dr Steiner and highlighting activities in other countries, such as the Baden Women's Association (*Badischer Frauenverein*)<sup>14</sup> and the activities of the American Medical Commission during the American Civil War at that time.<sup>15</sup> He recommended that such voluntary aid societies could also be of great assistance in the case of epidemics, accidents, floods, disasters, and fires.<sup>16</sup> In this regard, Dr Hahn went even further than Dunant, who proposed in his *Memory of Solferino*: 'Societies of this kind, once formed and their permanent existence assured, would ... be always organized and ready for the possibility of war'.<sup>17</sup>

In addition, Hahn printed the ten articles of the resolution adopted at the International Conference. He sent this printed copy, encompassing 16 pages, to all authorities and local charity organisations.<sup>18</sup> In addition, he informed Dunant about his activities by sending him a private note.

12 *Ibid.*, p. 110.

13 *Ibid.*

14 The *Badischer Frauenverein* was created 6 June 1859 in Karlsruhe by Grand Duchess Luise von Baden, and formally acknowledged by the ICRC on 29 June 1866. From the start, however, it worked in the same sense as it did after the formal acknowledgment by the ICRC, in the sense of being a Red Cross Society. Furthermore, the Grand Duchy of Baden was the first German state to ratify the Geneva Convention on 16 December 1864, while the Kingdom of Württemberg followed on 2 June 1866. Baden was the ninth state on the whole to ratify the Convention.

15 W. Gruber, 'Baden-Württemberg', above note 3, p. 111.

16 A. Quellmalz, above note 3, p. 197; W. Gruber, 'Baden-Württemberg', above note 3, p. 111. There is no surviving documentation detailing any direct reactions on this proposal from the relevant authorities.

17 'The work itself would consist in bringing aid and relief (in agreement with the military commissaries, i.e., when necessary with their support and under their instructions) onto the battlefield whenever battle was joined, and subsequently to continue to care for the wounded in the hospitals until their convalescence was complete': H. Dunant, above note 1, p. 117.

18 To what extent this attracted public interest is not known.

26 Octobre. Cette proposition avait été remise à la 4<sup>e</sup> section du Congrès, composée en partie de médecins militaires, pour qu'elle en fit un rapport à l'Assemblée générale. Ce rapport a été très-sympathique à cette question; et le rapporteur de la 4<sup>e</sup> section, qui se trouvait être justement M. le Docteur Basting, chirurgien-major des Pays-Bas, traducteur de « *Un Souvenir de Solferino* », et qui connaissait à fond le plan proposé, l'a développé à l'Assemblée et a invité les membres du Congrès à se rendre à la conférence de Genève le 26 Octobre.

Les conclusions de la 4<sup>e</sup> section ont été adoptées à l'unanimité avec des marques de vive approbation.

En conséquence de l'accueil favorable fait à son plan dans le Congrès de Statistique, le Comité de Genève propose, en outre du projet de Concordat :

1<sup>o</sup> Que chaque Gouvernement de l'Europe daigne accorder Sa Protection spéciale et Son haut Patronage au Comité général national qui doit être créé dans chacune des capitales de l'Europe, et qui sera composé des personnes les plus honorables et les plus estimées.

2<sup>o</sup> Que ces mêmes Gouvernements déclarent que désormais, le *personnel médical militaire* et ceux qui en dépendent, y compris les *secoureurs volontaires reconnus*, seront regardés comme personnes *neutres* par les puissances belligérantes.

3<sup>o</sup> Que, en temps de guerre, les Gouvernements s'engagent à faciliter les moyens de transport du personnel et des provisions charitables que ces Sociétés enverront dans les pays envahis par la guerre.

Enfin, le Comité de Genève désire que la Conférence Internationale étudie et discute les moyens de réaliser cette œuvre éminemment humanitaire et philanthropique tout en respectant les lois, les habitudes et les usages des différentes nations de l'Europe.

Figure 4. Notification to the International Conference of 26 October 1863. Letter by Henry Dunant dated 15 September 1863. © ICRC photo library (DR).

How speedily Dr Hahn advanced is proven by a letter sent by the privy councillor of the King's Cabinet to Dr Hahn on 5 December 1863.<sup>19</sup> That very day in Stuttgart, Dr Hahn established a creation committee composed of both women

19 W. Gruber, 'Baden-Württemberg', above note 3, pp. 112 ff.

and men.<sup>20</sup> It drafted the statutes for a new society, which were announced to the steering committee of the Württembergische Wohltätigkeitsverein in its session on 11 January 1864.<sup>21</sup> The Württemberg Ministry for Warfare had already given its consent for the creation of the new society, as had the privy councillor, who wished the new society good luck in its work.<sup>22</sup> The Ministry for Warfare even sent the medic from the General Staff to join the creation committee and to assist in the process of establishing the new society.

On 20 January 1864, Dr Hahn informed Dunant that the new society, the Relief Committee for the Wounded Soldiers (Hilfskomitee für die verwundeten Soldaten), had been established. Hahn himself held the chair.<sup>23</sup> He expressed his hope that in the near future individual departments within the new society would be created. In March 1864 the statutes of the new committee were formally reviewed and published, together with the names of all members of the governing board, which included, besides Dr Hahn, eight men and twelve women. The Relief Committee for the Wounded Soldiers enjoyed the protection of King Wilhelm I from its creation.

Between 1864 and 1866, eight further societies were created locally in Oldenburg, Prussia, Mecklenburg-Schwerin, Hamburg, Hesse-Darmstadt, Saxony, Baden, and Bavaria.<sup>24</sup> Delegates from the societies of the southern German states took the initiative to explore ways to agree on a common point of view and to coordinate the activities of societies within the German Confederation. Following this initiative, the National Societies within the German Confederation allied on 20 April 1869 and formed the Central Committee of the German Associations for the Care of Wounded and Sick Warriors in the Field (*Zentralkomitee der Deutschen Vereine zur Pflege im Felde verwundeter und erkrankter Krieger*), with its office in Berlin.<sup>25</sup> However, in times of peace this central committee had only very limited and mainly coordinating powers, as the National Societies were keen to preserve their independence.<sup>26</sup> From the very start, the German Red Cross was thus an organisation based on the association of local branches and practiced auxiliary.<sup>27</sup>

20 A. Quellmalz, above note 3, p. 197; W. Gruber, 'Baden-Württemberg', above note 3, p. 113.

21 *Ibid.*

22 *Ibid.*

23 *Ibid.*

24 For further societies formed between 1863 and 1877, see W. Gruber, *125 Jahre Rotes Kreuz*, above note 3, p. 13.

25 A. Quellmalz, above note 3, p. 203.

26 *Ibid.*

27 This concept of auxiliary – which is still of paramount importance today – is the specific and distinctive partnership between the National Red Cross and Red Crescent Societies and their respective states. It balances the responsibilities of a National Society within a state against the principle of independence according to which every component of the Red Cross and Red Crescent Movement works. The concept entails mutual responsibilities and benefits and is based on international and national laws, in which the state and the National Society agree on the areas in which the latter substitutes for public humanitarian services. See ICRC, '31st International Conference 2011: Resolution 4 – Furthering the auxiliary role', Resolution, 1 December 2011, available at: [www.icrc.org/eng/resources/documents/resolution/31-international-conference-resolution-4-2011.htm](http://www.icrc.org/eng/resources/documents/resolution/31-international-conference-resolution-4-2011.htm). It is worth noting that, as the German Confederation could not agree on one delegate to represent all the states at the International Conference in Geneva in 1864, Dr Hahn was authorised to participate in the Conference for the State of Württemberg. In his letter

When the Prussian–German War loomed in May 1866, Dr Hahn again emphatically urged the new King Karl I<sup>28</sup> to sign and ratify the Geneva Convention. Württemberg eventually joined the Convention on 2 June 1866. Other German states followed.<sup>29</sup>

The Prussian–German War was the first challenge for the Württembergische Sanitätsverein to prove its worth.<sup>30</sup> With the assistance of the Central Committee, the personnel cared for the wounded and sick without distinction as to their nationality. Queen Olga<sup>31</sup> took the overall lead within both institutions.<sup>32</sup> Calls for donations were placed all over the country, with detailed descriptions of the specific necessities. These were of great success. A women’s committee, established on the request of Queen Olga, joined the Central Committee and helped it to train medical personnel. Across the country, local branches emerged to assist the work of the Württembergische Sanitätsverein.

Having proven its value in times of war, the Württembergische Sanitätsverein received letters of gratitude from King Karl I himself as well as from the Württemberg Ministry for Warfare, the Prussian Central Committee and several other states.<sup>33</sup>

of 22 July 1864 to the ICRC in which he announced this fact, he also proposed the idea that it might be helpful if delegates of all newly created societies would confederate.

28 A. Quellmalz, above note 3, p. 200.

29 See above note 14. Hesse joined on 22 June 1866, Bavaria on 30 June 1866. Saxony was only able to join after the war on 25 October 1866, as it was already under occupation by Prussia in June. Under the influence of King Karl I, Austria joined on 21 July 1866.

30 See also the German–Danish war, February–October 1864.

31 Crown Princess Olga was married to King Karl I and thus became Queen in 1864.

32 A. Quellmalz, above note 3, p. 200.

33 *Ibid.*, p. 201.



## IN FOLIO

# Looking back over 150 years of humanitarian action: the photographic archives of the ICRC

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### **Abstract**

*The purpose of this article is to suggest some historical milestones for a retrospective reflection on the photographic archives of the International Committee of the Red Cross (ICRC). This collection is little used by researchers, although the 120,000 photographs which it contains have helped to forge the symbolism and identity of the institution and to document its operations in accordance with a memory preservation policy which gradually emerged in the course of the 20th century. The photographs shown in this article are divided into three main themes (the ICRC delegate, the context of action, suffering and the victims), in order to make it easier to discuss the key aspects of this tremendous visual heritage which looks at humanitarian action, its protagonists and its beneficiaries from an anthropological and ethnological point of view.*

**Keywords:** photography, humanitarian action, archives, memory, history, visual heritage, war.

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\* The author would like to thank, in particular, Ms Fania Khan Mohammad, of the ICRC photo library, for all the help that she provided during research for this article and for the highly informative exchanges with her which enabled the author to gain a better understanding of the use of photography by the ICRC.

The photo library of the International Committee of the Red Cross (ICRC), containing a rich collection of some 120,000 pictures,<sup>1</sup> is probably one of the best visual databases on humanitarian activities. Unlike textual documents,<sup>2</sup> these visual records are under-utilised and few people are even aware of their existence. Photography, the use of which started to expand at the end of the nineteenth century, especially in the illustrated press, has proved to be an excellent medium for providing and storing information on and evidence of realities in the field. It even competes with the audiovisual media.

Nonstop imagery (television, streaming video, movies) is our surround, but when it comes to remembering, the photograph has the deeper bite. Memory freeze-frames; its basic unit is the single image. In an era of information overload, the photograph provides a quick way of apprehending something and a compact form for memorizing it.<sup>3</sup>

This special link between memory and photography is perceptible in the visual heritage of the ICRC. This almost encyclopaedic collection, which has been built up over decades, questions therefore the institution's memory preservation policy. The collection testifies to the ICRC's careful record-keeping, in that it encompasses not only photographs taken by its members but also pictures which it has received or bought. Although, at first, delegates made fairly random use of the camera, they were then encouraged to take pictures during visits to prisoners' camps during the Second World War. The diversity of the material thus gathered became plain only when the archives were completely reorganised in the 1950s. The importance of visual evidence was confirmed in the 1960s through recourse to professional photographers.

Within the ICRC, the wealth of such a collection has already formed the source material for some thought-provoking works. The first, *Focus on Humanity: A Century of Photography. Archives of the International Committee of the Red Cross*,<sup>4</sup> published in 1995, showed how war and the history of the Geneva Conventions were perceived in the twentieth century. The book was revised in 2009<sup>5</sup> and enhanced with several magnificent pictures taken from the project 'Our World at War'.<sup>6</sup> In addition to these two publications, the exhibition *Terrain(s)*,<sup>7</sup> organised by the International Red Cross and Red Crescent Museum, drew on the historical

- 1 Only these 120,000 images are public. In fact, the collection contains some 780,000 items in the form of glass plates, negatives, prints, and digital photographs.
- 2 The archives of the ICRC contain not only photographs but also recordings, films, and written documents going back to the earliest years of its existence.
- 3 Susan Sontag, *Regarding the Pain of Others*, Picador, New York, 2003, p. 20.
- 4 Nicolas Bouvier, Michèle Mercier, and François Bugnion, *Focus on Humanity: A Century of Photography. Archives of the International Committee of the Red Cross*, Skira, Geneva, 1995.
- 5 ICRC, *Humanity at War: Frontline Photography since 1860*, Lieux Dits, Geneva, 2009.
- 6 Organised with Agence VII during the campaign 'Our World. Your Move', launched by the ICRC in 2009, available at: [www.viipphoto.com/our\\_world.html](http://www.viipphoto.com/our_world.html) (last visited 25 January 2013).
- 7 The exhibition *Terrain(s)*, which commemorated the 50th anniversary of the bombing of Hiroshima and the work of Dr Marcel Junod, was held at the International Red Cross and Red Crescent Museum from 7 March until 5 August 2007. See the Museum's website: <http://www.redcrossmuseum.ch/en/exhibitions/temporary/archives/field-s-from-solferino-to-guantanamo> (last visited 22 October 2013).

testimony of this collection. Its subject matter was extensive, as are the issues raised in this article, because the photographs combine a penetrating look at the real contexts of action with some of the classic images of twentieth-century photo-journalism.

The purpose of this article is not therefore to engage in a specific case study, but to suggest some historical milestones for a reflection on and the use of these archives by historians, political scientists, sociologists, and anthropologists, because these photographs have helped to forge a visual identity and symbolism, to provide (institutional and operational) legitimacy, to offer anthropological and ethnological insight, and to create an awareness of other human beings and their suffering. As it is impossible to cover all the events recorded in the archives, we have deliberately opted for a fragmented view encompassing a chronological, historical, and semiological approach. This choice was made after exploring the contents of the works to which we refer, examining the 200 photographs selected at the time of the 150th anniversary of the ICRC and then systematically analysing the search terms of the photo library's database. This made it possible to outline several categories in relation to space, time, and theme: periods shown and historical developments (nineteenth to twenty-first century), geographical contexts (marking the expansion of humanitarian action outside Europe), and types of ICRC action and beneficiaries (soldiers and civilians). This framework is suggested as an initial basis for more targeted research into a number of topics.

These categories have been grouped under three main focuses, each of which is illustrated by one or more photographs. The first is the delegate, who personifies the values of the institution and represents the famous link so essential to humanitarian action, that of the benefactor amidst suffering. The second is the actual context of action, which has diversified over the last one and a half centuries. The ICRC wants to make its action in the field visible, and here the operational photographs underscore its activities. Their main focus is on resilience, but they also seek to show the affected populations and their living conditions. Lastly, the role of photography is also to awaken our awareness of other human beings' suffering and to question the need to show it.<sup>8</sup> The pictures in this category therefore concentrate on victims and on the visual relationship with death and violence.

## The delegate: creating an institutional identity in the field(s)

The history of any institution necessarily takes us back to its origins and, consequently, to the almost mythological aspect of its history. The myth<sup>9</sup> in the case of the ICRC is to be found in the figures of its founding fathers, but we will not go into

8 See, *inter alia*, S. Sontag, above note 3; and Paul Bouvier, "Yo lo vi". Goya witnessing the disasters of war: an appeal to the sentiment of humanity', in *International Review of the Red Cross*, Vol. 93, No. 884, 2011, pp. 1107–1113.

9 We are using the term as it is understood by Barthes – in other words, as language or speech comprising a set of signs (semiology), conveying a message full of signifieds (which can often be related to a set of values). See Roland Barthes, *Mythologies*, Seuil, Paris, 1957.

this here.<sup>10</sup> The delegate is the iconic referent who transcends the myth of the ICRC's origins, who creates the whole symbolic visibility of the ICRC in the field, and who entrenches this link to its heritage. He or she personifies the activities of protection and assistance in three fundamental contexts: visiting prisoners of war, working in offices and delegations in the field, and disseminating international humanitarian law (IHL). This line of research also enables us to pinpoint the institution's rules on taking pictures and shows how they have evolved. Not only has policy on delegates' photography changed, the visual imagery has also shifted from the masses to the individual, as its purpose has gone from that of gathering donations to that of documentary testimony.

## Detainees

The world of prisons figures prominently in ICRC iconography. The photographs illustrate historical variations in the perception of detention, starting with the first visits to prison camps during the First World War. It was then that the International Prisoners of War Agency was founded. The first pictures of its headquarters convey the important role that visits to detainees play in ICRC activities.

We find dozens of examples of the kind of photograph shown in [Figure 1](#), taken at different geographical locations up until the post-1945 period. The mass view used in the postcard campaigns mounted by the ICRC<sup>11</sup> refashioned the link between what was happening behind the lines and the 'prisoner' front, between families waiting for news and those who, away from the fighting, were still in need. The scale of aid needed is symbolised here by the depth of field of the photograph showing a blur of hundreds of men who seem to stretch back into infinity and who need help. This explains why such campaigns raised funds.

During the Second World War, photographs started to serve increasingly as documentary evidence as the ICRC headquarters authorised or even recommended delegates to take pictures when visiting prisoners of war, as was the case of Maurice Rossel in the Theresienstadt ghetto, which the Nazis had intended to be seen.<sup>12</sup> This photography therefore originates as an act of testimony, but it also describes reality in the field. However, taking wartime photographs poses the risk of manipulation or propaganda because they concern a sensitive context. The ICRC, whose identity is rooted in humanitarian principles and the legal framework of the Geneva Conventions, cannot take photographs unbeknown to the governments authorising delegates' visits and thus risk accusations of spying. Photographs may be taken and

10 Innumerable portraits of the Committee's five founders and their working meetings in emblematic settings in Geneva were in circulation as from the end of the nineteenth century. They demonstrate the relationship of the middle class to photography and the determination to provide documentary evidence, but they are also symbols of patrimonial and institutional legitimacy. These portraits were taken by private photographers such as Paul and Fred Boissonnas. See Paul Boissonnas, *Clichés ayant été faits pour le CICR*, June 1953, ACICR B AG 074-003.

11 See in particular some reproductions in Etienne Clouzet (ed.), *L'agence internationale des prisonniers de guerre. Geneva, 1914–1918*, SADAG, Sécheron-Geneva, 1919.

12 See the analysis of Sébastien Farré and Yan Schubert, 'L'illusion de l'objectif: le délégué du CICR Maurice Rossel et les photographies de Theresienstadt', in *Le Mouvement Social*, Vol. 2, No. 227, 2009, pp. 65–83.



Figure 1. Austrian prisoners in the hands of the Italians, Italian front, 1914–1918 War. © ICRC photo library (DR).

circulated only with the agreement of all the parties concerned. Hence, in 1944, Jean Pictet drew up a note specifying the use to which these photographs could be put and stressing that they were taken by delegates in order to accompany their report and were then sent to the detaining authorities. Only a small proportion were to be used in the *International Review of the Red Cross* (hereafter referred to as the *Review*) or other ICRC publications.<sup>13</sup> At all events, the Information Service had to examine each photograph to see if it was suitable for publication. Those which were regarded as unsuitable could nonetheless be preserved in the photographic archives for reasons of thematic and/or historical interest. Thus, in 1952, Jean-Pierre Maunoir of the Executive Board informed the ICRC delegation in Indonesia that the photographs which it had supplied could not be published because:

the governor of Nusakambangan prison did not authorize you to take pictures inside the buildings. This is most regrettable. . . . When you visit prison camps or detention centres we would be grateful if, whenever you have been given the possibility, you would take some photographs showing detention conditions.<sup>14</sup>

13 'Utilisation par la Division d'Information de photographies de camps de prisonniers', 2 January 1944, ACICR G17/Photo.

14 19 September 1952, ACICR B AG 074-003.02.



Figure 2. An ICRC delegate talks to a detainee on patio 4 of La Picota prison, Bogotá, Colombia, 27 February 2007. © ICRC photo library/Virginie Louis.

Since the 1940s, photographs of the masses have gradually given way to those of the face-to-face meeting between delegate and prisoner. They have left the world of camps to document and show life in prison – a world usually hidden from sight – irrespective of the grounds for detention (be they political, criminal, etc.).

The focus in the photograph shown in [Figure 2](#) is on equality between two people – the delegate and the prisoner. It recreates the dialogue and makes the sharing of information central to the overall picture which always includes detention conditions. The universe is clearly identifiable through a wide shot on symbolic references in the background such as cell doors and a line of washing. It is therefore easy to understand why it is important to include this kind of photograph in reports in order to describe the detention facilities. From the 1980s onwards, as image rights gained in importance, it became a principle of the ICRC that, in accordance with the Geneva Conventions, prisoners can never be recognisable in photographs taken during international conflicts.<sup>15</sup>

The ICRC's protective activity therefore makes it an organisation that has close contact with states, at least when negotiating the release or exchange of prisoners. This is mainly illustrated by images of a delegate standing beside politicians or military men, such as the picture shown in [Figure 3](#) of a meeting between Israeli

15 See Third Geneva Convention, Art. 13: 'Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.' Prisoners must now give their written consent to the circulation of a photograph from which they can be identified.

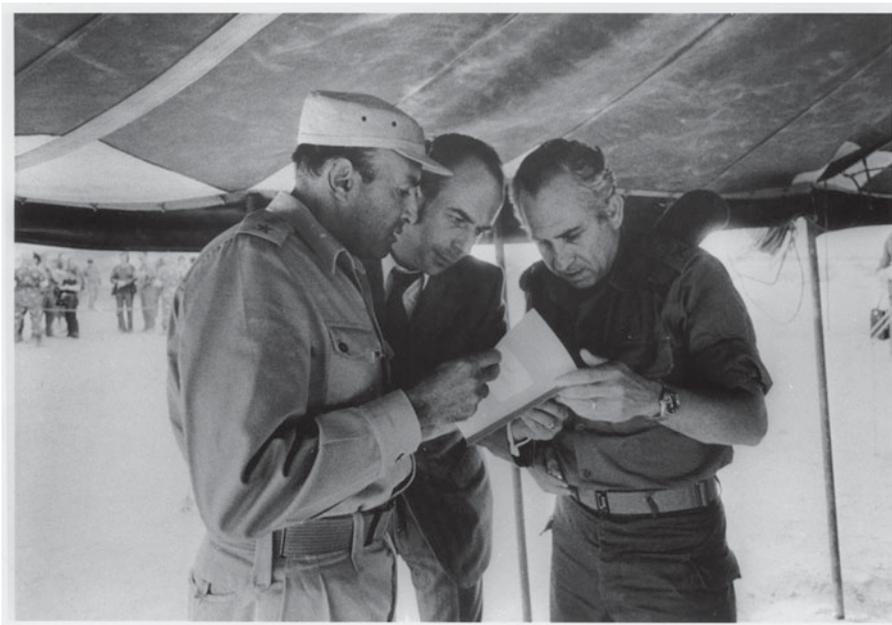


Figure 3. General Sharif from the Egyptian side and General Eyal from the Israeli side, Israel–Egypt, UNEF tent at km 101, 1967. © Israeli Government Press Office.

and Egyptian generals at the end of the Six-Day War between Israel, Egypt, Jordan, and Syria. In this case, the deliberate intention behind the purchase and circulation of this image was precisely to show negotiation and agreement between the two parties. This demonstration of goodwill is all the more important because the photograph was not taken by the ICRC, but was received from the Israeli army's press service. Detention is turned into a story; there is a 'before' (a combatant, a soldier), a 'during' (imprisonment), and an 'after' (release, repatriation, or exchange of prisoners). Throughout this story, the delegate is present at various stages and participates in several activities. The time frame is important for the ICRC, which gathers numerous photographs of this long, drawn-out process – one tends to forget that, no matter whether they are hostages or former combatants, detention is lost time for prisoners and is made even worse by the fear that they might be forgotten – of which the operative symbol is therefore that of an unbroken link.

### The narrative figure of the delegate

Hence, the photographic testimony of and by the delegate is of utmost importance as a means of establishing institutional identity in the field. The Information Service therefore encouraged delegations to make use of it, even if that meant



Figure 4. Visit of Dr Jean Maurice Rübli and Mr Henri Philippe Junod, accompanied by assistants from the Kenya Red Cross Society, to a Kikuyu village, Kenya, 12 June–9 July 1959. © ICRC photo library (DR).

having to be accompanied by a photographer if delegates could not take pictures on their own.<sup>16</sup>

This was the case with the photograph shown in [Figure 4](#), which was taken in Kenya during the on-the-spot activities of the ICRC after the Mau Mau uprising. It sets the scene – that of the meeting between two links in the chain of humanitarian action, the benefactor and the beneficiary. What is striking in the composition of this photograph is that the delegate standing at the back of the group is nevertheless the central figure. He is the only man in a group of women – for a long time the image of the delegate was male. The photographer, who accepts his role as an observer, is fascinated by this distinctive feature of a meeting between Africans (who are looking at the camera) and white staff (who have their backs turned to it). It symbolises the thrust of humanitarian action which has shifted from a mainly European universe to a North–South axis after the expansion of ICRC activities in Africa and Asia during the Second World War. The photograph is documentary evidence and, at the same time, it shows a universe that will form the basic ingredient of third-world scenography.

The delegate plays several narrative roles in these photographs: that of an inspector, a first-aider, a protector, and a kind and reassuring presence. By the end of the twentieth century, humanitarian imagery had switched to an approach that

<sup>16</sup> Note from Robert Melley to Mr Hoffmann, ICRC delegate in Tunisia, 20 July 1957, ACICR B AG 074-004.



Figure 5. An ICRC delegate visits a paraplegic woman at Kosevo Hospital, Sarajevo, Bosnia and Herzegovina, 1 May 1993. © ICRC photo library/Ana Feric.

placed greater emphasis on the individual relationship between victim and first-aider.<sup>17</sup> The photograph shown in [Figure 5](#) is a distillation of several powerful symbols: this time our gaze immediately falls on the delegate, a referent who can be recognised by her accoutrements (stethoscope and ICRC emblem), and is then guided along the line formed by the clasped hands embodying the iconic symbol of the outstretched hand.<sup>18</sup> In the foreground lies the archetypal victim (an old lady who is supine). The scene depicted here is reminiscent of the angelic figure so often evoked in the mythology of the earliest posters of Red Cross societies;<sup>19</sup> if the delegate can act as observer as well, what is expressed here is above all gratitude for kindness.

This figure is there to tell a story, that of the alleviation of suffering; the delegate is both narrator and reporter, and sometimes photographer as well. The setting up of a photographic laboratory at the ICRC in May 1958 enabled the institution both to play its role of heritage guardian and to step up its activities of supplying Red Cross Societies, other humanitarian institutions, the general public,

17 Rony Brauman and René Backmann, *Les médias et l'humanitaire*, CFPJ, Paris, 1996, p. 24.

18 See, in particular, Frédéric Lambert's analysis of the symbol of the outstretched hand in a well-known photograph of the war in Lebanon in *Mythographies: la photo de presse et ses légendes*, Edilig, Paris, 1986, pp. 88–91. This symbol functions according to the principle of intericonicity; frequently employed in Judaeo-Christian iconography, it is now a sign that the viewer can immediately identify and decode.

19 See the collection of National Societies' posters shown in John Hutchinson's book, *Champions of Charity: War and the Rise of the Red Cross*, Westview Press, Boulder, CO, 1996.

journalists, and editors with documentation and sending illustrated reports to donors.<sup>20</sup> However, the number of photographs taken by delegates tended to fall in the following years because the photographic service preferred to hire professional photographers who provided better-quality work than the often amateurish snapshots of delegates, or to use pictures donated by army communication services.<sup>21</sup> Delegates continued to take photographs in prisons because protection activities (such as visits to detainees, assessments of conditions of detention, etc.) are confidential.

## Dissemination of IHL

While the universalising, cultural, and memory-based dimension of the figure of the Good Samaritan (as benefactor/delegate/first-aider) has long been widespread in humanitarian iconography, many ICRC pictures concentrate on the dissemination of IHL to armed groups, which is another activity specific to the institution. In [Figure 6](#), we leave the ‘totem’<sup>22</sup> of the helpful gesture for an actual encounter with the combatant, another relationship between two people that is fundamental to humanitarian action.<sup>23</sup> This is essentially a military and legal universe, because the central purpose is familiarisation with the Geneva Conventions. The symbol of the outstretched hand is replaced with that of a text.

This type of photograph recreates the scenography of the meeting, because it necessarily raises the issue of the intrinsically intercultural nature of the dissemination of IHL and the ideologically charged relations which may arise from dispensing an idea in contexts which are sometimes completely alien. The focus is also on the central figure of the white delegate. The interpretation is that of sharing: our gaze follows the thread of the cartoon book illustrating Dunant’s idea, which is being read by several people. The delegate is sitting in the centre of the group – part of it, but not the dominant member. We should also note the overall composition of the picture, through which the photographer wished to stress the cultural contrast inherent in IHL dissemination since the ICRC has been operating outside Europe, by including on the left two African warriors who are looking away from the camera. They are in full war regalia and carry the ritual objects described in the caption. This intercultural dimension is absent in other photographs of the collection which underscore the presence of local employees, as we will see later. Nevertheless, it demonstrates the sensitive contexts which may be deduced from

20 See ‘Service et laboratoire photographique’, note from Robert Melley to Jean Pictet, 26 October 1959, ACICR B AG 074-004.

21 For example, many of the photographs of the Korean War were received from the commander of the UN coalition forces operating there; this can be seen from a letter from Dr Lehner (ICRC delegation in Korea), the English translation of which is: ‘Please find enclosed . . . a set of photos taken on that occasion for your documentation. These photos were handed to us by the UN Command and may be published’, ‘Photos related to the Panmunjom mission’, 30 January 1952, ACICR B AG 074-003.02.

22 The term is adopted from Sontag, who considered photographs of violence to be ‘routes of reference’ and ‘totems’ of causes. See S. Sontag, above note 3, p. 67.

23 The general public now mainly thinks of humanitarian action as aid for civilian victims instead of the provision of assistance for wounded soldiers initiated by Dunant.

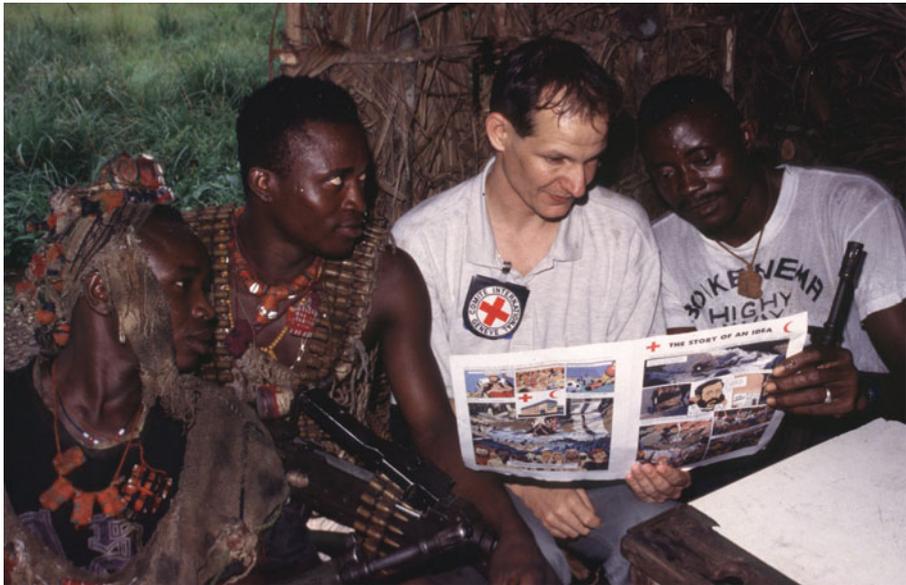


Figure 6. Teaching IHL and the principles of the Red Cross to traditional Kamajor hunters at a road checkpoint between Bo and Kenema, Sierra Leone, 25 August 1998. The hunters believe that their voodoo (a ritual object resembling a red microphone) makes them invulnerable. © ICRC photo library/Till Mayer.

photographs of a delegate alongside groups of combatants who do not all belong to regular armies and the risk of being treated as a sympathiser of a cause. Here the ICRC is also defending its policy by stressing that it is necessary to have access to all armed groups taking part in a conflict, while at the same time respecting its principles. This message is conveyed by showing IHL instruction sessions.

### **Lending legitimacy to the ICRC's presence in a variety of contexts: relief operations**

The second focus explored is that of the context of humanitarian action where the diversity of operations is stressed and local staff members are depicted. It is possible to discern from old pictures of Red Cross Societies the way in which policy on archives and the collection of photographs as a guarantor of institutional memory has gradually emerged, and the changes it has undergone. Although the main intention behind this policy was to keep a record of operations and the resources deployed, it now allows us to look back at the societies where relief was supplied, as reflected in ethnographic photography.

National Red Cross Societies were pioneers when it came to photographing their activities in the field, as may be seen from the collection's earliest photographs of the Franco-Prussian War of 1870–1871, or of the Russo-Turkish War in



Figure 7. Russian Red Cross infirmary, Frateshty, Bulgaria, Russo-Turkish War, 1877–1878. © ICRC photo library (DR).

1876–1878, where the emphasis was on means of transport and national staff. The approach was both evidential and documentary, since the purpose was visually to ‘record’ the effective nature of relief among vulnerable population groups, who, during the first decades, remain depicted in a military and medical world (soldiers, ambulances, and hospitals).

This documentary approach is perceptible in the picture shown in [Figure 7](#), taken by the Russian Red Cross Society, where the photographer aimed above all to create a backcloth in a static shot composed for the occasion: the misery of the line of wounded men, their large number and the nurses beside them, all of them facing the lens. In this ‘constructed’ image we are close to the scientific photography of the years between 1920 and 1940, when the camera became an instrument for probing social issues and illustrating the reality of the fieldwork of sociologists, ethnologists, and anthropologists.<sup>24</sup> The posed scene so typical of nineteenth-century war photographs was dictated by the technical constraints of the cameras of the day, which needed fairly lengthy exposure times. It was necessary to wait for technical improvements and cameras that were easier to handle in order to be able to take ‘action’ shots accentuating the realism that also appeared in ICRC photos from the 1960s, when professional photographers made their appearance.

24 Thilo Koenig, ‘Voyage de l’autre côté: l’enquête sociale’, in M. Frizot (ed.), *Nouvelle histoire de la photographie*, Larousse, Paris, 2001, pp. 346–357.

Little by little these pictures were gathered and/or sent spontaneously to the ICRC. The Information Service began to publish the first photographs in the *Review* in the 1920s. For this it turned not only to national societies but also to delegations abroad, in order to illustrate their activities and the international conferences which punctuated the history of IHL.<sup>25</sup> The great store of images of every kind was scattered among different services, however, and it therefore became necessary to index and specifically organise an iconographic collection. This was done in several stages. In 1946, after the war, following the expansion of photographic reporting by delegates, Jean Pictet sent a note to all services asking them to hand over any photographs of the institution which they might possess for the reorganisation of the iconographic service of the archives.<sup>26</sup> After a first incomplete attempt at classification by a student of the Social School in 1948, Mrs. Vuagnat of the Archives Service proposed in 1953 'a complete regrouping of all photographic material including that predating 1939, that of the 1939–1945 war and that of the Information Service'.<sup>27</sup> The classification of the wide variety of that material<sup>28</sup> by theme, chronology, and keywords was therefore indicative of a determination to promote research and lending. As this activity of the documentation centre grew in importance over the years, it came to constitute the real 'memory' of Red Cross action. But while it evidenced the wide variety of the contexts illustrated at that time, be they 'disasters' (such as famines) or prisoner-of-war camps, it also brought to light the lack of traceability of some images. Their content had to be pieced together from other pictures which contained clear enough clues to identify them. In 1957, this lack of clarity led Robert Melley from the Information Service to propose that the 50,000 items in the photographic archives should be reorganised. 'It was virtually impossible, especially for staff members who did not have "executive" duties, to provide each picture with an appropriate caption.'<sup>29</sup> The purpose behind this strengthening of documentary and research capacity was to minimise the dispersion and mislabelling of documents in 'compartmentalised' archives. There is a marked difference between contemporary or recent documents, which serve to publicise ICRC activities, and those prior to 1939, which are only of 'historical' interest. That was when thought was first given to setting up a photo library at the ICRC in order to facilitate printing and reproduction for information and publicity purposes.

### New horizons, new practices?

This determination to depict the wide range of operations intensified at the end of the twentieth century. The focus of the first 'technical' photographs on the means

25 See also the document entitled 'Liste iconographique' which itemises all the images requested from or received by the Red Cross between November 1951 and June 1953, ACICR B AG 074-003.

26 See the file 'Iconographie 1936–1948', ACICR B CR 230.

27 'Rapport sur le service iconographique', 4 June 1953, ACICR B AG 074-003.02.

28 Prints, negatives, drawings, engravings, diplomas, pictures, posters, and exhibits. Some of this material is no longer stored in the photo library. The posters have been added to the collection of the International Red Cross and Red Crescent Museum.

29 'Réorganisation des archives photographiques', August 1957, ACICR B AG 074-004.



Figure 8. Physiotherapist treating a child at Ali Abad orthopaedic centre, Kabul, Afghanistan, October 2007. Rohafza, whose right leg was amputated at the age of 10 after she had stepped on a mine by the gate of her school in Kabul, is a physiotherapist at the centre. She is fitting a child with an orthotic device. The limb-fitting and rehabilitation centre offers care to all persons with physical disabilities. Many have been injured by landmines or in accidents, while others have congenital deformities. Rohafza says: 'It is so rewarding to help those who most need help, to see someone who was wheeled into the centre be able to walk out by themselves.' © ICRC photo library/Marko Kocic.

of action has now shifted to the multiplicity of local actors. The individual is central to the image. The title of the exhibition shown at the International Red Cross and Red Crescent Museum in 2007, the plural noun *Terrain(s)* (field(s)), underscores the diversification of ICRC action over a span of 150 years into contexts (health, sanitation, food, psychology, logistics, etc.) and in favour of categories of persons (soldiers and civilians) that go beyond its initial objectives. The differences in photography typify this evolution.

As in the other cases, the group view gave way more and more to pictures of the individual. In [Figure 8](#), the central feature which attracts our attention is the face of the child, who is looking straight at us. It represents a path to follow, from the little girl to the physiotherapist's life story which is recounted in the caption and which allows a kind of projection. This image echoes that of the earlier one of the delegate and the old lady in Bosnia. But the photograph also emphasises a second change, that of the replacement of the expatriate by a local Afghani woman doctor.

Another example is shown in [Figure 9](#), which depicts a scene from a play, though it is not at first recognisable as such. The immediately identifiable signs are those of distress, or of some sort of tragic event (we can see a crowd in the



Figure 9. Democratic Republic of the Congo, Hombo, South Kivu Province, 17 June 2010. Women acting in a play. In this scene, relatives comfort a woman who has been raped. © ICRC photo library/Pedram Yazdi.

background). At this level there is no trace of the delegate, the first-aider, or an emblem which would help to identify this scene as part of a humanitarian action. Only the caption indicates that it is a play about rape. Photography here has two functions: it illustrates a reversal of humanitarian thinking which now aims to build local, civilian capacity, and it is also educational. It ‘culturally’ informs a Western public unfamiliar with this kind of staging, and it warns the Congolese public about war crimes.

The third change is that of the extension of assistance to new sectors, in particular the reconstruction and rehabilitation measures put in place by the ICRC, which goes beyond the time frame of emergency relief. The numerous photographs of orthopaedic centres for the disabled, refugee camps, or the process of finding missing persons are evidence of this.

Although in [Figure 10](#) we find the emblem, which seems to be a benevolent ‘sentinel’ protecting the group, we have left the world of medical care to enter the family sphere. This is suggested by the arrangement of the group – at the centre is a woman, who is surrounded by her children. Someone is missing. We can imagine that the absent person is at the other end of the telephone. The scene described is that of an ‘imaginary’ restoration of a family link via the symbolic referent of the telephone line. This modern vision of a ‘Red Cross message’ exchanged between a prisoner and his family focuses not on the victim (the prisoner) but on a group of people who are all too frequently forgotten in the chaos of suffering (the family).



Figure 10. Detainees' families talk to their relatives via a videoconference in Kabul, Afghanistan, at the ICRC delegation, January 2008. © ICRC photo library/Robert Keusen.



Figure 11. ICRC representatives restore contact between a man and his nine-year-old niece who was separated from her family during the violence in 2009, Equateur Province, Dongo, Democratic Republic of the Congo, 18 August 2011. © Getty Images/ICRC photo library/Jonathan Torgovnik.



Figure 12. Portrait of an Afghani refugee, Peshawar, Pakistan, 1989. © ICRC photo library/Cédric Piralla.

Figure 11 shows the last stage of the story – the family is together again. The ‘action shot’ aspect to which we referred earlier is plain here: no pause, just a snapshot of the joyous gestures and emotion of reunion. The scene is universal and stresses a central theme connecting all the work of the ICRC: restoring human dignity.

## Encounters

The last type of photograph dealt with in this section is totally unexpected and brings us back to our relationship with other human beings. These photographs are not intended for publication or circulation, although they constitute an undeniable visual heritage and reveal the social and cultural relations between protagonists. They cast an anthropological or ethnological glance not at relief operations, but at population groups and their daily life. They are classified under the headings ‘landscapes’ and ‘portraits’ in the database of the ICRC photo library. They have nothing to do with the world of suffering and instead convey the human element.

In the portrait of an Afghani refugee shown in Figure 12, we find the typical characteristics of the kind of photography which emerged in magazines such as the *National Geographic*. It is a humanist photograph which speaks from

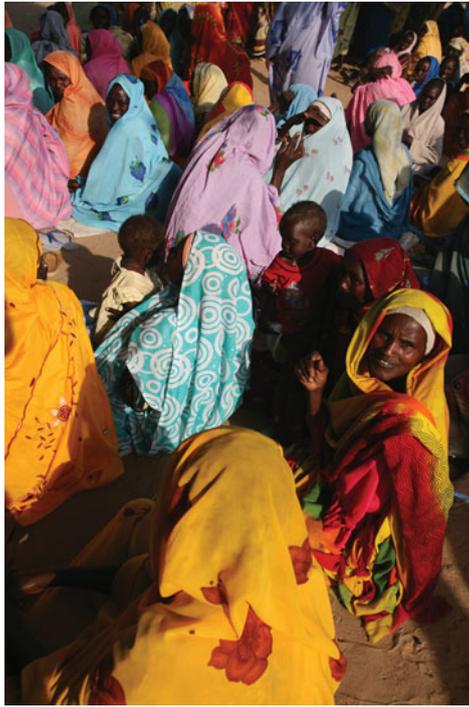


Figure 13. Portrait of a woman during distribution of food by the ICRC, Gereida, Sudan, November 2007. © ICRC photo library/Boris Heger.

human being to human being.<sup>30</sup> The head and shoulders portrait makes us look closely at the expression of this other person and arouses our curiosity about his story:

The close-up portrait, against a uniform background, with the subject looking the observer straight in the eye, like a constant reminder of his presence, exemplifies this tremendous individuation. The idea expressed visually is that the human being is at the centre of the world and his image is our most perfect fetish.<sup>31</sup>

The type of photograph shown in [Figure 13](#) is an introduction to peoples and a wide range of cultures. It no longer captures signs of chaos or assistance, but rather signs of life, ways of eating, dressing, and enjoyment, in an explosion of colour. In fact, it encapsulates the impressions of delegates who often go to countries which they do not know, and is like a travel diary that records feelings, daily scenes,

30 One example of such humanist photography was the celebrated exhibition *The Family of Man*, first shown at the Museum of Modern Art, New York, 1955.

31 Catherine Saouter, *Le langage visuel*, XYZ, Montreal, 1998, p. 140.



Figure 14. Royalist warriors crossing the western front, Yemen, 1964. Neither the photographer (possibly Yves Debraine) nor the delegate are identified. © ICRC photo library (DR).

communities, and the strength and rich cultural heritage of peoples – elements of ordinary life which are missed when the focus is on an emergency.

The account of such a journey, which is very similar to an explorer's tale, is particularly explicit in the case of ICRC operations in Yemen at the time of delegate André Rochat's mission (1963–1970). During that period ICRC policies on communication and memory preservation were developed in greater detail: delegates were asked to supply photographs in order to document action and, at the same time, rules were laid down for filming activities. Contact was made with the news media, which wished to film Red Cross activities on the spot. The missions to such countries turned conventions upside down, and the photographs taken there illustrated the pioneering spirit of an unusual, exotic adventure. As if alluding to that sense of discovery, the photo shown in [Figure 14](#) provides some insight into the motives of the delegate being photographed as he snaps a group of warriors in order to document his visit and, at the same time, to preserve a memory of this meeting.<sup>32</sup>

32 The rather unusual nature of this mission was documented in Frédéric Gonseth's 2008 film, *Citadelle humanitaire*. See also the testimony of Dr Pascal Grellety-Bosviel, the mission's doctor, on the ICRC blog in France, available at: <http://cicr.blog.lemonde.fr/2012/02/09/yemen-en-1964-la-premiere-mission-humanitaire-du-docteur-pascal/> (last visited 24 January 2013).

This approach constituted a major asset of the ICRC and still explains the choice of the images kept in the photo library.

## The representability of violence, suffering, and victims

The photo library was initially set up as an archive service to gather photographic documents but has since taken on a communicational role, and it ensures that images comply with the institution's rules. This is especially important because the photographs collected over the years do not all come from reliable sources. Not all of them are dated or accompanied by a caption. Some are legacies that depict war scenes which, although highly informative, are not suitable for publication in the *Review* because they are inconsistent with the principles, credibility, and identity of the ICRC. In his 1957 report, Melley noted the existence of a section called 'Visions of War' which featured troubling photographs containing scenes of capture, military operations, destruction, and starving children. He proposed the creation of new categories such as 'Victims' or 'Effects of War' and recommended their use (probably on account of their emotional impact) during exhibitions intended for the general public.<sup>33</sup> Although this section has since been largely reorganised and further subdivided into new categories (violence, war crimes, genocide, famine, etc.), it underlines the special relationship between violence, imagery, and sensitivity, which is explored in this third section dealing with photographs illustrating the typology of violence and suffering, where the focus gradually shifts from the delegate and relief to the victim. In this kind of imagery the emphasis is not only on the emotional dimension, because the photographs are intended to be widely circulated in order to create public awareness, but also on the ethical and denunciatory dimension, which raises questions about the ICRC's rules on circulating war photography.

### Photographing destruction

The age of the collection and the ICRC's presence in virtually all conflicts for more than a century necessarily raise the issue of the way death is portrayed and how much space is devoted to showing violence inflicted on persons and property. In this context, photography has the status of 'proof' of the facts and the protagonists.

The field is primarily the scene of fighting and destruction, as is clear from [Figure 15](#), which records the increasingly intense urban bombings that occurred during the Second World War. Already in 1944, the scenes of chaos in the foreground and the departure of residents who are joining the stream of refugees in the background are documentary evidence of the repercussions of armed conflicts on the civilian population (detention, migration, and maltreatment). This type of photography links in with Boltanski's 'topic of denunciation',<sup>34</sup> because it plays on a

33 See above note 29.

34 Luc Boltanski, *Distant Suffering, Morality, Media and Politics*, Cambridge University Press, Cambridge, 1999, pp. 57–76.



Figure 15. War damage, 1939–1945 War, Grivita, a suburb of Bucharest, 1944. © ICRC photo library (DR).

register of injustice (failure to respect civilian areas). Denunciation, however, would also entail another essential dimension to which the author refers – that of the figure of the persecutor, who, presumably, is absent from ICRC photographs in order to preserve the neutrality of the organisation’s testimony. As we will see, however, this is not always the case.

ICRC photographs do not only show destruction; they try to avoid the pitfall of dramatisation by also demonstrating that life goes on, thus harking back to the idea of resilience to which reference was made earlier. In the aestheticised, ethereal vision of a ruined Mostar presented in [Figure 16](#), the photographer wanted to evoke ‘the other side of daily life’ in war, where people still go to work and to the market, despite the chaos. The symbol of the bridge is a strong one – it allows people to cross from one riverbank to the other, to ‘reach the next stage’. The picture illustrates an aspect of humanitarian action, that of ‘giving back a person the capacity to choose’.<sup>35</sup>

## Violence

The photo library both archives and produces pictures,<sup>36</sup> but it also promotes lines of conduct to be followed when determining acceptable criteria for the choice of photographs. These criteria rest on humanitarian custom and expertise and do

35 Rony Brauman, *L’action humanitaire*, Flammarion, Paris, 1995, p. 9.

36 The photo library can ask for new photographs, for example on sectors not yet covered.



Figure 16. The ruined town of Mostar, Bosnia and Herzegovina, 1 May 1994. © ICRC photo library/Joëlle Comé.

not take the form of written rules. While in the past there was more freedom, because practice, being haphazard and not institutionalised, resulted in a variety of photographic testimony decided on a case-by-case basis, today there is more self-censorship when taking pictures of violence or showing dead bodies. The ICRC's policies on identity and memory preservation mean that most of the pictures in the archives have been produced by the institution. But the determination to keep a historical record of conflicts and their protagonists has also led the library to obtain photographs not directly related to its activities.

This is true of certain categories of combatants. The photograph shown in [Figure 17](#), bought from Anthony Teun Voeten, is intriguing because it contains two rarely depicted actors, namely women fighters. This portrait of two militia women is not accusatory, but sets out to show the reality of war and what it does to people, thus revealing an anthropological perspective on violence and the sociology of combatants.<sup>37</sup>

Some photographs of executions or massacres have been received as 'bequests' from army communication services present during conflicts, from national societies, or from resistance groups. This is true of some rare photographs of the Armenian genocide or of the liberation of the Nazi concentration camps. The origin of some of these photographs, like the Polish one shown in [Figure 18](#), is

<sup>37</sup> The photo library also contains photographs of child soldiers, another sensitive subject that is difficult to exhibit and document.



Figure 17. Women members of government armed forces/milita mounting guard, Ganta, a town on the border with Guinea, Liberia, June 2003. © ICRC photo library/Anthony Teun Voeten.



Figure 18. Execution of Poles by the Germans, Poland, 1939–1945 War. © ICRC photo library (DR).



Figure 19. Forensic anthropologists reconstitute the remains of a body found in a common grave in Saklawyia, Anbar Province, in the morgue of the forensic institute, Baghdad, Iraq, 2 May 2005. © ICRC/Getty Images/Ed Ou.

uncertain.<sup>38</sup> The oldest ones frequently contain only the briefest of information about the place or the date of the event in question. Like most of the ICRC's photographs until the 1950s, they are also anonymous, as we can see from some of the pictures chosen for this article. Not all were taken by delegates or their photographers. Perhaps the name of the author was not recorded when the picture was taken, or it was lost by the time the photo library was set up. A traceability study would be necessary in order to understand the reasons why the author and/or the protagonists wanted to have it sent to the ICRC.<sup>39</sup>

In addition to execution scenes we also find pictures of death, sometimes when almost nothing remains. Although they are rare, some photographs show mass graves. Such images demonstrate the historical link with the ICRC and its forensic experts as far back as the controversial case of Dr. François Naville and his role in the inquiry into the Katyn massacre in 1943.<sup>40</sup> The photograph shown in [Figure 19](#) allies science (reconstitution of bodies) with memory preservation

38 It is hard to say who the photographer was. The intention behind the photo is unclear, given that it was taken exactly at the time of the execution and that it shows German soldiers. The extremely vague information about the time and date would require historical crosschecking. Pictures of this kind are received and not taken deliberately. The circulation of those taken during the last forty years is forbidden.

39 By traceability we mean a systematic inquiry to discover who took the photographs, why and in what circumstances they were taken, who ordered them and how they reached the ICRC collection, the captions to them, and any accompanying information or data added later.

40 After the mass graves were discovered, Naville went to Katyn at the request of the German government, which suspected Soviet responsibility for this massacre. See Delphine Debons, Antoine Fleury, and

(restoring the dignity of victims of war crimes). The latter dimension of photographs of mass graves and mass violence remains an integral part of the archiving policy of the ICRC, because the photo library also possesses pictures of places (such as the Tuol Sleng prison in Cambodia)<sup>41</sup> or of monuments (grave stones at Srebrenica)<sup>42</sup> which here symbolises, *a posteriori*, a conscious effort of remembrance. In both instances, professional photographers went to the site to record these historical ‘traces’ of violence imprinted in the visual heritage of humanity.

## Civilian suffering

Showing suffering directly, in the middle of a conflict, nevertheless poses an ethical and moral dilemma, because it could be tantamount to denouncing the guilty party. The simultaneous presence of the torturer and the victim is rare in ICRC photographs, and such images which do exist, as we have seen, are not the product of the institution. However, showing a victim does not necessarily lead to the identification of the oppressor. The semiological ‘language’ of an image is too poor for that, because it cannot supply a causal link, except in cases of *flagranti delicto*. Since the words accompanying the images can point to possible responsibility, for obvious reasons of neutrality, ICRC photographs remain silent as to the perpetrators of violence, in case the pictures are circulated. Despite this dilemma, which is inherent in rendering any suffering visible, the ICRC very quickly capitalised on the emotional impact of victims’ images, since it realised what effect their use could have on the general public. The typology of victims underwent a series of changes, switching from the wounded soldier to the civilian. Women and children began to appear in the pictures as conflicts affected more and more non-combatants after the interwar period.

In the anonymous photograph shown in [Figure 20](#), probably taken by the Russian Red Cross, our eye falls at once on the figure of the naked child displaying all the symptoms of malnutrition.<sup>43</sup> This was to become a standard feature of famine photographs,<sup>44</sup> in Ukraine (1921–1922), Hungary (1919), and Greece (1941–1942).<sup>45</sup> At the end of the 1914–1918 war, European public opinion was moved as its conscience was pricked by photographs showing young victims incarnating innocence snatched away.<sup>46</sup> Another characteristic means of stirring compassion

Jean-François Pitteloud (eds.), *Katyn and Switzerland: Forensic Investigators and Investigations in Humanitarian Crises, 1920–2007*, Georg, Geneva, 2009.

41 Pictures of Tuol Sleng prison taken by Gérard Leblanc in 1980 and of relics of the ‘killing fields’ taken by Till Mayer in 1996.

42 Photographs taken by Benoît Schaeffer in 2005.

43 It is difficult to know, for instance, whether the child was undressed for the photograph. There is no doubt that the scene was arranged and posed.

44 Save the Children, set up in 1919, was to adopt the same visuals.

45 See Fania Khan and Daniel Palmieri, ‘Des Morts et des Nus: le regard du CICR sur la malnutrition extrême en temps de guerre (1940–1950)’, in Renée Dickason (ed.), *Mémoires croisées autour des deux guerres mondiales*, Mare et Martin, Paris, 2012.

46 Several studies have recently been made of the figure of the child victim in conflicts such as that in Iraq. The historical perspective is totally lacking. See Susan Moeller, ‘A hierarchy of innocence: the media’s use of children in the telling of international news’, in *Press/Politics*, Vol. 7, No. 1, 2002, pp. 36–56; Karen



Figure 20. Malnourished Russian children during the Russian famine, 1921–1923, Russia, 1922. © ICRC photo library (DR).

was to depict a mother cradling a child in her arms – a Pietà – thus employing the traditional Christian code of such representations of charity in order to encourage donations. Moreover, the way this image is constructed underscores the masterly use of the visual rhetoric of the victim for the benefit of politics. Thanks to it, the Soviet Red Cross was able to mobilise support around the time of the Ukrainian famine.

The ICRC was certainly aware of the aesthetic power of images to spur compassion when it chose to work with renowned press agencies and war photographers in the 1950s. Their visual testimony served to raise funds at a time when the ICRC did not have the means to pay photographers everywhere in the field. In an appeal to Magnum to cover Hungary and the Middle East, where the ICRC had just started to operate in 1956, Robert Melley emphasised the gains in terms of visibility on the international scene: ‘Although the experiment appears expensive at first sight, it seems worth a try. It is likely to lead to the circulation by the major newspapers of ICRC photos taken by the elite of reporters.’<sup>47</sup>

Wells, ‘Narratives of liberation and narratives of innocent suffering: the rhetorical uses of Iraqi images in the British press’, in *Visual Communication*, Vol. 6, No. 1, 2007, pp. 55–71.

47 The agency reporter did not ask for special treatment by the ICRC. The only arrangements concerned the negotiation of fees and the priority of circulation by agencies, newspapers, and the ICRC. The institution did not demand exclusive or priority publication. See ‘Note sur Magnum Photos’, 20 December 1956, ACICR B AG 074-004.



Figure 21. Distribution of food to undernourished children, Nto Edino reception centre, Biafra, Nigeria, 1968. © ICRC photo library/Max Vaterlaus.

This growing cooperation with professional photographers therefore permitted the development of the aesthetics of compassion, particularly in the years between 1960 and 1970, with the rise of photojournalism.<sup>48</sup> The photograph of Biafra shown in [Figure 21](#) is almost an iconic piece of journalism and marks a decisive turning point towards Boltanski's 'topic of sentiment'.<sup>49</sup> Its mobilising dimension is very strong. Biafra and its camps of starving children illustrate all too well the link between images, politics, and humanitarian action. In 1968 the serried ranks of naked skeletal bodies were reminiscent of the Jewish genocide – but do they not conjure up an older visual memory, that of the great European famines of the twentieth century?

Such images therefore raise questions about the visual rhetoric at work and its origin, especially in terms of the exemplary role allotted to the victim, who becomes the 'screen' symbolising the humanitarian cause, often without any reference to the socio-political reality which has turned that person into a victim: 'The cognitive archetype of what is allowed to be seen or, more rarely, guessed, is

48 The photographs chosen in this article, where authenticated, are not all professional. What is surprising is that their quality and aesthetic values are comparable, whether they are taken by professionals such as Vaterlaus, Nachtwey, or Kopic, or delegates such as Piralla or Com e.

49 L. Boltanski, above note 34, pp. 77–95.

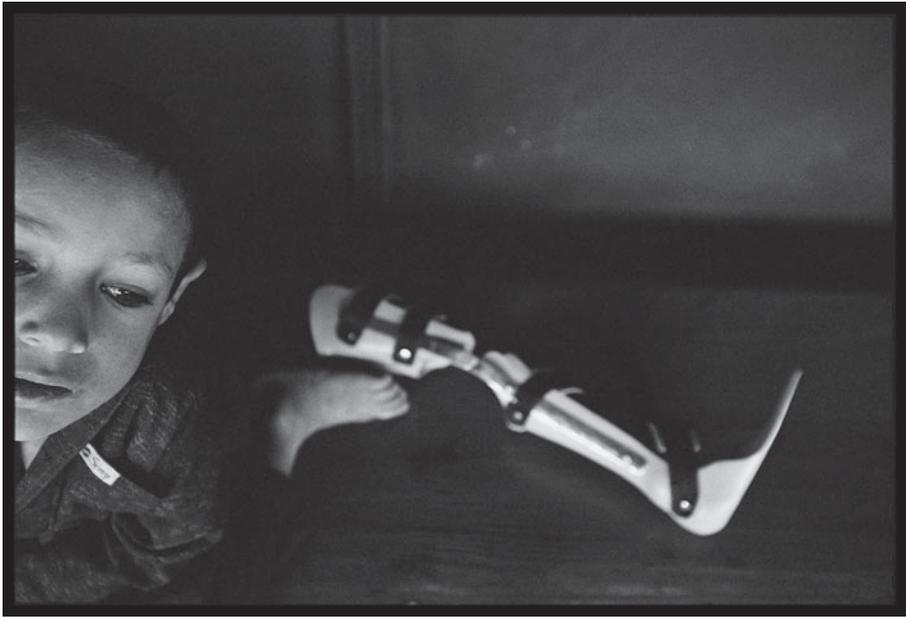


Figure 22. ICRC orthopaedic centre, Kabul, Afghanistan, March 2009. © ICRC/VII/James Nachtwey.

the victim through their suffering body, the victim who has become an aesthetic canon.<sup>50</sup> This is, however, still a far cry from some humanitarian activists' denunciation of the mass media.<sup>51</sup> ICRC photographs follow a number of rules, especially since the institution started to work with professionals. The determination not to play the media game by employing increasingly violent images led photographers who had been commissioned to work for the Red Cross to make greater use of symbolic relationships and suggestive effects. This resulted in the outstandingly evocative images of the *Terrain(s)* exhibition.

Figure 22 presents an image that does not focus on the victim, but seems to hint at the violence of amputation. It raises the issue not only of the representation of the victim and the aesthetic depiction of suffering, but also of the public relations of an organisation which defends the humanitarian principles of its communication policy with photographs that are sometimes criticised on the grounds that they enable the organisation to profit from the misery of others, especially since the ICRC has increased its collaboration with prestigious agencies such as VII, Magnum, and Getty (as from 2009). The worlds of humanitarian action and photojournalism intersect, although they are not always based on the same standards.<sup>52</sup> Yet the same

50 Philippe Mesnard, *La victime écran: la représentation humanitaire en question*, Textuel, Paris, 2002, p. 50.

51 R. Brauman and R. Backmann, above note 17.

52 See the testimony of James Nachtwey, the war photographer who founded VII, on working with the ICRC: 'There also seemed to be a sense that photographing a suffering person was, by definition, a form of

belief in the power of the visual medium unites both worlds in the conviction that photographing suffering can change something in the struggle against indifference and trivialisation.

## Conclusion: humanitarian photography or the West's way of looking at things?

One of the ideas put forward in the *Terrain(s)* exhibition is that humanitarian action would not have been the same without photography. At a time when there is talk of wayward trends in the manner in which the media depict humanitarian action, of sensationalism and compassion fatigue, when the Western hegemony on humanitarian action is challenged – some people even underline the role of humanitarian organisations in these representations<sup>53</sup> – this collection of photographs makes it possible to put some things in perspective. It constitutes a genuine centennial record. It is evidence of a photographic inquiry which gives value to the institution's memory and the public dissemination of images. It is a valuable weapon against indifference. It shows that a forgotten memory also exists of an older approach which moulded the general public's perception, which raises questions about the representability of suffering, and which prompts curiosity that induces a readiness to reach out to other human beings. The whole collection forms a genuine anthropological study of humanitarian work, violence, and fighting that is far removed from purely miserabilist pity. Its aesthetic codes have become the signature of the renowned photographers who have supported the ICRC.

These photographs are the product of an institution which displays its values and ethics through them. This communication policy is further justified by the fact that it ensures greater credibility.

The ICRC acts predictably, according to definite terms of reference, and its public communication must reflect its determination to be coherent and predictable. It therefore attaches greater importance to the credibility of its information and to medium and long-term strategies rather than to 'media coups'.<sup>54</sup>

The ICRC distinguishes itself from other humanitarian organisations which are more ready to claim communication strategies displaying a desire for publicity (such as the use of celebrities by UN agencies), or oriented towards denunciation or media 'hype' (like the advocacy campaigns of Médecins Sans Frontières (MSF)). The ICRC's mandate is grounded in a legal framework entailing possibly stricter communication rules than other organisations. It would be worth carrying out comparative studies going beyond the scope of this article, even though some

exploitation, when in fact nothing could be further from the truth. There seemed to exist the proprietary notion that only the efforts of a humanitarian organization could possibly be of any benefit, as if creating mass awareness and mobilizing public opinion was without value.' ICRC, above note 5, p. 4.

53 Bruno David, 'Vers un iconoclisme humanitaire?', in *Humanitaire*, No. 25, 2010.

54 Yves Daccord, 'ICRC communication: generating support', in *International Review of the Red Cross*, Vol. 87, No. 860, 2005, p. 703.

organisations do not possess such well-established visual archives as the ICRC and do not have the same policy on memory preservation. Some similarities do exist, however, in the visual culture which predominates in Western humanitarian imagery. For example, it was primarily Eglantyne Jebb, the founder of Save the Children, who created a willingness to sensitise public opinion by using photographs of starving children and to forge a consensus surrounding apolitical pictures of innocent child victims.<sup>55</sup> This tendency was copied in the visuals of the ICRC, National Red Cross Societies, and the American Relief Administration during the 1920–1930 period. More recently, partnerships between several humanitarian organisations and some press agencies (such as VII, which has also worked with MSF)<sup>56</sup> have raised the issue of establishing common codes. British and American photography does seem predominant when one looks at the agencies which have been contacted. Nor should one neglect the visual composition, which is in a way the signature of photographers who have been commissioned for this work and who, although they follow a set of stricter rules, nonetheless convey their own perception of the context.

While the ICRC therefore endeavours to ‘show’ its action, taking the form of its permanent presence in all humanitarian fields, it also wants to make itself identifiable through the permanent nature of symbols such as the logo and the delegate. In addition, the humanitarian world is perceived as a field of operations, action, gestures, thought, perception, and approach. However, like any other form of photography, humanitarian photography has its own ‘language’ limits. While its emotive power is undeniable, it is necessary to reflect on the goals assigned to it. Is this photography solely historical and ideological testimony aimed at ‘telling the story of people caught up in conflict, both victims and relief workers’, or is it ‘the record of a century marked by deeds of extreme heroism as well as utmost infamy, bringing hope as well as despair’?<sup>57</sup> ICRC photographs are more than just images of an institution. They have many purposes: testimony and proof, illustration and description, fund-raising and documentation, information and communication, education and awareness-raising.

By concentrating too hard on observation and contemplation, the limitations of such a visual heritage can be forgotten. The first limitation is cultural; although they claim to be universal in scope, ICRC photographs abide by Western visual codes around suffering and relief constructed over a period of two centuries. This photography can function only through symbols largely belonging to European culture, its religious roots, and its memories, because over time it has accustomed the public to seeing and understanding them.<sup>58</sup> The danger also lies in the world not seeming to exist beyond the visible boundaries of what we are allowed to see. While photography is still a wonderful knowledge tool, it is necessary to give some thought

55 Rodney Breen, ‘Saving enemy children: Save the Children’s Russian relief operation, 1921–23’, in *Disasters*, Vol. 18, No. 3, 1993, pp. 221–237.

56 See the project Starved for Attention, available at: <http://starvedforattention.org> (last visited 30 June 2013).

57 ICRC, above note 5.

58 Valérie Gorin, ‘La photographie de presse au service de l’humanitaire’, in Gianni Haver (ed.), *La photo de presse*, Antipodes, Lausanne, 2009, pp. 141–152.

to what it does not depict. The third limitation is contextual: the abundance of universally available visual media has helped to saturate the public arena via the social media. The production of images, their circulation, and therefore their instantaneous visibility to all protagonists can have as many advantages (triggering awareness) as stumbling blocks (risk of manipulation and misuse as propaganda) for humanitarian institutions, whose identity in the field is undeniably bound up with the production and use of visual material.



# The ICRC and the detainees in Nazi concentration camps (1942–1945)

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## **Abstract**

*A sharp debate has emerged about the importance of humanitarian organisations speaking out against misdeeds and, more generally, on the ethical and moral aspects of doing humanitarian work in the face of mass violence. That debate has pushed out of the spotlight a number of essential questions regarding the work of the International Committee of the Red Cross (ICRC) during the Second World War. The aim of this text is to scrutinize the ICRC's humanitarian operations for detainees of Nazi concentration camps during the final phase of the war in Europe. We look beyond the risks faced by ICRC delegates working in Germany to show how difficult the organisation found it to carry out a humanitarian operation for concentration-camp detainees in the very particular circumstances that prevailed in Europe at that time. The ICRC was an organisation designed to collect information on and to protect and assist prisoners of war, and its hastily mounted response is indicative of the strenuous task it faced in re-inventing itself during the final stages of the war and the minor role it was assigned in the occupation programmes imposed by the Allied forces.*

**Keywords:** International Committee of the Red Cross, ICRC, Nazi Germany, concentration camps, delegates, humanitarian action, deportation, deportees, food parcels, rescue operations, genocide, Second World War.

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It is impossible to study the history of humanitarian organisations and, especially, of the International Committee of the Red Cross (ICRC) without thinking about the Second World War and particularly the ICRC's work intended to help people affected by the Third Reich's policy of genocide. The ICRC tends to be presented as a founding institution of modern humanitarianism and as a model that showcases the ideal values put into practice by humanitarian organisations (neutrality, impartiality, etc.). But did it fail in its universal mission? That question lies at the heart of a major, often passionate debate. It has become an important milestone in the historical background to modern-day humanitarian endeavour. Three events are of special significance and the source of much of the criticism directed at the ICRC's attitude to the genocide: the ICRC's decision, in October 1942, not to launch a public appeal,<sup>1</sup> the visit in late June 1944 by ICRC delegate Maurice Rossel to Theresienstadt, and his meeting at Auschwitz with, by his account, the camp commander in September 1944.<sup>2</sup>

These three events have played a decisive part in shaping the debate on the ICRC's past. Thus, while the ICRC 'principle of silent neutrality' has been denounced in many quarters,<sup>3</sup> Bernard Kouchner, co-founder of *Médecins sans Frontières*, has repeatedly referred to the role that past played in his own work:

We didn't know what was happening in the concentration camps, so we did nothing. The International Red Cross, which was aware of the existence and purpose of the Nazi camps, chose to remain silent. Its explanations for that concealment are unprecedented in their shamefulness. Those who shared that extremely grave secret made no attempt to act.<sup>4</sup>

- 1 On the decision not to make an appeal, see Isabelle Vonèche Cardia, *Neutralité et engagement. Les relations entre le Comité international de la Croix-Rouge et le gouvernement suisse (1938–1945)*, SHSR, Lausanne, 2012; and Jean-Claude Favez, '1942 : le Comité international de la Croix-Rouge, les déportations et les camps', in *Vingtième Siècle. Revue d'histoire*, Vol. 21, No. 21, 1989, pp. 45–56.
- 2 Sébastien Farré and Yan Schubert, 'L'illusion de l'objectif. Le délégué du CICR Maurice Rossel et les photographies de Theresienstadt', in *Le Mouvement social*, April–June 2009, pp. 65–83. This visit has become one of the events best representing the ICRC's failure in the face of Nazi genocide policy, in particular after Claude Lanzmann's 1979 interview with Rossel for his film *Shoah* (1985). Although the interview was ultimately not included in the film, it was used several years later in an unreleased production, *Un vivant qui passe. Auschwitz 1943 [sic] – Theresienstadt 1944*, La Sept vidéo/Les Films Aleph, Paris, 1997.
- 3 Mario Bettati, *Le droit d'ingérence: mutation de l'ordre international*, O. Jacob, Paris, 1996, pp. 54 ff.
- 4 ICRC translation. Original French text: 'Nous ignorions la réalité des camps de concentration, donc nous n'avons rien fait. La Croix-Rouge internationale, qui connaissait l'existence et l'usage des camps nazis, a choisi de se taire. Les justifications de cette dissimulation portent la honte à un niveau inégalé. Ceux qui partageaient ce très lourd secret ne tentèrent pas d'intervenir', Bernard Kouchner, *Le malheur des autres*, Odile Jacob, Paris, p. 283.

Faulted for not issuing a public condemnation, the ICRC is also said to have played into the hands of Nazi propagandists, who used Rossel's visit to Theresienstadt and his subsequent report to present a distorted image of reality in the camps.

Public discourse on the ICRC's failure to help people affected by Nazi racial policy has been part of a broader movement marked by the emergence of a public memory of genocide.<sup>5</sup> In that context, the negative judgement of the ICRC was commensurate with first criticisms that began being levelled at it as soon as the war ended.<sup>6</sup> In discussing the ICRC's past, certain humanitarian practitioners and thinkers, in particular those affiliated with the 'without borders' movement, often cited that past to justify new forms of humanitarian action. In response to the ICRC's wartime silence, they called for media scrutiny of humanitarian work so as to forge new ties between humanitarian organisations and civil society.<sup>7</sup> Their stance heralded the advent, in the late 1960s, more than 100 years after Solferino, of a 'new humanitarian century', to use Philippe Ryfman's words, of a mode of action in which the victims' rights took priority and which was predicated on individual commitment by humanitarian workers in the field.<sup>8</sup> In this movement, the 'right of intervention' proclaimed first by the philosopher Jean-François Revel and later by Kouchner appears as the final step in a process of reaction to the ICRC's failure at Auschwitz<sup>9</sup> and was used to weave a founding tale whose justification lay in its break with an approach seen as outmoded, and embodied by the ICRC.<sup>10</sup>

The ICRC was deeply shaken by this debate. The criticism of its approach to the victims of Nazi racial violence led it to embark, in the 1980s, on a process of analysis and repentance and to open its archives to a well-known historian.<sup>11</sup> In 1988, Jean-Claude Favez produced a major study of the ICRC's activities to help racial and political deportees. The study gives an extremely detailed and nuanced picture of the ICRC's work, but that study was not carried out in a vacuum that excluded the lively ethics debate underway. Its conclusions repeat the ethics-based arguments put forth and reserve a special place for the issue of the ICRC's refusal to

5 Annette Wiervorka, *L'ère du témoin*, Plon, Paris, 1998.

6 Fabrice Cahen, 'Le Comité international de la Croix-Rouge (CICR) et les visites des camps. Étude d'une controverse. De la mémoire à l'Histoire', in *Revue d'histoire de la Shoah, Le monde juif*, Vol. 172, May-August 2001, pp. 7-51.

7 This is explained in theoretical terms by the philosopher Philippe Mesnard, whose book *La victime écran* paints an extremely stark picture of ICRC policy during the Second World War: 'The ICRC was a symbol of Switzerland's neutrality policy. The organisations found itself helping to legitimize Nazism... The credibility of its humanitarian discourse was based on this neutrality and thus in fact totally undermined by it'; Philippe Mesnard, *La victime écran. La représentation humanitaire en question*, Textuel, Paris, 2002, p. 18 [ICRC translation].

8 Philippe Ryfman, *Une histoire de l'humanitaire*, La Découverte, Paris, 2008, p. 45.

9 Mario Bettati and Bernard Kouchner, *Le devoir d'ingérence: peut-on les laisser mourir?* First International Conference on Humanitarian Law and Morals, held in Paris on 26 to 28 January 1987, Denoël, Paris, 1987.

10 Rony Brauman, *Penser dans l'urgence: parcours critique d'un humanitaire. Entretiens avec Catherine Portevin*, Ed. du Seuil, Paris, 2006.

11 In 1995, on the 60th anniversary of the liberation of Auschwitz, the ICRC termed the episode 'the greatest failure' in its history, see: <http://www.icrc.org/eng/resources/documents/statement/68zeb2.htm> (last visited 11 August 2012).

publicly condemn Nazi violence. Favez concluded that the ICRC ‘really should have spoken out’.<sup>12</sup>

Favez’s contribution and the high degree to which discussion of the ICRC’s silence was carried over into the media and society as a whole helped renew the principles of humanitarian action. It did not, however, facilitate the exploration by historians of new avenues of research on the ICRC’s wartime activities.<sup>13</sup> This discussion centred on the importance for humanitarian organisations to speak out and more generally on the ethical and moral position of humanitarian workers in the face of mass violence. To an extent, however, it pushed out certain essential questions regarding the ICRC’s activities during this period. In short, the impact on society’s views and popular memory of the ICRC’s ‘moral failure’ somewhat prevented historians from making their voices heard and exploring new avenues of research.

How can we (re)think the ICRC’s history vis-à-vis the victims of Nazi genocide? To our way of thinking, the solution is to float the ICRC off the reef on which it has been stuck and on which its past is written up essentially by the humanitarian agents themselves and modelled in response to a debate being conducted by humanitarian organisations. Undertaking new research projects means turning away from remembrance and means repositioning the history of humanitarian organisations against the broader backdrop of States and entire societies mobilized for war. This implies opening the history of humanitarian action to include the social history of the period, comprising in particular the study of field operations. It implies leaving behind what are often sterile questions regarding the applicability of humanitarian law or the obligation to bear witness and getting down to the nitty-gritty of field work, logistics (visas, transportation, import of goods, control of distributions), the actual activity that constitutes humanitarian response. It means moving beyond simply the question of involvement by humanitarian organisations to include an analysis of their activities to help those affected, in particular by assessing the effectiveness of their endeavours. This is a crucial aspect of assessing the past, yet it is often overlooked in studies on the history of humanitarian work, in which the scope and effectiveness of field operations are relegated to the background.

Such an undertaking far exceeds the scope of a journal article, but it should be stated that it would help direct the spotlight onto new aspects and would serve to rekindle discussion of the question. It would pose a number of complex methodological problems and require precise reconstruction and

12 Jean-Claude Favez, *Une mission impossible ? Le CICR, les déportés et les camps de concentration nazis*, Payot, Paris, 1988, p. 374. In English, Jean-Claude Favez, *The Red Cross and the Holocaust*, transl. by John and Beryl Fletcher, Cambridge University Press, Cambridge, 1999, p. 282. Annette Becker repeats some of Favez’s conclusions in her book *Les oubliés de la grande guerre. Humanitaire et culture de guerre. Populations occupées, déportés civils, prisonniers de guerre*, Noësis, Paris, 1998, p. 386.

13 See in particular two recent doctoral dissertations on the ICRC’s activities during the Second World War: I. Vonèche Cardia, above note 1, and Delphine Debons, *L’assistance spirituelle aux prisonniers de guerre : un aspect de l’action humanitaire durant la Deuxième Guerre mondiale (1939–1948)*, Ed. du Cerf, Paris, 2012. And Vasilis Vourkoutiotis, ‘What the Angels Saw: Red Cross and Protecting Power Visits to Anglo-American POWs, 1939–1945’, in *Journal of Contemporary History*, Vol. 40, 2005, pp. 689–706.

work on the sources. But would offer a useful lens through which to study the ICRC's work to help political and racial detainees in Nazi concentration camps during the final phase of the war in Europe. The purpose of this article is therefore not to consider the ethical obligations of humanitarian organisations by retelling this key episode or to take part in the discussion about the ICRC's silence on the genocide. Rather, the purpose is to take a different approach in order to provide useful fuel for that debate.

As the title suggests, our aim is to analyse the various initiatives taken by the ICRC to help concentration-camp detainees. This article therefore covers only part of the Nazi policy to exterminate Jews and includes other categories of deportees (political, homosexual, etc.). Before going any further, it is important to point out that the ICRC conducted no activities on the Eastern Front in response to the acts of mass violence committed against Jewish populations in the wake of the German offensive against the Soviet Union. In addition, as we shall see, the ICRC had no specific policy regarding the Jews locked up in concentration camps or regarding the death camps, even though it was prompted by information it was receiving on deportation and by the initiatives of Jewish groups to make the first representations regarding concentration-camp detainees. The concentration-camp system was a complex and multi-faceted reality. Regardless of the grounds for their detention, the ICRC's work in the camps concerned the *Schutzhäftlinge*, 'administrative detainees', a category invented by the detaining power in order to set those detainees apart from the other categories (civilian internees and prisoners of war).<sup>14</sup>

## Washington, Geneva, Berlin

Before we turn to the ICRC's activities for concentration-camp detainees, it is important to briefly recall the orientation of the ICRC's activities during this period. The organisation had a complex identity. It was at once a private association governed by a body of exclusively Swiss members and an organisation with an international identity at the head of the Red Cross Movement. At the beginning of the war, it had numerous ties with the Swiss government. The fact that the ICRC was firmly anchored in Switzerland caused it to be perceived in Bern as an instrument of Swiss foreign policy, a view at complete odds with the Committee's own concern to affirm its central position on the international humanitarian scene.<sup>15</sup>

During the war, the ICRC faced a twofold challenge. It underwent sweeping structural transformation as its activities expanded. A small office before the war, the

14 Given the extent of the confusion caused by the use of these terms, it is useful to remember that the word *Schutzhäftlinge* referred to persons arrested on political, racial or other grounds and considered by the German authorities to pose a threat to State security. Civilian internees, on the other hand, had a status similar to that of prisoners of war, which Germany and the Western Allies had recognized at the start of the war. Civilian internees were only those, however, who found themselves on the territory of a belligerent when the hostilities broke out and were interned because of their enemy nationality.

15 I. Vonèche Cardia, above note 1; J.-C. Favez, above note 12.

organisation grew in size starting in the summer of 1940 to become – by the end of 1944, and as it had during the First World War – a large-scale humanitarian enterprise. As the Second War drew to a close, it had a staff of some 3,400 professionals and volunteers.<sup>16</sup> This rapid change did not occur without growing pains. The ICRC's identity – that of a product of the philanthropic spirit of Geneva's upper classes – was ruffled by the need for specialists and new techniques to cope with problems of mass transportation, communications, record-keeping, etc. That its leaders were somewhat out of sync with the new reality comes for example through in a book published in 1943 by Max Huber. A religiously inspired essay, *Le Bon Samaritain. Considérations sur l'Évangile et le travail de Croix-Rouge*,<sup>17</sup> discusses the bible parable in light of the organisation's Christian roots and of Dunant's own commitment, without ever referring to the ICRC's activities or the challenges posed by the brutality of the Second World War. It was strangely uncoupled from the catastrophe that was at that very moment befalling entire populations and from the scope of the task confronting the ICRC.

Far from withdrawing into itself, however, the International Committee continued to grow during the war and adapted to the demands and needs of the belligerents and the National Red Cross Societies. While it did not follow a specific road map or a prepared procedure, the ICRC made use of its status as a neutral intermediary, thus providing much appreciated support for the National Societies, which devoted most of their efforts to relief work for prisoners of war. The American Red Cross, for example, transported over 200,000 tonnes of goods worth an estimated 168 million US dollars during the war for Allied prisoners of war.<sup>18</sup>

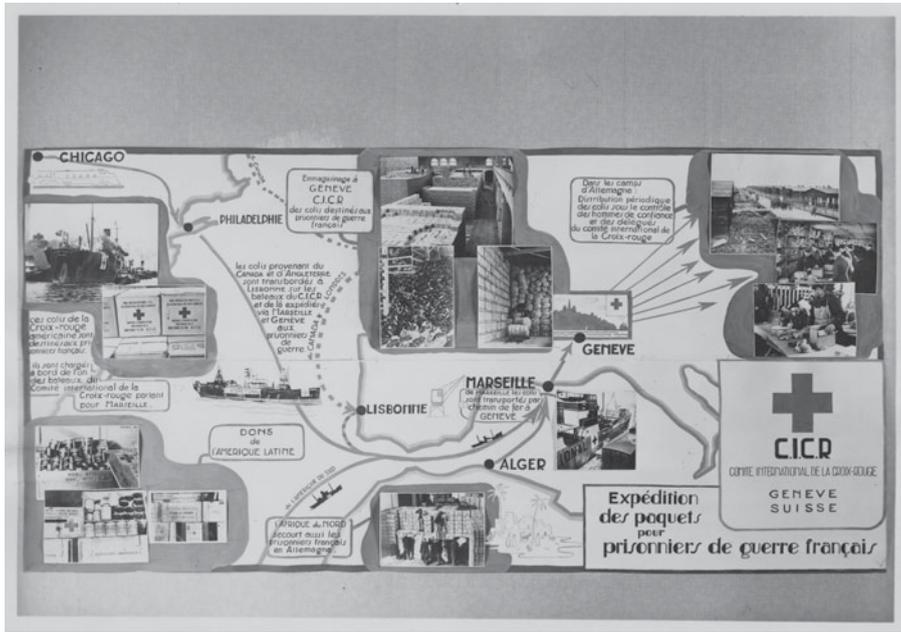
During the war, one of the ICRC's main tasks was to have the Central Agency centralize and exchange information on prisoners of war.<sup>19</sup> It therefore found itself distributing to prisoners of war food parcels funded by the National Societies. In a way, the ICRC served as an international 'postman' for prisoners of war. Its services allowed information to be exchanged on places of detention and helped transport letters and parcels. Given that most of the soldiers detained were in German hands, the ICRC focused a large part of its activities on Allied prisoners. Although it wanted to assert its independence and its leadership in the humanitarian field, the organisation was nevertheless but one link, albeit an essential one, in a complex operational chain that generally started with the

16 *Rapport du Comité international de la Croix-Rouge sur son activité pendant la Deuxième Guerre mondiale (1er septembre 1939–30 juin 1947)*, Annexes, CICR, Genève, juin 1948, p. 58. For the English version see *Report of the International Committee of the Red Cross on its activities during the Second World War (hereafter Report)*, Vol. 1, ICRC, Geneva, 1948, p. 63.

17 Max Huber, *Le Bon Samaritain. Considérations sur l'Évangile et le travail de Croix-Rouge*, La Baconnière, Neuchâtel, 1943. In English, Max Huber, *The Good Samaritan. Reflections on the Gospel and Work in the Red Cross*, Victor Gollancz, London, 1945.

18 George Korson, *At His Side: The Story of the American Red Cross Overseas in World War II*, Coward-McCann Inc., New York, 1945; *Red Cross Service Record, Accomplishments of Seven Years, July 1, 1939 – June 30, 1946*, Office of the Program Research – The American National Red Cross, Washington, 1946.

19 Gradimir Djurović, *L'Agence centrale de recherches du Comité international de la Croix-Rouge*, Institut Henry Dunant, Genève, 1981. For the English version see Gradimir Djurović, *The Central Tracing Agency of the International Committee of the Red Cross*, Henry Dunant Institute, Geneva, 1986.



The system set up for sending prisoner-of-war parcels. © ICRC photo library (DR)/Bouverat, V.

production of food parcels on American Red Cross premises in Philadelphia. The Red Cross parcels were then loaded onto ships financed by Washington or London but flying the ICRC flag.<sup>20</sup> The parcels were unloaded in Lisbon and transported to warehouses in Switzerland before being stacked in sealed rail cars headed for the Third Reich's prisoner-of-war camps. The ICRC's involvement in this complex trans-Atlantic transportation and distribution system, funded for the most part by the Allies, is a key to understanding the organisation's dealings and the types of activity it carried out for the concentration-camp detainees.

Before continuing, it is useful to recall that, contrary to common belief, the ICRC's activities were not strictly limited by international humanitarian law. Thanks to its statutory right of initiative,<sup>21</sup> the ICRC participated right from the start of the war in operations to help civilians, in particular in the framework of

20 The American Red Cross, with the help of the Canadian Red Cross, financed a fleet of 10 ships, four of which were chartered by the British government, the rest by the ICRC (G. Korson, above note 18). During the war there were 127 trans-Atlantic voyages to Genoa and later Lisbon. See Foster Rhea Dulles, *The American Red Cross. A History*, Harper & Brothers, New York, 1950; *Report of the 'Foundation for the Organisation of Red Cross Transports' on its operations since inception in April 1942 up to 31st December 1946*, ICRC, Geneva, 1947.

21 Article 5 of the ICRC's Statutes stated that 'it may also on its own initiative take any humanitarian initiative which is in accordance with its traditional role', *Manuel de la Croix-Rouge internationale*, Huitième édition, Genève, 1942 [ICRC translation].

the Joint Relief Commission it set up with the League of Red Cross Societies.<sup>22</sup> In 1940, President Huber said the following to representatives of the German press gathered in Geneva:

This lack of rights is perhaps the secret of our organisation's strength. For the Red Cross sees its work as being wherever people are in distress, wherever it can relieve suffering. The Committee is not bound by any pre-established mandate. If it can base itself on any principles set out in international law or in treaties between the belligerents that might be of use. Nor does it confine itself to the actual law in force. Rather, it endeavours to act in accordance with the idea that originally inspired the Red Cross – to take ever more effective action to ease the suffering of people affected by war.<sup>23</sup>

## First representations in behalf of concentration camp detainees

Discussion of concentration-camp detainees started to gather pace at the ICRC as the year 1942 progressed. This was mostly prompted by information received from the ICRC delegation in Berlin on the deportation of Jews from the German capital eastwards and the first deportations from French territory.<sup>24</sup> The Committee delivered a note on the subject to the German government on 24 September in which it suggested that, on a reciprocal basis, foreign detainees should be treated the same as civilian internees in terms of correspondence and reception of food parcels.<sup>25</sup> Though the note proved fruitless, the ICRC nevertheless managed to gradually develop a very modest relief programme after it received German authorization, in January 1943, for foreign *Schutzhäftlinge* whose names and place of detention were known to it to receive parcels.<sup>26</sup> That very limited concession,

22 *Rapport de la Commission mixte de Secours de la Croix-Rouge internationale, 1941–1946*, CICR, Genève, 1948. For the English version see *Report of the Joint Relief Commission of the International Red Cross, 1941–1946*, ICRC/League of Red Cross Societies, Geneva, 1948.

23 ICRC translation. Original French text: 'C'est d'ailleurs dans cette absence de droits reconnus que réside peut-être la force de l'institution. La Croix-Rouge voit son devoir essentiel partout où le malheur l'appelle, partout où elle peut combattre ou l'atténuer. Et son Comité n'est lié par aucun mandat établi d'avance. Si le Comité peut se réclamer de principes énoncés par le droit des gens et de traités existant entre belligérants, cela ne peut qu'être utile à son action. Mais là non plus il ne s'appuie pas seulement sur le droit positif; il s'efforce, selon l'idée qui inspira la Croix-Rouge à sa naissance, d'accomplir, en faveur des victimes de la guerre, des actions sans cesse meilleures'. 'La Croix-Rouge comme réalité nationale et internationale, 1940', address to the German Press representatives on the occasion of their visit to Geneva, in Max Huber, *Croix-Rouge: quelques idées, quelques problèmes*, Payot, Lausanne, 1941, p. 162.

24 The ICRC, it should be noted, had previously conducted several visits to Nazi concentration camps. Following the 1934 visit by Louis Ferrière to National Socialist sympathizers held in Austria, after the failed July putsch, at Vienna police prison and Wöllersdorf camp, Burckhardt visited the concentration camps of Lichtenburg, Esterwegen and Dachau. During the summer of 1938, another ICRC representative, Guillaume Favre, paid another visit to Dachau. After the start of the war, in August 1940, two ICRC delegates, Pierre Descoedres and Roland Marti, were authorized to visit Buchenwald, which had a section for a group of Dutch civilians from the Dutch East Indies. See J.-C. Favez, above note 12.

25 Note for Marti by Gallopin, 24 September 1942, ICRC Archives (hereafter ACICR) DAS ZA 12; J.-C. Favez, above note 12, pp. 60–67.

26 Note from the *Amt Auslandsdienst* to the ICRC, 14 January 1943, ACICR DAS ZA 73; see also note from Roland Marti (head of delegation in Germany), 17 February 1943, ACICR G 3/26.

given how difficult it was for the ICRC to obtain such information, was in fact the result of Himmler's decision of late October 1942 to allow next-of-kin to send food parcels to foreign and German detainees not subject to the strictest regime. This opening enabled the Swedish Red Cross, for example, to send the first parcels to Scandinavian detainees.<sup>27</sup> The concession can be explained, we believe, by the complexity of the concentration-camp system. In that context, the parcels became a useful means of establishing a hierarchy of privileges between the various categories of detainees. With the cooperation of the Scandinavian solidarity networks, the ICRC launched a very modest operation, sending a few hundred parcels intended mostly for detainees of Norwegian nationality.

This operation, which was based on practices developed for prisoners of war, probably allowed a compromise within the Committee between those members in favour of action for deportees and those who opposed initiatives that might threaten both relations with Germany and the work for prisoners of war, which had priority. However, in 1944, two things happened that explain the gradual development of an operation to help concentration-camp detainees. In January of that year, President Roosevelt set up the War Refugee Board, whose purpose was to develop a programme to save Jews and other minorities being persecuted by the Nazis.<sup>28</sup> The War Refugee Board embodied the new attention that was being paid in Washington to this issue and held the promise of fresh financial and diplomatic means for the ICRC. In early February, the War Refugee Board and the State Department entrusted an important operation to the ICRC and allocated USD 100,000 to it from the American Jewish Joint Distribution Committee, thereby placing at the ICRC's disposal a sum of 429,000 Swiss francs. On the strength of those funds, the Committee drew up a distribution scheme for Jewish populations deported to Transnistria and Bessarabia (100,000 francs sent to Romania), dispatched aid to Theresienstadt (119,000 francs worth of standard Hungarian parcels) and Krakow (*Lactissa* vitamin-enriched milk worth 100,000 francs), and earmarked 70,000 francs for the pharmacy. It also obtained agreement to use part of the amount to send parcels on a trial basis so as to open new channels for relief.<sup>29</sup> The remaining 40,000 Swiss francs were set aside for the shipment of parcels to concentration camps in the Netherlands and Upper Silesia, i.e. enough to ship about 2,700 standard parcels.<sup>30</sup>

27 J.-C. Favez, above note 12, p. 69. Raul Hilberg also notes that German deportees were allowed to receive food parcels, in *The Destruction of the European Jews*, Yale University Press, New Haven, 2003 (1961), p. 1689.

28 Ariel Hurwitz, 'The struggle over the creation of the War Refugee Board (WRB)', in *Holocaust and Genocide Studies*, Vol. 6, No. 1, 1991, pp. 17–31; Sarah E. Peck, 'The Campaign for an American Response to the Nazi Holocaust, 1943–1945', in *Journal of Contemporary History*, Vol. 15, No. 1, 1980, pp. 367–400; David Wyman, *L'abandon des Juifs, les Américains et la solution finale*, Flammarion, Paris, 1987.

29 Confidential letter from Burckhardt to the American legation in Bern, 28 February 1944, ACICR DAS ZA 69 and ZA 20.

30 Daniel J. Reagan, commercial attaché at the US Legation in Berne, 18 March 1944, ACICR DAS ZA 20. The scheme obtained final approval from Saly Meyer, the Joint Distribution Committee's representative in Switzerland, in March.

This development explains why the ICRC wanted to obtain Germany's permission to visit the camps and ghettos: the relief supplies came for the most part from the United States and Canada, and their importation into Germany was subject to authorization by the blockade authorities, which controlled all transports to central Europe. The Allies did not want the food supplies to end up in German hands, which is why, since the start of the war, the dispatch of Red Cross parcels for prisoners of war had been linked to a system of guarantees overseen by the ICRC. The receipts that the prisoners of war signed for the parcels and the delegates' visits themselves provided a degree of verification. As in the case of prisoners of war, the blockade authorities tied permission for importation of parcels destined for deportees to the guarantees provided by the ICRC delegates' visits to concentration camps.<sup>31</sup>

Rossel's visit to Theresienstadt in June 1944 must therefore be seen as part of a broader operation for sending parcels to concentration-camp detainees.<sup>32</sup> During this period, the ICRC held talks with the British and American governments about the blockade.<sup>33</sup> Did the ICRC deliberately play along with Nazi propaganda so as to obtain authorization for its delegates to visit other camps? In the summer of 1944, Roland Marti, ICRC delegate, again visited Buchenwald and Dachau as the operation gradually picked up, and the sending of parcels progressively increased.<sup>34</sup> The operation was made possible thanks to the American government's decision to authorize the ICRC to use goods salvaged from the sunken cargo ship *SS Cristina*, which had been loaded with standard American Red Cross parcels for prisoners of war. Questions as to the quality of the salvaged food explain why the parcels were not sent directly to the prisoners of war.<sup>35</sup> The food was nevertheless used in late August 1944 to assemble 25,600 food parcels for concentration-camp detainees, a reminder that the operation for deportees continued to take second place to the one for prisoners of war. The status of this potentially tainted cargo may also have made it easier to obtain a concession from the blockade authorities.

31 Memorandum from Jean-Etienne Schwarzenberg (ICRC official in charge of relief activities in the concentration camps), original given to Livingston (British consul), 7 July 1944, ACICR SG 4; Livingston to Howard Elting (American consul in Geneva), 9 August 1944, ACICR G59/40 335; Ronald W. Zweig, 'Feeding the Camps: Allied Blockade Policy and the Relief of Concentration Camps in Germany, 1944–1945', in *The Historical Journal*, Vol. 41, No. 3, 1998, pp. 825–851.

32 S. Farré and Y. Schubert, above note 2.

33 Albert Lombard to the delegation in London, 30 June 1944, ACICR ZA 28; note from the delegation in Washington to the Special Division for Assistance (*Division d'assistance spéciale* –DAS), 7 July 1944, ACICR G 59/7; confidential memorandum, 7 July 1944, ACICR SG 4; American representative to Huber, 2 May 1944, ACICR G 59 334.

34 See the Marti report, 8 August 1944, ACICR DAS ZA 84; see also DAS ZA 85.

35 Schwarzenberg to Roswell McClelland (War Refugee Board representative in Geneva), 21 August 1944, ACICR DAS ZA 19, and note for Rudolph Wasmer (director of the ICRC Relief Division), 18 August 1944, ACICR DAS ZA 72. 'Rapport sur la distribution des marchandises du vapeur Cristina (août-septembre 1944)', *Documents sur l'activité du Comité international de la Croix-Rouge en faveur des civils détenus dans les camps de concentration en Allemagne (1939–1945)*, CICR, Genève, 1946, p. 71–72. For the English version see 'Report by the Service CCC on the distribution of cargo from the SS "Cristina" (August and September 1944)', in *Documents Relating to the Work of the International Committee of the Red Cross for the Benefit of Civilian Detainees in German Concentration Camps Between 1939 and 1945* (hereafter *Documents*), ICRC, Geneva, 1975, pp. 61–62. See also correspondence from Schwarzenberg to McClelland, 1 November 1944, ACICR DAS ZA 69.

The ICRC was probably allowing itself to be duped in its visits to the camps, since they were usually limited to a meeting with the camp officers and did not entail a genuine assessment of the conditions of detention and relief distributions. The ICRC was unable to exercise any control over the distributions of parcels. Despite those difficulties, its initiatives for the detainees were supported by Washington and soon by the new French government. The ICRC's involvement in the relief system for deportees was an additional reason for the blockade authorities to grant further permission for goods to be shipped to deportees.

For the French authorities, relief for deportees became a priority after D-Day because numerous Resistance members and other important individuals were being held in the camps.<sup>36</sup> It was this new policy that prompted a delegation from the Belgian and French Red Cross Societies to visit Geneva in September.<sup>37</sup> During a meeting with ICRC representatives, the French Red Cross representative stressed that the deportees should be given priority. This determination to act was bolstered by rumours of reprisals against military and civilian prisoners in Germany for acts of violence against collaborators in France. Jean-Etienne Schwarzenberg, head of the ICRC's Special Assistance Division, which was responsible for aid to concentration-camp detainees, referred in September 1944 to the situation of deportees and 'Jews' in Germany as being 'more precarious than ever', as they were now 'especially dangerous' witnesses.<sup>38</sup> Schwarzenberg therefore asked the ICRC to 'adapt' its approach and 'review its policy'<sup>39</sup> on the delegates' activities in view of the 'present circumstances'.<sup>40</sup> In the autumn, the ICRC apparently was sometimes able to send three shipments per month, chiefly for Norwegian, Dutch, French, Belgian and Polish deportees.<sup>41</sup> Lastly, a few visits were made by ICRC delegates to Dachau, Buchenwald, Natzweiler, Ravensbrück and Sachsenhausen camps, where the parcels were said to be received by 'representatives' (*hommes de confiance*)<sup>42</sup> of the various nationalities of detainees.<sup>43</sup> During this period, it is significant that the War Refugee Board representative in Switzerland, Roswell McClelland, regularly asked the ICRC for news of its visits to the camps.<sup>44</sup>

36 See *inter alia* the record of the meeting held on 18 September at the Métropole Hotel with representatives of the French Red Cross, 19 September 1944, ACICR DAS ZA 72; and J.-C. Favez, above note 12, p. 251.

37 *Documents*, above note 35, pp. 59–60.

38 Note from Schwarzenberg for Chenevière, 14 September 1944, ACICR G 44/00.

39 Note from Schwarzenberg to Lombard, 25 September 1944, ACICR G 44/Sec 215.

40 'Procès-verbal' No. 4, 21 September 1944, ACICR DAS ZA 1.

41 ACICR DAS 179, DAS ZA 111.

42 The representatives were elected by the prisoners and were in charge, among other things, of distributing 'collective shipments' within the camps.

43 Note from the Service for Parcels to Concentration Camps (CCC Service) for Gallopin, 1 November 1944, ACICR G 44/Sec-215.

44 See correspondence from McClelland to Schwarzenberg after Rossel's visit to Auschwitz, 17 November 1944, ACICR G 59/40.

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Comité International de la Croix-Rouge

COMITÉ INTERNATIONAL GENEVE

Betr.: Z. 483 -

**POLONAIS INTERNÉ**

Name: Paschke Nr. 28308.

Vorname: Josef geb: 5.12.1906

Block: 28

Stube: 1

**LAGER DACHAU 3 K**  
bei München

Deutschland

Obige Adresse durchstreichen **UND WENDEN**. Dann Empfang des Pakets links bestätigen und die Etikette nach Genf zurücksenden.  
Barrer l'adresse ci-dessus et accuser réception du colis **AU VERSO**, puis retourner l'étiquette à Genève.

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**EMPFANGSBESCHEINIGUNG**  
**QUITTANCE**

Erhalten am: 25. XI. 1944  
Reçu le

Unterschrift des umstehenden Empfängers:  
Signature du destinataire:  
Hs. Paschke Josef  
Nr. 28308. Geb. 5.12.1906

Genauere Adresse (Block): 28/1

Lager: Dachau 3K

Zurück an das

**INTERNATIONALE KOMITEE**  
**VOM ROTEN KREUZ**

ZENTRALSTELLE FÜR KRIEGSGEFANGENE

**GENEVE**  
(SCHWEIZ)

GEBÜHRENFREI

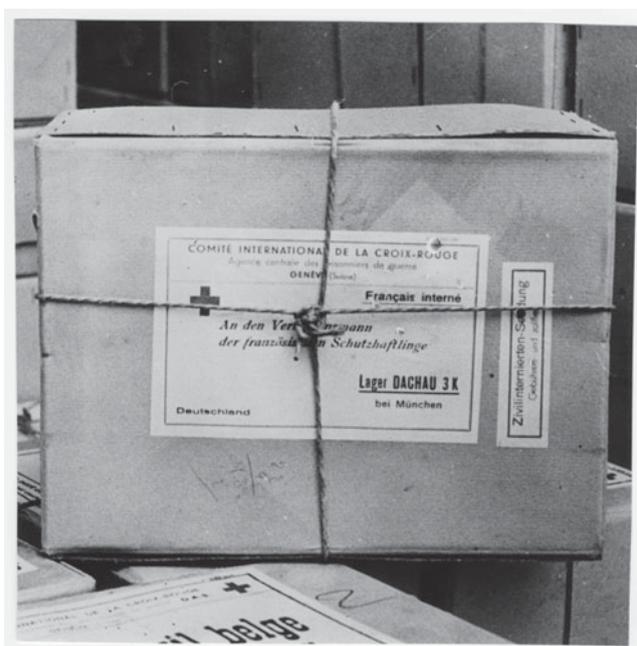
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World War II. Label and receipt for a parcel sent to Dachau concentration camp. © ICRC.

## Parcels, trucks, delegates

Huber's letter of 2 October 1944 asking the German authorities to expand the rights of 'administrative' detainees was evidence that the ICRC was stepping up its activities for concentration-camp detainees in response to American and French pressure. In late January 1945, several days after allowing ICRC delegates to visit camps for German internees, Henri Frenay, the French Minister of Prisoners, Deportees and Refugees, proposed that German civilians be exchanged for French deportees in Germany, with priority being given to women and children.<sup>45</sup>

45 Henri Frenay to Burckhardt, 26 January 1945, ACICR DAS ZA 73.



World War II. ICRC parcel for French deportees at Dachau. © ICRC photo library (DR).

In addition, he asked the ICRC to take prisoners of war and deportees under its protection.<sup>46</sup> Those French initiatives were followed by an appeal by the National Red Cross Societies of the governments in exile for ‘a high-level representation to the German authorities to release the civilian, political and racial detainees’.<sup>47</sup> Several days before this appeal, A. R. Rigg, deputy director of the ICRC Relief Division, stated that ‘this is an opportunity for the Swiss Confederation to carry out an operation that could have favourable political repercussions, and it would be regrettable to miss it’.<sup>48</sup>

As we know, the collapse of the Third Reich unleashed a disaster that caused grave humanitarian concern. As the Allied troops advanced, the camps were evacuated in forced marches from one camp to another.<sup>49</sup> Hitler wanted to eliminate all trace of the camps. On the other hand, some Nazi officials, Himmler

46 Letter from the French Minister for Foreign Affairs to Burckhardt, 31 October 1945. See also Frenay to Burckhardt, 26 January 1945, ACICR DAS ZA 73. Frenay proposed exchanges by category, i.e. between German civilians and French nationals deported to Germany, starting with women and children.

47 Request made by the Czech, Polish, Yugoslav, Dutch, Belgian, Norwegian, Italian, Romanian and Greek National Societies. Philippe Koenig to Burckhardt, 28 February 1945, ACICR G 44/13-13 [ICRC translation].

48 Note from A.-R. Rigg, deputy director of the Relief Division, 16 February 1945, ACICR SG 4 [ICRC translation].

49 Daniel Blatman, *The Death Marches: The Final Phase of Nazi Genocide*, transl. by Chaya Galai, Harvard University Press, USA, 2011; Ian Kershaw, *The End. The Defiance and Destruction of Hitler's Germany, 1944–1945*, The Penguin Press, London, 2011.

among them, hinted that certain detainees might be exchanged for political or economic gain.<sup>50</sup> It was in this context that rescue operations were undertaken, notably by former Swiss president Jean-Marie Musy,<sup>51</sup> who negotiated the evacuation from Theresienstadt of a first contingent of 1,200 Jewish detainees. They arrived in Switzerland in early February 1945. Several weeks later, the vice-president of the Swedish Red Cross, Count Folke Bernadotte, met with Himmler and received permission to transport 4,700 Scandinavian detainees to Neuengamme, where they would await repatriation. At the end of April he used ICRC trucks, among other vehicles (Swedish trucks), to evacuate 2,900 women detainees from Ravensbrück (Operation White Buses).<sup>52</sup>

The ICRC found itself in an unusual position. Its contacts with the camp commanders since the summer of 1944 and its status as a neutral institution gave it greater operational potential. For the first time since the start of the war, the ICRC was receiving large quantities of relief supplies intended specifically for concentration-camp detainees. By the end of 1944, 300,000 parcels financed by the War Refugee Board were stored in the port of Göteborg.<sup>53</sup> In addition, with the German rail system in ruins, the Allies made available to the ICRC a large fleet of trucks in early March 1945. This gave it a means of taking action in the camps. The Supreme Headquarters Allied Expeditionary Force had made available 468 trucks to ship parcels to prisoners of war, but the ICRC was allowed to use the trucks on their return journeys to transport former concentration-camp detainees to Switzerland.<sup>54</sup> Lastly, the camp commanders no longer opposed the shipment of parcels for detainees from Western Allied countries. The German Minister for Foreign Affairs, Joachim von Ribbentrop, replied positively on 1 February 1945 to Huber's request of 2 October 1944, giving French and Belgian deportees the right to exchange correspondence and receive parcels. That concession is a practical illustration of the gradual opening of the camps to Red Cross parcels.<sup>55</sup>

In March 1945, for the first time since the start of the war, the ICRC was in a position to conduct a genuine relief operation for concentration-camp detainees. The final weeks of the war are therefore a decisive and significant time when it comes to defining the ICRC's attitude towards the victims of deportations. How much did it do to the rescue concentration-camp deportees during that period? What was the operation's result in humanitarian terms? The operation had three, often complementary, components: the shipment of relief parcels, the evacuation of

50 Yehuda Bauer, *Jews for Sale? Nazi-Jewish Negotiations, 1933–1945*, Vale Ballou Press, New York, 1994.

51 Alain Dieckhoff, *Rescapés du génocide. L'action Musy : Une opération de sauvetage de Juifs européens en 1944–1945*, Helbing & Lichtenhahn, Basel/Frankfurt-am-Main, 1995; Daniel Sebastiani, *Jean-Marie Musy (1876–1952), un ancien conseiller fédéral entre rénovation nationale et régimes autoritaires*, doctoral dissertation for the University of Fribourg Faculty of Arts, February 2004.

52 Sune Persson, *Escape from the Third Reich. The Harrowing True Story of the Largest Rescue Effort Inside Nazi Germany*, Skyhorse Publishing, New York, 2009. A total of 4,000 detainees were evacuated by train by the camp officers while the rest were forced to leave the camp on foot. The ICRC sub-delegation in Lübeck provided trucks for this operation.

53 Schwarzenberg to McClelland, 6 January 1945, ACICR DAS ZA 69.

54 R.W. Zweig, above note 31, p. 848.

55 See ICRC communiqué No. 259b, entitled 'Improved conditions for civilian detainees in Germany', 13 February 1945, ACICR DAS ZA 73.

detainees and the presence in the camps of delegates who acted as intermediaries during the camps' surrender.

The ICRC's principal contribution was the development of the parcel operation in early 1945. During that period, the ICRC shipped to the camps a significant portion of the 751,000 parcels it sent to deportees during the war.<sup>56</sup> The organisation's fresh resources gave it a new scope for action, even if the quantity seems small in comparison with the needs of an underfed population estimated in early 1945 at 700,000.<sup>57</sup> Moreover, those parcels did not represent a great deal compared with the aid being shipped to prisoners of war. It is difficult to compare the two relief operations, which were carried out in far different contexts and circumstances, but it is worth noting that the soldiers from Western Allied countries received, through the ICRC, over 24 million parcels during the war.<sup>58</sup>

Several ICRC delegates were busy distributing parcels to detainees in the final days of the war, a period during which the Germans emptied a number of camps by force and moved the detainees in harrowing conditions.<sup>59</sup> A delegate carried out the first distribution, of two truckloads of food parcels on 2 April in Theresienstadt.<sup>60</sup> From 22 April, delegates were present in the field, for the first time, as part of an emergency operation in which they came into direct contact with the victims of the concentration-camp system. Thus, parcels were distributed by ICRC delegate Willy Pfister along the road taken by detainees on a forced march from the evacuated Sachsenhausen camp north of Berlin, as well in the Below Forest, near Wittstock, where thousands of exhausted detainees had spent several days without food. That it was possible to launch this operation, which the ICRC had not planned, was thanks to the 5,000 War Refugee Board parcels and 3,000 standard American Red Cross parcels stocked in the ICRC warehouse in Wagenitz, about 70 km west of Berlin,<sup>61</sup> and also to two trucks available at Nauen that were used to make initial distributions on the afternoon of 21 April to detainees on the forced march.<sup>62</sup> It is very likely that, on 27 April, a convoy of 15 ICRC trucks from Lübeck

56 It is hard to know the exact number of parcels. ICRC documents contain figures varying between 750,000 and 1.6 million. We have used the lowest estimate, which we believe is the closest to reality, rather than the later estimates, made when the ICRC faced criticism for the shortcomings in its work for concentration camp victims. Service memo from G. Stamm, 31 May 1945, ACICR DAS 2/6. According to *Report, Annexes*, above note 16, p. 13, the number of parcels for civilian detainees and deportees totaled over 1.6 million, i.e. 6,836 tonnes of food and clothing. But that figure includes the parcels distributed after the German capitulation.

57 Daniel Blatman, 'The death marches and the final phase of Nazi genocide', in Jane Caplan, Nikolaus Wachsmann (eds), *Concentration Camps in Nazi Germany. The New Histories*, Routledge, London/New York, 2010, p. 167.

58 *Report, Annexes*, above note 16, p. 7.

59 D. Blatman, above note 49.

60 Note to Marti's secretariat, 24 March 1945, visit to Theresienstadt authorized by *SS-Obergruppenführer* Müller, head of the *Sicherheitsdienst*, ACICR G 59/12/368.

61 Note from Willy Pfister to Schwarzenberg, 28 June 1945, ACICR G 44/13-20.02.

62 Sébastien Farré (with Yan Schubert), 'From Sachsenhausen to Schwerin. The ICRC and the Death Marches', in Jean-Luc Blondel, Susanne Urban and Sebastian Schönemann (eds), *Freilegungen. Auf den Spuren der Todesmärsche, Jahrbuch des International Tracing Service*, Vol. 1, Wallstein, Göttingen, 2012, pp. 282–299.



World War II. Death march from Oranienburg-Sachsenhausen to the Wittstock concentration camps. A crate of Red Cross parcels is opened by German guards. © ICRC/Pfister, Willy.

managed to distribute a large shipment of parcels to evacuees.<sup>63</sup> According to the report from the ICRC Transport Service, the convoy made two distributions of food in Below Forest (on 27 and 30 April) of 56,000 kg each.<sup>64</sup> Those distributions were made pursuant to a request from *SS-Obersturmbannführer* Rudolf Höss.<sup>65</sup> This suggests that the Germans were using the relief supplies to facilitate the detainees'

63 Report by H. Landolt (delegate), undated, ACICR G 44-222.3.

64 *Rapport sur l'activité du Service Transports Camions (STC) du Comité international de la Croix-Rouge*, Geneva, 1946.

65 See 'Le journal de la délégation', 21 April 1945, ACICR BG 003-73.

evacuation but probably also to make sure food was available for the officers and guards.

During the operation for the Sachsenhausen deportees, another delegate witnessed a forced march by detainees from Dachau. The ICRC was unprepared to cope with the chaos spreading across the country. As it had in northern Germany, it improvised a humanitarian operation in the Munich area. The difficulties encountered by one delegate, Jean Briquet, in conducting a relief operation in Dachau testify to the ICRC's isolation and the limited means available to deal with the emergency unfolding in the concentration camps. From 18 April to 8 May, Briquet made repeated journeys from Dachau, north of Munich, to Uffing (lying to south-west of the city, where the ICRC sub-delegation was located for the western zone in Germany), and to Moosburg, to the north-east of Munich, where the main food depot for prisoners of war and the collection point for the ICRC's trucks was located. During the first eight days of his mission, Briquet attempted several times – in vain – to obtain authorization to establish an ICRC presence at Dachau and faced numerous problems because it was so difficult to communicate with the delegation and owing to the shortage of available trucks.

On 27 April, Briquet was informed that a column of French deportees evacuated by force from Buchenwald had spent the night at the prisoner-of-war camp in Moosburg. He sent trucks to the camp and distributed a small number of parcels (807), later providing additional relief supplies to 182 sick people from the column. Returning to Dachau at the end of the afternoon, he was informed by the commander's adjutant that the Germans intended to surrender the camp to the Allies by means of ICRC mediation. According to the plan presented to Briquet, around 16,000 'Allied' detainees would stay in the camp under his supervision, while the German, Russian, Italian, Austrian and Balkan internees would be evacuated by the Germans. This plan was reminiscent of the policy applied at Ravensbrück, where the detainees from Allied countries were not subject to the same treatment and conditions as the others. When he was informed of the plan, Briquet decided to go to Uffing. Along the way he met a column of women, most of them Jewish, who had been evacuated from Dachau and were being marched to Mittelwald. Several kilometres later, outside Pasing, he encountered another column, about 10 kilometres long, of prisoners being marched in the rain. He observed piles of bodies 'a metre high' on the sides of the road and heard numerous gunshots. After stopping at the delegation, he left with trucks of supplies for people in the column. He found himself blocked by retreating columns of Germans and returned to Uffing on the evening of 28 April having found no trace of the detainees. The next day, in Bernried, Briquet managed to provide supplies to a trainload of Jewish deportees (2,621 parcels). The operation was paralysed during the following days, however, following the arrival of the American armed forces. One week later, on 5 May, Briquet carried out another distribution for 220 sick Jewish deportees from Dachau, and later to 2,000 deportees housed in a former SS school in Feldafing.<sup>66</sup>

66 Note from Claude Empeyta (delegate), 11 May 1945, ACICR G 44/13-15.

The next day he took 210 French political detainees from Moosburg to the Swiss border.<sup>67</sup>

As we have seen, the ICRC was able to distribute parcels because the Allies had provided it with a fleet of trucks. Using the trucks, the ICRC was able to evacuate several groups of deportees to Switzerland. It is hard to say exactly how many deportees were evacuated by the ICRC. According to the figures given in an internal ICRC report from June 1945, it transported 6,098 people, including 2,685 French and 1,193 Dutch<sup>68</sup> (the figures are fairly close to those we found in the Archives). By way of comparison, the Swedish Red Cross evacuated approximately 17,000 people from Germany at the end of the war, according to Sune Persson.<sup>69</sup>

The ICRC carried out two main evacuation operations. The first was subsequent to the meeting of 12 March 1945 between Carl Burckhardt and SS-Obergruppenführer Ernst Kaltenbrunner – the head of the Reich Security Main Office ('Reichssicherheitshauptamt') and the man in charge of all the concentration camps – in a country inn near the German-Swiss border on the road from Feldkirch to Bludenz.<sup>70</sup> The following days saw a series of negotiations between Adolf Windecker and Fritz Berber, Joachim von Ribbentrop's representative to the ICRC. The main subject of discussion was in all likelihood the exchange of French internees in Germany for German internees held in France. Other subjects discussed were visits by delegates to the camps, the grouping of detainees by nationality and shipments of relief supplies.<sup>71</sup> The discussions soon came to a standstill, which prompted the ICRC to dispatch a special representative to Berlin, Hans E. Meyer. He had been assistant to Karl Gebhardt, the SS chief surgeon from 1943 to August 1944 who had become vice-president of the German Red Cross in the meantime. His good contacts in Berlin<sup>72</sup> enabled him to meet with Himmler and make the operation possible.<sup>73</sup> His intervention was no doubt decisive in finally allowing the transportation from Ravensbrück to Switzerland of 299 French and one

67 *Documents*, above note 35, pp. 116–117; and J.-C. Favez, above note 12, pp. 262–266.

68 Report by Paul Kuhne, 19 June 1945, ACICR DAS 168; see also the list headed 'Rapatriement', ACICR DAS 174.

69 S. Persson, above note 52.

70 During the negotiations with Himmler, Musy encouraged him to make contact with President Burckhardt, to whom Himmler proposed a meeting in early February. After obtaining the backing of the American State Department and approval from de Gaulle, Burckhardt agreed to meet with Himmler, who ultimately delegated SS-Obergruppenführer Kaltenbrunner. Paul Stauffer, *Sechs furchtbare Jahre ...: Auf den Spuren Carl J. Burckhardts durch den Zweiten Weltkrieg*, Verl. Neue Zürcher Zeitung, Zurich, 1998, p. 321; Peter R. Black, *Ernst Kaltenbrunner. Ideological Soldier of the Third Reich*, Princeton University, New Jersey, 1984, p. 239. However, according to Favez (above note 12, p. 262), the meeting took place on Burckhardt's initiative.

71 Kaltenbrunner to Burckhardt, 29 March 1945, quoted in *Documents*, above note 35, pp. 70–71; Y. Bauer, above note 50, pp. 339–340.

72 Gérard Chauvy, *La Croix-Rouge dans la guerre, 1935–1947*, Flammarion, Paris, 2000, pp. 177–178 and 267–268. According to Bauer (above note 50, p. 336) on 2 April Himmler refused to release the Frenchwomen from Ravensbrück to Bernadotte.

73 'Rapport d'un délégué du Comité international de la Croix-Rouge sur le rapatriement des détenues de Ravensbrück', in *Documents sur l'activité*, above note 35, p. 108 (pp. 89–90 of the English version).



World War II. Kreuzlingen. 300 women released from Ravensbrück concentration camp arrive in Switzerland on board ICRC trucks. © ICRC photo library (DR).

Polish<sup>74</sup> female detainees in exchange for the release in France of 454 German civilians.<sup>75</sup>

After the roads between northern and southern Germany were closed, making it impossible to organise another convoy for Ravensbrück, the core of the ICRC operation shifted to the south of the country. It organised three deportee convoys from Mauthausen (columns 35, 36 and 37),<sup>76</sup> which transported a total of 780 French, Belgian and Dutch deportees on 23 and 24 April. Several days later, two other convoys evacuated successively 183 and 349 deportees from Mauthausen and 200 Swiss from Landsberg.<sup>77</sup> Besides the above-mentioned transports (1,512 people), the ICRC took part in the repatriation of 2,250 French civilians from northern Italy in late April<sup>78</sup> and in the transfer aboard two ICRC-chartered boats

74 The Polish detainee was Countess Karolina Lanckorońska. See P. Stauffer, above note 70, p. 336; Karolina Lanckorońska, *Michelangelo in Ravensbrück: One Woman's War against the Nazis*, Da Capo, Cambridge, Mass., 2007.

75 J.-C. Favez, above note 12, p. 264.

76 According to a note from Bachmann during his meeting in Innsbruck with Kaltenbrunner, the latter told him he had telegraphed Himmler on 20 April agreeing to the immediate transport of 1,000 French detainees from Mauthausen. About 2,000 Frenchmen were subsequently to be included in the operation. Report by Bachmann, 14 May 1945, ACICR G 44/13-7.

77 See report 'Personnes transportées en Allemagne par les camions CICR', ACICR DAS 168.

78 'Rapatriement de détenus civils', in *Revue internationale de la Croix-Rouge*, No. 319, July 1945, pp. 461–467.

of 806 former detainees from the port of Lübeck to Sweden in early May.<sup>79</sup> Once the fighting had ended, the ICRC facilitated the transport of 2,600 people released from the camps between 24 May and 12 June.

One of the most noteworthy ICRC activities was its delegates' presence inside the camps during the Reich's final days, when they tried to act as mediators between the German guards and the Allied forces. It is hard to track down the precise origin of this operation, but it would seem that, at his meeting with Burckhardt, Kaltenbrunner authorized the delegates to enter the camps on condition that they remained there until the arrival of the Allied troops.<sup>80</sup> Despite this oral pledge, however, the delegates' attempts to enter the camps remained in vain until the final days of the war. It was only after a meeting in Innsbruck on 24 April between Kaltenbrunner and Burckhardt's secretary, Hans Bachmann, that the first delegates were apparently able to enter the camps.<sup>81</sup>

In Theresienstadt, where he arrived on 2 May, Paul Dunant oversaw the transition between the departing German guards and the arriving Czech Red Cross representatives on 10 May.<sup>82</sup> Maintaining order in the camp was of considerable importance for health and security reasons. For one thing, steps had to be taken to ensure that the detainees were not eliminated before liberation and to prevent reprisals against the guards after liberation.

In the other camps, the delegates arrived after the camp had been evacuated and liberated (e.g. Landsberg,<sup>83</sup> Bergen-Belsen and Buchenwald), or the ICRC faced the commandant's refusal to hand over the camp until it had been evacuated (Sachsenhausen, Ravensbrück). Victor Maurer, who arrived in Dachau on 28 April, after Briquet, was allowed to distribute parcels inside the camp and to spend the night in the barracks of the SS guards. During the night, he watched as most of the guards slipped out of the camp. The following morning, he apparently approached *SS-Obersturmbannführer* Wickert, who had been sent during the night to take charge of the camp and, so it seemed, to hand it over to the American forces. As part of his mission to avoid reprisals and to prevent the spread of epidemics in the areas around the concentration camps, Maurer persuaded Wickert that the guards should remain in the watchtowers and ensure the detainees did not leave the camp. Towards the end of the afternoon, accompanied by the German officer, he received a group of jeeps from the American 42nd Infantry Division at the gates

79 Report by M.W. Jeanfavre (delegate) on his mission to Trelleborg from 30 April to 3 May 1945 to receive internees arriving from Germany; report by Kuhne to Marius-Georges Stamm, 19 June 1945, ACICR DAS 168, and list headed 'Rapatriement', ACICR DAS 174.

80 J.-C. Favez, above note 12, p. 262; P. Stauffer, above note 70, p. 321; P.R. Black, above note 70, p. 239.

81 Report by Bachmann, 14 May 1945, ACICR G 44/13-7.

82 Report No. 4 by Dunant, 22 May 1945, ACICR G 59/3/th/63 and ACICR DAS/ZA 76; see also ACICR G 59/12/368 and 369 and note from Kuhne on ICRC activities in Theresienstadt, June 1945, ACICR G 59/368; see also *Documents du Comité international de la Croix-Rouge concernant le ghetto de Theresienstadt*, s.l., 1990, ACICR.

83 In Landsberg, on 26 April two ICRC delegates, Moynier and Hort, arrived in a camp that had been evacuated and abandoned by its guards. Only 500 detainees had been left behind, most of them sick and unable to undertake a forced march. During the first few days, Hort helped organise supplies and basic medical care. Report by Dunant, 15 May 1945, ACICR G 59/12/13-364.



World War II. Dachau, concentration camp. An American officer, ICRC delegate Maurer, SS-Oberleutnant Wickert and a German officer in front of a convoy loaded with the corpses of deportees. © ICRC/Algoet, Raphaël.

to the camp.<sup>84</sup> By acting as an intermediary, Maurer may have prevented fighting from breaking out inside the camp, but his report makes no reference either to the armed uprising by escaped detainees put down by the SS the night before in the town of Dachau<sup>85</sup> or to the fighting that broke out that afternoon between the 45th American Infantry Division and the SS regiment in the barracks adjacent to the camp, which culminated in the summary execution of German prisoners.<sup>86</sup>

The episode that is most emblematic of this operation was the mission by another delegate, Louis Haefliger, to Mauthausen.<sup>87</sup> Haefliger is considered a hero in some quarters for having persuaded camp commander Franz Ziereis not to obey his

84 The presence in the American detachment of Belgian journalist Paul Levy, his photographer Raphael Algoet, two correspondents, Marguerite Higgins of the *New York Herald Tribune* and Peter Furst of *Stars and Stripes*, and two other photographers, Brigadier General Banfill and Lieutenant Cowling, explains the various photos of Maurer's mission. See the series of photos of the ICRC photo library, v-p-hist-03094-1, 03103-2 to 7; report by Maurer, 18 May 1945 (the report exists in French and German), ACICR G 44/13-7; Robert H. Abzug, *Inside the Vicious Heart – Americans and the Liberation of Nazi Concentration Camps*, Oxford University Press, New York/London, 1985; Marguerite Higgins, *News is a Singular Thing*, Doubleday & Co., Garden City, New York, 1955.

85 Stanislav Zámečník, 'The Dachau Concentration Camp in the System of the National Socialist Dictatorship', in *The Dachau Concentration Camp, 1933 to 1945* (catalogue for the exhibition The Dachau Concentration Camp, 1933–1945), International Dachau Committee, Dachau, 2005, p. 24.

86 Report by Maurer, above note 84; John H. Linden, *Surrender of the Dachau Concentration Camp, 29.04.1945. The True Account*, Sycamore Press, Elm Grove, 1997.

87 Report by Haefliger, 24 May 1945, ACICR G 44/13-18.

orders to blow up the airplane factory next to Gusen I and II camps with the detainees inside. It is hard to know for certain the scope of Haefliger's initiatives. For his part, *SS-Obersturmbannführer* Kurt Becher, who was close to Himmler, said after the war that he intervened to prevent the camp's destruction.<sup>88</sup> Haefliger nevertheless took part in the camp surrender plan and placed himself at the service of the Allied troops, negotiating the replacement of the SS guards by US soldiers. As he wrote in his report, the liberation was a chaotic process, with the camp stores being looted and the former detainees carrying out acts of vengeance in the following days. In the midst of this extremely vague picture, it is difficult to define the exact role played by Haefliger, who resigned after the war in controversial circumstances.<sup>89</sup>

## Assessment, problems, issues

In the early 1970s, a journalist wrote a hagiographic account of the decisive role played by certain delegates in the operations organised by the ICRC.<sup>90</sup> In response to criticism of the ICRC's attitude to the genocide, the journalist highlighted the delegates' courage and commitment, and portrayed them as incarnating the ICRC's universal values. Previously, the ICRC had omitted from its official account the individual role of its delegates in Germany during the final phase of the war. By contrast, the account written by Dr Marcel Junod after the war became a reference work for the organisation.<sup>91</sup> This text, which heralded the emergence of the delegate as a figure in his own right, contains only a few lines on the ICRC's initiatives to help concentration-camp prisoners.<sup>92</sup> That omission reflects the depth of the organisation's crisis of memory. Beyond the individual merit and courage of certain delegates in the field, what assessment can be made of the ICRC's operations for concentration-camp detainees? Its activities during the war appear to have been determined essentially by the demands of the Allied powers, in that they were closely tied to the requests made by the Allied governments, which financed its operations and provided most of the relief supplies at its disposal. In the last phase of war, the rescue of deported populations emerged as a diplomatic and political

88 Y. Bauer, above note 50, p. 341.

89 According to Haefliger, the ICRC forced him to resign for having called on the American troops. All trace of his work was erased from institutional memory. Belatedly recognized as the 'saviour of Mauthausen', Haefliger was decorated in 1977 for his action during the liberation of Austria and was awarded the peace medal in 1980 and various distinctions in Israel. He was nominated for the Nobel Peace Prize in 1950 and 1988, and rehabilitated by the ICRC president in 1990, see: [www.hls-dhs-dss.ch/textes/f/F44786.php](http://www.hls-dhs-dss.ch/textes/f/F44786.php) (last visited 13 August 2012); Alphons Matt, *Einer aus dem Dunkel. Die Befreiung des Konzentrationslagers Mauthausen durch den Bankbeamten H.*, Schweizer Verlagshaus, Zurich, 1988; Johannes Starmühler, *Louis Haefliger und die Befreiung des Konzentrationslagers Mauthausen. Eine Betrachtung vermittelter Geschichte in Österreich nach dem Zweiten Weltkrieg*, University of Vienna, 2008, dissertation available at: <http://othes.univie.ac.at/447/> (last visited 11 August 2012).

90 Drago Arsenijevic, *Otages volontaires des SS*, Famot, Genève, 1974. For the English version see Drago Arsenijevic, *Voluntary Hostages of the SS*, Ferni Publishing House, Geneva, 1979.

91 Marcel Junod, *Le troisième combattant*, CICR, Genève, 1989 (1947). For the English version see Marcel Junod, *Warrior Without Weapons*, transl. by Edward Fitzgerald, Jonathan Cape Ltd., London, 1982 (1951).

92 *Ibid.*, pp. 230–231.

issue for Swiss foreign policy, the aim of which was to maintain Swiss neutrality as an institution in the new post-war international order, to deflect criticism of its relations with Nazi Germany during the war and to preserve the ICRC's reputation at a time when the humanitarian playing field was being reconfigured by the establishment of the United Nations Relief and Rehabilitation Administration.

As the ICRC adapted to the new situation, it shifted away from its main role as an agency that collected information on and supervised the distribution of parcels and correspondence to prisoners of war, and began launching operations to help concentration-camp detainees. Its involvement nevertheless reflected the difficulties its main leaders were encountering in redirecting the ICRC's work in this new context. Huber's temporary departure at the end of December 1944 and the appointment of his successor, Burckhardt, as Switzerland's chief representative in France in February 1945<sup>93</sup> may explain some of the difficulties the ICRC had in defining its policy and moving into new areas of action. Its work appears to have been guided mostly by caution and concern to do nothing that might conflict with the interests of the Swiss authorities and the main warring parties. The way in which the ICRC negotiated with SS leaders during the final weeks of the war is a perfect example of its cautious approach. Burckhardt's restraint is reflected in his refusal to travel personally to Berlin, unlike Count Bernadotte, or to send a high-level ICRC representative. The ICRC president took care to avoid involving the organisation in any secret negotiations. At the same time, the Swiss authorities, who feared they would be overwhelmed if masses of refugees and former prisoners arrived at the country's borders, were greatly circumspect regarding the rescue operations.<sup>94</sup> In fact, Burckhardt's meeting with Kaltenbrunner appears on the whole to be a relatively insignificant episode amid the various negotiations concerning concentration-camp detainees. The ICRC operation to evacuate deportees pales in comparison with that carried out by Bernadotte, even though Operation White Buses concerned mainly Scandinavians, who benefited from more favourable treatment and conditions.

The ICRC rescue operation for deportees is noteworthy, in our view, for its improvised nature and because the means mobilized were so inadequate given the enormous needs of the concentration-camp detainees. The ICRC was overwhelmed by the scope of the task at hand and, as we have seen, had recourse to practices and means originating essentially in its work for prisoners of war. Its belated involvement explains why the delegates most involved in the concentration-camp operation were recruited mere days before their departure for Germany. With the means of transport guaranteed, the ICRC conducted a rapid campaign to recruit delegates at the end of March, which resulted in little more than a dozen being hired. Burckhardt was looking for men who were relatively mature (over 27), spoke fluent German and were familiar with perhaps one more language, and had a 'firm and

93 Burckhardt takes up his post as Switzerland's chief representative in France only in May 1945.

94 André Lasserre, 'Les réfugiés de Bergen-Belsen et Theresienstadt ou les déboires d'une politique d'asile en 1944-1945', in *Revue Suisse d'Histoire*, Vol. 40, 1990, pp. 307-317; Jean-Claude Favez, 'Le proche et le lointain. L'accueil et l'asile en Suisse au printemps 1945', in *Revue Suisse d'Histoire*, Vol. 38, 1988, pp. 390-402.

upright character'. In his view, Swiss army officers with 'a true spirit of sacrifice' were the best prepared for the operation's demands. The ICRC provided eight days of training and a monthly salary (1,000 Swiss francs) that was twice that of an ordinary delegate.<sup>95</sup>

In the midst of a country that lay in ruins and was crisscrossed by columns of refugees, Allied troops, and Wehrmacht soldiers in retreat, the ICRC's delegates were isolated and unable to communicate with Geneva. Often forced to improvise, their room for manoeuvre – already slim – was further narrowed by their limited contact with Allied troops. The difficulties encountered by the convoy of trucks headed by one delegate, Jean-Louis Barth, illustrate the predicaments the ICRC faced during the final days of the war. The convoy left Konstanz, on the Swiss border, on 13 April at 8.45 a.m. and took three whole days to cover the 450 km to its destination, the Flossenbürg camp, where it arrived on 15 April at around 6 p.m.<sup>96</sup> En route the convoy was repeatedly delayed by flat tires, the numerous detours it had to make around the trees lying in the middle of the road and the damage caused by bombing. It was also stopped at roadblocks and by air-raid alerts.

The next day, on 16 April, the convoy set off for the camp itself but was stopped by a battle during which a train carrying deportees was machine-gunned by SS guards, resulting in around 30 deaths. At that point Barth ordered the trucks back to the town of Floss. Uneasy, he nevertheless decided to try once more to reach the gates of the camp. This time, the convoy was met by drunken guards. According to the delegate's account, there reigned a 'horrid atmosphere', which prompted the trucks to return yet again to Floss. After this second failure, Barth finally persuaded the town's SS officers to allow him to provide supplies to a column of 400 Russian prisoners of war he had encountered on the road. In exchange for a few bars of chocolate for the German guards, Barth was allowed to open some 30 parcels and give some of their contents to the prisoners. On 18 April, he finally decided to unload the remaining 1,200 parcels at Stalag XIII (a prisoner of war camp) and then to flee for fear that the Allies would arrive and requisition the trucks. During the return trip, somewhere in the vicinity of Munich, the convoy came across numerous refugees on the road. Barth continued on his way, remarking, 'The world seems gripped by madness In the panic and chaos . . . people are half-crazy, clinging to the trucks'.<sup>97</sup> Finally, after an eight-day journey, the convoy arrived back in Konstanz on 21 April without having been able to enter Flossenbürg camp.

This episode reflects the minor part assigned the ICRC in the Allied relief and reconstruction programme, under which, after an initial period of work under the responsibility of the occupation forces, the task in the occupied territories was to be handed over to the United Nations Relief and Rehabilitation Administration. From that point on, private agencies played no more than a secondary role under the Administration's supervision. In addition, the ICRC was not recognized by

95 Burckhardt to Divisional Colonel Gugger (army head of personnel), 29 March 1945, ACICR BG 003 26 58.

96 Report by J. Barth, 25 April 1945, ACICR DAS ZA 76.

97 *Ibid.*

the Soviet Union. This placed it in an awkward position on the front and resulted, among other things, in the four remaining staff members at the Berlin delegation (Otto Lehner, Albert de Cocatrix, the secretary Ursula Rauch, and the driver André Frütschy) being interned for four months in a Soviet camp in Krasnogorsk.<sup>98</sup>

Isolated, underprepared or totally unprepared, the delegates seemed insignificant in number given the major human catastrophe that accompanied the collapse of the Third Reich. From the ICRC's viewpoint, however, this was, as pointed out above, the main field operation conducted for concentration-camp detainees. For the first time, delegates had at their disposal a large quantity of relief supplies intended for deportees and financed by the War Refugee Board among others. And they had the transport to carry out unprecedented missions. However, the means at their disposal often turned out to be inadequate compared with the detainees' needs. Despite the commitment of certain delegates, these activities revealed the limits of and problems faced by an operation mounted in haste as a 'side show' to the massive work in aid of prisoners of war. It was in fact impossible to supervise the distribution of parcels in the camps, and as a result the parcels were repeatedly diverted and stolen by camp officials. In early May 1945, ICRC representatives visiting the camp at La Plaine, in the canton of Geneva, were told by former detainees from Mauthausen interned there that the only parcels they had seen in Mauthausen had arrived on 28 April. The content had been consumed by the guards, who allegedly forced the detainees to sign receipts but did not give them the parcels.<sup>99</sup> In addition, former detainees from Sachsenhausen, moved at the end of the war to Mauthausen, stated that 25 per cent of the parcels arriving at Sachsenhausen ended up in the hands of the guards or the representatives' of detainees (*hommes de confiance*).<sup>100</sup> These statements suggest that there existed in the camps a kind of sinister black market fed by the arrival of relief parcels. Before reaching the detainees, the parcels were passed from the camp staff to the *kapos* and the block leaders,<sup>101</sup> each in turn removing the most coveted items or using the contents as a means of exacting concessions and obedience.<sup>102</sup> According to Eugen Kogon, the shipments of parcels constituted a highly profitable system for the camp guards. For example, the SS officer in charge of the Buchenwald customs office reportedly diverted 5,000 to 6,000 Red Cross parcels in August 1944, and in March 1945 seven rail cars (loaded with 21,000 to 23,000 Red Cross parcels) apparently disappeared.<sup>103</sup>

It must also be emphasized that the contents of the parcels, intended to provide additional nourishment for prisoners of war, were not suitable for the

98 The Soviet government's goal was to pressure the Swiss authorities into repatriating the Soviet internees in Switzerland. It finally released the ICRC staff along with a group of other Swiss citizens in mid-October. See D. Arsenijevic, above note 90, pp. 263–270.

99 Letter from Kohn to the ICRC on 26 April 1945; see also undated note from Jung, ACICR DAS 2/6.

100 Report by Kohler on the visit to the camp at La Plaine, 4 May 1945, ACICR G 44/13 22.

101 Note for the delegation in Berlin, 16 February 1945, ACICR DAS ZA 73.

102 Paul Lobstein to the ICRC, 26 June 1945, ACICR DAS 2/6.

103 Eugen Kogon, *L'Enfer organisé. Le système des camps de concentration*, La jeune Parque, Paris, 1947, pp. 119–120.



World War II. Kreuzlingen. Detainees from Ravensbrück concentration camp are housed in a gym after their evacuation by the ICRC. © ICRC photo library (DR).

starving inmates of the camps.<sup>104</sup> Rich in proteins, sugar and vitamins, the food was hard to digest to the point that it killed some of the weakest detainees. More generally, the ICRC does not seem to have given real thought to the detainees' actual health needs. The organisation took one improvised initiative after another, often in a clumsy manner and without giving special consideration to the specific needs of the people involved. The operations to repatriate detainees from Ravensbrück and Mauthausen were an example of this, revealing as they did what little attention the Swiss authorities paid to the extraordinary circumstances of the deportees struggling to survive the concentration camps. In the report he filed on his return from Mauthausen, ICRC delegate Rubli complained bitterly of the conditions in which the evacuees were received in Switzerland, which he considered 'scandalous'.<sup>105</sup>

104 The first parcels, which were relatively light (1.845 kg), contained basically sugar and dairy products (600 g of jam, 430 g of sweetened concentrated milk, 80 g of Ovo-sport, 150 g of biscuits (Soso), 250 g of smoked sausage, 225 g of cheese (Gerber-anémone), 100 g of chocolate). 'Content of a standard parcel for Norwegian internees', note from Rigg for Schwarzenberg, 13 April 1943, ACICR DAS ZA 72. The contents had apparently been improved by the autumn, when the standard parcel contained three 100 g packets of biscuits-cake, two packets of soup (15 cubes per parcel), six packets of vegetable powder for soup (165 g, i.e. two of beans, two of peas and two of lentils), 165 g or three tins of Globus goulash, one bottle of Pritamin, a packet of plum marmalade and 500 g of noodle soup. 'Composition of the standard parcel (second order)', 12 November 1943, ACICR DAS ZA 12.

105 Procès-verbal, 27 April 1945 ACICR DAS ZA 1.



World War II. Detainees with a Red Cross parcel at Dachau concentration camp shortly after its liberation. © ICRC photo library (DR).

Rubli was in charge of convoy 36, which was held up at the border (23 Avril) by the Swiss authorities from 5 p.m. to 10 a.m. the following morning. The former detainees were forced to spend the night on the road, without blankets, hot drinks or food. Rubli also spoke of the lack of sanitary facilities and shelter and the transfer of the evacuees into third-class rail cars.<sup>106</sup> More generally and except for the work of a delegate by the name of Hort, who took it upon himself to provide first aid for 500 detainees in Landsberg,<sup>107</sup> the ICRC made only a modest contribution to the various medical missions undertaken to save released detainees. For example, Jean Rodhain, chaplain general for prisoners of war and deportees in France, organised three medical missions to Bergen-Belsen, Dachau, Mauthausen and Buchenwald.<sup>108</sup> The British Red Cross mobilized five teams in Bergen-Belsen, backed by British Quakers.<sup>109</sup> The ICRC, for its part, dispatched a team made up of

106 Report by Rubli, 27 April 1945, ACICR G 44/R-217.

107 Report by Dunant, 15 May 1945, ACICR G 59/12/13-364.

108 Paul Weinding, 'For Love of Christ: Strategies of International Catholic Relief and the Allied occupation of Germany, 1945-1949', in *Journal of Contemporary History*, Vol. 43, No. 3, 2008, pp. 477-491; Paul Weinding, "'Belsenitis': Liberating Belsen, Its Hospitals, United Nations Relief and Rehabilitation Administration, and Selection for Re-emigration, 1945-1948', in *Science in Context*, Vol. 19, No. 3, 2006, pp. 401-418; Mark Harrison, *Medicine and Victory. British Military Medicine in the Second World War*, Oxford University Press, Oxford, 2004.

109 Hagit Lavsky, 'The Day After. Bergen-Belsen from Concentration Camp to Center of the Jewish Survivors in Germany', in *German History*, Vol. 11, 1993, pp. 36-59.

six doctors and twelve nurses, which arrived in Bergen-Belsen on 2 May to assist the British teams.<sup>110</sup> Several months later, the ICRC's lack of medical expertise prompted it to launch a monthly internal bulletin entitled *Documentation médicale à l'usage des délégués*, whose purpose was explained in the first issue: to provide the information needed by delegates, who 'for many years had been kept unaware of the medical progress made by the Allies'.<sup>111</sup>

Our aim in this brief summary of the problems raised by the ICRC's work for concentration camp detainees has been to shift the focus away from the usual questions of principle and broaden the scope by recounting some actual history of humanitarian operations. We have sought to show that, during the final phase of the war, the ICRC seized the opportunity afforded by the first German concessions regarding concentration camp internees to conduct operations made possible thanks to support from the American and French governments. Rather than reflecting an existing commitment to help the racial and political victims of the Third Reich, the ICRC's work appears to have resulted from three factors: its participation in the Allied humanitarian effort to help prisoners of war; the Swiss government's concern to ensure Swiss neutrality in the emerging new order; and the ICRC's own determination to maintain its leadership in the humanitarian field. While it is true that the delegates working in Germany during the final days of the European war courageously took risks, the ICRC did not manage to carry out a genuine humanitarian operation. The organisation had been designed to gather information about and deliver aid to prisoners of war, and its response, hastily thrown together, is indicative of the difficulty it had redefining itself during the final phase of the war and of the minor role it played in the occupation programmes imposed by the Allied forces.<sup>112</sup>

110 Anny Pfirter, *Souvenirs d'une mission du Comité international de la Croix-Rouge*, Geneva, 1955; Johannes-Dieter Steinert, 'British Relief Teams in Belsen Concentration Camp: Emergency Relief and the Perception of Survivors', in *Genocide Studies*, Vols 1–2, Nos 1–2, 2006, pp. 62–72. See also Muriel Knox Doherty, *Letters from Belsen 1945: an Australian nurse's experiences with the survivors of war*, Allen & Unwin, N.S.W., 2000.

111 *Documentation médicale à l'usage des délégués*, Vol. I, March–June 1946, CID 362-191.557 [ICRC translation].

112 Johannes-Dieter Steinert, 'Food and the Food Crisis in Postwar Germany, 1945–1948: British Policy and the Role of British NGOs', in Frank Trentmann, Flemming Just (eds), *Food and Conflict in Europe in the Age of the Two World Wars*, Palgrave Macmillan, New York, 2006, pp. 266–287; Jean-Daniel Cohen, 'Between Relief and Politics: Refugee Humanitarianism in Occupied Germany 1945–1946', in *Journal of Contemporary History*, Vol. 43, No. 3, 2008, pp. 437–449; Jessica Reinisch, 'Introduction: Relief in the Aftermath of War', in *Journal of Contemporary History*, Vol. 43, No. 3, 2008, pp. 371–404. More particularly on the ICRC, Dominique-Déborah Junod, *La Croix-Rouge en péril, 1945–1952 : La stratégie du CICR, de la Seconde Guerre mondiale au conflit de Palestine-Eretz-Israël*, Payot, Lausanne, 1997 (for the English version see Dominique-Déborah Junod, *The Imperiled Red Cross and the Palestine-Eretz-Yisrael Conflict 1945–1952: The Influence of Institutional Concerns on a Humanitarian Operation*, transl. by Martha Grenzeback, Kegan Paul International, London/New York, 1996); Catherine Rey-Schirr, *De Yalta à Dien Bien Phu. Histoire du Comité international de la Croix-Rouge, 1945–1955*, Editions Georg, Geneva, 2007.

# ‘Organising the unpredictable’: the Nigeria–Biafra war and its impact on the ICRC

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## **Abstract**

*This article analyses how the events of the late 1960s – and in particular the Nigeria–Biafra War – marked a turning point in the history of the International Committee of the Red Cross (ICRC). The Nigeria–Biafra conflict required the ICRC to set up and coordinate a major relief operation during a civil war in a post-colonial context, posing several new challenges for the organisation. This article shows how the difficulties encountered during the conflict highlighted the need for the Geneva-based organisation to reform the management of its operations, personnel, and communications in order to become more effective and professional. Finally, the article takes the examination of this process within the ICRC as a starting point for a broader discussion of the changing face of the humanitarian sector in the late 1960s.*

**Keywords:** Nigeria, Biafra, ICRC, history, professionalisation, reform, assistance.

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Published literature often presents the Nigeria–Biafra War (1967–1970) as marking a ‘before and after’ in the history of humanitarian aid.<sup>1</sup> Generally speaking, the founding of Médecins sans Frontières (Doctors without Borders, MSF) after this conflict has been put forward to justify this assertion, as has been the development of its new methods, breaking with a more traditional humanitarianism represented

by the International Committee of the Red Cross. The political activism of these new humanitarian organisations, focused on speaking out and operating without borders, was the driving force behind the emergence of a new generation of humanitarian actors.<sup>2</sup> This interpretation is the key to understanding the subsequent positioning of these new humanitarian actors, and especially of MSF vis-à-vis the ICRC. However, the emphasis on this issue in the history of humanitarianism, especially in the analysis of the Nigeria–Biafra conflict, has been to the detriment of other developments of the time. This article aims at looking beyond this narrow focus on speaking out in order to chart the larger-scale shift in the humanitarian sector in the late 1960s. Among the factors that can shed new light on the practices of emergency relief organisations at the time, particularly those of the ICRC, are the increasing number of non-governmental organisations whose involvement was no longer limited to fundraising but now also extended to field operations, growing media coverage of humanitarian crises, and the post-colonial context in which aid operations were conducted.<sup>3</sup>

For the ICRC, despite its experience in armed conflict, the Nigeria–Biafra war was in many ways a relatively new response scenario.<sup>4</sup> Studies of this period in the ICRC’s history are few and far between,<sup>5</sup> but the literature generally agrees on the importance of this conflict.<sup>6</sup> Some go so far as to describe it as a turning point, as one former ICRC delegate remarked:

The modern ICRC was born in Africa, in the smoking ruins of Biafra in the late 1960s. This is where the new ICRC was brought to the baptismal font of a new humanitarian era, during the development of a huge rescue operation for hundreds of thousands of victims of the Nigerian civil war.<sup>7</sup>

This view of the conflict raises questions about its impact on the way in which the ICRC functioned, especially since, as David Forsythe has explained, the organisation

- 1 For Philippe Ryfman, the second century of humanitarian action starts with Biafra: see Philippe Ryfman, *Une histoire de l’humanitaire*, La Découverte, Paris, 2008, pp. 48–49. Although Michael Barnett does not repeat the same periodisation, he also indicates that Biafra opened a new chapter in humanitarian action: see Michael Barnett, *Empire of Humanity: a History of Humanitarianism*, Cornell University Press, Ithaca, 2011, p. 133.
- 2 For a discussion of these questions, see P. Ryfman, above note 1, pp. 52–59.
- 3 On the shift in the activities of non-governmental actors to areas outside of Europe at the end of World War II and the unprecedented media coverage of humanitarian crises from the late 1960s, see for example M. Barnett, above note 1, pp. 118–158.
- 4 On the International Committee of the Red Cross and its principles of action, see François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, ICRC and Macmillan, Geneva, 2003.
- 5 A well-documented study was done at the end of the conflict by an ICRC staff member who had access to the archives: Thierry Hentsch, *Face au blocus: histoire de l’intervention du Comité international de la Croix-Rouge dans le conflit du Nigéria, 1967–1970*, Droz, Geneva, 1973. See also the analysis by Jacques Freymond, Committee member and vice-president during the conflict, ‘Nigéria–Biafra: l’aide aux victimes de la guerre civile’, in *Preuves*, first quarter, 1970, pp. 70–83.
- 6 David P. Forsythe, *The Humanitarians: the International Committee of the Red Cross*, Cambridge University Press, Cambridge, 2005, p. 62; Caroline Moorehead, *Dunant’s dream: War, Switzerland and the History of the Red Cross*, Harper Collins, London, 1998, p. 614.
- 7 Jean-Marc Bornet, *Entre les lignes ennemies: délégué du CICR 1972–2003*, Georg Éditeur, Geneva, 2011, p. 87.

has generally been reluctant to accept change: 'the ICRC embraced change only slowly, frequently when anticipated negative outcomes left little choice but to change'.<sup>8</sup> A book on the ICRC covering the 1945–1980 period also concluded that significant developments had taken place in the wake of the Biafra conflict, which transformed the ICRC's assistance policy.<sup>9</sup> This became increasingly oriented towards areas outside Europe, particularly in Africa and South America, and gained in magnitude. In addition, a jump in the ICRC's budget and workforce occurred during this period.<sup>10</sup> Finally, a restructuring got under way between 1970 and 1974, when the organisation was taking stock of its Nigeria–Biafra operation.<sup>11</sup>

To understand the impact of the Nigeria–Biafra conflict, it is necessary to analyse the way in which it exposed the ICRC's weaknesses and prompted a process of reform. These weaknesses were particularly evident in three areas. First, the functioning of the organisation itself and its ability to manage a large-scale operation were called into question. Second, its interaction with other organisations and individuals – governments, other humanitarian agencies, and the media – also became subject to criticism. Third, the difficulties encountered by the ICRC in recruiting and training qualified staff were part and parcel of a new challenge: how to work more effectively in the field. In the face of these problems, the ICRC had to demonstrate flexibility and take the initiative in order to conduct such a complex operation.

The purpose of this article is therefore to understand how a series of emergency measures, affecting the ICRC's internal functioning and other aspects, fit into a wider reform process that profoundly re-shaped the ICRC in subsequent years. More generally, an analysis of this process reveals how changes in the internal structure of humanitarian organisations can be driven by action taken in the field. Even the relatively short time period covered here suffices to shed light not only on the principles underpinning the action of such organisations but also on how they function.<sup>12</sup>

## Operation Nigeria–Biafra: new challenges for the ICRC?

In the mid-1960s, the ICRC had not yet fully recovered from its difficulties at the end of World War II, when the fall in its activities led to a drastic reduction in its budget and workforce.<sup>13</sup> In addition, it had been heavily criticised for its failure to

8 D. P. Forsythe, above note 6, p. 51.

9 Jacques Freymond, George Willemin and Roger Heacock, *The International Committee of the Red Cross*, Martinus Nijhoff, Boston, 1984, p. 79.

10 *Ibid.*, pp. 57–67 and 129.

11 *Ibid.*, p. 128.

12 Pierre-Yves Saunier, 'Le secrétaire général, l'ambassadeur et le docteur: un conte en trois épisodes pour les historiens du "monde des causes" à l'époque contemporaine', in *Monde(s), Histoire, Espaces, Relations*, May 2012, p. 33.

13 Françoise Perret and François Bugnion, *De Budapest à Saïgon: histoire du Comité international de la Croix-Rouge*, vol. IV, 1956–1965, ICRC and Georg Éditeur, Geneva, 2009, p. 39. Catherine Rey-Schyr, *De Yalta à Dien Bien Phu: histoire du Comité international de la Croix-Rouge*, vol. III, 1945–1955, ICRC and Georg Éditeur, Geneva, 2007.

help the victims of the Nazi genocide and prisoners from the Eastern Front. Although the ICRC gradually managed to overcome these difficulties, the situation in the mid-1960s remained precarious. Between 1945 and 1965, it did carry out significant operations, but generally only ones requiring relatively limited resources. Indeed, in those conflicts in which it was called on to act, the ICRC focused mainly on its traditional tasks – that is to say, activities for detainees, whether prisoners of war or civilian internees, and supporting National Red Cross Societies in cases of disturbances. While the ICRC contributed to major relief operations for civilians, this was not its primary focus and required significant resources. In this respect, the operation that took place following the entry of Soviet troops into Hungary in 1956, in which the ICRC distributed food to Hungarian refugees in Vienna, was a notable case, accounting for a significant proportion of the aid distributed in the 1950–1960 period.<sup>14</sup> In several other cases, the ICRC mainly supported the work of National Red Cross Societies. In the Cyprus and Algeria conflicts, for example, it was involved in relief efforts for civilians alongside the British and French Red Cross Societies, but did not have primary responsibility for those operations. Whenever it looked like the ICRC would have to develop this type of activity, its policy was to try to off-load the responsibility onto others. This was particularly the case in the Congo, during the conflicts that erupted in the wake of independence in 1960. While ICRC delegates took initiatives to protect and assist civilians, they were not really supported by headquarters, which felt that the ICRC could not afford to get involved and that this task was the responsibility of other organisations such as the United Nations.<sup>15</sup> Overall, for the period up to the mid-1960s, Françoise Perret and François Bugnion describe how

[t]he ICRC, which did not have the means to match its policies, was reduced to matching its policies to its means. All too often, without adequate resources, it had to trim its programmes or cut short an operation while victims were still in need.<sup>16</sup>

In the late 1960s, with more and more situations requiring the ICRC’s attention, resources were stretched further. Alongside the Nigeria–Biafra operation, the ICRC had to deal with the Vietnam, Arab–Israeli and Yemen conflicts, as well as with Greek political prisoners. The end of the 1960s thus saw the ICRC stepping up its activities and operating in a wider range of settings.<sup>17</sup> It was no longer present in just Europe, the Middle East and Asia, but also in sub-Saharan Africa. Establishing the ICRC in sub-Saharan Africa posed quite a challenge. When several African states were declared independent in the early 1960s, the ICRC had to raise awareness of its work, which hitherto had been relatively limited. The African populations that had been victims of violence during colonisation were not initially considered by the

14 J. Freymond, G. Willemin and R. Heacock, above note 9, p. 85.

15 F. Perret and F. Bugnion, above note 13, p. 309.

16 *Ibid.*, p. 601.

17 D. P. Forsythe, above note 6, pp. 62–78.

ICRC to fall within its remit.<sup>18</sup> Thus its first real contact with sub-Saharan Africa was during the Italo-Ethiopian War.<sup>19</sup> Moreover, it was often when situations involved European victims that the ICRC took action. In 1960, when the ICRC became involved in the Congo, protecting the black population was not its primary concern at first, although some delegates took initiatives along those lines. ICRC delegates were first dispatched to help the white settlers, at the request of the Belgian and French Red Cross Societies, and ended up coordinating the establishment of Red Cross medical teams in the country. During the troubles that heralded or accompanied independence in Kenya, Rwanda, Burundi, the Federation of Rhodesia and Nyasaland, and South Africa, the ICRC dealt relatively little with the local population, about whom there were still very widespread prejudices at the time.<sup>20</sup> Some at the ICRC, however, felt that the organisation should establish activities in independent sub-Saharan Africa and raise the ICRC's profile in that part of the world. By appointing a delegate for Africa at the beginning of the 1960s,<sup>21</sup> the ICRC sought to improve its relationship with the newly independent states and to develop its activities there. Despite these initiatives, the ICRC was still not well known or experienced in the region when the Nigeria–Biafra War started.

In the summer of 1967, following the Republic of Biafra's proclamation of independence, the Federation of Nigeria took up arms to stop the secession.<sup>22</sup> The ICRC became involved in the war zone by offering its services to the belligerents. The first step was to inquire after the fate of prisoners of war and to support the activities of the local Red Cross by providing equipment and medical staff. At the end of 1967, the ICRC also started relief operations for civilians affected by the war on both sides of the front line. When famine took hold in Biafra in 1968, this became the organisation's main focus. The challenge was to feed a population of several million people in complex circumstances. For the ICRC, the main stumbling block was the difficulty of obtaining the consent of the belligerents to bring aid into Biafra, which was blockaded by the Nigerian government. While the government accepted the principle, it wanted control over what was delivered and how, in order to assert its sovereignty over the breakaway province. Conversely, the Biafran

18 Irène Herrmann and Daniel Palmieri, 'Humanitaire et massacre: l'exemple du CICR (1904–1994)', in Jacques Sémelin, Claire Andrieu and Sarah Gensburger (dir.), *La résistance aux génocides: de la pluralité des actes de sauvetage*, Presse de Sciences Po, Paris, 2008, p. 237.

19 For an examination of the ICRC's role during the Italo-Ethiopian War, see Rainer Baudendistel, *Between Bombs and Good Intentions: the Red Cross and the Italo-Ethiopian War, 1935–1936*, Berghahn, New York, 2006.

20 For an overview of the ICRC's activities in Africa in the early 1960s, see F. Perret and F. Bugnion, above note 13, pp. 259–329.

21 After the 1962 Gonard Mission, Georg Hoffmann was appointed regional delegate for Equatorial and Sub-Equatorial Africa and in 1963 became the general delegate for Africa (except for Morocco, Algeria, Tunisia, Libya and Egypt): see *ibid.*, pp. 266 and 319–329.

22 On the Nigeria–Biafra War, see, among others, Anthony H. M. Kirk-Greene, *Crisis and Conflict in Nigeria: a Documentary Sourcebook*, Oxford University Press, London, 1971; John Stremmlau, *The International Politics of the Nigerian Civil War, 1967–1970*, Princeton University Press, Princeton, 1977; Jean-Louis Clergerie, *La crise du Biafra*, Presses universitaires de France, Paris, 1994; Michael Gould, *The Struggle for Modern Nigeria: The Biafran War, 1967–1970*, I. B. Tauris, London, 2012.

authorities tried to impose their own conditions on relief efforts in order to show that they were not subject to the whims of the federal government. In addition, for each belligerent, humanitarian aid was strongly linked with questions of military strategy.

Despite these difficulties, in September 1968, the ICRC was able to establish an airlift for Biafra. In accordance with the principle of impartiality, and to avoid operating only on the Biafran side, it also set up and coordinated a relief operation in the areas recaptured by the federal army, where it had to contend with major logistical problems. This operation lasted until the summer of 1969, at which time the Nigerian government took an increasingly hard line. The ICRC commissioner-general of the Nigeria–Biafra operation was declared *persona non grata* in Nigerian territory; an aircraft, part of the Red Cross airlift, was shot down; and the Nigerian government decided to take over the relief operation in federal territory. This change in attitude forced the ICRC to reconsider its involvement and, unable to negotiate an agreement between the belligerents, the organisation suspended the Biafra airlift. The second half of 1969 therefore saw the ICRC gradually winding down its activities in the conflict, although it pursued its traditional tasks and maintained its medical teams in Biafra. The surrender of Biafra in January 1970 put an end to humanitarian operations in Biafra.

The ICRC’s assessment of its role in the war was mixed. It had conducted a large-scale operation, but had been forced to stop most of its activities before the conflict ended. It had been an expensive operation, requiring a large and highly trained workforce and rigorous management, particularly when it came to negotiating with the belligerents. This had quickly highlighted the need for the ICRC to undertake reforms if it wished to reaffirm its role as an organisation that assisted people affected by war. Three areas were central to this process: the functioning of the organisation, staff management, and the organisation’s relationship with other humanitarian actors and the media.

## Seeking direction

The scale of the Nigeria–Biafra operation, the largest the ICRC had carried out since the end of World War II,<sup>23</sup> and the new conditions in which it unfolded highlighted the amateurism of the ICRC’s humanitarian response. There were two particularly acute problems. Firstly, there was a complex relationship between ICRC headquarters, where decisions were made, and the field, where other concerns held sway. Secondly, the unique functioning of the ICRC, with the central role played by the Committee (now the Assembly) in the decision-making process, raised issues specific to its organisational structure.<sup>24</sup>

23 T. Hentsch, above note 5, p. VII.

24 Jacques Freymond, *Guerres, révolutions, Croix-Rouge – réflexions sur le rôle du CICR*, Institut universitaire de hautes études internationales, Geneva, 1976, pp. 3–35.

In 1967, when the Nigeria–Biafra conflict began, the Committee had 17 co-opted members,<sup>25</sup> who attended a plenary meeting once a month. They set the ICRC’s policy and fixed its general direction. Alongside the Committee, the Presidential Council met more regularly every fortnight between each plenary session of the Committee and oversaw the everyday affairs of the organisation. It was composed of the president and two vice-presidents (elected by all the members), along with several other members of the ICRC. Finally, the Directorate, made up of two directors-general and a director, managed the ICRC’s daily activities and administration. A critical evaluation of the way in which those bodies functioned at the end of 1967 brought to light several factors that might help explain the lack of initiative taken by the ICRC in pursuing its action.<sup>26</sup> Overall, the Committee members did not seem to be sufficiently committed to their duties. Despite receiving an internal briefing document that was produced specifically for them, they did not seem to pay enough attention or know enough about the issues. Being more dynamic also meant recruiting more diverse and younger Committee members, whose average age prior to the recruitment of four new members at the end of 1967 was 65. Moreover, the distinction between the Presidential Council and the Committee was not clear, and plenary meetings put too much emphasis on the details of the implementation of ICRC policy, which was actually the responsibility of the Presidential Council and the Directorate. Finally, there was a need to boost the Directorate by appointing one or more assistants.<sup>27</sup>

While these problems were not linked specifically to the Nigeria–Biafra operation, they did have an impact on it. As a result, the ICRC was late to take charge of the operation. According to Thierry Hentsch, the initial difficulties encountered by the ICRC in the negotiations with the warring parties stemmed from a degree of insouciance.<sup>28</sup> The Nigeria–Biafra situation was initially not a subject of particular interest to the Committee. Uninformed about the situation, it relied primarily on information from Swiss diplomats stationed in Lagos, where it was widely believed that the federal army would swiftly overcome secessionist Biafra.<sup>29</sup> Within the ICRC, the conflict was not given due consideration, which caused the ICRC to mishandle its dealings with the Nigerian and Biafran authorities, sowing doubt in the minds of its contacts about ‘the credibility of its humanitarian, neutral and impartial action’.<sup>30</sup> Furthermore, the ICRC failed to give sufficient weight to its representations to the belligerents. It would have had more of an impact if it had sent a member of the Committee to the field.<sup>31</sup>

With people’s needs growing dramatically in the late spring of 1968, the ICRC made a public appeal entitled ‘SOS Biafra’, in which it advocated lifting

25 For a study on the members of the Committee, see Diego Fiscalini’s dissertation, ‘Des élites au service d’une cause humanitaire: le Comité international de la Croix-Rouge’, University of Geneva, Geneva, 1985.

26 ICRC Archives (ACICR), plenary Committee meeting, 1 November 1967.

27 *Ibid.*

28 T. Hentsch, above note 5, pp. 23–46.

29 ACICR, BAG 12-044, critical note by Pierre Basset, November 1970.

30 T. Hentsch, above note 5, p. 46.

31 ACICR, extraordinary plenary Committee meeting, 29 August 1968.



Figure 1. A DC4 in Geneva loading 6.5 tonnes of medicines and vitamins for Biafra via Santa Isabel, 27 May 1968. © ICRC photo library/V. Markevitch.

the blockade imposed by the federal government. These efforts, made in haste and without informing the Nigerian government, only exacerbated the misunderstandings with the authorities.<sup>32</sup> The ICRC’s amateurism not only hindered negotiations about the relief effort in Biafra, but also affected the management of the operation on Nigerian soil. With thousands of tonnes of aid sent by governments and organisations beginning to arrive in Lagos, the ICRC struggled to coordinate its distribution. (Fig. 1 & 2)

In Lagos, this provoked considerable criticism from the Nigerian authorities, British and American diplomats, and ICRC staff who complained about the organisation’s handling of the situation.<sup>33</sup> The Swiss ambassador in Lagos was also concerned about the implications for the image of Switzerland and urged his superiors to entrust the operation to Swiss figures who could handle it. He wrote:

‘You are probably in a position to help the ICRC find the right persons for the action in Nigeria. At the end of the day, it is our country’s reputation that is indirectly at stake, insofar as any action is to be undertaken by the Swiss. It would be unfortunate if the donor states and other organisations that have made financial contributions had the impression that the Swiss were not up to the task entrusted to them’. Letter from the Swiss ambassador to Nigeria

32 T. Hentsch, above note 5, pp. 82–90.

33 Letter from the Swiss ambassador to Nigeria to the head of the International Organisations Division, 5 June 1968, Diplomatic Documents of Switzerland (DDS), dodis.ch/33767.

to the head of the International Organisations Division, 14 June 1968, DDS, dodis.ch/33772.<sup>34</sup>



Figure 2. A convoy in the Nigeria–Biafra war. © ICRC photo library/Max Vaterlaus.

With images of malnourished children splashed across the Western media in July 1968, pressure mounted on the ICRC to find solutions and be more effective.<sup>35</sup> Afraid that the operation would be taken off its hands, the ICRC decided to entrust it to an outsider who was able to take charge.<sup>36</sup> It made a formal request to the Swiss Confederation to make the Swiss ambassador in Moscow, Auguste Lindt, available.

34 Letter from the Swiss ambassador to Nigeria to the head of the International Organisations Division, 14 June 1968, DDS, dodis.ch/33772 [ICRC translation]. Original German text: *‘Möglicherweise bietet sich Ihnen doch eine Gelegenheit, mitzuhelfen, dass die IKRK die richtige Persönlichkeiten für die Nigeria-Aktion findet. Schliesslich steht indirekt auch der Ruf unseres Landes auf dem Spiel, dass die ganze Aktion unter schweizerischer Leitung durchgeführt werden muss. Es wäre in der Tat bedauerlich, wenn die Spenderstaaten und anderen Geberorganisationen den Eindruck bekommen sollten, dass die Schweizer der Aufgabe nicht gewachsen sind’.*

35 On the pressure put on the ICRC by other entities, see Marie-Luce Desgrandchamps, ‘Entre coopération et concurrence: Unicef, CICR et organisations religieuses au Biafra’, in *Relations internationales*, No. 156, 2013.

36 *Aktennotiz* [action notice] by the head of the International Organisations Division, 17 July 1968, DDS, dodis.ch/33790.

Among other positions, the latter had been Special Delegate for the ICRC in Berlin and had served as UN High Commissioner for Refugees.<sup>37</sup> In July 1968, he was appointed commissioner-general for the Nigeria–Biafra operation, for which he had full responsibility. When it put Lindt at the disposal of the ICRC, the Swiss government specified that he must not be hindered in his actions by the Committee.

At first, his appointment appeared to be a success, since the Biafra relief effort was temporarily unblocked. A regular airlift was set up, carrying hundreds of tonnes of relief supplies every night from the island of Fernando Po (now Bioko). In addition, Lindt brought order to the operations being conducted on the federal side so as to improve the ICRC’s credibility with the Nigerian government. Finally, he was a driving force for the operation, emphasising the need to pursue it, to plan, and to stay on track, whereas some Committee members believed that it was too much for the ICRC.<sup>38</sup> His year-long efforts saw the ICRC commit fully to a major operation, during which it handled more than 100,000 tonnes of food.<sup>39</sup>

Within the ICRC in Geneva, however, Lindt’s taking over the operation did not entirely solve the management and organisation problems. Friction was generated at headquarters by the creation of Lindt’s office within the ICRC and the arrival of new staff in Geneva to cope with the operation’s new dimensions. This clearly demonstrated the limitations of using external staff to manage the operation, as pointed out in hindsight by one of the ICRC directors:

The arrival in Geneva of staff from outside the organization, who came with the idea that they would teach us how to work and set themselves up with a parallel organization, like a foreign body, could only ever provoke a ‘transplant rejection’.<sup>40</sup>

Moreover, the division of responsibilities between the Lindt services and the ICRC was not clearly established and generated confusion. This had a direct impact on the management of field operations, as explained by Gerhart Schürch, head of the ICRC delegation in Lagos during the second half of 1968:

In Lagos no one knew who was in charge. I wrote letters everywhere, to different services, letters which never reached the Nigeria–Biafra coordination office. Even the most urgent requests were only answered after long delays or not at all. The most critical information did not reach us, such as, for example, the decisions taken at the beginning of November as to whether or not the operation would continue. They forgot about or did not want to raise funds, which meant that at the end of September we had no money and had to pay our

37 On Auguste Lindt, see Rolf Wilhelm, Pierre Gygi and David Vogelsanger (Hrsg), *August R. Lindt: Patriot und Weltbürger*, P. Haupt, Bern, 2002.

38 ACICR, plenary Committee meeting, 7 November 1968.

39 Peat, Marwick, Mitchell & Co., *International Committee of the Red Cross Relief Operations in Nigeria*, Report, 1 July 1970, pp. 17–20. This figure corresponds to the total food relief distributed in ICRC operations over the 1967–1970 period in Nigeria and Biafra (the majority of relief for the war zones went through Nigeria). It does not include medical aid.

40 ACICR, BAG 12-044, note by Jean Pictet, February 1970.

drivers and people from our own pockets. There was a lack of coordination which was immediately reflected in our work, causing us many problems.<sup>41</sup>

This confusion had implications, not only for the daily running of the operation, but also for the decision-making process of an action that was still in the ICRC's name but was being carried out and organised almost outside of its control. Communication and coordination problems between Lindt and ICRC headquarters in Geneva arose as soon as Lindt took office.<sup>42</sup> They persisted throughout his mission, as recounted at a later stage by one of the Directorate members during this period:

Given the magnitude and the complexity of the task, you can understand that the head of the mission wanted a free rein. But handing over complete authority to him led to the Nigeria–Biafra operation developing in isolation, almost independently of the normal information, deliberation and decision-making channels that make up the organizational structure of the ICRC.<sup>43</sup>

But it was the ICRC in Geneva that was accountable to its partner organisations and to the governments that had supported it, and it was the ICRC that had to answer the media's questions. Occasionally, Lindt's decisions, which were driven by a desire for effectiveness but were sometimes too radical, prompted the Committee to resume control of the operation. For example, at the end of 1968, when the authorities of Equatorial Guinea obstructed the airlift, Lindt decided to try to transfer the operation to Libreville. This was totally unacceptable to the Nigerian government, given that Gabon had recognised Biafra and that from its capital not only relief but above all arms made their way to Biafra.<sup>44</sup> To avoid totally alienating the Nigerian government, the ICRC was forced to step in, creating friction but finally causing Lindt to move part of the airlift to Dahomey (now Benin) rather than to Gabon. Lindt's resolve to treat the Nigerian government and the Biafran authorities on an equal footing,<sup>45</sup> and to push for the ICRC to maintain full control of the operation while some members preferred to delegate the task to other organisations, were other sources of friction between the commissioner-general and the Committee.<sup>46</sup> Overall, the commissioner-general's enterprising attitude, coupled with his strong personality, was beneficial to the operation. It helped shake up a Committee that had sometimes been overly cautious. However, it also contributed to the hardening of the Nigerian government's attitude towards the ICRC in the middle of 1969, which marked the beginning of the end of the organisation's activities in Nigeria and Biafra. Many factors contributed to the government's new stance,<sup>47</sup> but it initially manifested itself in relation to Lindt, who was arrested and declared *persona non grata* on federal soil. The Nigerian government's discontent was focused on the

41 ACICR, plenary Committee meeting, 9 January 1969, report by Gerhart Schürch.

42 ACICR, BAG 280 147-002. Appointing a Swiss ambassador to head ICRC operations also raised the issue of the independence of the ICRC in relation to the Swiss Confederation.

43 ACICR, BAG 12-044, critical note by Pierre Basset, November 1970.

44 Among others, see ACICR, AVM 2005003-14/70.

45 ACICR, plenary Committee meeting, 7 November 1968.

46 ACICR, Presidential Council meeting, 23 January 1969.

47 On these events, see T. Hentsch, above note 5, pp. 169–192.

person of Lindt, described by some as too authoritarian and arrogant,<sup>48</sup> thereby demonstrating the risks of associating an operation with one individual. Besides the fact that such an approach can lead to organisational difficulties and differences of opinion, it can also jeopardise the future of entire operations. After the incidents in June 1969, for instance, the ICRC was stripped of its role as operations coordinator in Nigeria and was unable to resume the airlift.

At the end of the operation, the ICRC identified several lessons to be learned. A restructuring was required in order to be able to handle new situations as they arose. The measures taken also fitted into a more in-depth process of reform that had already been under way, as has been pointed out, even before the Nigeria–Biafra conflict made the need for reform so flagrantly obvious. A new structure was put in place in 1970 ‘to regroup the support services which participated in external activities in an Operations Department’.<sup>49</sup> This reflected the ICRC’s awareness of the need to better coordinate and lead the growing number of external operations in which it was involved. It was in line with the idea of establishing a delegation service, which had already been discussed in 1968<sup>50</sup> and was part of a wider restructuring process undertaken by the ICRC in 1970.<sup>51</sup> The decision-making and governing bodies also came under scrutiny since the ICRC was faced with the resignation of both the president and one of the directors-general between 1968 and 1970.<sup>52</sup> This highlighted the need to recruit younger members who would be willing to make a long-term commitment to the ICRC’s work. The distinction between the responsibilities of the Committee and the Presidential Council was made clearer in 1974, and humanitarian professionals gradually had more say in the ICRC’s policies.<sup>53</sup>

## Recruiting, training, and managing field staff

ICRC resources fell dramatically after World War II, leading to staff cutbacks. A Group for International Missions was set up in Bern to give the ICRC access to people recruited from academia, the military, public services, and industry, available on call for two-month assignments.<sup>54</sup> The Nigeria–Biafra war exposed the limitations of that set-up, however. This prompted the ICRC to explore other staff recruitment options as part of its reflection about the profile of its humanitarian workers.

48 D. P. Forsythe, above note 6, p. 65. On the Nigerian point of view as seen by the British, see the UK National Archives, FCO 65/375 and 65/376.

49 J. Freymond, G. Willemin and R. Heacock, above note 9, p. 122.

50 ACICR, Presidential Council meeting, 25 January 1968.

51 ACICR, Committee meeting, ‘Rapport du secrétaire général sur l’état d’avancement de ses travaux en matière d’organisation’, 21 October 1970.

52 President Samuel Gonard decided to resign at the end of 1968 and Roger Gallopin resigned as director-general at the end of 1969, which led to the dissolution of the Directorate.

53 J. Freymond, G. Willemin and R. Heacock, above note 9, pp. 119–128. For a broader view of these changes, see D. P. Forsythe, above note 6, pp. 201–227.

54 J. Freymond, G. Willemin and R. Heacock, above note 9, pp. 131–133.

During the first year of the Nigeria–Biafra conflict, the ICRC’s involvement was largely limited to sending medical equipment and personnel to war-torn areas. Staff recruitment difficulties therefore first became apparent in this sector. The ICRC turned first to the Swiss Red Cross, which, with the financial support of the Swiss government,<sup>55</sup> was supposed to provide field teams. The results were inconclusive, however; new recruits seemed to be hard to find. So two doctors, Guido Pidermann and Edwin Spirgi, both of whom had worked several times for the ICRC, ended up setting up the first two medical teams in Nigeria and Biafra. It quickly became clear that there were not enough Swiss staff to meet the ICRC’s needs, and the organisation was forced to internationalise its operation by asking various other National Societies to provide medical teams, much like it had done for its operations in the Congo and Yemen.<sup>56</sup> It also accepted the support of other organisations, including religious groups such as the World Council of Churches. However, these joint efforts were still not sufficient. Some National Societies were slow to act and were hampered by the same difficulties that the ICRC had encountered in dispatching field teams.<sup>57</sup> In the spring of 1968, refugees and other civilians ‘who lack everything’<sup>58</sup> were in desperate need of food aid, but the ICRC was unable to maintain a team in Biafra. This highlighted its serious problem with recruiting staff – in fact it had no medical personnel in Biafra between January and July 1968, while in Nigeria it was understaffed.<sup>59</sup> The difficulties brought to light by the Nigeria–Biafra conflict led the ICRC to explore possible longer-term solutions to overcome this lack of medical staff:

As regards the lack of medical staff, some members pointed out that, since this problem has still not been resolved, it is high time that the project previously proposed by Mr Petitpierre – setting up a ‘humanitarian contingent’ ready to serve in any circumstances – should go ahead as soon as possible. This project could even go beyond the Swiss context to be handled at the international level.<sup>60</sup>

Media coverage of the Nigeria–Biafra crisis in the summer of 1968 brought a solution to this problem as more and more people responded to the ICRC’s call for volunteers. By the end of August, in addition to its own staff, the ICRC had more than 200 American and European workers on the ground who had been seconded from other organisations. In addition to the Danish, Finnish, Norwegian, and Swedish Red Cross Societies, which provided most kwashiorkor specialists<sup>61</sup>

55 ACICR, Directorate briefing note, 14 July 1967.

56 ACICR, Directorate briefing note, 5 September 1967.

57 This was particularly true in the spring of 1968, when the ICRC repeatedly postponed sending medical teams to Biafra. A doctor from the Church of Scotland, for example, finally decided to leave with the airlift set up by religious groups rather than join the ICRC team. See ACICR, BAG 202 147-001, letter from Reverend Bernard, 26 March 1968.

58 ACICR, plenary Committee meeting, 5 June 1968.

59 ACICR, Directorate briefing note, 24 July 1968.

60 ACICR, plenary Committee meeting, 5 June 1968.

61 Kwashiorkor is a type of childhood malnutrition resulting from protein deficiency. It is characterised by oedema and swelling of the abdomen.



Figure 3. A medical team from the Lutheran Church-Missouri Synod, Biafra, July 1968. © ICRC photo library.

and aircrews, the American, Dutch, Swiss, and Yugoslav Red Cross Societies provided the ICRC with medical and technical staff.<sup>62</sup> Around 70 people working for the ICRC's operations had been sent by the Salvation Army, Oxfam, the World Council of Churches, the Lutheran Church–Missouri Synod, the Save the Children Fund, and the International Union for Child Welfare.<sup>63</sup> As well as this cooperation between various Western organisations, the Nigerian Red Cross Society was increasingly involved in the ICRC-coordinated operation. (Fig. 3)

This strategy enabled the ICRC to pursue its work, but it was also a source of friction owing to the volunteers' diverse institutional, cultural, national and generational backgrounds. In addition, the relative openness of the ICRC when it came to recruiting medical and technical staff contrasted with its recruitment policy for key positions in the operation, and more generally for the position of delegate.<sup>64</sup> While it was facing the same staff shortages in these areas, its strategy for finding new delegates remained Swiss-centric.

At the beginning of the conflict, the ICRC had trouble assigning a delegate to Biafra. A few people were considered, but they encountered obstacles in the field – it was difficult to get into the secessionist region, and they were greeted with suspicion. In the summer of 1967, the Biafran authorities were more concerned about strengthening the security of the young Republic of Biafra and obtaining the

62 French Red Cross teams (including some of the future founders of MSF) also arrived in Biafra in September 1968.

63 See *International Review of the Red Cross*, Vol. 8, No. 90, September 1968, pp. 458–459.

64 On the role of a delegate, see Brigitte Troyon and Daniel Palmieri, ‘The ICRC Delegate: an exceptional humanitarian player?’, in *International Review of the Red Cross*, Vol. 89, No. 865, March 2007, pp. 97–111.

support of foreign governments than about humanitarian issues. Meanwhile, some ICRC delegates thought that a mission to Biafra would be pointless and were not particularly enthusiastic about going there.<sup>65</sup> So, after a few weeks, the ICRC turned to Karl Jaggi, a Swiss citizen and representative of the Swiss Union Trading Company who was based in what had become Biafra. He became the ICRC correspondent there. He has been described as knowing nothing of the principles of the Red Cross but being well established in Biafran circles.<sup>66</sup> Calling on expatriate Swiss citizens was a relatively common ICRC practice. In the case of Biafra, however, the situation was slightly different, because Jaggi's duties were not to represent the ICRC in occasional dealings with the authorities but rather to mount a humanitarian operation in a civil war. Nevertheless, Jaggi seems to have been the right choice because his temporary appointment became a more permanent one. He became the head of the ICRC delegation in Biafra at the end of 1967, a position that he held until the end of the airlift to Biafra at the end of the summer of 1969.<sup>67</sup> The decision to turn to people not connected with the ICRC, or indeed with the whole Red Cross Movement, was a case in point of the ICRC's recruitment policy for positions of responsibility during the conflict.

The famine in the summer of 1968 led to an influx of food relief, which created a new set of problems for the ICRC. From June 1968, governments and charities sent thousands of tonnes of aid to the port of Lagos, which then had to be transported to the east of the country. Identified as a neutral intermediary specialising in humanitarian aid, it was the ICRC's task – in conjunction with the Nigerian Red Cross, the Nigerian government, and various humanitarian organisations – to organise the storage, transportation and distribution of relief for the civilian population. These tasks required the recruitment of medical personnel and staff able to plan, coordinate and carry out such a large-scale distribution operation, involving many different agencies and organisations. Dissatisfaction at the ICRC's handling of the operation was already being voiced in Lagos in June. The Swiss ambassador reported that the ICRC delegation did not seem up to the task. Food shipments held up in the port of Lagos were spoiled, and there were complaints about the behaviour of some members of its teams.<sup>68</sup> Once again, to retain control of the operation, the ICRC had to be seen to be taking the situation in hand. It first sent the Swiss director of an international transport company, to whom it entrusted the coordination of the relief operation in federal territory. This measure proved to be insufficient, and a new head of delegation was recruited: Gerhart Schürch. He was an elected member of the Grand Council of Bern and member of the City of Bern Executive Council who had carried out assignments for the Don Suisse organisation in 1947 and 1949.<sup>69</sup> Just like Jaggi in the summer of 1967,

65 ACICR, Presidential Council meeting, 17 August 1967.

66 *Ibid.*

67 ACICR, Directorate briefing note, 15 December 1967.

68 Letter from the Swiss ambassador to Nigeria to the head of the International Organisations Division, 14 June 1968, DDS, [dodis.ch/33772](http://dodis.ch/33772).

69 Christophe Zürcher, 'Schürch, Gerhart', in *Dictionnaire historique de la Suisse*, available at: [www.hls-dhs-dss.ch/textes/F/F6675.php](http://www.hls-dhs-dss.ch/textes/F/F6675.php) (last visited 25 June 2013).



Figure 4. From left to right: Mr Falk (from Sweden), Mr Lindt and Mr Jaggi, in Biafra. © ICRC photo library/R. With.

Schürch was recruited from outside the ICRC and, in fact, had no connection to the Red Cross Movement. Thus, from the summer of 1968, those who held the key positions in the rescue operation – namely the commissioner-general and the heads of delegation in Nigeria and Biafra (Lindt, Schürch and Jaggi) – were not ICRC delegates but Swiss citizens recruited from political and economic circles. (Fig. 4)

In the late 1960s, the ICRC viewed this approach as a solution not only in crises but also more generally to deal with the problem of recruiting delegates. Indeed, in July 1968, the ICRC director-general went to the Federal Political Department in Bern to explain the organisation’s recruitment difficulties. He requested the secondment of some of the department’s staff to the ICRC for delegate assignments lasting several months. He also wanted the Department of Economic Affairs to lobby large Swiss companies to make some of their employees available to the ICRC on a temporary basis.<sup>70</sup> The second scenario was most closely followed.<sup>71</sup> For example, after the resignation of Auguste Lindt in June 1969, Enrico Bignami, vice-president of Nestlé-Alimentana and founder of the IMEDE business school<sup>72</sup> in Lausanne, was tasked with conducting negotiations between Nigeria and Biafra.

However, these options did not excuse the ICRC from developing a robust policy for recruiting, training and managing field staff. Following his experience as head of delegation in Lagos, Schürch made a number of observations about the

70 Memo on the meeting between the ICRC director-general and the head of the International Organisations Division, 3 July 1968, DDS, Vol. 24, No. 92, [dodis.ch/32824](https://dodis.ch/32824).

71 ACICR, Directorate note, 10 September 1968.

72 Gilbert Marion, ‘Bignami, Enrico’, in *Dictionnaire historique de la Suisse*, available at: [www.hls-dhs-dss.ch/textes/f/F30544.php](http://www.hls-dhs-dss.ch/textes/f/F30544.php) (last visited 25 June 2013).

impact of the ICRC's recruitment and management system on the effectiveness of relief operations.<sup>73</sup> He identified several shortcomings. First, he believed that the three-month duration of a field delegate's assignment was too short, given how long it took to adapt. In addition, it resulted in an excessively high staff turnover, with the ensuing problems of recruiting new staff at the end of each assignment and ensuring the continuity of the operation. The situation at the Lagos delegation at the end of 1968 was another case in point. Although Schürch's assignment was due to finish at the end of December, at the beginning of the month his replacement had not yet been found. He was therefore unable to properly prepare his handover with the authorities in Lagos.<sup>74</sup> Schürch also emphasised the lack of professional experts in the ranks of the field volunteers, saying: 'the system of recruiting volunteers, while necessary, I concede, has serious shortcomings, in that you will always find adventurers who are worthless professionally, and idealists who have good intentions but are unable to execute them in practice'.<sup>75</sup>

This problem was compounded by the lack of a training and selection process for volunteer field staff. One interview in Geneva prior to the staff's departure for the field was insufficient, especially as they did not always go via headquarters. These deficiencies forced the delegation in Lagos to set up a selection and training system in the field.<sup>76</sup> They affected not only the efficiency of the ICRC's work but also its relationship with the Nigerian authorities and relief organisations. For example, Schürch described how some volunteers' poor grasp of English helped to fuel the federal authorities' suspicions about relief organisations.<sup>77</sup> Some Nigerian aid workers viewed some of the ICRC staff as inexperienced and with poor cultural adaptability.<sup>78</sup> This impression was accentuated by the fact that, in the early days of the conflict, the ICRC significantly underestimated the need to include Nigerians in its ranks. This amateurishness on the part of the ICRC when it came to managing staff in the field fuelled criticism by the Nigerian authorities regarding the conduct of humanitarian organisations, as exemplified by the Nigerian head of state, who said: 'it will help if the Organizations drop their racist overtones of the "whiteman's burden in Nigeria" and quietly and more effectively supplement our local efforts where they can'.<sup>79</sup>

The Nigeria–Biafra conflict starkly exposed the need to professionalise the ICRC's workforce (particularly its delegates), to improve recruitment, and to rethink the length of their assignments. In 1970, a more rigorous recruitment process was introduced, whereby candidates were selected on the basis of applications and interviews, followed by three to five days of training in Cartigny, near Geneva. Delegates were hired for renewable assignments lasting around six

73 ACICR, plenary Committee meeting, 9 January 1969, report by G. Schürch.

74 ACICR, BAG 121.147-001, letter by G. Schürch, 3 December 1968.

75 ACICR, plenary Committee meeting, 9 January 1969, report by G. Schürch.

76 ACICR, plenary Committee meeting, 6 February 1969.

77 ACICR, plenary Committee meeting, 9 January 1969, report by G. Schürch.

78 Emmanuel Urhobo, *Relief Operations in the Nigerian Civil War*, Daystar Press, Ibadan, 1978, p. 54.

79 UK National Archives, FCO 38/226, 'Meeting with members of the International Observer Team'. The intrusive nature of relief operations remained the main source of tension between humanitarian organisations and the Nigerian government.

months. In addition, the ICRC realised that it could no longer rely on volunteers and that, if it wanted a competent workforce, it would have to find ways to keep staff in the organisation. Starting in 1974, thirty permanent delegates were hired for a period of five years. This became the norm in the late 1970s.<sup>80</sup> These decisions signalled a major shift in the ICRC’s staff management policy.

## Is communication necessary?

The communication policy of humanitarian actors – necessary for informing and mobilising public opinion – is usually approached in terms of speaking out. Indeed, there has been much debate about this aspect in the literature on humanitarianism, largely as a result of the ICRC’s decision not to publicly denounce the genocide of the Jewish people during World War II.<sup>81</sup> More generally, the ICRC’s policy of discretion has been called into question.<sup>82</sup> The literature on MSF has particularly singled out the Nigeria–Biafra conflict as the moment when this approach was challenged by the future founders of the organisation.<sup>83</sup> While the importance of the Biafran experience for the founders of MSF should not be underestimated,<sup>84</sup> a more in-depth study of the relationship between the French doctors and the ICRC offers a more nuanced view of this split. It is possible to distinguish between two types of reaction by the ICRC when confronted with the field delegates’ declarations, which were made not only by the French doctors but also by other delegates. When it came to communicating about the activities of the ICRC, the statements of the French volunteers were tolerated and even well received within the ICRC. But when it came to denouncing the actions of the Nigerian government, this proved to be more difficult for the organisation. Nevertheless, this did not bring about any profound changes in the attitude of the Committee vis-à-vis its staff in the field. The question of whether or not to speak out, as fundamental as it may be, was therefore just one of the issues facing the ICRC in terms of its communications policy during the conflict. Michael Barnett has noted that one of the peculiarities of humanitarian crises of the 1960–1980 period was the scale of the response, even though they mostly occurred in parts of the world that did not usually arouse the interest of public opinion in

80 J. Freymond, G. Willemin and R. Heacock, above note 9, p. 133.

81 On the importance of this issue in humanitarian literature, see Sébastien Farré’s article, in this issue. More generally on the ICRC in World War II, see Jean-Claude Favez, *The Red Cross and the Holocaust*, Cambridge University Press, Cambridge, 1999; Isabelle Vonèche Cardia, *Neutralité et engagement: les relations entre le Comité international de la Croix-Rouge (CICR) et le gouvernement suisse, 1968–1945*, Société d’histoire de la Suisse romande, Lausanne, 2012.

82 On the way in which this issue was viewed in the 1960s, see in particular the article by the former ICRC President Léopold Boissier, ‘The silence of the International Committee of the Red Cross’, in *International Review of the Red Cross*, Vol. 8, No. 85, pp. 178–180.

83 The ambiguity of this stance has been increasingly discussed, but this is still considered to be the moment when the French doctors split from the ICRC. See Anne Vallaëys, *Médecins sans frontières: la biographie*, Fayard, Paris, 2004, pp. 27–90.

84 Marie-Luce Desgrandchamps, ‘Revenir sur le mythe fondateur de Médecins sans frontières: les relations entre les médecins français et le CICR pendant la guerre du Biafra (1967–1970)’, in *Relations internationales*, Vol. 2, No. 146, 2011, pp. 95–108.

the West.<sup>85</sup> For the ICRC, the increasingly important role played by the media and the growing number of humanitarian organisations raised the question of its interaction with these different players. Into the 1960s, the ICRC did not make it a priority to inform them about its activities. It therefore devoted relatively few of its resources to communication, all the more so in that it retained an ideal of action based on discretion.<sup>86</sup> Just as the Nigeria–Biafra war had exposed the weaknesses in the functioning of the organisation and its staff, it also revealed the ICRC’s failure to give due consideration to its information policy.

At the start of the Nigeria–Biafra conflict, the ICRC had no real information policy. It did make tentative efforts to improve its external relations, as evidenced by the introduction in February 1968 of a system of monthly press conferences on ICRC activities.<sup>87</sup> When the situation started deteriorating on the ground in the late spring of 1968, the ICRC tried to alert world opinion and win media support for its efforts to roll out a large-scale humanitarian operation in Biafra, where the needs were most obvious. Its efforts met with limited success. More than anything else, they succeeded in angering the Nigerian government, illustrating the ICRC’s amateurism in its public relations.<sup>88</sup> The lack of a clear policy and of staff responsible for information matters<sup>89</sup> led to the conclusion that the ICRC had not taken public relations seriously enough:

There have been dozens of misunderstandings due to lack of information. In my opinion we should set up our own press service, with a ‘public relations’ professional heading up a team of one or two journalists. They would be posted with the field staff so as not to have to wait for news, because it is natural that ICRC delegates often do not find time to write reports. A press team could resolve all sorts of problems. They would arrange regular visits with photographers and cameramen. Such a team would certainly be more useful than the amateurs currently running the information desk.<sup>90</sup>

The conditions in which the Nigeria–Biafra operation unfolded made it particularly necessary to have a solid policy for communicating with the media and with the ICRC’s partners. Firstly, the intense media coverage from the summer of 1968 contrasted sharply with the trickle of information provided by the ICRC during that period. As its difficulties in setting up the Biafra operation were earning it a great deal of criticism, some within the Committee pointed out that communicating better about what it had already accomplished in the conflict could boost its image.<sup>91</sup> In addition, the growing number of humanitarian agencies involved in civilian relief put pressure on the ICRC to prove its effectiveness if it was to hold onto its position as a key player in the humanitarian sector. Within the Red Cross

85 M. Barnett, above note 1, p. 132.

86 J. Freymond, G. Willemin and R. Heacock, above note 9, p. 192.

87 ACICR, Directorate briefing note, 28 February 1968.

88 T. Hentsch, above note 5, pp. 82–89.

89 ACICR, Presidential Council meeting, 18 July 1968.

90 ACICR, plenary Committee meeting, 23 October 1968, report by Karl Jaggi.

91 ACICR, plenary Committee meeting, 8 August 1968.

Movement, some National Societies questioned the merits of making the ICRC responsible for relief efforts in armed conflict. More generally, relief operations run by religious organisations attested to the fact that the ICRC was not indispensable and that others could take its place.<sup>92</sup> The ICRC therefore needed to assert its position and credibility, which would be achieved in part by improving its communication. As one of the Committee members pointed out, ‘the ICRC’s real worth is measured by people’s trust in it. If it wants to preserve that, the Committee should break its silence without delay because the press is growing increasingly critical of it’.<sup>93</sup> The ICRC’s silence over its representations to the parties to the conflict and over the state of the negotiations tainted its relationship not only with the press but also with potential partners, who did not like the way they were treated by the ICRC.<sup>94</sup> Similar questions were being raised within the organisation itself, and some delegates took the liberty of communicating with the media.<sup>95</sup>

While this lack of information sullied the image of the ICRC, it also had an impact in terms of financial resources at a time when the ICRC was struggling to raise funds for its operations.<sup>96</sup> Its funding depended on maintaining relationships with the governments and National Societies that were its main sources of support. Otherwise, it risked seeing potential resources being given instead to other organisations that appeared to be more active. This is what happened at the end of 1968, when the US government decided to divide the resources it gave to Biafra relief between the ICRC and the churches.<sup>97</sup> Better communication could also help it resolve some of its staffing problems. To recruit qualified personnel in Switzerland, the Committee needed to raise the profile of its activities. Among other things, this meant making better use of the media, including through radio and television campaigns.<sup>98</sup> For these reasons, at the end of the summer of 1968, the ICRC took several concrete measures to respond to media pressure and to improve its relationship with other individuals and organisations involved in humanitarian operations. (Fig. 5)

Briefings with partners and journalists were stepped up significantly from the end of the summer of 1968. The ICRC organised more press conferences and trips abroad by members of the Committee to boost the profile of its activities and to raise funds.

92 On the relief operations run by religious organisations, see in particular Laurie Wiseberg, ‘The international politics of relief: a case study of the relief operations mounted during the Nigerian Civil War (1967–1970)’, doctoral dissertation, University of California, 1973.

93 ACICR, Presidential Council meeting, 22 August 1968.

94 Dan Jacobs, *The Brutality of Nations*, Paragon House, New York, 1988, p. 52. See also the letter from the President of the Danish Red Cross, Johannes Frandsen, published in *Journal de Genève*, 31 October 1968, p. 5.

95 On the statements made by some ICRC volunteers during the Nigeria-Biafra conflict, see M.-L. Desgrandchamps, above note 84.

96 T. Hentsch, above note 5, pp. 136–148.

97 The US government provided four planes for the Red Cross airlift and four planes for the churches’ airlift. On the American attitude concerning relief during the conflict, see Joseph E. Thompson, *American Policy and African Famine: the Nigeria–Biafra War, 1966–1970*, Greenwood Press, Westport, 1990.

98 Memo on the meeting between the ICRC director-general and the head of the International Organisations Division, 3 July 1968, DDS, Vol. 24, No. 92, dodis.ch/32824.



Figure 5. Auguste Lindt at a press conference on Biafra, Geneva, 14 August 1968. © ICRC photo library (DR)/Jean Zbinden.

The ICRC also produced two films, one on Biafra and the other on Nigeria, which it distributed to National Red Cross Societies as well as to the public in order to showcase its activities in the conflict. In the spring of 1969, Lindt was featured in the British television show *The Man of the Month*. The use of visual resources was not new to the ICRC, which regularly produced films about its activities and had used photographs in its publications for many years. However, there was an increased awareness of the importance of pictures for disseminating information about the ICRC:

The interest in our Nigeria–Biafra relief efforts has led to an unprecedented output, but unfortunately we have reached the limit of our material capacity. While Mr Melley last year printed and distributed an average of 300 photographs, the figures he has achieved since the beginning of 1969 are as follows: 809 images distributed in January, 574 in February, and 962 in March. These results are very encouraging because quite often the publication of a single photo has greater impact than a lengthy text.<sup>99</sup> (Fig. 6)

99 ACICR, Directorate briefing note, 9 April 1969. Many thousands of photographs were distributed by the ICRC Information Service between 1967 and 1969, particularly to illustrate the ICRC's activities in the Middle East and Nigeria–Biafra. See *ICRC Annual Report 1967, 1968, and 1969*, ICRC, Geneva, 1968–1970.



Figure 6. Refugee children of the Nigeria–Biafra war, Awo Omama camp. This photograph appeared in *International Review of the Red Cross*, No. 595, July 1968. © ICRC photo library/Adrien Porchet.

In addition to these measures, the ICRC did not hesitate to use the articles published by journalists or even by some of its volunteers to generate interest in its activities, for instance by reproducing them in the *International Review of the Red Cross*.<sup>100</sup> The ICRC therefore appeared relatively tolerant of the public statements made by its volunteers when they fit in with its communication policy. The ICRC went even further when it assigned a journalist from the *Neue Zürcher Zeitung* to its delegation, who was then tasked with negotiating the resumption of the airlift in the autumn of 1969. However, since the Committee did not deem the outcome of this experience to be particularly favourable for the organisation, it did not repeat it.<sup>101</sup> In late 1969, the new president decided on a new-look policy for the ICRC’s media relations in order to raise the organisation’s profile among reporters.<sup>102</sup> Finally, the conflict prompted the ICRC to rethink its position on publicly denouncing belligerents for their role in the suffering of the population. With some staff members calling for the ICRC to publicly denounce the Nigerian government’s bombings of civilian targets, the organisation decided to draw up more precise

100 See, for example, *International Review of the Red Cross*, October 1968, Vol. 8, No. 91, pp. 521–526, and January 1969, Vol. 9, No. 94, pp. 13–20.

101 ACICR, plenary Committee meeting, 6 November 1969.

102 ACICR, Directorate briefing note, 12 January 1970.

guidelines for public denunciation.<sup>103</sup> This coincided with similar issues arising in other parts of the world where the ICRC was operating, such as Yemen, the Middle East, and Greece.

Despite the ICRC's efforts to develop a communications policy during the Nigeria–Biafra conflict, when the time came to review that experience, it was clear that there was a need to rethink the ICRC's external relations:

The ICRC's vulnerability to having public opinion 'poisoned' against it highlights the uncertainties of its information policy and the weaknesses of its system of communication with various bodies, which it must enlighten as to its goals and motives, as well as with world opinion, whose sympathy it must win. One of the ICRC's major ongoing tasks, and its primary concern in times of conflict, is to rally a force of humanitarian persuasion bringing together as many moral, diplomatic and material resources as possible, without which it is powerless. Such a common front can be forged in peacetime; a methodical campaign should be undertaken to establish and anchor the ICRC's role and image ever more strongly in the eyes of governments, the Red Cross, and among the various organizations with which it may be called upon to cooperate. It is precisely because humans are not by nature impartial that a sustained effort must be pursued relentlessly to sway world opinion by all direct and indirect means.<sup>104</sup>

In practice, in 1970, this meant scaling up the information service, which was then attached directly to the Presidential Council.<sup>105</sup> While reaffirming its determination to balance action and discretion, the ICRC focused on improving the transmission of information from both headquarters and the field.<sup>106</sup> In addition, by stepping up its contact with potential major donors, it adopted a much more active approach to fundraising, thereby boosting its budget for relief operations.<sup>107</sup> This was at a time when humanitarian organisations more generally were looking at their relations with public opinion and the media. This was indeed the case within the Red Cross Movement. In 1967, a meeting of the information officers of the Movement's member organisations was held to 'examine anew the capitally important problem of Red Cross public relations'.<sup>108</sup> A second, similar meeting took place in 1970, which addressed in particular the issue of 'information in emergency situations' and relations with the 'mass media'.<sup>109</sup> Media relations were also a major concern for the new humanitarian actors that emerged in the 1970s.

103 ACICR, plenary Committee meeting, 30 April and 1 May 1969, minutes of the plenary meeting of the jurists' group on the matter of the protests.

104 ACICR, BAG 12-044, critical note by P. Basset, November 1970.

105 J. Freymond, G. Willemin and R. Heacock, above note 9, pp. 131–132.

106 *Ibid.*, pp. 199–201.

107 *Ibid.*, pp. 67–68 and 164–165.

108 *ICRC Annual Report 1967*, ICRC, Geneva, 1968, p. 80.

109 *ICRC Annual Report 1970*, ICRC, Geneva, 1971, p. 115.

## Conclusion

The late 1960s, with the growing number of contexts in which the ICRC was operating, heralded a profound change in the organisation. Its experiences during the Nigeria–Biafra conflict drew attention to many aspects of the ICRC’s set-up. First, the conflict marked the beginning of an increase in the organisation’s assistance activities, which today represent a large part of its work. For observers of the time, the ICRC’s involvement in the Nigeria–Biafra conflict, which was a relatively long-term commitment to a civilian relief operation for which it had the primary responsibility, in an internal conflict of an ‘international character’, was a ‘new type of engagement to which the development of contemporary international relations can lead the ICRC’.<sup>110</sup> For the members of the Committee, it marked a turning point in the ICRC’s history, as evidenced by this reflection:

The Committee must therefore be fully aware that ... it is now agreeing to embark on a new type of intervention, which is valid not only for the case that now concerns us but also for other future actions.<sup>111</sup>

This shift was confirmed in subsequent years and is useful for understanding the role of assistance activities today. The Nigeria–Biafra conflict also highlighted the difficulties involved in this type of complex operation for an organisation whose resources remained limited. It underlined the need for various reforms, some of which were planned but were only implemented very slowly. The ICRC’s simultaneous involvement in other parts of the world, such as the Middle East, accentuated this need. The 1970s dawned with a clear understanding that reform was imperative to enable the ICRC to ‘organize the unpredictable’.<sup>112</sup> When the Directorate was dissolved at the end of 1969, the Committee hired a new staff member, with the title of secretary-general, whose primary responsibility was to identify the ICRC’s functioning and management problems and to propose improvements. The three areas specifically brought to light by the Nigeria–Biafra war, and addressed in this article, were among the priorities. Measures were taken in each of these areas, but it took time for them to pay dividends, as the Tansley report pointed out in the middle of the 1970s. It was a long road to the ICRC as it exists today and there would be other equally decisive events along the way, but the awakening of the early 1970s was a pivotal moment. Reforms gradually converged on the professionalisation that enabled the ICRC to become increasingly effective in the field. This process was a prerequisite for conducting major operations in multiple and varied contexts and for maintaining a dominant position in the increasingly competitive humanitarian sector.

110 Preface by Jacques Freymond, *ICRC Annual Report 1968*, ICRC, Geneva, p. 5.

111 ACICR, plenary Committee meeting, 3 April 1969.

112 *Ibid.*

# Complementarity between the ICRC and the United Nations and international humanitarian law and international human rights law, 1948–1968

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## **Abstract**

*This article shows that between the drafting of the Universal Declaration of Human Rights in 1948 and the Tehran conference in 1968, international human rights law and international humanitarian law and their respective guardian institutions, the United Nations (UN) and the International Committee of the Red Cross (ICRC), were not so conceptually far apart as is sometimes suggested. Its purpose is to give further legitimacy to the role of human rights law in armed conflict and show that cooperation between the UN and the ICRC has a long history.*

**Keywords:** international human rights law, international humanitarian law, ICRC, United Nations, relationship, armed conflict, complementarity.

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Although it is now almost universally accepted that international human rights law applies in times of armed conflict,<sup>1</sup> the majority of authors writing on the subject contend that it applies even though it was never intended to apply in conflict situations and despite the strict institutional divide that used to exist between the International Committee of the Red Cross (ICRC) and the United Nations (UN).<sup>2</sup> To most authors, the adoption of Resolution XXIII, entitled ‘Respect for Human Rights in Times of Armed Conflict’, at the Tehran human rights conference in 1968 was the first instance in which any conceptual overlap between international human rights law and international humanitarian law was noted and one of the first times that the mandates of the UN and the ICRC came into contact with each other. The purpose of this article is to present research challenging these assumptions. As with all stories that are often told, many of the points in the narrative surrounding the relationship between international human rights law and international humanitarian law and the relationship between the UN and the ICRC have become accepted wisdom; they are often repeated and less often questioned. And while this is mainly unproblematic because most of the narrative is accurate, this article presents evidence that suggests that between the drafting of the Universal Declaration of Human Rights (UDHR)<sup>3</sup> in 1948 and the Tehran human rights conference in 1968,<sup>4</sup> international humanitarian law and international human rights law and their respective guardian institutions were not so conceptually far apart as is sometimes suggested. This evidence is important because as long as we repeatedly read and are told that human rights law was never intended to apply during armed conflict, its ability to assist in this context may be unduly limited. It is hoped that this exercise will show that the ICRC and the UN have a much longer history of working together on issues relating to armed conflict than is often appreciated. It is also hoped that

- 1 For a comprehensive account of the weight of legal authority from the International Court of Justice and human rights treaty bodies confirming that human rights law applies during armed conflict, see UN Commission on Human Rights (UNCHR), ‘Working Paper on the Relationship between Human Rights Law and International Humanitarian Law by Françoise Hampson and Ibrahim Salama’, UN Doc. E/CN.4/Sub.2/2005/14, 21 June 2005. It is noted that in its Fourth Periodic Report to the UN Human Rights Committee (HRC), the United States, previously a long-standing objector to the proposition that international human rights law applies during armed conflict, confirmed its view that international human rights law and the law of armed conflict are ‘in many respects complementary and mutually enforcing’ in times of armed conflict: US Fourth Periodic Report to the HRC, 30 December 2011, para. 507. Israel, the other long-standing objector in this regard, maintains the position that international human rights law does not apply during armed conflict. See Concluding Observations of the HRC on Israel’s Initial Periodic Report to the HRC, UN Doc. CCPR/C/79/Add.93, 18 August 1998, para. 10; UNHRC, Concluding Observations of the HRC on Israel’s Second Periodic Report, UN Doc. CCPR/CO/78/ISR, 21 August 2003, para. 11; and Concluding Observations of the HRC on Israel’s Third Periodic Report to the HRC, UN Doc. CCPR/C/ISR/CO/3, 3 September 2010, para. 5.
- 2 See, for example, Robert Kolb, ‘The relationship between international humanitarian law and human rights law: a brief history of the 1948 Universal Declaration of Human Rights and the 1949 Geneva Conventions’, in *International Review of the Red Cross*, 38th year, No. 324, September 1998, p. 409; Heike Krieger, ‘A conflict of norms: the relationship between humanitarian law and human rights law in the ICRC customary law study’, in *Journal of Conflict and Security Law*, Vol. 11, No. 2, 2006, p. 265; and Cordula Droege, ‘The interplay between international humanitarian law and international human rights law in situations of armed conflict’, in *Israel Law Review*, Vol. 40, No. 2, 2007, p. 310.
- 3 Universal Declaration of Human Rights (UDHR) adopted 10 December 1948, UNGA Res. 217 A(III).
- 4 Many authors see the latter event as the first occasion on which the two bodies of law were recognised to have some conceptual overlap.

the exercise may contribute to revising the way in which the historical relationship between the two bodies of law is perceived and thereby make the application of human rights law to armed conflict more valuable.

## The relationship between international human rights law and international humanitarian law and the UN and ICRC between 1948 and 1968: the dominant narrative

The majority of articles addressing the relationship between international humanitarian law and international human rights law tell the story of the relationship between the two bodies of law and their two guardian institutions the same way.<sup>5</sup> The story starts with a description of how at the time that the UDHR and 1949 Geneva Conventions<sup>6</sup> were drafted, human rights law and international humanitarian law were conceived of as being completely different bodies of law with different histories and with few overlapping areas of application.<sup>7</sup> International humanitarian law is one of the oldest branches of public international law and historically was based on honour, military necessity, and chivalry.<sup>8</sup> The 'humanitarian' aspect was infused into the law of war relatively late in its long history, with the Geneva Convention of 1864 relating to the sick and wounded in the field and the Martens clause in the preamble to the Fourth Hague Convention in 1907.<sup>9</sup> Human rights law, in comparison, is a much more recent branch of public

- 5 Naz K. Modirzadeh, 'The dark sides of convergence: a pro-civilian critique of the extraterritorial application of human rights law in armed conflict', in *Blue Book*, Vol. 86, May 2010, p. 352.
- 6 International Committee of the Red Cross (ICRC), Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 12 August 1949, 75 UNTS 31; ICRC, Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), 12 August 1949, 75 UNTS 85; ICRC, Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention), 12 August 1949, 75 UNTS 135; ICRC, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287.
- 7 H. Krieger, above note 2, p. 266; Dietrich Schindler, 'The International Committee of the Red Cross and human rights', in *International Review of the Red Cross*, 19th year, No. 208, January–February 1979, p. 7; G. I. A. D. Draper, 'The relationship between the human rights regime and the law of armed conflict', in *Israel Yearbook on Human Rights*, Vol. 1, 1971, pp. 191–192; Dietrich Schindler, 'Human rights and humanitarian law: interrelationship of the laws', in *American University Law Review*, Vol. 31, No. 935, 1981–1982, pp. 935–937; Cordula Drooge, 'Elective affinities? Human rights and humanitarian law', in *International Review of the Red Cross*, Vol. 90, No. 871, 2008, p. 503; A. Robertson, 'Humanitarian law and human rights', in Christophe Swinarski (ed.), *Studies and Essays on International Humanitarian Law and Red Cross Principles in Honour of Jean Pictet*, Martinus Nijhoff, The Hague, 1984, pp. 793–795; C. Drooge, above note 2, pp. 312–313; R. Kolb, above note 2, p. 409; Louise Doswald-Beck and Sylvain Vité, 'International humanitarian law and human rights law', in *International Review of the Red Cross*, Vol. 33, No. 293, 1993, pp. 95–105.
- 8 L. Doswald-Beck and S. Vité, above note 7, p. 95.
- 9 G. I. A. D. Draper, above note 7, p. 191. Ben-Naftali and Shany also note that 'the principle of humanity underlying IHR law, was never absent from IHL, as typified by the Martens Clause. . . . Thus, while there is no denying the distinct historical roots of these two regimes, it is equally difficult to refute that the seed that would eventually father the law of human rights was already planted in IHL'. See Orna Ben-Naftali and Yuval Shany, 'Living in denial: the application of human rights in the occupied territories', in *Israel Law Review*, Vol. 37, No. 1, 2003–2004, pp. 43–44.

international law.<sup>10</sup> While it is possible to trace the principles on which human rights law is based – equality, dignity, liberty, and solidarity – to ancient philosophy and writings,<sup>11</sup> no international law document containing human rights commitments between states existed before the UDHR. None of the earlier declarations and statutes proclaiming or safeguarding rights were international in scope.<sup>12</sup> On the basis of these separate historical backgrounds, most authors argue that in 1948 and 1949, when the UDHR and the Geneva Conventions were drafted, there was no conceptual overlap between the two bodies of law in the minds of the drafters.<sup>13</sup> We are told that the UDHR ‘completely bypasses the question of respect for human rights in armed conflicts’<sup>14</sup> and that ‘human rights were scarcely mentioned’ during the drafting of the Geneva Conventions.<sup>15</sup> There seems to be a widespread view that at the time of the UDHR’s drafting, human rights law was assumed not to apply during times of conflict; the two bodies of law were considered to be alternate regimes that would not apply at the same time.<sup>16</sup> Human rights law was the law of peace; international humanitarian law was the law of war.<sup>17</sup>

Fitting with this narrative is the fact that bodies of law had different institutional guardians.<sup>18</sup> This is widely thought to have had the effect of cementing the differences between the two legal regimes. Human rights law was developed under the auspices of the UN and emerged out of World War II. Securing a commitment from states to human rights law was considered key to preventing a repetition of the atrocities against civilians that took place during the war. It was central to the hope that the countries of the world, emerging traumatised from total war, would never allow such atrocities to occur again. Against the background of newfound peace and optimism, there was reluctance for the UN to be involved in the redrafting of the laws of war. It was thought that to do so might betray a less than complete commitment to peace on the part of the organisation.<sup>19</sup> There was a strong

10 See ‘Working Paper on the Relationship between Human Rights Law and International Humanitarian Law by Françoise Hampson and Ibrahim Salama’, above note 1, pp. 12–13; D. Schindler, ‘Human rights and humanitarian law’, above note 7, p. 936; R. Kolb, above note 2, p. 409.

11 L. Doswald-Beck and S. Vité, above note 7, pp. 101–102; D. Schindler, ‘The International Committee of the Red Cross and human rights’, above note 7, p. 6.

12 For example, the Magna Carta (1215), Bill of Rights (1689), Virginia Declaration of the Rights of Man (1776), American Declaration of Independence (1776), and French Declaration of the Rights of Man and of the Citizen (1789).

13 C. Droegge, above note 2, p. 314; D. Schindler, ‘Human rights and humanitarian law’, above note 7, p. 936.

14 R. Kolb, above note 2, pp. 411–412; D. Schindler, ‘The International Committee of the Red Cross and human rights’, above note 7, p. 7.

15 R. Kolb, above note 2, p. 412. See also G. I. A. D. Draper, ‘Humanitarian law and human rights’, in Michael Meyer and Hilaire McCoubrey (eds), *Reflections on Law and Armed Conflicts: The Selected Works on the Laws of War by the Late Professor Colonel G. I. A. D. Draper, OBE*, Kluwer Law International, The Hague/ Boston/ London, 1998, p. 143.

16 D. Schindler, ‘Human rights and humanitarian law’, above note 7, p. 936; H. Krieger, above note 2, p. 266; C. Droegge, above note 2, p. 314. On the drafting of the UDHR, see, in particular, R. Kolb, above note 2, pp. 412–413.

17 N. K. Modirzadeh, above note 5, p. 352.

18 Nancie Prud’homme, ‘*Lex specialis*: oversimplifying a more complex and multifaceted relationship?’, in *Israel Law Review*, Vol. 40, No. 2, 2007, pp. 359–360.

19 *Ibid.*, p. 359; R. Kolb, above note 2, p. 410; D. Schindler, ‘The International Committee of the Red Cross and human rights’, above note 7, p. 7. It is interesting to note that the idea that the UN should distance

feeling that the new organisation should focus on the law of peace, the law on the use of force found in the UN Charter, and human rights law. This led to an institutional divide: international human rights law fell under the auspices of the UN, and international humanitarian law under the auspices of the ICRC. It is often emphasised by academic commentators that the laws of war ended up being entrusted to the guardianship of the ICRC not only because the UN did not wish to be involved in their codification, but also because the ICRC was fearful that the UN's involvement in the codification of such laws might compromise the distinction between *jus in bello* and *jus ad bellum* that is fundamental to the ICRC as an institution.<sup>20</sup> A picture emerges from the literature of the two institutions maintaining a 'cautious distance' from each other and each other's mandates.<sup>21</sup> Many authors point to this institutional divide as further evidence of the fact that in the years immediately after the UDHR and the Geneva Conventions were drafted, there was no connection between international human rights law and international humanitarian law.<sup>22</sup>

itself from the laws of war pre-dates World War II and the establishment of the UN. This is seen in the publication of an anonymous article in the 1920–1921 first edition of the *British Yearbook of International Law* which set out a comprehensive set of reasons why (i) the laws of war should not be rewritten and (ii) the laws of war should not be a project with which the League of Nations should be associated. Its reasoning for the latter argument was based on the fact that the 'new machinery' of the League of Nations should be used not to 'solve the old problems connected with the codification of the laws of war ... [but] rather [for] the building up of a new body of international law for time of peace' (pp. 114–115). It also posited the rather heavy allegation that 'the failure of international law to provide solutions to the problems of peace ha[d] been at least in part due to the fact that the attention of writers and statesmen ha[d] always been diverted from the law of peace to the law of war' (p. 115). The article went on to argue that it was only 'by the development of the law of peace, rather than by renewing the attempts to codify the law of war, that a stable international system can be built up by the League of Nations' (p. 116). It is clear that this article was influential in Great Britain because shortly after it was published there, it was republished by the *Michigan Law Review*, which described it as 'one of the most illuminating and significant discussions of the subject that has appeared up to the present date'. Although it had apparently 'attracted a great deal of attention in Great Britain', the editors of the journal felt that the article had not attracted as much attention as 'it deserves' in the United States. It was republished in the Michigan journal 'in the hope that a real service may be rendered by affording it wider publicity among those whose opinions will weigh heavily in influencing the decisions to be made'. Anonymous, 'The League of Nations and the laws of war', in *British Yearbook of International Law*, 1920–1921, pp. 110–124. Josef Kunz, writing in 1951, argued that the 'dominating attitude' to the laws of war – expounded in the anonymous article – continued to prevail after World War II. In his words: 'the same neglect, indifference and apathy, the same hostility toward this subject, which so disastrously prevailed during the inter-war period, prevails again since the actual end of fighting in 1945. All the old arguments – the impossibility and futility of a revision of the laws of war, the "abolition" of war and, hence, the non-existence of the laws of war, the idea that any occupation with the laws of war would make "a bad impression on public opinion" – are repeated again ... The United Nations, like the League of Nations, is again leading in this policy of the ostrich'. See Josef Kunz, 'The chaotic status of the laws of war and the urgent necessity for their revision', in *American Journal of International Law*, Vol. 45, No. 37, 1951, pp. 39 and 42.

20 See R. Kolb, above note 2, p. 411, citing in footnote 7 the amendment proposed by the United Kingdom and adopted by the 17th International Conference of the Red Cross in Stockholm in 1948 which urges the ICRC, 'in view of the non-political character of the constituent bodies of the International Red Cross, to exercise the greatest care in regulating [its] relationship with intergovernmental, governmental or non-governmental organisations'.

21 O. Ben-Naftali and Y. Shany, above note 9, p. 47.

22 See, for example, *ibid.*, pp. 30–31; and D. Schindler, 'Human rights and humanitarian law', above note 7, p. 936.

From this starting point, the story is then told of the gradual coming together of the two bodies of law and the first signs of appreciation that there might be an overlap between the mandates of the ICRC and the UN. For most authors, the relationship between international human rights law and international humanitarian law began in 1968: the year of the human rights conference in Tehran.<sup>23</sup> A minority of authors point to earlier indications of a convergence between the two bodies of law in the 1950s<sup>24</sup> and 1960s.<sup>25</sup> It has been noted in this respect that while a derogation clause did not feature in the UDHR, one can be found in both the European Convention on Human Rights (ECHR) of 1950 and the International Covenant on Civil and Political Rights (ICCPR) of 1966. The existence of a derogation clause in these later documents has been taken as an indication that by this point, perceptions of human rights had changed sufficiently for their drafters to extend the application of human rights to times of war.<sup>26</sup> Likewise, the UN is noted to have slowly started to appreciate the ‘relevance of human rights in armed conflict’ in the 1950s.<sup>27</sup> Evidence of this is seen in resolutions from the Security Council and the General Assembly of the UN requesting parties to conflicts to respect human rights.<sup>28</sup> The convergence between the two bodies of law in these years is seen as relating to many factors. First, it was proving difficult to sustain interest among states parties for further codification of the laws of war. Efforts by the international humanitarian law community to secure the adoption of the Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War – which contained important provisions relating to the conduct of hostilities – had almost come to a standstill at the end of the 1950s.<sup>29</sup> And, importantly, at the very time that enthusiasm for further codification of international humanitarian law seemed to be waning, the international community seemed to be increasingly cognisant of the fact that human rights law could be relevant in times of war. Concurrent to this, a similar movement was taking place among ordinary people,

23 See L. Doswald-Beck and S. Vité, above note 7, p. 112, who identify the Tehran conference as being ‘the true turning point’ and the ‘first time [that the United Nations] considered the application of human rights in armed conflict’. See also H. Krieger, above note 2, p. 266, who writes: ‘For several decades [after the drafting of the Geneva Conventions and the UDHR], it was generally considered that human rights law is not applicable in situations of armed conflict’. G. I. A. D. Draper, above note 15, p. 149, writes that the ‘confusion of the diametrically opposed regimes of human rights and the law of armed conflict [was] launched in the UN in 1968’. See also R. Kolb, above note 2, p. 419, who states: ‘it must be emphasized that this common front hardly existed before the adoption of Resolution XXIII by the International Conference on Human Rights’, in Tehran in 1968.

24 C. Droège, above note 2, p. 314; N. Prud’homme, above note 18, p. 362.

25 A. Robertson, above note 7, p. 795.

26 H. Krieger, above note 2, p. 267.

27 C. Droège, ‘Elective Affinities?’, above note 7, p. 504.

28 See UNGA Res. 804 (VIII), 3 December 1953, and UNGA Res. 1312 (XIII), 12 December 1958, as cited in C. Droège, ‘Elective Affinities?’, above note 7, pp. 504–505.

29 C. Droège, above note 2, p. 314; see also G. I. A. D. Draper, above note 7, p. 195, where he writes: ‘I venture to suggest that the revision of the law of armed conflicts after the conclusion of the Geneva Conventions of 1949, and the Genocide Convention of 1948, had come perilously near to stagnation before the impact of the movement for the establishment of a regime of human rights was brought to bear upon it’. Of course, this proved to be only a temporary doldrums for international humanitarian law as the 1970s brought the successful drafting of the Additional Protocols.

'human rights' as a concept was starting to captivate the human imagination, television was causing people to feel more connected to problems on the other side of the world, and human rights non-governmental organisations were gaining increasing popular support.<sup>30</sup>

Against this background, the human rights conference in Tehran is almost always recognised as the most significant landmark in the story of the relationship between the two bodies of law.<sup>31</sup> In 1968, the nations of the world gathered at a conference in Tehran that marked the twentieth anniversary of the UDHR. One of the key resolutions that emerged from this conference – Resolution XXIII – was entitled 'Respect for Human Rights in Armed Conflicts'.<sup>32</sup> This resolution is important on the narrative timeline of the relationship between the two bodies of law and the ICRC and UN for two reasons. First, with its title, it confirms a consensus amongst the voting states that human rights continue to exist in times of conflict; second, because it is seen to represent a first step in the gradual lessening of the institutional divide between the two bodies of law that we have seen since. The body of the resolution asks the Secretary-General of the UN to commission a study on international humanitarian law. This was undoubtedly a significant development; it shows the UN explicitly renouncing its seemingly ideologically motivated distance from the codification of the laws of war and taking an interest in their development. It is frequently noted that this request in Tehran – later confirmed by the General Assembly in a resolution – was the first step towards the drafting of the Additional Protocols to the Geneva Conventions in the 1970s<sup>33</sup> – protocols that, more than any other treaty before them, demonstrated the growing connections between international humanitarian law and international human rights law.<sup>34</sup>

30 A. Robertson, above note 7, p. 794.

31 O. Ben-Naftali and Y. Shany, above note 9, pp. 43–44; D. Schindler, 'Human rights and humanitarian law', above note 7, p. 936; G. I. A. D. Draper, above note 15, p. 149.

32 Several writers note that although the title of the resolution referred to human rights law, the body of the resolution refers only to international humanitarian law. See D. Schindler, 'Human rights and humanitarian law', above note 7, p. 937; and Louise Doswald-Beck, 'Human rights and humanitarian law: are there some individuals bereft of all legal protection?', *Proceedings of the Annual Meeting of the American Society of International Law*, 2004, p. 354. The reason for this anomaly is not clear but is discussed by Aristidis Calogeropoulos-Stratis, 'Droit humanitaire – Droits de l'Homme et victimes des conflits armés', in Swinarski (ed.), above note 7, p. 659.

33 Respect for Human Rights in Armed Conflicts, UNGA Res. 2444 (XXIII), 19 December 1968. See also Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (AP I), 8 June 1977, 1125 UNTS 3 and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (AP II), 8 June 1977, 1125 UNTS 609.

34 Both Additional Protocols to the Geneva Conventions explicitly confirm the continued application of international human rights law in times of armed conflict. See in this regard, Art. 72 of AP I, which states that its provisions are 'additional . . . to other applicable rules of international law relating to the protection of fundamental human rights during international armed conflict'. See also the preamble to AP II, which recalls that 'international instruments relating to human rights offer a basic protection to the human person'. The connections between international humanitarian law and international human rights law demonstrated by the two additional protocols are also seen in Art. 75 (fundamental guarantees) of AP I and Art. 6 (penal prosecutions) of AP II. The drafting of these articles is very clearly influenced by human rights provisions, in particular Arts. 14 and 15 of the International Covenant on Civil and Political Rights.

## The application of human rights law to armed conflict in the late 1940s and 1950s

While most of this narrative is undoubtedly accurate, some important aspects are less black-and-white than they are portrayed to be and deserve to be questioned. In particular, it is important to challenge the oft-made assumption that at the time the UDHR was drafted in 1948, its drafters thought it would not apply in times of conflict. While it is true that the *travaux préparatoires* of the UDHR do not reveal its drafters discussing whether or how the declaration might be applied during conflict, it is not clear that this silence should be interpreted to indicate a belief that human rights – as a concept – were deemed by its drafters to be irrelevant in times of armed conflict.<sup>35</sup> Indeed, if it is assumed for the sake of hypothesis that the drafters assumed that the UDHR *would* apply during times of conflict, some of the facts cited as evidence of the international community's nascent appreciation that human rights law might apply during conflict – facts that otherwise sit uncomfortably in the temporal narrative – make much more sense. For example, it may seem strange to consider Security Council resolutions from the 1950s as an indication of the international community 'slowly' starting to appreciate that human rights continue to apply in times of armed conflict.<sup>36</sup> Relative to the speed of other changes in international law, these would indicate a fast change of attitude indeed. Similarly, it is ambitious to see the derogation clauses in the ECHR and the ICCPR as indications that states had changed their minds on whether human rights could apply during conflict when it is remembered that the ECHR was finalised only two years after the UDHR was drafted;<sup>37</sup> this is a blink of an eye in international law terms and an exceptionally short period for perceptions on such a fundamental issue to change, especially in the absence of a clear catalysing event. The timing of these developments makes more sense if it is considered that at the time the UDHR was drafted, its drafters and other key members of the legal community already believed that its provisions would be relevant in times of conflict – in which case, the early examples of the UN calling upon states to respect human rights in times of conflict would be seen not as evidence of a changed perception of the way human rights law was understood, but simply as examples of the international organisation getting to grips with its new human rights mandate and determining its capabilities in this regard.

Support for the argument that the drafters of the UDHR believed it would be relevant in times of conflict is found in the fact that a derogation clause – similar to that in the ECHR and ICCPR – existed in the draft Covenant of Human Rights

35 R. Kolb, above note 2, pp. 412–413, states: 'The absence of any discussion of the problem of war can be explained by the general philosophy which prevailed within the United Nations at the time. There seemed to be a tacit but nevertheless general consensus that the Declaration was intended for times of peace, of which the United Nations was the guarantor'.

36 C. Droege, above note 2, p. 314.

37 H. Krieger, above note 2, p. 267.

that was written in parallel to the UDHR in 1947 and 1948.<sup>38</sup> The existence of this clause, which allowed states to derogate from certain human rights obligations in times of public emergency, is evidence that even in 1947 human rights law was deemed to apply in times of conflict, even though it was recognised that its application might have to be modified in these situations.<sup>39</sup> Moreover, it is also questionable whether it makes sense from a conceptual point of view to interpret the lack of a derogation clause in the UDHR as a sign that it was not intended to be applied in times of armed conflict. It is noteworthy in this regard that shortly after the UDHR was drafted, the opposite argument was made by Claude Pilloud, the Head of the ICRC's Legal Division, who had regularly attended the drafting sessions of the UDHR in 1947.<sup>40</sup> Writing in the *International Review of the Red Cross* in 1949, Pilloud stated:

Let us further add that the Universal Declaration does not provide for derogation clauses in exceptional circumstances such as wars, internal disturbances or other disasters; it must therefore be applied in its entirety at all times and all places. This is an important point, as during the *travaux préparatoires*, some proposals included such derogation clauses.<sup>41</sup>

In Pilloud's view, the drafters' decision that the UDHR should not contain a derogation clause indicated their view that it should apply at all times, even in times of armed conflict.

The distinctly natural law character of the UDHR provides further support for this interpretation. According to its preamble, human rights are 'inalienable' – they cannot be taken away or transferred. Article 1 of the Declaration states that human beings are 'born free and equal in dignity and rights'. This wording reflects a conception of human rights law based in natural law and suggests that the UDHR's drafters considered human rights to exist not because they are conferred by a treaty by means of positive law, but because they are innate to the human person. Against

38 See Article 4 of the draft International Covenant on Human Rights, set out in UNCHR, *Report on the Commission on Human Rights*, Supplement No. 1, Economic and Social Council Official Records, New York, 1948, p. 25. See Manfred Nowak, *U.N. Covenant on Civil and Political Rights*, CCPR Commentary, N. P. Engel, Kehl am Rhein, 2005, p. 88.

39 Conceived from an early date to be a non-binding document, the UDHR was intended to have a moral rather than legal force. As such, unlike the draft Covenant – which in 1947 was written in parallel with the UDHR by the same individuals – the UDHR did not have any of the fundamental aspects required for a legally binding convention. When the two quite early drafts of these documents are compared, as they existed in 1947, it is notable that the Covenant of Human Rights already had a jurisdiction clause, a derogation clause, and limitation clauses. None of these appear even in the completed UDHR because it was never intended to provide that level of detail. Instead, its purpose was to provide broad over-arching principles of 'rights' that would provide guidance to states.

40 See note 60 below for details of Pilloud's attendance at the drafting sessions of the UDHR in 1947.

41 [translation from the original text in French by the editorial team]. Claude Pilloud, 'La Déclaration Universelle des Droits de l'Homme et Les Conventions Internationales Protégeant Les Victimes de la Guerre', in *Revue internationale de la Croix-Rouge*, 31<sup>th</sup> year, No. 364, April 1949, p. 254. Original text: 'Ajoutons encore que la Déclaration universelle ne prévoit pas de dérogations lors de circonstances exceptionnelles comme les guerres, les troubles civils ou autres calamités; elle doit donc conserver sa valeur en tout temps et en tout lieu. C'est là un point important car, lors des travaux préparatoires, certaines propositions tendaient à prévoir de semblables dérogations'.

the background of this language, it is hard to imagine that the drafters of the UDHR could have imagined that the rights contained therein would only exist in a state of peace.<sup>42</sup> In particular, it seems unlikely that they would have deemed human rights to become irrelevant at the outbreak of an armed conflict. The drafters of the UDHR would have been acutely aware of the obvious truth that human rights become more, not less, important during wartime, as this is when they are most threatened.<sup>43</sup> It is no coincidence that the human rights declarations and documents that have existed over the centuries – including the UDHR – have been drafted after a period of conflict or revolution.<sup>44</sup> The norms that they contain reflect the values and hierarchies of power that have been fought for, and achieved, during the preceding conflict or civil unrest. ‘Rights documents’ not only represent a code of how people want to live thenceforth, but also constitute an undertaking by the government that the inequalities that caused the conflict and the atrocities that took place during the conflict will not be repeated. It does not do justice to this part of human rights law’s heritage to adhere to an overly utopian conception of human rights that is based on a harmonious relationship between the governor and the governed. On the contrary, since their earliest conception, human rights documents have been born out of antagonisms between governments and individuals. One of their primary purposes has always been to provide a means by which individuals can assert their rights in the face of the tyranny of government, the most extreme examples of which lead to and are manifested by armed conflict.<sup>45</sup>

Support for a belief that human rights were relevant in times of conflict before 1968 is also seen in the General Assembly resolutions which invoke human rights law in times of conflict, drafted in the 1950s and 1960s. Droege has noted the 1953 General Assembly resolution invoking human rights in the context of the Korean conflict<sup>46</sup> and the Security Council resolution calling upon the Soviet Union and the authorities of Hungary to respect the Hungarian people’s enjoyment of human rights and freedoms.<sup>47</sup> She also mentions the Security Council resolution reaffirming the importance of human rights in the territories occupied by Israel after the Six-Day War.<sup>48</sup> Similar resolutions by the General Assembly are found in respect to the forceful denial of the ‘fundamental human rights and freedoms of the

42 C. Droege, above note 2, p. 324.

43 Marko Milanovic, ‘A norm conflict perspective on the relationship between international humanitarian law and human rights law’, in *Journal of Conflict & Security Law*, Vol. 14, No. 3, 2010, p. 460; and see G. I. A. D. Draper, above note 7, p. 198, who refers to an ‘awareness, universal among reflecting members of society, that respect for human rights is under maximum attack in times of war’.

44 The Magna Carta in 1215, the Bill of Rights in 1689, the Declaration of the Rights of Man and of the Citizen in 1789, the Virginia Declaration of Rights in 1776, the Declaration of Independence in 1776, and the Universal Declaration of Rights in 1948.

45 See Eleanor Roosevelt’s Statement to the United Nations General Assembly on the Universal Declaration of Human Rights, 9 December 1948, in *United States Department of State Bulletin*, Vol. 19, 19 December 1948, p. 751, in which she writes: ‘Man’s desire for peace lies behind this declaration. The realization that the flagrant violation of human rights by Nazi and Fascist countries sowed the seeds of the last world war has supplied the impetus for the work which brings us to the moment of achievement here today’.

46 C. Droege, above note 2, p. 314, citing UNGA Res. 804 (VIII), 3 December 1953.

47 *Ibid.*, p. 314, citing UNGA Res. 1312 (XIII), 12 December 1958.

48 *Ibid.*, pp. 314–315, citing UNSC Res. 237, 14 June 1967.

people of Tibet' in 1959<sup>49</sup> and the 'critical and explosive situation' in Aden which 'constitutes a denial of fundamental rights and endangers peace and security in the region' in 1963.<sup>50</sup> In another resolution on the Territory of Aden, the General Assembly requested the administering power to 'cease forthwith all repressive action against the people of the Territory, in particular military expeditions and the bombing of villages'.<sup>51</sup> In 1961, the President of the Security Council affirmed that violations of the Security Council's request for a 'cease-fire' in the Dominican Republic had taken place and acts of repression against the civilian population and other violations of human rights had been brought to the Council's attention.<sup>52</sup> In 1961, the Security Council expressed its concern about the 'systematic violations of human rights and fundamental freedoms and the general absence of the rule of law' in the Congo at a time when fighting in the country was widespread.<sup>53</sup> These examples of the UN Security Council and General Assembly invoking human rights law in situations of both near-conflict and outright conflict strongly indicate a belief on the part of the UN's members that human rights law was relevant and could be invoked in times of conflict. They also expose the illogicality of the argument that atrocities perpetrated in a situation nearing conflict might be characterised as human rights violations but that atrocities perpetrated in situations of outright armed conflict should not; a chronological reading of General Assembly and Security Council resolutions offers a vivid historical record of how quickly situations of internal disturbance can deteriorate into situations of non-international armed conflict.

Indeed, the fact that human rights law was conceived as applying in times of armed conflict is likewise confirmed by the fact that in the late 1940s several authoritative commentators perceived crimes against humanity to be analogous to crimes against fundamental human rights. In addressing the question of whether all war crimes could also be crimes against humanity, the digest of case law from the Nuremberg and Tokyo Tribunals published in 1949 states: 'it does not seem possible that war crimes in which there is no violation of human rights could possibly be regarded as crimes against humanity'.<sup>54</sup> Its conclusion in this regard is supported by a footnote which further adds that the 'remark assumes crimes against humanity to be restricted to offences against human rights'.<sup>55</sup> Hersch Lauterpacht, writing in 1950, similarly noted:

To lay down that crimes against humanity are punishable is, therefore, to assert the existence of rights of man grounded in a law superior to the law of the State. Thus, upon analysis, the enactment of crimes against humanity in an

49 UNGA Res. 1353 (XIV), 21 October 1959; and UNGA Res. 1723 (XVI), 20 December 1961.

50 UNGA Res. 1972 (XVIII), 16 December 1963.

51 UNGA Res. 1949 (XVIII), 11 December 1963.

52 See Record of Security Council's 1233rd Meeting on 26 July 1965.

53 UNSC Res. 169 (1961), 24 November 1961.

54 See *Law Reports of Trials of War Criminals, Selected and Prepared by the United Nations War Crimes Commission*, Vol. 15: Digest of Laws and Cases, 1949, p. 135.

55 *Ibid.*, p. 135, footnote 7.

international instrument signifies the acknowledgment of fundamental rights of the individual recognized by international law.<sup>56</sup>

The clear perception in these years that there was a link between crimes against humanity and human rights amounts to evidence of a belief on the part of the authors of the digest and Lauterpacht that human rights law – or at least fundamental human rights – existed and could be violated in times of armed conflict.<sup>57</sup> This conclusion is particularly valid when it is remembered that then, much more than today, ‘crimes against humanity’ were thought to be inherently linked to armed conflict.<sup>58</sup>

### **Appreciation of conceptual overlap between international humanitarian law and international human rights law in the late 1940s and early 1950s**

Evidence that human rights law was already deemed relevant to armed conflict in the years immediately after 1948 prompts us to question whether there was really such a pronounced conceptual divide between human rights law and humanitarian law between 1948 and 1968. Although the *travaux préparatoires* to the UDHR do not reveal any discussion of international humanitarian law on the part of the drafters, it is noteworthy that the ICRC sent one or sometimes two senior representatives to many of the drafting sessions of the UDHR and the Covenant of Human Rights in Geneva<sup>59</sup> and New York.<sup>60</sup> In December 1947, when the sessions

56 Hersch Lauterpacht, *International Law and Human Rights*, Stevens & Sons, London, 1950, p. 36.

57 Lauterpacht’s use of the term ‘fundamental rights’ raises the difficult question of whether some human rights should be understood to be more ‘fundamental’ than others.

58 While today there is a consensus that crimes against humanity can be committed in the context of both peace and war, in the years immediately following World War II this was more contentious. Certainly, the charter of the International Military Tribunal limited the tribunal’s jurisdiction to crimes against humanity which were connected to war crimes. Bassiouni argues that the war-connecting link was required in order to legitimise the ‘creation’ of crimes against humanity in the Nuremberg Charter which were widely thought to be an extension of ‘war crimes’. However, it is noted that in 1950, the International Law Commission deemed the link to a conflict no longer to be a requirement. See M. Cherif Bassiouni, ‘Crimes against humanity’, in M. Cherif Bassiouni (ed.), *International Criminal Law*, Martinus Nijhoff, The Hague, 1999, pp. 521–545.

59 See, for example, UNCHR, *Summary Record of the Twenty-Eighth Meeting*, UN Doc. E/CN.4/SR/28, 4 December 1947; UNCHR, *Summary Record of the Thirtieth Meeting*, UN Doc. E/CN.4/SR.30, 5 December 1947; UNCHR, *Summary Record of the Thirty-Second Meeting* UN Doc. E/CN.4/SR/32, 11 December 1947; UNCHR, *Summary Record of the Thirty Third Meeting*, UN Doc. E/CN.4/SR/33, 11 December 1947; UNCHR, *Summary Record of the Thirty-Fourth Meeting* UN Doc. E/CN.4/SR.34, 12 December 1947; UNCHR, *Summary Record of the Thirty-Fifth Meeting* UN Doc. E/CN.4/SR/35, 12 December 1947; UNCHR, *Summary Record of the Thirty-Seventh Meeting*, UN Doc. E/CN.4/SR.37, 13 December 1947; and UNCHR, *Summary Record of the Forty-Third Meeting* UN Doc. E/CN.4/SR./43, 17 December 1947.

60 See, for example, UNCHR, *Summary Record of the Forty-Seventh Meeting*, UN Doc. E/CN.4/SR.47, 1 June 1948; UNCHR, *Summary Record of the Forty-Ninth Meeting*, UN Doc. E/CN.4/SR.49, 2 June 1948; UNCHR, *Summary Record of the Forty-Eighth Meeting*, UN Doc. E/CN.4/SR.48, 4 June 1948; UNCHR., *Summary Record of the Fifty-Eighth Meeting*, UN Doc. E/CN.4/SR.58, 16 June 1948; UNCHR, *Summary Record of the Sixtieth Meeting*, UN Doc. E/CN.4/SR.60, 23 June 1948; UNCHR, *Summary Record of the Sixty-Fourth Meeting*, UN Doc. E/CN.4/SR.64, 17 June 1948; UNCHR, *Summary Record of the*

were in Geneva, the sessions were regularly attended by the ICRC's Secretary-General, Jean Duchosal, and/or the Head of the ICRC's Legal Division, Claude Pilloud.<sup>61</sup> This constitutes evidence that from the beginning of the human rights movement, the ICRC had a certain appreciation of the connection between human rights law and the law of armed conflict. It also suggests a belief on the part of the ICRC that the rights contained in the UDHR would continue to apply in times of armed conflict. Further evidence of the ICRC's position in this regard is seen in the preamble to the draft Convention for the Protection of Civilian Persons in Times of War approved in Stockholm by the 17th International Red Cross Conference in August 1948. This begins with a suggested undertaking by the High Contracting Parties 'to respect the principles of human rights which constitute the safeguard of civilisation, and, *in particular*, to apply, at any time and in all places, the rules given hereunder'.<sup>62</sup> While this statement does not provide a full elucidation of the ICRC's understanding of the relationship between international humanitarian law and international human rights law, it certainly provides an indication that the ICRC thought that human rights law should be respected in times of armed conflict.

The *travaux préparatoires* to the Geneva Conventions also demonstrate that the states' delegates present at the drafting conferences believed that there was a connection between international human rights law and international humanitarian law.<sup>63</sup> The perceived relationship between the bodies of law is seen most clearly in the words of the president of the Conference during the official ceremony for the signature of the conventions. Speaking on 8 December 1949, he noted that it was very nearly the anniversary of the UDHR and stated that it was interesting to compare the UDHR and the Geneva Conventions. He said that the Geneva Conventions were

based on certain of the fundamental rights proclaimed in it [the UDHR] – respect for the human person, protection against torture and against cruel, inhuman or degrading punishments or treatment ... The Universal Declaration of Human Rights and the Geneva Conventions are both derived from one and the same ideal.<sup>64</sup>

During the drafting process, the relationship between the two bodies of law was particularly discussed with regard to the provisions in Geneva Convention IV and Common Article 3 which give protection to civilians and persons *hors de combat*. The comments on these provisions indicate an understanding among delegates that in times of armed conflict the Geneva Conventions would apply alongside the protections in the UDHR, which had been agreed by states the year before. For example, Colonel Hodgson, the Australian delegate (who had notably also been part

*Sixty-Seventh Meeting*, UN Doc. E/CN.4/SR.67, 25 June 1948; and UNCHR, *Summary Record of the Seventy-Fifth Meeting*, UN Doc. E/CN.4/SR.75, 30 June 1948.

61 See note 60 above.

62 Jean Pictet (ed.), *Commentary on the Geneva Conventions of 12 August 1949, Geneva Convention Relative to the Protections of Civilian Persons in Time of War*, Vol. 3, ICRC, Geneva, 1960, p. 12 (emphasis added).

63 See also R. Kolb, above note 2, pp. 413–416, for an assessment of these records.

64 Swiss Federal Political Department, *Final Record of the Diplomatic Conference of Geneva of 1949*, Vol. 2, Section B, p. 536.

of the drafting committee of the UDHR), took the view that there was no need for the Third or Fourth Geneva Conventions to have preambles referring to human rights law because the principle of human rights ‘had already been very much better said in the Preamble of the Declaration on Human Rights recently adopted by the General Assembly of the United Nations’.<sup>65</sup> According to Hodgson, it was not the task of the Conference to ‘re-write’ the 1948 Declaration.<sup>66</sup> Similarly, the Danish delegation expressed the view that a person who did not benefit from the Third Geneva Convention Relative to the Treatment of Prisoners of War would remain ‘safeguarded by the principles of the rights of man as derived from the rules established among civilized nations’.<sup>67</sup> These statements by Colonel Hodgson and the Danish delegation evidence a belief not only that international human rights law would continue to apply during armed conflict, but also that it might be able to complement international humanitarian law by filling gaps in protection. This being said, it is clear that the delegates who saw the two bodies of law to be related did not necessarily agree on the precise nature of that relationship. While the comments from the Australian and Danish delegations suggested a belief that the UDHR would exist alongside the Geneva Conventions,<sup>68</sup> it seems that other delegations saw the Geneva Conventions’ provisions as amounting to a special regime of human rights for times of conflict.<sup>69</sup>

The fact that there was an appreciation of the conceptual overlap between international human rights law and international humanitarian law before 1968 is also seen in academic literature from the 1950s and 1960s. This is rarely noted in contemporary literature commenting on the relationship between international humanitarian law and international human rights law. Instead, it is often assumed that early academic literature on the topic supports the contention that in the years between 1948 and 1968, the two bodies of law and their respective institutions were completely separate. Reviewing literature relating to the law of war at the time the Geneva Conventions and UDHR were drafted, Kolb finds that it ‘sometimes made reference to human rights law . . . [but] never failed to stress the continuing cleavage between the two branches’.<sup>70</sup> Yet while a great deal of the literature of the 1970s did indeed stress the differences between the bodies of law, in literature prior to the late 1960s the situation is remarkably different. Indeed, statements by academics Kunz and Cowles, speaking and writing in the United States in these early years, make clear that there was a belief that international humanitarian law could be conceived as a ‘part’ of human rights law ‘adapted to the wartime

65 Swiss Federal Political Department, *Final Record of the Diplomatic Conference of Geneva of 1949*, Vol. 2, Section A, Committee II, p. 393. See also R. Kolb, above note 2, p. 414.

66 Swiss Federal Political Department, *ibid.*, p. 780.

67 *Ibid.*, p. 436.

68 See also the Danish delegation’s request that a clause be inserted into Article 3 making clear that the wording should not be ‘interpreted in such a way as to deprive persons not covered by the provisions of Article 3, of their human rights’, *ibid.*, p. 481.

69 At the closing ceremony, the Italian delegation stated that the drafters’ task had not been ‘to produce an ideal Convention, but one which would reconcile human rights with the requirements of war’. Swiss Federal Political Department, above note 64, p. 536.

70 R. Kolb, above note 2, p. 416.

scene'.<sup>71</sup> Hersch Lauterpacht, who had been involved in the drafting of both the Geneva Conventions<sup>72</sup> and the UDHR,<sup>73</sup> also saw the two regimes to be closely related. In 1952, he wrote that the Fourth Geneva Convention:

might be said [to be] ... in its limited sphere, ... a veritable universal declaration of human rights; unlike the Declaration adopted by the General Assembly in December 1948, it is an instrument laying down legal rights and obligations as distinguished from a mere pronouncement of moral principles and ideal standards of conduct.<sup>74</sup>

The fact that Lauterpacht understood there to be a conceptual overlap between humanitarian law and human rights law is also made clear in his statement that:

most rules of warfare are, in a sense, of a humanitarian character inasmuch as their object is to safeguard, within the limits of the stern exigencies of war, human life and some other fundamental human rights and to make a measure of intercourse between enemies during the war and some voluntary relationship after it.<sup>75</sup>

Against the backdrop of the statements by Kunz and Cowles above, Lauterpacht's view on the relationship between human rights law and international humanitarian law seems to have been neither radical nor exceptional.<sup>76</sup>

The fact that there was an appreciation in academic circles of the conceptual overlap between international human rights law and international humanitarian law is also confirmed by the article by Claude Pilloud which was

- 71 'Proceedings of the Fifth Session of the American Society of International Law, Saturday April 30, 1949, at 10am', in *American Society of International Law Proceedings*, No. 43, 1949, p. 128. See Cowles speaking to the proceedings of the American Society of International Law: 'Whether or not it is logical, whether we believe that war is bad or that we should not have more of it, has nothing whatsoever to do with the existence of the international law of war. The law is here. It is very real. Incidentally, it is a part of human rights – human rights operating on the wartime scene'. See also Josef Kunz, who, citing and clearly agreeing with Cowles in two articles published in 1951, states: 'I want to emphasize strongly the fact that the laws of war are a very important part of the problem of international protection of human rights. The new Geneva Conventions of 1949 stress the basis of human rights, of the dignity of the human personality'. See Josef Kunz, above note 19, p. 121; and Josef Kunz, 'Present-day efforts at international protection of human rights: a general analytical and critical introduction', in *American Society of International Law Proceedings*, No. 45, 1951, p. 114.
- 72 Sir Hersch Lauterpacht was a member of the committee of experts that was gathered to draft a clause designed to repress violations of the Geneva Conventions. This group produced the draft articles that inspired the 'grave breaches' article which was common to all four Conventions. Geoffrey Best, *War and Law Since 1945*, Clarendon, Oxford, 1997, pp. 93–94.
- 73 UNCHR, 'Human Rights, The Charter of the United Nations and the International Bill of the Rights of Man, Preliminary Report by Professor H. Lauterpacht', UN Doc. E/CN.4/89, 12 May 1948.
- 74 Hersch Lauterpacht, 'The problem of the revision of the law of war', in *British Yearbook of International Law*, Vol. 29, 1952, p. 362.
- 75 Hersch Lauterpacht, 'The limits of the operation of the law of war', in *British Yearbook of International Law*, Vol. 30, 1953, p. 214.
- 76 Further support for this conclusion is found in the fact that shortly after the drafting of the Geneva Conventions, Joyce Gutteridge, one of the UK delegates who had attended the Diplomatic Conference, wrote that common Article 3 could be seen to impose 'such obligations as will ensure, even in internal conflicts, the observance of certain fundamental human rights'. See Joyce Gutteridge, 'The Geneva Conventions of 1949', in *British Year Book of International Law*, Vol. 26, 1949, p. 300.

published in 1949 and which has already been cited above.<sup>77</sup> The stated purpose of the article was to review the relationship between the UDHR and the 1949 Geneva Conventions. During the course of this review, Pilloud not only made it clear that he understood the UDHR to apply in times of armed conflict, but having reviewed the correlation of norms in the Geneva Conventions and the UDHR, he further concluded:

we would like to emphasize that their co-existence does not present a setback. On the contrary, this will result in a strengthening of the humanitarian Conventions since many of their principles are valid at all times and places.<sup>78</sup>

Pilloud's words in this respect provide further evidence that there was not such a strict cleavage between the two bodies of law in the years after the drafting of the Geneva Conventions and UDHR as has sometimes been suggested. In fact, together, these academic writings provide strong indications that in the late 1940s and early 1950s, there was a common view that the two bodies of law were conceptually connected and complementary in their scope.

### **Overlapping spheres of operational competence of the UN and the ICRC in the late 1940s and 1950s**

In light of this revised picture, it is perhaps not surprising to discover that the institutional divide between the UN and the ICRC was also not as absolute as is often suggested. Many accounts of the relationship between international human rights law and international humanitarian law suggest that between the years 1948 and 1968, the two institutions had no overlap in mandate or areas of common interest. Indeed, the ICRC and UN are often depicted as having maintained a distance from each other during these years even though they had a degree of normative similarity.<sup>79</sup> In fact, this seems to overstate the situation, for there were numerous occasions during these years on which the two organisations worked in cooperation in areas of the mutual competence.<sup>80</sup> For example, in November 1948, the Secretary-General requested the ICRC and the League of Red Cross and Red Crescent Societies to assist in implementing a General Assembly resolution calling for the facilitation of the return to Greece of Greek children.<sup>81</sup> In November 1949, the General Assembly expressed its 'warm appreciation' for the efforts made by the two international Red Cross organisations in this regard.<sup>82</sup> There is also evidence that the ICRC took an active role in the development of human rights law that was relevant to its mandate. It sent high-level delegates not only to the drafting sessions

77 C. Pilloud, above note 41.

78 *Ibid.*, p. 258. [translation from the original text in French by the editorial team] Original text: 'Nous voudrions souligner que leur coexistence ne présente aucun inconvénient. Au contraire, il est certain qu'il en résultera un renforcement des Conventions humanitaires puisque de nombreux principes qu'elles contiennent sont déclarés valables en tout temps et en tout lieu'.

79 O. Ben-Naftali and Y. Shany, above note 9, p. 47.

80 For cooperation between the UN and the ICRC on the issue of prisoners of war, see below.

81 UNGA Res. 193 (III) C, 27 November 1948.

82 UNGA Res. 288 (IV) B, 18 November 1949.

of the UDHR in 1947 and 1948,<sup>83</sup> but also to at least six of the eighteen sessions of the UN Commission on Human Rights (UNCHR) between 1949 and 1968, some of which were in New York.<sup>84</sup> It also submitted comments to the UNCHR in the context of studies which the Commission carried out on arbitrary detention and the right to asylum.<sup>85</sup>

Just as it is possible to find early instances of the ICRC taking an active interest in human rights law, so there is evidence of the UN taking an early interest in humanitarian law and working together with the ICRC. In particular, in the early 1950s, the General Assembly is seen urging states to assist with the repatriation of prisoners of war after World War II. The law relating to prisoners of war plainly relates to international humanitarian law rather than human rights law and falls squarely within the core mandate of the ICRC. As a result, if cooperation between the two agencies had been minimal in these years, we would expect that the issue of prisoners of war would have been an obvious one to have been dealt with exclusively by the ICRC.<sup>86</sup> Yet instead, two General Assembly resolutions in 1950 and 1953 show the General Assembly directly invoking the Third Geneva Convention Relative to the Treatment of Prisoners of War in its call upon governments to act in conformity with these international standards.<sup>87</sup> In its 1950 resolution, the Geneva Assembly asks the Secretary-General to convene a commission composed of three qualified and impartial people chosen by the ICRC, or failing that, the Secretary-General himself, to settle the question of prisoners of war in a humanitarian spirit. This is a clear indication that the UN appreciated that its mandate overlapped with that of the ICRC, and another indication that the two organisations were often prepared to cooperate to see those mandates fulfilled.

Likewise in 1953, the General Assembly is seen invoking international humanitarian law relating not only to prisoners of war, but also to the conduct of

83 See above notes 60 and 61.

84 UNCHR, *Report to the Economic and Social Council on the Seventh Session of the Human Rights Commission*, Geneva, 16 April–19 May 1951, UN Doc. E/CN.4/640 (Claude Pilloud attending); UNCHR, *Report to the Economic and Social Council on the Thirteenth Session of the Human Rights Commission*, Geneva, 1–26 April 1957, UN Doc. E/CN.4/753 (Henri Coursier attending); UNCHR, *Report to the Economic and Social Council on the Sixteenth Session of the Human Rights Commission*, Geneva, 29 February–18 March 1960, UN Doc. E/CN.4/804 (Henri Coursier and Claude Pilloud attending); UNCHR, *Report to the Economic and Social Council on the Nineteenth Session of the Human Rights Commission*, New York, 11 March–5 April 1963, UN Doc. E/CN.4/857 (Henri Coursier attending); UNCHR, *Report to the Economic and Social Council on the Twenty First Session of the Human Rights Commission*, Geneva, 22 March–15 April 1965, UN E/CN.4/891 (Claude Pilloud and Serge Nessi attending); UNCHR, *Report to the Economic and Social Council on the Twenty Third Session of the Human Rights Commission*, New York, 20 February–23 March 1967, UN Doc. E/CN.4/940 (Serge Nessi and François de Reynol attending). It is noted that the ICRC's attendance at some of these meetings was likely also motivated by the discussion of war crimes on the agenda.

85 UNCHR, *Declaration on the Right of Asylum, Comments of Non Governmental Organizations, Note by the Secretary-General*, UN Doc. E/CN.4/794, 6 January 1960, pp. 2–3; UNCHR, *Study of the right of arrested persons to communicate with those whom it is necessary for them to consult with in order to ensure their defence or to protect their essential interests*, UN Doc. E/CN.4/836, 27 December 1962, p. 8.

86 Article 118 of the Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949 states that 'Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities'.

87 UNGA Res. 427 (V), 14 December 1950; UNGA Res. 804 (VIII), 3 December 1953.

hostilities. This is another early example of the General Assembly addressing issues that classically fall within the ICRC's mandate and explicitly referring to international humanitarian law. In its resolution on the conflict in Korea, the General Assembly recalled:

the basic legal requirements for *humane treatment of prisoners of war and civilians in connection with the conduct of hostilities* are established by general international law and find authoritative reaffirmation in the Geneva Conventions of 1929 and 1949 relative to the treatment of prisoners of war and in the Geneva Convention of 1949 relative to the protection of civilian persons in time of war.<sup>88</sup>

Stating that it desired to 'secure general and full observance of the requirements of international law and of universal standards of human decency', the General Assembly went on to express its grave concern at reports that North Korean and Chinese Communist forces were employing 'inhuman practices' against soldiers under UN command and against the civilian population of Korea. With a clear reference to Common Article 3 of the Geneva Conventions, the General Assembly went on to:

condemn ... the commission by any governments or authorities of murder, mutilation, torture, and other atrocious acts against captured military personnel or civilian populations, as a violation of rules of international law and basic standards of conduct and morality and as affronting human rights and the dignity and worth of the human person.<sup>89</sup>

This General Assembly resolution is significant because it shows the UN – long before 1968 – directly invoking international humanitarian law relating not only to protected persons but also to the conduct of hostilities. It is also significant because it categorises violations against prisoners of war and civilians as being breaches of both international humanitarian law and human rights law. This not only confirms an understanding on the part of the General Assembly that human rights law applies in times of conflict, but is also a clear indication that the General Assembly saw the two bodies of law as having overlapping application at times. It is also further evidence that the institutional divide between the ICRC and the UN was not as profound – before 1968 – as is often suggested.

## **Possible explanation for the entrenchment of the dominant narrative**

If this revised view of the historical relationship between the two bodies of law and the ICRC and UN is accepted, one wonders why the perception that the two bodies of law and their two institutions were completely separate in the years between

88 UNGA Res. 804 (VIII), 3 December 1953 (emphasis added). See also UNGA Res. 910 (X) B, 29 November 1955, on the problem of ex-prisoners of the Korean War.

89 *Ibid.*

1948 and 1968 has become so entrenched in contemporary academic literature. The answer likely lies in the fact that the relationship between international humanitarian law and international human rights law was little mentioned – as an issue worthy of any debate or discussion – in academic literature before 1968. Indeed, the issue only began to be debated – at an academic level – after the Tehran conference in 1968 and the adoption of Resolution XXIII on Respect for Human Rights in time of Armed Conflict as well as the Reports of the Secretary-General entitled ‘Respect for Human Rights in Armed Conflicts’ that followed in 1969 and 1970.<sup>90</sup> Evidence of the debate’s importance is illustrated by the fact that when the San Remo Institute of Humanitarian Law was established in 1970, its first ever congress in the September of that year was given the theme ‘Human Rights as the Basis of International Humanitarian Law’. One imagines that this theme, so worded, would have been controversial to commentators at the time. Certainly, in 1984, Robertson, who presented a paper on the topic of this headline theme, recalled that ‘strong criticism of [his paper] was expressed by a number of experts’.<sup>91</sup> And clearly, as the 1970s wore on and the drafting of the Additional Protocols to the Geneva Conventions prompted more reflection on the relationship between the two bodies of law, there was an increasingly large body of academic literature addressing this relationship. Evidence of the increased intensity of the debate, and the polarisation of views that accompanied it, can also be seen in a chronological reading of three articles on the topic during the 1970s by Professor Colonel Draper, a distinguished academic, Nuremberg prosecutor, and fellow speaker at the San Remo conference in 1970. In 1971, Draper appears relatively supportive of the proposition that international humanitarian law and international human rights law ‘have met [and] are fusing together at some speed, and that in a number of practical instances the regime of human rights is setting the general direction and objectives for revision of the law of war’.<sup>92</sup> Yet in 1974 and 1979, Draper’s articles on the subject become markedly more critical of the proposition that human rights law and international humanitarian law might have parallel application in times of armed conflict. By the end of the decade, he takes pains to set out his view that the two bodies of law are ‘diametrically opposed’.<sup>93</sup>

A review of the academic literature from the 1970s reveals that the 1968 Tehran resolution was probably the catalyst for a subsequent academic debate that created a dramatic polarisation of views between what was later referred to as the ‘separatist’ approach and the ‘integrationist’ approach.<sup>94</sup> Those who fell more into the integrationist camp expressed views that tended to see international

90 UNGA, ‘Respect for Human Rights in Armed Conflicts’, Report of the Secretary-General, UN Doc. A/7720, 20 November 1969; UNGA, ‘Respect for Human Rights in Armed Conflicts’, Report of the Secretary-General, UN Doc. A/8052, 18 September 1970.

91 A. Robertson, above note 7, p. 797.

92 G. I. A. D. Draper, above note 7, p. 191.

93 G. I. A. D. Draper, above note 15, pp. 141 and 149.

94 See *The Red Cross and Human Rights*, report prepared by the ICRC in collaboration with the Secretariat of the League of Red Cross Societies, October 1983, p. 27, which identifies three schools of thought: ‘integrationist’, ‘separatist’ and ‘complementarist’. The third, ‘complementarist’ theory advocated that human rights law and international humanitarian law were two distinct systems which complement each

humanitarian law as a sub-category of international human rights law or which advocated a merging of the two bodies of law.<sup>95</sup> The articulation of these views prompted a counter-movement of writings by academics like Draper, who, afraid that the two bodies of law were being confused and that the effectiveness of international humanitarian law was thereby being compromised, emphasised the differences between them.<sup>96</sup> It is in the early literature from this ‘separatist’ camp that we see frequent claims that human rights instruments have no relevance to armed conflicts<sup>97</sup> and that the institutions of the UN and ICRC had previously had little or no interest in each other’s work,<sup>98</sup> and the repeated identification of 1968 as the first instance in which the two bodies of law were deemed to have any commonality.<sup>99</sup> It is these separatist claims which have subsequently been repeated the most often in literature addressing the relationship between the two bodies of law, so much so that they have become an integral part of the accepted narrative of that relationship.

## Conclusions

The purpose of this article was to show that these claims in fact exaggerate the reality of the legal landscape before 1968 and place too great an emphasis on the existence of a substantive and institutional separation between the two bodies of law before this date. First, the article has shown that international human rights law and international humanitarian law were not completely separate before the Tehran conference in 1968. The preceding sections have shown that at the time of the drafting of the UDHR and the Geneva Conventions, there was already a strong belief that human rights law would continue to apply in times of armed conflict. Support for this contention has been found in UN Security Council and General Assembly resolutions, academic literature, the *travaux préparatoires* of the Geneva

other. This is the way in which the relationship between the two bodies of law is today most commonly understood.

95 See A. Robertson, *Human Rights in the World*, Manchester University Press, Manchester, 1982, p. 225, where he states: ‘Our contention is that humanitarian law is one branch of the law of human rights, and that human rights afford the basis for humanitarian law’. It is noted that elsewhere Robertson’s vision of the relationship between international humanitarian law and international human rights law seems to adhere more to the ‘complementarity’ thesis. See A. Robertson, above note 7, p. 802. The merging of the two bodies of law was also thought by some writers to be inherent in the General Assembly resolutions under the title ‘Respect for Human Rights in Armed Conflict’ and the texts of the Additional Protocols. See for example, G. I. A. D. Draper, above note 15, pp. 147 and 149. See also Keith D. Suter, ‘An enquiry into the meaning of the phrase “human rights in armed conflict”’, in *Revue de droit pénal militaire et de droit de la guerre*, Vol. 15, No. 3–4, 1976, pp. 397 and 404.

96 See G. I. A. D. Draper, above note 15; and K. D. Suter, above note 95, p. 397. Suter is responding in particular to the writings and speeches of Sean MacBride, who he states regularly equated the phrase ‘human rights in armed conflict’ with the phrase ‘humanitarian international law of armed conflicts’.

97 G. I. A. D. Draper, above note 15, p. 143; K. D. Suter, above note 95, p. 398; Henri Meyrowitz, ‘Le droit de la guerre et les droits de l’homme’, in *Revue du droit public et de la science politique en France et à l’étranger*, Vol. 5, 1972, p. 1059.

98 K. D. Suter, above note 95, pp. 406–410.

99 G. I. A. D. Draper, above note 15, pp. 143 and 149; K. D. Suter, above note 95, p. 407; H. Meyrowitz, above note 97, p. 1071.

Conventions, minutes of the meetings from the UNCHR, and statements of those involved or present during the drafting of the UDHR, such as Colonel Hodgson of Australia and Claude Pilloud of the ICRC. Many of the same sources also indicate that in the late 1940s and 1950s there was already a clear appreciation of the conceptual overlap between the two bodies of law in legal circles and that the institutional divide between the UN and the ICRC was not so pronounced as has often been suggested. The article has shown that both the UN and the ICRC took an active interest in each other's work and legal mandate during these years. The ICRC attended meetings relating to the drafting of the UDHR and was a regular non-governmental presence at meetings of the UNCHR in New York and Geneva. Conversely, the UN is seen to have appealed to the ICRC for assistance on issues of mutual competence and on rare occasions to have invoked international humanitarian law on matters related to both protected persons and the conduct of hostilities.

In bringing these historical sources to light, one of the purposes of this article is to adjust the historical record that has been created by the large body of academic literature affirming that human rights law was never originally intended to apply in times of armed conflict. It also seeks to challenge the widespread belief that before 1968, there was no cooperation between the ICRC and the UN and no conceptual links between international humanitarian law and international human rights law. In highlighting these misreadings, it is hoped that this article may assist in challenging the views of the few nations who still do not acknowledge that human rights law applies in times of armed conflict.<sup>100</sup> It may also serve to lend human rights law a greater legitimacy when it is applied in the sphere of armed conflict, for it is noted that there are many areas where the conceptual parameters of the two bodies of law remain uncertain – for example, the parameters and application of the *lex specialis* principle, the extraterritorial application of human rights, and the application of human rights law in times of occupation. In discussions relating to these areas, it is remarkable how extensively the historical and philosophical underpinnings of international human rights law and international humanitarian law are referred to and relied upon.<sup>101</sup> And it is also clear that lawyers seeking to restrict or scale back the application of human rights law often make much of the fact that human rights law was not originally intended to apply to situations of armed conflict.<sup>102</sup> While there is no doubt that international humanitarian law will

100 See above note 1.

101 See for example, N. K. Modirzadeh, above note 5; O. Ben-Naftali and Y. Shany, above note 9; Michael Dennis, 'Non-application of civil and political rights treaties extraterritorially during times of international armed conflict', in *Israel Law Review*, Vol. 40, No. 2, 2007, pp. 453–502; Hans-Joachim Heintze, 'On the relationship between human rights law protection and international humanitarian law', in *International Review of the Red Cross*, Vol. 86, No. 856, 2004, p. 789; H. Krieger, above note 2; C. Droegge, above notes 2 and 7; Danio Campanelli, 'The law of military occupation put to the test of human rights law', in *International Review of the Red Cross*, Vol. 90, No. 871, 2008, p. 653.

102 Literature taking the view that the application of human rights law to situations of armed conflict should be restricted or scaled back varies greatly in degree and argument. For example, see the Israeli position set out in Israel's Second Periodic Report to the Human Rights Committee, UN Doc. CCPR/C/ISR/2001/2, 20 November 2001, para. 8; Michelle A. Hansen, 'Preventing the emasculation of warfare: halting the

very often be the *lex specialis* in times of armed conflict,<sup>103</sup> as long as we are told that human rights law was not intended to apply in times of armed conflict at all, there is a danger that its application in this field will be unduly limited. It has been shown that it does not do justice to human rights law's heritage to conceive of it as only being relevant in the context of a fully functioning relationship between the governor and the governed. A historical perspective and jurisprudence from human rights tribunals show that human rights law is more than this, both in origin and in current practice.<sup>104</sup> This article has shown that the cooperation that increasingly exists between lawyers practising international humanitarian law and international human rights law is part of a long tradition of cooperation between these fields that has in fact existed since the drafting of the UDHR in 1948.

expansion of human rights law into armed conflict', in *Military Law Review*, Vol. 194, Winter 2007, pp. 8, 26, and 61; and N. K. Modirzadeh, above note 5.

103 See International Court of Justice (ICJ), *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, *ICJ Reports 1996*, p. 226, para. 25; and *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004, *ICJ Reports 2004*, p. 136, para. 106. For literature on the relationship between international human rights law and international humanitarian law, see, for example, Noam Lubell, 'Challenges in applying human rights law to armed conflicts', in *International Review of the Red Cross*, Vol. 87, No. 860, pp. 737–754; and Marco Sassòli and Laura M. Olson, 'The relationship between international humanitarian law and human rights law where it matters: admissible killing and internment of fighters in non-international armed conflict', in *International Review of the Red Cross*, Vol. 90, No. 871, pp. 599–627.

104 This is demonstrated not only by the fact that human rights law was intended to apply during times of armed conflict but also by case law in which state agents have been found to have violated international human rights law outside the territory of that state. In instances where state A is held responsible for wrongful acts perpetrated against citizens of state B, the human rights relationship clearly goes beyond that of the governor and governed. See, for example, ICJ, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)*, Judgment, *ICJ Reports 2005*, p. 168, paras. 178–180. See also *Al-Skeini v. The United Kingdom*, Application No. 55721/07, Grand Chamber Judgment, 7 July 2011, paras. 131–140, for a summary of the European Convention of Human Rights case law on instances when the exercise of jurisdiction of a Contracting State outside its territorial boundaries may give rise to the exercise of 'jurisdiction' for the purpose of Art. 1 of the Convention.

# New technologies and new policies: the ICRC's evolving approach to working with separated families

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## **Abstract**

*The field of humanitarian action is far from static, and the ICRC has worked over the years to evolve and respond to changing needs and changing circumstances. The past several decades have seen a proliferation of humanitarian actors, protracted, complex conflicts, and the rapid rise of new technologies that have significantly impacted how humanitarian work is done. The ICRC has been continually challenged to adapt in this changing environment, and its core work of supporting separated families – through restoration of family links and through support to the families of the missing – provides insight into ways that it has met this challenge and areas in which it may still seek to improve.*

**Keywords:** separation, families, missing, technology, crowdsourcing, multidisciplinary, holistic, forensics.

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\* This article was written in a personal capacity and does not necessarily reflect the views of the ICRC.

Restoring contact between families separated by humanitarian crises is at the heart of the International Red Cross and Red Crescent Movement's identity. The Movement's founder, Henry Dunant, wrote of taking a message from dying soldier Claudius Mazuet to his parents in *A Memory of Solferino*.<sup>1</sup> Since then, the Movement has developed a worldwide Family Links Network of National Societies and International Committee of the Red Cross (ICRC) delegations, led and coordinated by the Central Tracing Agency<sup>2</sup> (CTA), a permanently established division of the ICRC. Restoring family links (RFL) and clarifying the fate of missing persons are cornerstones of the Movement's work.

However, the contexts in which these services are delivered have undergone significant changes in the past 150 years, and particularly over the last two decades. The ICRC has gone from being the world's principal international humanitarian organisation to being one actor among many on an increasingly crowded humanitarian stage. United Nations (UN) bodies, non-governmental organisations (NGOs), and government agencies have arrived in significant numbers in the field of humanitarian work.<sup>3</sup> In addition, as situations of protracted crises have become the norm, and the intrinsic links between poverty and security better identified, the spheres of humanitarian relief and long-term development have become increasingly linked.<sup>4</sup> Concurrently, information and communication technologies have developed at a rapid pace, changing fundamentally the way people communicate and share data. Many of the new humanitarian actors bring expertise and promotion of new tools, and are continually seeking new ways to apply them to the humanitarian field.

Amidst this changing landscape, the ICRC is increasingly challenged to carve out its place in a crowded and fast-moving environment, and to identify how it can most effectively provide needed support to beneficiaries amidst and in coordination with other actors. This challenge is particularly evident in the context of the ICRC's work to respond to the needs of families separated by humanitarian crises.

This article will examine the way in which the ICRC has adapted the tools it uses to restore and maintain contact, and has tried to make the most of

1 Henry Dunant, *A Memory of Solferino*, ICRC, Geneva, 1986 (original 1862), p. 66.

2 Further information on the Family Links Network and role of the CTA can be found on the Family Links website, available at: <http://familylinks.icrc.org>. See also *Restoring Family Links Strategy*, ICRC, Geneva, 2009, available at: [www.icrc.org/eng/assets/files/other/icrc\\_002\\_0967.pdf](http://www.icrc.org/eng/assets/files/other/icrc_002_0967.pdf). The CTA also coordinates the tracing offices of the ICRC and provides assistance to state authorities for setting up and running national information bureaus as provided for by international humanitarian law. See Geneva Convention (III) Relative to the Treatment of Prisoners of War, 12 August 1949, 75 UNTS 135 (entered into force 21 October 1950), Art. 122; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950), Art. 136. All internet references were last accessed in October 2013 unless otherwise stated.

3 Abby Stoddard, 'Humanitarian NGOs: challenges and trends', in Joanna Macrae and Adele Harmer (eds.), *Humanitarian Policy Group Report: Humanitarian Action and the 'Global War on Terror': A Review of Trends and Issues*, Overseas Development Institute, London, 2003, p. 25, available at: [www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/287.pdf](http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/287.pdf).

4 James Darcy, *The MDGs and the Humanitarian-Development Divide*, Overseas Development Institute, London, 2008, p. 2, available at: [www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2582.pdf](http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2582.pdf).

technological advances when these tools can better fulfil a humanitarian need than the old tools. It will also show how the ICRC has adapted its policy and approach, in line with the growing recognition that humanitarian relief and development are inextricably linked, and that humanitarian relief can lay the foundation for effective and sustainable development.<sup>5</sup> This is particularly evident in the ICRC's work with families for whom it is not possible to restore contact or to clarify the fate of a missing family member. In this area, programming has expanded in response to the recognition that families' needs extend beyond immediate post-conflict support, and that addressing these longer-term issues can help form the foundation of a more stable and peaceful community. The article concludes that in order to adapt and evolve, the ICRC will need to place a continued emphasis on its traditional strengths, but also explore avenues of cooperation with other actors in order to fill gaps, develop the most efficient technologies, and work to connect the ICRC's immediate humanitarian relief with longer-term responses and development efforts.

## RFL tools and technology

I must have sent nearly 500,000 Red Cross Messages. But that was Georgia soon after the Georgia/Abkhazia conflict. There were no means for families to communicate with their beloved ones, left on the other side. Twice a week I was waiting for the Red Cross Messages to arrive, it was fascinating. And what is the Central Tracing Agency now? What do people need us for when most people have a phone and access to the internet and social networks? It's all changed.<sup>6</sup>

From the Red Cross Messages to video calls, the ICRC has worked since its creation to put people in touch with their loved ones during times of conflict or natural disaster. Helping loved ones connect with their families during times of crisis is a valuable service that can serve to bring some measure of stability and comfort to the lives of people who are otherwise experiencing significant trauma. Working to prevent separation, and when it does occur to reconnect and if possible reunite families, is an important step in alleviating suffering and, in the long term, bringing a measure of stability back to society, and for this reason RFL services have always been at the core of the ICRC's work.

Over the past few decades, the landscape of communications has changed significantly with the advent of new technologies. This has necessarily changed the ICRC's approach to RFL services. The ICRC now uses three key tools to restore family links: Red Cross Messages (RCMs), telephone calls, and the RFL website.<sup>7</sup> These three examples demarcate three clear steps in the history of communication, and also demonstrate different ways in which the ICRC has adapted in order to stay

5 Julie Steets, *Donor Strategies for Addressing the Transition Gap and Linking Humanitarian and Development Assistance*, Global Public Policy Institute, June 2011, available at: [www.gppi.net/publications/reports/donor\\_strategies\\_linking\\_humanitarian\\_and\\_development\\_assistance/](http://www.gppi.net/publications/reports/donor_strategies_linking_humanitarian_and_development_assistance/).

6 Interview with ICRC staff member (1996–present), 25 October 2012.

7 See <http://familylinks.icrc.org>.

relevant and useful: in the first case, by limiting the use of an 'old tool' to specific contexts; in the second case, by introducing a 'new' tool; and in the third case, by establishing a new online capacity amid a growing number of digital 'competitors'. Technology is increasingly offering new and better ways to connect with beneficiaries, and questions have arisen about whether the ICRC is using these new technologies and tools as effectively as possible. Ultimately, this section concludes that while it is critical for the ICRC to adopt and utilise new tools as much as possible, in some cases the most efficient way to do this may not be working to grow in-house capacity, but might instead be developing cooperative relationships with other actors who already possess technological expertise.

## The Red Cross Message

The birth of the Red Cross Message as we know it today can be traced back to a series of bodies established by the ICRC over the course of the early twentieth century, beginning with the Information Bureau of the International Agency for Relief to the Wounded and Sick, established in response to the Franco-Prussian War of 1870.<sup>8</sup> Set up in the neutral city of Basel, this bureau compiled lists of prisoners to share between the sides and helped prisoners to send letters to their families. A similar effort was undertaken several years later in the Balkans, when in 1912 the ICRC organised the International Agency of Belgrade that worked to help families send packages to family members who were being held as prisoners. During the First World War, the ICRC set up the International Agency of Prisoners of War as provided for by the 1907 Hague Convention. By the close of the war, the Agency had handled seven million records, including exchange of letters, packages, and tracing requests.<sup>9</sup>

Following this, the ICRC established the Central Prisoners of War Agency (hereinafter the Central Agency) during the Second World War. The Central Agency was set up to receive and record data on prisoners of war from belligerent governments and to use this information to respond to enquiries from the prisoners' families, who wanted news of their loved ones. It also acted as an intermediary for the transmission of letters, messages, photographs, and other documents. By the end of 1946, the Agency had 'received and forwarded more than twenty million letters and cards addressed to prisoners of war and interned civilians'.<sup>10</sup>

In response to the massive workload, the Central Agency introduced several standardised message forms – the telegraphic message, the express message, and the civilian message.<sup>11</sup> The first two were available only to prisoners of war and

8 *L'Agence Centrale de Recherches du CICR: un peu d'histoire*, ICRC, 1990, available at: [www.icrc.org/fre/resources/documents/misc/5fzh6f.htm](http://www.icrc.org/fre/resources/documents/misc/5fzh6f.htm).

9 *Ibid.*

10 Gradimir Djurović, *The Central Tracing Agency of the International Committee of the Red Cross*, Henry Dunant Institute, Geneva, 1986, p. 121.

11 *Ibid.*, p. 122. To see an example of a civilian message (form 61), see Annex 8, p. 272.

interned civilians, while the third was available to civilians separated from their loved ones. Telegraphic messages, although theoretically offering the most efficient means of communication, had limited utility since prisoners of war were rarely granted permission to send telegrams. Express messages, for their part, worked more effectively. These messages were available to prisoners of war who had not had news from their family for more than three months. They were printed on airmail paper with the ICRC heading and were forwarded by the fastest means possible. In countries where this service was permitted, the censor also prioritised these messages over ordinary mail. Finally, civilian messages were 25-word messages available for civilians wishing to correspond with family living in enemy territory, distributed and collected by the National Societies, who then sent them to the Central Agency. When a message could not be delivered because the person had moved, the National Society would make an enquiry as to the whereabouts of that person.<sup>12</sup>

Although the layout has changed, today's RCM is still a simple standardised form used to record basic information about the sender and addressee, with space for a personal message. Filled in by hand and transmitted between offices of the ICRC and/or National Societies via national postal and courier services, the RCM is still very much the same as it has always been. The question, then, is how relevant are RCMs today? What value can a system based on 'snail mail' add in today's technological age?

The ICRC's data, displayed in [Chart 1](#), show that the use of RCMs has steadily fallen over the past decade. However, they have not disappeared altogether. This is arguably because there are two notable scenarios in which RCMs remain singularly useful.

The first scenario is detention. While the total number of RCMs distributed has decreased since 2003, the number of RCMs being distributed to persons in detention has not decreased at the same rate; the percentage share has increased from around 10 to 15 per cent since 2003. This suggests that, at least in some detention facilities, RCMs continue to be the method of choice for passing family news. The fact remains today that, for some detainees visited by the ICRC, family communication is not facilitated, either due to a lack of resources or to a lack of willingness on the part of the detaining authorities. In such cases, RCMs may be the only way for detainees to communicate with the outside world. In addition, RCMs offer a number of advantages to detaining authorities in comparison to telephones, including the fact that they are open letters and can be censored. Therefore, RCMs may be better received than telephone calls as a method of communicating family news in situations where there is a high level of distrust between the detained persons and the detaining authorities.

Even where other options would be permitted by the authorities, RCMs may remain useful when the families of detainees have limited access to other forms of communication. For example, the ICRC reported in 2004 that, in Sierra Leone, '[a]lthough detainees were allowed family visits and telephone contact with relatives, their need for the RCM service remained significant, particularly for up-country or

12 G. Djurović, above note 10, pp. 122–124.



Figure 1: Red Cross Messages are processed at the Central Agency during the Second World War, 1943. © ICRC photo library.

distant destinations’.<sup>13</sup> Indeed, the materiality of the RCM – its paper format – is often something that persons detained for long periods of time or in solitary confinement prize. Detainees may read the RCMs repeatedly throughout their period of detention, and often return home with all of the RCMs they have received. As a former Guantanamo detainee explains:

Another thing I will never forget is the first time I received a Red Cross message . . . with the handwriting of my family and drawings from my children. Tears were streaming from my eyes. I could not believe that I was actually holding a message from them. Even though these messages were mostly censored by the authorities, sometimes so heavily that I could read only a few lines, they were still reassuring and always brightened my day.<sup>14</sup>

13 *Annual Report 2004*, ICRC, Geneva, 2005, p. 96, available at: [www.icrc.org/eng/resources/documents/annual-report/icrc-annual-report-2004.htm](http://www.icrc.org/eng/resources/documents/annual-report/icrc-annual-report-2004.htm).

14 ‘Former Guantanamo inmate Sami El-haj explains why ICRC visits were important to him’, ICRC, 2009, available at: [www.icrc.org/eng/resources/documents/interview/guantanamo-interview-250809.htm](http://www.icrc.org/eng/resources/documents/interview/guantanamo-interview-250809.htm); see also Sami El-haj, ‘A Guantanamo detainee’s perspective’, in this issue.



Figure 2: A Red Cross Message is filled in by an Armenian father looking for his son, 2005.  
© ICRC/Boris Heger.

Another scenario where RCMs remain useful is in areas lacking communication infrastructure. A good example of this is the Democratic Republic of the Congo (DRC). According to data compiled by the International Telecommunication Union, in 2011 less than 2 per cent of the DRC's population used the Internet<sup>15</sup>. Meanwhile, according to the Universal Postal Union, as of 2011 less than 1 per cent of the population was served by a post office.<sup>16</sup> The data also show that while mobile phone ownership has steeply increased in recent years, the percentage of the population using mobile phones is still relatively low at 28 per cent.<sup>17</sup> At the same time, while the number of RCMs collected in the DRC has fallen,

15 Available at: [www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals\\_Internet\\_2000-2012.xls](http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Individuals_Internet_2000-2012.xls).

16 Universal Postal Union, Postal Statistics Database. Query tool available at: [http://pls.upu.int/pls/ap/spp\\_report.main?p\\_language=AN&p\\_choice=BROWSE](http://pls.upu.int/pls/ap/spp_report.main?p_language=AN&p_choice=BROWSE). See items 1.2, 'Population (millions)', and 3.5, 'Average number of inhabitants served by a permanent office', for the DRC, 2011.

17 Available at: [http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Mobile\\_cellular\\_2000-2012.xls](http://www.itu.int/en/ITU-D/Statistics/Documents/statistics/2013/Mobile_cellular_2000-2012.xls).

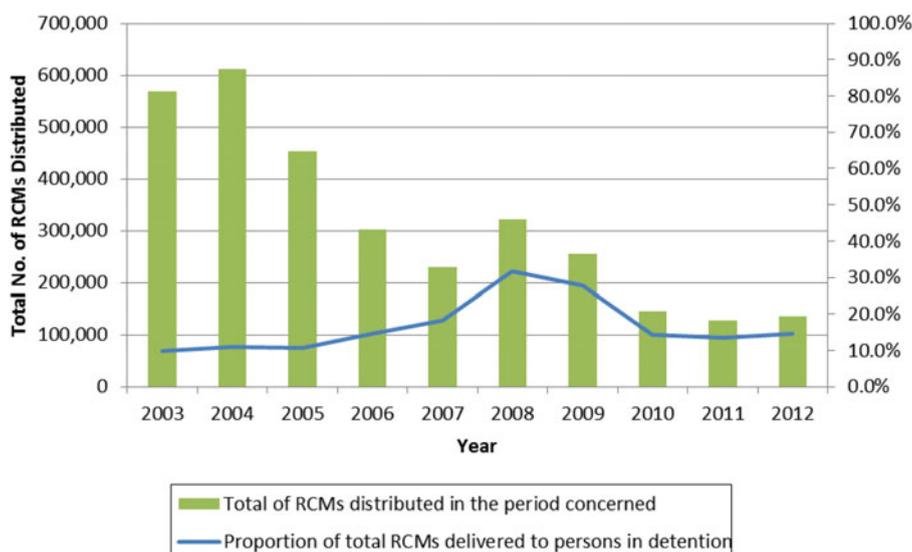


Chart 1: Total number of Red Cross Messages distributed, 2003–2012. Also showing the proportion of total RCMs delivered to detainees, 2003–2012. Source: ICRC Protection Data.

the decline has been at a much slower pace than the global trend,<sup>18</sup> and the total number remains high. This correlation would suggest that, at least for the moment, paper RCMs are filling a communication gap.

In some cases RCMs have been transmitted electronically, thus keeping an old form and adapting it to utilise new technology. This allows the messages to be transmitted more quickly and in some cases at less cost. However, in line with what has been referred to as the ‘last mile’ theory in those contexts where RCMs are still useful, it may not be the long-distance transmission which is time-consuming, but rather the journey from the nearest ICRC or National Red Cross or Red Crescent Society office to the last known address. For example, as discussed in the case of the DRC, the addresses tend to be in remote villages located in areas which are difficult to access. Thus, the idea is that complete transfer to e-RCMs would not provide a notable increase in efficiency that would justify the expenditure of the shift. Based on the trend shown in the DRC data, it is foreseeable that this ‘last mile’ will eventually be closed as the telecommunication infrastructure expands across the world and as technology develops, allowing data to be collected offline and then automatically synchronised. In the meantime, however, the paper RCM remains a useful tool in these contexts.

18 In the DRC, there has been an 8 per cent decrease in RCMs collected since 2008 as compared to a 58 per cent reduction globally. ICRC Protection Data, as recorded in the Prot5 Database.

## Beyond the RCM

Humanitarian organisations are increasingly turning to new technologies to aid their efforts – with the advent of the Internet, the current proliferation of mobile phones, and the related innovations of the digital age, a range of new tools has come into play. These tools present new opportunities to more efficiently and effectively support beneficiaries. This is particularly true in RFL work, as these services involve at their foundation communication between families, and as tools for communication rapidly change, so too does the most effective way to do this work.<sup>19</sup>

Returning to the ICRC data, just as the number of RCMs has reached its lowest, there has been a sharp increase in the use of telephone calls, with the total number of calls made for RFL purposes increasing from 3,958 to 210,096 between 2008 and 2012.<sup>20</sup> This widespread use of telephones is undoubtedly a step forward for the ICRC, and one which is long overdue.

The ICRC's recent recognition of telephone calls as a tool for responding to humanitarian crises was clearly demonstrated in 2011 when the ICRC opened a delegation in Libya to respond to the escalating violence, mass displacement, and widespread destruction of communication infrastructure. Despite the lack of infrastructure, the figures demonstrate a commitment to and recognition of the efficacy of telecommunications, and show that in response to the crisis, just one RCM was collected and delivered by ICRC. Conversely, even '[w]here telecommunications networks were dysfunctional, as for a time between eastern and western Libya and in conflict-damaged cities, Libyans and foreigners, including detainees . . . , had help to contact relatives, where necessary by satellite phone'.<sup>21</sup> The same year, the ICRC facilitated 23,400 family telephone calls in Libya alone.<sup>22</sup>

The use of telephone calls as a tool for restoring family contact is not limited to isolated emergencies. Chart 2 shows that the policy has quickly been rolled out to a wide number of contexts across the world. Telephones are being used for ICRC RFL responses in an increasing number of situations, with the total number of countries increasing from seven to twenty-seven since 2008.<sup>23</sup>

For beneficiaries in detention, an additional tool introduced in 2008 is shown in [Charts 2 and 3](#): oral messages. The use of these messages demonstrates a pragmatic response to two obstacles to instant communications between families via technology – censorship and lack of connectivity. These short messages are taken on behalf of detainees, transcribed by ICRC delegates, checked and censored by the detaining authorities where necessary, and then transmitted to the family by phone, rather than delivered by hand. Where implemented, this new tool allows detainees to benefit from the advantages of telephone calls (speed, efficiency, and so on) while maintaining the trust of the detaining authorities. In some contexts, the oral

19 *Restoring Family Links Strategy*, above note 2, p. 22.

20 ICRC Protection Data, as recorded in the Prot5 Database.

21 *Annual Report 2011*, ICRC, Geneva, 2012, p. 138, available at: [www.icrc.org/eng/resources/documents/annual-report/icrc-annual-report-2011.htm](http://www.icrc.org/eng/resources/documents/annual-report/icrc-annual-report-2011.htm) (last visited 4 February 2013).

22 *Ibid.*

23 ICRC Protection Data, as recorded in the Prot5 Database.

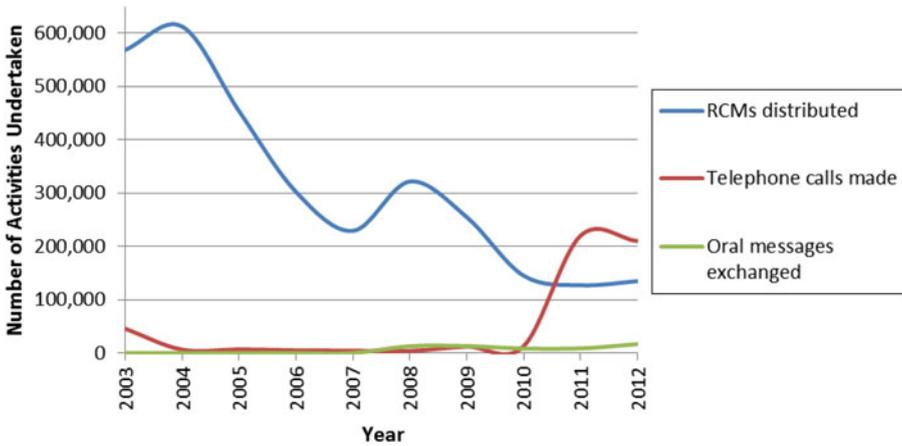


Chart 2: Total number of RCMs distributed, telephone calls made and oral messages exchanged, 2003–2012. Source: ICRC Protection Data, as recorded in the Prot5 Database.

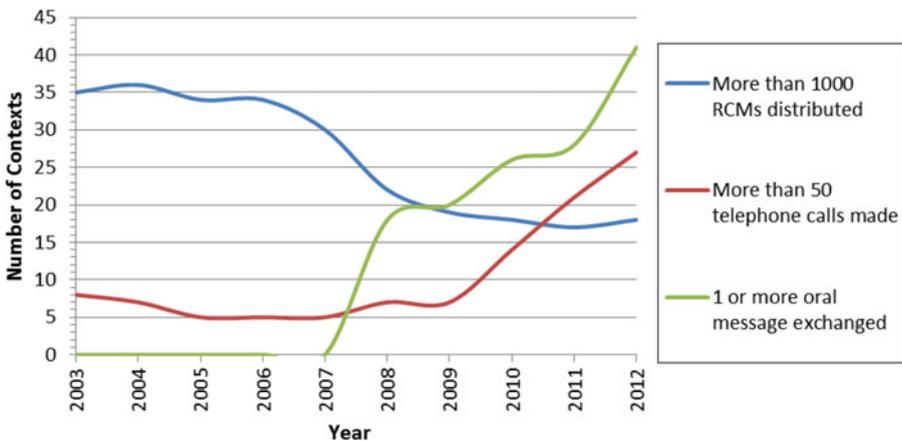


Chart 3: Global spread of RCM distribution, telephone calls, and oral messages. Source: ICRC Protection Data, as recorded in the Prot5 Database.

greeting model is also being used for situations which do not involve detention. For example, in certain refugee camps in Ethiopia where there is no phone network coverage, ICRC delegates have been transcribing short messages and taking them to the capital, where they can be transmitted to family members by telephone.<sup>24</sup>

24 For a description of the ICRC’s telephone services for refugees in Ethiopia, see *Annual Report 2012*, ICRC, Geneva, 2013, p. 135, available at: [www.icrc.org/eng/resources/annual-report/index.jsp](http://www.icrc.org/eng/resources/annual-report/index.jsp); and *Restoring Family Links in Ethiopia*, ICRC, 2013, available at: <http://familylinks.icrc.org/en/Pages/Countries/Ethiopia.aspx?from=Ethiopia&to=0>.



Figure 3: ICRC office, Kandahar. Relatives talk to a detainee in Guantanamo via a video telephone link. © ICRC/K. Holt.

In a limited number of contexts, beneficiaries also have access to video calls. Two well-known examples are the detention facilities at Guantanamo and Bagram:

Persons interned at the Detention Facility in Parwan (DFIP) at Bagram Airbase were able to communicate with their relatives by means of a video call system between January 2008 and March 2013. The video link, set up by the US authorities with the cooperation of the ICRC, enabled detainees to see and talk to their loved ones for 20 minutes at a time. Detainees were allowed one video call every three to four months. By the end of 2012, over 14,000 video calls had been placed from this facility.<sup>25</sup>

Concerns have been raised that prison officials could seek to replace or diminish the frequency of actual family visits with video calls, which the officials may view as both more secure and less expensive.<sup>26</sup> This is a challenge of which ICRC field officers should be aware, and vigilance to ensure that family visits remain an option will be important. In contrast to telephone calls, video calls have not been widely rolled out as a tool used by the ICRC.

25 'Persons detained by the US in relation to armed conflict and counter-terrorism – the role of the ICRC', ICRC, 2013, available at: [www.icrc.org/eng/resources/documents/misc/united-states-detention.htm](http://www.icrc.org/eng/resources/documents/misc/united-states-detention.htm).

26 See Susan D. Philips, *Video Visits for Children Whose Parents Are Incarcerated: In Whose Best Interest?*, The Sentencing Project, Washington, DC, 2012, p. 3.

Looking more broadly at the International Red Cross and Red Crescent Movement, there are a small number of documented examples where National Societies have adopted the use of video calls. In the Republic of Korea, for example, the Korean Red Cross organises 'video meetings' for families separated between North and South as a result of the Korean War.<sup>27</sup>

For now, telephone calls are the obvious choice for quick restoration of contact following an emergency. However, particularly when separation becomes protracted due to detention or other reasons, the case for video calls is strong. They provide a higher level of intimacy and both verbal and non-verbal communication. Families of detainees can see for themselves the physical condition of their loved one, and can be reassured that the voice they are hearing is genuine. Separated children can reconnect with their parents or care-givers prior to a family reunification, and the parents can see how the child has changed, perhaps lessening any shock upon arrival. With these benefits in mind, it will be important for the ICRC to work hard to offer these services as extensively as possible. This is an area in which the ICRC could improve its services going forward, and an area in which some might say that it is lagging behind. It is a way to provide beneficiaries with needed support, especially in longer-term situations of separation.

### The RFL Strategy for the Movement (2008–2018) and new technologies: an opportunity for cooperation

The advent of the Internet in the 1980s and subsequent spread of access, combined with the proliferation of mobile phones and new tools and methods for collecting and using information transmitted via mobile technology, have presented a host of new opportunities to change the way humanitarian work is done. This is particularly relevant to work that is at its heart a matter of communications.

The ICRC sought to utilise the Internet early on for RFL purposes, first launching a dedicated website in 1996 in response to the conflict in the former Yugoslavia. At that time, the site simply listed the names of persons reported missing and invited families to contact the ICRC if they could identify a loved one in the list of names. Similar ad hoc lists were published online for conflicts in Nepal, Angola and Somalia, as well as the Iraq War of 2003.<sup>28</sup> A significant number of upgrades were made to the website in its early years, including a 'self-registration' functionality added in 1999, allowing beneficiaries to register their missing loved ones directly on the website or to register themselves as being 'safe and well'. However, this early development did not maintain its initial pace, and by the mid-2000s the website had become fairly outdated.

27 See reference to 'live video meetings' on the Korean Red Cross website, available at: [www.redcross.or.kr/eng/eng\\_activity/activity\\_interkorean.do](http://www.redcross.or.kr/eng/eng_activity/activity_interkorean.do).

28 For online lists of the missing, see the RFL website, available at: <http://familylinks.icrc.org/en/Pages/online-tracing.aspx>.

In 2008, in collaboration with the International Federation of Red Cross and Red Crescent Societies, and National Societies themselves, the ICRC drafted a new RFL Strategy for the Movement (hereinafter the Strategy). In a discussion of the external environment, the Strategy notes a range of external forces impacting the work of RFL, including technology:

The work of restoring family links takes place in an ever-changing environment to which the Movement must constantly adapt. The changing nature of armed conflict and other situations of violence, the increase in the number of natural and man-made disasters, massive population movements and forgotten social cases, and the emergence of new technologies all affect the environment in which the Movement undertakes RFL.

The Strategy sets forth goals related to the use of technology, noting that part of strengthening RFL capacity and performance will involve building 'the capacity to assess, adapt and incorporate technology for greater programme efficiency'.<sup>29</sup> Notably, the Strategy also recognises the importance of greater cooperation with other actors as well as within the Movement, and emphasises the need for capacity-building among the National Societies.<sup>30</sup> This need for cooperation is particularly relevant with respect to adaptation and the use of new technologies, as this is an area where a larger and long-established institution such as the ICRC will likely not be able to keep up with the pace of development and use of these technologies.

The Strategy recognises that '[t]he corporate sector – especially software companies – is increasingly itself taking RFL action or supporting others in this realm during high-profile natural and man-made disasters'. The Strategy asks the ICRC to 'assess, by 2012, the feasibility of cooperation with private companies to further develop technical tools and provide support materials in accordance with Movement standards'.<sup>31</sup> While actors focused on technology such as software companies are working to develop the most efficient tools, the ICRC is well positioned to ask important questions about the most effective and safest ways to use these tools to reach beneficiaries.

### *Online humanitarian response in action: Haiti 2010*

In January 2010, a devastating earthquake hit the island of Haiti. The international community responded quickly to provide emergency assistance and launch search-and-rescue missions. The Haiti earthquake was one of the first major crises in which new tools developed to utilise mobile technologies to facilitate humanitarian action were rolled out on a large scale. Alongside the traditional disaster response system, humanitarian responders began to utilise crowdsourcing and crisis-mapping platforms to facilitate their work. Crowdsourcing can be defined as 'the practice of

29 *Restoring Family Links Strategy*, above note 2, p. 24.

30 *Ibid.*, above note 2, pp. 23–24.

31 *Ibid.*, pp. 22 and 28.

obtaining needed services, ideas, or content by soliciting contributions from a large group of people and especially from the online community rather than from traditional employees or suppliers'.<sup>32</sup> Crisis-mapping involves then geographically mapping received information in order to identify where particular needs are originating and what issues are most prevalent in which regions, and generally to gain an understanding of the large picture of emerging needs. Information may be received via text message or pulled from social media platforms such as Twitter and Facebook.<sup>33</sup>

In Haiti, this model was used extensively to communicate the needs of beneficiaries to humanitarian actors. A group of NGOs worked to secure and distribute information about a free telephone number to which beneficiaries could send text messages expressing urgent needs,<sup>34</sup> including requests to locate lost family members. This information was then made accessible to a range of humanitarian actors to use as needed.

Similarly, Google launched Person Finder,<sup>35</sup> an open-source web application which allows individuals to register themselves and/or their missing loved ones associated with a particular crisis. This is similar to the lists of names the ICRC had posted on its RFL website, but on a larger scale. Person Finder also pulls together data from other agencies' websites and lists and compiles this information with the data entered by individuals. Since the earthquake in Haiti, the number and variety of crowdsourced humanitarian responses has mushroomed, and the responses have certainly proved to be successful in terms of the number of persons using them. Japan's Person Finder website, for example, available one hour after the devastating earthquake in 2011, had around 250,000 records as of March 2011.<sup>36</sup>

With respect to family separation, these types of tools allow humanitarian actors to quickly communicate with families regarding missing relatives. As time is often of the essence in locating missing persons, speedy notification of a separation can be very useful. In addition, these tools can allow beneficiaries to more easily reach the ICRC, as they can simply communicate via mobile phone as opposed to travelling to an ICRC or National Society office. However, the crowdsourcing model raises several questions which have been the subject of debate in the humanitarian sphere, and which are of particular relevance to the ICRC's work.

The first issue is that of security and data protection.<sup>37</sup> The crowdsourcing model assumes certain things about beneficiaries – for example, that they

32 See 'crowdsourcing', on *Merriam-Webster*, available at: [www.merriam-webster.com/dictionary/crowdsourcing](http://www.merriam-webster.com/dictionary/crowdsourcing).

33 Jessica Heinzelman and Carol Waters, *Crowdsourcing Crisis Information in Disaster-Affected Haiti*, United States Institute of Peace, October 2010, available at: [www.usip.org/sites/default/files/resources/SR252%20-%20Crowdsourcing%20Crisis%20Information%20in%20Disaster-Affected%20Haiti.pdf](http://www.usip.org/sites/default/files/resources/SR252%20-%20Crowdsourcing%20Crisis%20Information%20in%20Disaster-Affected%20Haiti.pdf).

34 Patrick Meier and Rob Munro, 'The unprecedented role of SMS in disaster response: learning from Haiti', in *SAIS Review*, Vol. 30, No. 2, 2010, pp. 92–93.

35 See 'Google Person Finder', available at: <http://google.org/personfinder/global/home.html>.

36 David Goldman, 'Google gives "20%" to Japan crisis', in *CNN*, 17 March 2011, available at: [http://money.cnn.com/2011/03/17/technology/google\\_person\\_finder\\_japan/index.htm?hpt=T2](http://money.cnn.com/2011/03/17/technology/google_person_finder_japan/index.htm?hpt=T2) (last visited 1 February 2013).

37 For an analysis of the data protection challenges faced by websites designed for finding missing persons, see Joel R. Reidenberg, Robert Gellman, Jamela Debelak, Adam Elewa and Nancy Liu, *Privacy and Missing*

understand the implications and possible risks of sharing information on an open forum. In other words, the assumption is that beneficiaries will not share information that might put them in danger, and that there is no need therefore to limit the information which is being shared.<sup>38</sup> These assumptions are immediately brought into question for some of the ICRC's 'typical' beneficiaries, particularly children and those living in conflict areas. The ICRC has sought to develop responses to this issue through the new RFL website and in the development of its new Professional Standards for Protection Work, both discussed below.

Another issue is that of response: can crowdsourced data provide the type and quality of information that can enhance or improve a humanitarian response? As one humanitarian actor put it:

Let's say that I have a sufficient number of staff . . . and they've checked every one of those requests. Now what? There are around 3000 individual 'incidents' in the database, but most of those contain little to no detail about the people sending them. How many are included in the request, how many women, children and old people are there, what are their specific medical needs, exactly where they are located now – this is the vital information that aid agencies need to do their work, and it simply isn't there . . .<sup>39</sup>

Additionally, the argument has been made that perhaps only a small fraction of people will communicate information through these methods, and thus these types of reports cannot be seen as representative of needs on a broader scale and cannot then form the basis of large-scale programming. Finally, many humanitarian organisations have expressed concerns about the veracity and accuracy of information collected through crowdsourcing, particularly when using sources such as Facebook and Twitter.<sup>40</sup>

While the best ways to ensure the accuracy of this information, and the most effective ways to utilise crisis maps, are still being determined by the larger humanitarian organisations,<sup>41</sup> with respect to RFL work, the need is for individual reports. The ability to more easily connect with beneficiaries and the ability to receive individual reports of missing persons are both beneficial to RFL work. The ICRC can use these reports in combination with the work and knowledge of

*Persons After Natural Disasters*, Center on Law and Information Policy at Fordham Law School and Woodrow Wilson International Center for Scholars, Washington, D.C., and New York, 2013.

38 See, for example, the FAQs page of the Google Person Finder site: 'Q5. Who has access to the Google Person Finder data? All data entered into Google Person Finder is available to the public and searchable and accessible by anyone. Google does not review or verify the accuracy of the data'. Available at: <http://support.google.com/personfinder/?hl=en#1628135> (last visited 14 September 2012).

39 Paul Currión, 'If all you have is a hammer – how useful is humanitarian crowdsourcing?', in *Crowdsourcing.org*, available at: [www.crowdsourcing.org/document/if-all-you-have-is-a-hammer---how-useful-is-humanitarian-crowdsourcing/3533](http://www.crowdsourcing.org/document/if-all-you-have-is-a-hammer---how-useful-is-humanitarian-crowdsourcing/3533).

40 Andrea H. Tapia, Kartikeya Bajpai, Bernard J. Jansen, and John Yen, *Seeking the Trustworthy Tweet: Can Microblogged Data Fit the Information Needs of Disaster Response and Humanitarian Relief Organizations?*, Proceedings of the 8th International ISCRAM Conference, Lisbon, Portugal, May 2011, p. 3, available at: [www.iscramlive.org/ISCRAM2011/proceedings/papers/161.pdf](http://www.iscramlive.org/ISCRAM2011/proceedings/papers/161.pdf).

41 Patrick Meier, 'New information technologies and their impact on the humanitarian sector', in *International Review of the Red Cross*, Vol. 93, No. 884, 2011, p. 1245.

its field staff to accurately assess and respond to RFL needs. The technology is valuable as a way to supplement the ICRC's traditional methods of collecting information. This is thus an area where the ICRC can work with the organisations developing this technology and seek to use it first in RFL work, thus perhaps developing a greater understanding of its potential uses and benefits in broader programming.

### *Moving forward: the new RFL website*

The ICRC launched a new website in 2012 focused on RFL. The website has two main components. The first is a compilation of country-by-country information on the RFL services provided by the Movement across the world, including contact details for National Society offices in each country. This is crucial for connecting beneficiaries with the aspect of the service that makes it unique: the humans behind the technology. Each webpage describes a service that is delivered by real staff and volunteers who have made a commitment to responding to the enquiries they receive.

The second component of the website is the emergency function. As with other websites, this function can be launched in response to a specific crisis, allowing people to register themselves and lost family members. The key difference between this website and others is that the data submitted will be subject to a number of checks and controls. Each person who registers creates an account; this means that they can change or delete their details easily and quickly. They can also choose what information they would like to make public and what can only be seen by the ICRC. Finally, the ICRC can make decisions, based on its knowledge of the context, about the kind of information that should be displayed. This means that if, in a given context, it is deemed that publishing the beneficiaries' towns of residence or ethnic origin might raise protection concerns for those individuals, the ICRC can choose not to make that information public. This provides a greater level of protection for beneficiaries than Google's Person Finder, but of course also means that information is not available as quickly.

Of course, as with any internet resource, the RFL website has to be used in order for it to be a success, and the real challenge will come when the ICRC is faced with a major disaster. However, the website can be fairly described as a step forward for the ICRC in technological terms for RFL. Rather than trying to compete with other actors, the ICRC has played to its strengths – the human response and its commitment to beneficiary protection. This commitment is demonstrated beyond the realm of RFL through the publication of a revised edition of the Professional Standard for Protection Work.<sup>42</sup> This is a set of minimum standards for humanitarian and human rights actors who engage in protection work. The revised 2013 edition added a specific section on the risks and advantages that new technologies and new methodologies offer for collecting information from afar.<sup>43</sup>

42 *Professional Standards for Protection Work*, 2nd edition, ICRC, Geneva, 2013, p. 113.

43 *Ibid*, pp. 81–83.

This section was developed in collaboration with the crisis-mapping community.<sup>44</sup> This dialogue between young tech volunteers and a 150-year-old institution has been recognised.<sup>45</sup> Now that the ICRC has publicly positioned itself, it will be interesting to see if it can sustain the pace of innovation of the tech-driven world and maintain its relevance.

## An increasingly multidisciplinary approach

In cases where family contact cannot be restored, the ICRC continues its efforts to clarify the fate and whereabouts of the missing person, but is also increasingly providing support to the families of missing persons. The ICRC's work on the missing<sup>46</sup> historically consisted of a few core activities, primarily dissemination of the rules of international humanitarian law (IHL), which require that states work to prevent disappearances, and bilateral interventions requesting parties to the conflict to search for and provide information, after separation, in accordance with IHL.<sup>47</sup> Other core activities included detention visits, RFL services, and collection and processing of tracing requests.<sup>48</sup> If and when these failed to clarify the fate and whereabouts of the missing person, the ICRC had few remaining options to offer to the families.

However, in light of a deeper understanding of the lasting repercussions of the problem of missing persons and an awareness that the problem is growing, the ICRC has over the past two decades been reassessing and expanding its services in this area. This work, like the work of restoring family contact, has been impacted by the proliferation of actors in the field as well as by the development of new technologies, and reflects a newly emerging focus on long-term involvement in this area. The evolution of the ICRC's work from the start of the armed conflict in the former Yugoslavia, which is a particularly significant moment in the recent history

44 See 'Crisis mappers – the humanitarian technology network', available at: [www.crisismappers.net](http://www.crisismappers.net).

45 See 'Data protection protocols for crisis mapping', on Patrick Meier's blog, *iRevolution*, 11 April 2013, available at: <http://irevolution.net/2013/04/11/data-protection-for-crisis-mapping>; *World Disasters Report 2013: Focus on Technology and the Future of Humanitarian Action*, IFRC, Geneva, 2013, pp. 146 and 185.

46 The ICRC defines missing persons as follows: 'Missing persons are those persons whose families are without news of them and/or are reported unaccounted for, on the basis of reliable information, owing to armed conflict or internal violence. The term *family* and *relatives* must be understood in their broadest sense, including family members and close friends, and taking into account the cultural environment. *Missing persons and their families* are direct victims of armed conflict or internal violence. As such they are part of the mandate of the ICRC.' *The Missing and their Families: ICRC Internal Operational Guidelines*, ICRC, Geneva, 2004, p. 22. See also subsequent publications available to the general public: *Missing Persons: A Handbook for Parliamentarians*, Handbook for Parliamentarians No. 17, 2009, p. 9, available at: [www.icrc.org/eng/assets/files/other/icrc\\_002\\_1117.pdf](http://www.icrc.org/eng/assets/files/other/icrc_002_1117.pdf).

47 See Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Art. 26; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Art. 34; Customary IHL Rule 117, Accounting for Missing Persons.

48 Marco Sassòli and Marie-Louise Tougas, 'The ICRC and the missing', in *International Review of the Red Cross*, Vol. 84, No. 848, 2002, pp. 733–736.

of humanitarian work, is a good example of how this re-evaluation began and how it continued over the years.

## The armed conflict in the former Yugoslavia

The conflict in the former Yugoslavia in the 1990s brought into sharp relief the fact that the world of humanitarian aid (and intervention) had changed. After initially keeping the conflict at arm's length, Western powers were pushed to intervene when the events of the Srebrenica massacre came to light.<sup>49</sup> With the international community's eye on the region, numerous aid organisations became involved, from the UN (which had been present from the start) to a plethora of NGOs and other humanitarian actors that arrived on the scene as funding for relief and development work in the region became available. Bosnia and Herzegovina has reportedly received more foreign aid than any European country previously, even considering the Marshall Plan, and the effects of that assistance have been the subject of much debate and study.<sup>50</sup>

With regard to separated families and missing persons in this context, the ICRC first focused on negotiating the release and transfer of prisoners detained in connection with the conflict before turning its attention to providing the families of persons still missing with information about the fate and whereabouts of their relatives.<sup>51</sup> To this end, the ICRC proposed the establishment of the Working Group on the Process for Tracing Persons Unaccounted for in Connection with the Conflict on the Territory of Bosnia and Herzegovina (hereinafter the Working Group), a mechanism created in 1996 by the parties to the conflict in order to exchange information about missing persons.<sup>52</sup> Through chairing the Working Group, the ICRC had close contact with the families of missing persons, giving staff greater first-hand insight into the complex challenges<sup>53</sup> faced by these families. The ICRC saw an increased demand for the use of newly developed forensic technology in Bosnia and Herzegovina. Victims called for exhumations of mass graves across the region,<sup>54</sup> and the ICRC began to recognise the importance of developing forensic expertise so as to facilitate and advise such processes.

49 Jon Western and Joshua S. Goldstein, 'Humanitarian intervention comes of age: lessons from Somalia to Libya', in *Foreign Affairs*, Vol. 90, No. 6, 2011, pp. 51–52.

50 Lana Pasic, 'Bosnia's vast foreign financial assistance re-examined: statistics and results', in *Balkananalysis.com*, 21 June 2011, available at: [www.balkananalysis.com/bosnia/2011/06/21/bosnia%E2%80%99s-vast-foreign-financial-assistance-re-examined-statistics-and-results/](http://www.balkananalysis.com/bosnia/2011/06/21/bosnia%E2%80%99s-vast-foreign-financial-assistance-re-examined-statistics-and-results/); see also Peter Uvin, 'The influence of aid in violent conflict situations', OECD Development Assistance Committee, Informal Task Force on Conflict, Peace, and Development Cooperation, 1999, available at: [www4.carleton.ca/cifp/docs/archive/synth\\_fin.pdf](http://www4.carleton.ca/cifp/docs/archive/synth_fin.pdf).

51 Christophe Girod, 'Bosnia and Herzegovina: tracing missing persons', in *International Review of the Red Cross*, Vol. 32, No. 312, 1996, pp. 390–391.

52 *Ibid.*, p. 389.

53 For more information on the challenges faced, see Nick Danziger, *Missing Lives*, ICRC and Dewi Lewis, 2010. This book tells fifteen individual stories of families whose loved ones went missing during the conflicts in Croatia, Bosnia, and Kosovo: 'In limbo they were unable to grieve, to claim inheritance, to sell property, or – most poignantly – to hold a funeral'. Extracts available at: [www.icrc.org/eng/resources/documents/publication/p978-1-904587-87-3.htm](http://www.icrc.org/eng/resources/documents/publication/p978-1-904587-87-3.htm).

54 *Ibid.*, pp. 390–391.

As time went on, the ICRC began to provide additional services in support of its work on the missing in the former Yugoslavia on an ad hoc basis – implementing early psychosocial support programmes, assisting in drafting relevant legislation, and (later) exploring how it might support the use of new forensic technology.<sup>55</sup> The evolution of the organisation’s services in this conflict reflected the growing recognition within the ICRC that the problem of missing persons required more than the services traditionally provided. The ICRC’s experience in the Former Republic of Yugoslavia then ultimately acted as a catalyst, prompting the organisation to assess the efficacy of its actions on missing persons more generally. As the ICRC adopted methods that addressed not only the question of clarifying the fate and whereabouts of missing persons but also the well-being of their families, often in the long term (in the form of laws on missing persons, for example, and support to families), it became clear that these efforts needed to be more uniform across contexts, and needed to be assessed and implemented with greater expertise and planning.<sup>56</sup>

### The 2003 conference on the missing and new services

With this goal in mind, in 2002 the ICRC launched a process to better address the plight of missing persons and their families by reviewing existing methodology and agreeing on common operational practices. The first step of the process was a series of workshops and studies carried out in collaboration with numerous experts and institutions, which resulted in a series of recommendations. As a second step, the ICRC organised an international conference of governmental and non-governmental experts in order to share and discuss these findings.<sup>57</sup> This conference was held in February 2003 and was entitled ‘The missing: action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families’. The observations and recommendations adopted at this conference put an emphasis on the need for clarification of the fate and whereabouts of missing persons and for continued efforts to prevent people from going missing, but also recognised the importance of several newer areas of support, including forensic services (identification of the dead and management of human remains) and support to families of missing persons (in the form of psychosocial support as well as assistance with legal, financial, or administrative needs).<sup>58</sup>

55 ‘Bosnia and Herzegovina: 10 years on, thousands still missing’, ICRC, 2005, available at: [www.icrc.org/eng/resources/documents/misc/bihmissingfactsmay2005.htm](http://www.icrc.org/eng/resources/documents/misc/bihmissingfactsmay2005.htm) (last visited 4 February 2013).

56 For example, the need to standardise the forensic response to the issue of the missing was put forward in Stephen Cordner and Helen McKelvie, ‘Developing standards in international forensic work to identify missing persons’, in *International Review of the Red Cross*, Vol. 84, No. 848, December 2002, pp. 867–884.

57 Morris Tidball-Binz, ‘Forensic investigations into the missing: recommendations and operational best practices’, in *Forensic Anthropology and Medicine: Complementary Sciences from Recovery to Cause of Death*, Totowa, 2006, pp. 387–388.

58 ‘The missing: action to resolve the problem of people unaccounted for as a result of armed conflict or internal violence and to assist their families’, in *International Review of the Red Cross*, Vol. 85, No. 849, March 2003, pp. 188–193.

These new areas of emphasis took a more long-term view of, and arguably even a post-conflict development-oriented approach to, the ICRC's work on missing persons. The concern became not only that governments and armed groups fulfil their obligations under IHL with respect to missing persons, but also that the families of the missing be able to survive and cope with the difficult period of uncertainty, and to find support while doing so.

The 2003 conference demonstrated the ICRC's commitment to supporting the families of the missing and the recognition that the file required input from a range of different operations and services within the ICRC. The proposal of a so-called multidisciplinary or holistic approach to the problem of missing persons was a significant step forward, not only for this particular area of the ICRC's work but for the institution as a whole. Indicative of this commitment was, among other things, the incorporation of forensic services into the work of the ICRC's Assistance Division.

## Progress since 2003

Since the 2003 conference, its recommendations have been taken on board across the ICRC to varying degrees. With the input and commitment of staff working in protection, and in cooperation with the legal, economic security, health, forensics, and other departments of the organisation, new policies and actions have been developed on a range of issues related to missing persons. These developments include the drafting and dissemination of model laws on the missing, the creation of the ICRC forensic services unit,<sup>59</sup> and the publication of a handbook on how to support families through a model of 'accompaniment', all of which are explored in more detail below. These new efforts are illustrative of the ICRC's endeavour to combine a commitment to sustainable change with a focus on areas in which the organisation has traditionally excelled.

### *Legislative support*

The ICRC's engagement with the mechanism of the Working Group on the Process for Tracing Persons Unaccounted for in Connection with the Conflict on the Territory of Bosnia and Herzegovina paved the way for the development of a law on the missing. The law was drafted by a working group made up of representatives of the authorities, the ICRC, and the International Commission on Missing Persons (ICMP). The law 'regulates a number of points, including the families' right to know, legal status of the missing persons and financial support to families of the missing, as well as penal provisions for non-compliance', and was adopted by the Bosnia and Herzegovina Parliament in 2004.<sup>60</sup>

In 2007, building on this experience, the ICRC published a model law on the missing, as a tool to 'assist States and their national authoritative bodies with the

59 *Strategy of the ICRC Forensic Services and Plan of Action 2009–2014*, ICRC, Geneva, 2010, p. 3.

60 ICRC, *Missing Persons on the Territory of Former Yugoslavia*, newsletter, April 2008, available at: [www.icrc.org/eng/assets/files/other/missing-newsletter-0408.pdf](http://www.icrc.org/eng/assets/files/other/missing-newsletter-0408.pdf).

adoption of legislation that will address, prevent and resolve situations of missing persons',<sup>61</sup> as well as guidelines for engagement with a range of mechanisms that address issues related to missing persons.<sup>62</sup> The creation of these resources represents something more than just the ICRC's traditional promotion of IHL; they are also contributions to efforts to restore the rule of law and stability in a post-conflict society.

### *The ICRC's forensic services*

Following its establishment in 2003, the ICRC forensic services unit quickly became a respected authority in the field of forensic science and humanitarian action. In 2011, the ICRC was awarded a special prize by the International Association of Forensic Sciences 'in recognition of the organization's contribution to the development and promotion of applied forensic sciences worldwide'.<sup>63</sup> The institutional Forensic Strategy, revised in 2009, highlights the importance of long-term goals such as capacity-building at the domestic level and within National Societies, and recognises the added value of the ICRC for its ability to disseminate best practices and set standards in the field.<sup>64</sup> The ICRC forensic unit today 'provides advice, support and training to local authorities and forensic practitioners in searching for, recovering, analyzing, identifying, and managing large numbers of unidentified remains',<sup>65</sup> in disasters, along migration routes, and as part of efforts to help clarify the fate of missing persons.

This is an area of work in which the ICRC has made good use of technology by creating the ante-mortem/post-mortem (AMPM) database. A key part of clarifying the fate of missing persons is to compare information gathered from the relatives and belongings of the missing person (ante-mortem data) with that collected from unidentified human remains and the sites where they were found (post-mortem data). The ICRC recognised the important role technology could potentially play in this process, and the need to create a specialised tool: 'Standardization, centralization and easy exchange of large quantities of data among numerous actors are key to an effective data management strategy, and

61 *Guiding Principles/Model Law on the Missing*, ICRC, Geneva, 2009, available at: [www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm](http://www.icrc.org/eng/resources/documents/misc/model-law-missing-300908.htm).

62 Reference is made to the guidelines on mechanisms in *Annual Report 2011*, above note 21, p. 56.

63 ICRC, 'ICRC receives award for contributions to humanitarian forensic sciences', press release, 14 September 2011, available at: [www.icrc.org/eng/resources/documents/news-release/2011/forensics-news-2011-09-14.htm](http://www.icrc.org/eng/resources/documents/news-release/2011/forensics-news-2011-09-14.htm).

64 *Strategy of the ICRC Forensic Services and Plan of Action 2009–2014*, above note 59, pp. 3–4. While the Forensic Strategy is an internal ICRC document, it is referenced in the *Annual Report 2011*, above note 21. In addition, the early days of the ICRC's forensic services unit are similarly described in *The Missing: ICRC Progress Report* as follows: 'The core activities of the ICRC forensic experts include: needs assessments and operational support for ICRC field activities related to human remains and forensic science; development and dissemination of ICRC guidelines; training and networking with forensic experts and institutions worldwide'. ICRC, *The Missing: ICRC Progress Report*, Geneva, 2006, p. 14. This was published in 2006, and the emphasis on training, networking and dissemination of guidelines is in line with the current focus on capacity-building and dissemination of good practices.

65 'Forensic science and humanitarian action', ICRC website, available at: [www.icrc.org/eng/what-we-do/forensic/overview-forensic.htm](http://www.icrc.org/eng/what-we-do/forensic/overview-forensic.htm).

electronic tools can greatly contribute to a thorough and efficient data management and analysis process.<sup>66</sup> Thus, in 2008 it launched the AMPM database, an electronic data management tool that is configurable to a wide range of contexts and is provided by the ICRC to third parties free of charge. It has been successfully rolled out to a range of users, including 'medico-legal institutes, governmental structures [and] non-governmental organizations'.<sup>67</sup> Designing such a tool for use by national third parties again demonstrates the institutional drive towards sustainable solutions, as well as a commitment to cooperating with other actors in the field in order to provide better services to beneficiaries.

### *The ICRC's Accompaniment Programme*

The emphasis on sustainability and recognition of the importance of long-term impact and engagement with other actors is also evident in the ICRC's new Accompaniment Programme. This programme seeks to build the capacity of local actors to support families of the missing over time. Support can come in the form of counselling and community groups focused on psychosocial support, or as assistance with legal and administrative matters that families of missing persons may need to attend to in the absence of a relative (such as having someone legally declared missing so that family members are eligible to receive any benefits or support the government might be offering).

In 2013, the ICRC produced a handbook entitled *Accompanying the Families of Missing Persons*, which is targeted at 'all individuals or groups of individuals – associations of various kinds, National Red Cross and Red Crescent Societies, governmental actors, non-governmental organisations, international organisations, ICRC delegates, etc. – wishing to accompany... families whose relatives have gone missing'.<sup>68</sup> The target audience is thus quite broad, and the hope is that, by building not only its internal capacity to support families of missing persons but also that of external actors, the ICRC can create a sustainable network of support that will exist even after its mission in a particular context comes to an end.

Many of these efforts go beyond what is strictly understood to be direct humanitarian relief, but they nonetheless draw on the ICRC's history and expertise with this type of work. For example, the ICRC is uniquely positioned to propose legal solutions to problems relating to missing persons, due to its reputation as the guardian and promoter of IHL. Not only does it have the expertise to work on these legal issues, but it also has a channel through which to discuss other legal issues thanks to its frequent open dialogue with governments on IHL.

66 ICRC, *The Ante-Mortem/Post-Mortem Database: An Information Management Application for Missing Persons/Forensic Data*, ICRC, Geneva, 2012, p. 2, available at: [www.icrc.org/eng/resources/documents/report/ante-mortem-post-mortem-database-report.htm](http://www.icrc.org/eng/resources/documents/report/ante-mortem-post-mortem-database-report.htm).

67 *Ibid.*, p. 2.

68 *Accompanying the Families of Missing Persons: A Practical Handbook*, ICRC, Geneva, 2013, p. 12.

Similarly, a large part of the ICRC's added value has always been in its proximity to beneficiaries. The ICRC often has access to groups of people in need to which no other humanitarian relief organisation has access. It is thus well positioned to assess the needs of beneficiaries and respond accordingly. Efforts to develop programmes that aim to empower beneficiaries to help themselves, like the economic security initiatives of the Accompaniment Programme, recognise both the ICRC's strengths and its limitations. The ICRC, like any humanitarian actor, can only remain active in a context for a certain amount of time, and its limited resources mean it can only reach what will sometimes be a relatively small number of beneficiaries in comparison to needs. By working to build a system of cooperation and support among community members and organisations, the ICRC is able to maximise its positive impact. This is a model that can and should inform other areas in which the ICRC works moving forward.

### Remaining challenges

While these planned programmes and new policies are promising, challenges and difficulties come with implementation. The ICRC's action in 2003 was the result of internal questions regarding the relevance and effectiveness of its work in the face of a transformed field. Missing persons became an institutional priority for the ICRC at this time, and the organisation began to implement various elements of the plan envisioned at the 2003 conference, but efforts to move forward have often been piecemeal, and the last progress report detailing the organisation-wide work on the issue was published in 2006. The institution's size, the complex questions that this new type of work engenders, and issues raised by the ICRC's new interactions with other actors form a set of significant challenges that must be addressed in order to truly move forward.

As discussed, in the realm of forensics, the ICRC has made effective use of technology to improve the humanitarian response. There are questions, however, as to whether technology could be better utilised in other areas of work relating to the families of missing persons. For example, perhaps more could be done with the lists of missing persons currently hosted on the RFL website. One option might be (in consultation with the families) to use these lists as a starting point to build an online memorial. The ICRC could help individual families to share their stories, memories, or perhaps even photos of their missing loved ones and to connect with other families of the missing. These types of simple fora exist for other types of loss<sup>69</sup> and may help some families in their grieving process, as well as bringing attention to the difficulties they face.

Another option might be to make the lists more dynamic so that families can follow any progress that is being made with regard to clarifying the fate and

69 See, for example, The Experience Project, a website dedicated to shared experiences, where individuals can join online conversations with others who have experienced similar things. Conversations include 'I lost a loved one to suicide', available at: [www.experienceproject.com/groups/Lost-A-Loved-One-To-Suicide/117382](http://www.experienceproject.com/groups/Lost-A-Loved-One-To-Suicide/117382).

whereabouts of their loved ones – for example, if exhumations are being undertaken in the area where a loved one went missing. The ICMP has developed an interactive Online Inquiry Center for all the families that have registered with it:

For government authorities and forensic professionals who have submitted postmortem samples to the ICMP for DNA testing, the Postmortem Sample Inquiry will allow them to track their cases. The Excavation Site Inquiry will allow users to search for general information regarding the status of DNA testing for specific excavation sites.<sup>70</sup>

With such advances being made, the ICRC needs to think carefully about how to position itself, including where it can collaborate without compromising its principles, and where it can add value by creating new tools to address gaps in the humanitarian response.

One obstacle to quick or uniform progress is the size of the institution itself. With more than eighty delegations and missions in numerous contexts across the world, and 150 years of history behind it, the ICRC does not change quickly. Internal coordination is a challenge. Efforts to collect and share best practices and lessons learned are being made,<sup>71</sup> but the process is not yet streamlined. The pace of change may be further hampered by internal and external resistance to new services that might be considered outside the purview of the ICRC's more traditional work in the area of humanitarian relief and protection.

Internally and externally, the ICRC today is facing questions such as: how long is it appropriate to remain in a post-conflict situation? When does the ICRC's presence no longer add value? How can the institution best allocate resources to fund some of these longer-term projects? These are important questions that require serious consideration, and the answers are not yet clear.

Traditionally, the ICRC has often been the only humanitarian organisation present in a given context.<sup>72</sup> However, with the proliferation of NGOs and other aid agencies, and even of international courts and tribunals and transitional justice mechanisms, the ICRC is now increasingly encountering organisations that are doing overlapping but also potentially complementary work. The issue of missing persons, in particular, presents the opportunity to engage – but also the challenge of engaging – with mechanisms established to clarify the fate and whereabouts of missing persons, up to and including courts and transitional justice mechanisms. Despite the long-standing tension between justice and humanitarianism,<sup>73</sup>

70 ICMP Online Inquiry Center, available at: [www.ic-mp.org/fdmsweb/index.php?w=intro&l=en](http://www.ic-mp.org/fdmsweb/index.php?w=intro&l=en).

71 For example, the ICRC regularly shares practices through contributions to UN reports. Recent examples include: UN Human Rights Council, *Report by the Human Rights Council Advisory Committee on Best Practices in the Matter of Missing Persons*, UN Doc. A/HRC/16/70, 21 February 2011, available at: [www.refworld.org/docid/4d8b43002.html](http://www.refworld.org/docid/4d8b43002.html); and UN General Assembly, *Report of the UN Secretary-General on Missing Persons*, UN Doc. A/67/267, 8 August 2012, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/456/33/PDF/N1245633.pdf?OpenElement>.

72 A. Stoddard, above note 3.

73 For a discussion on the tension between humanitarian objectives and the pursuit of justice, see Eva Wortel, 'Humanitarians and their moral stance in war: the underlying values', in *International Review of the Red Cross*, Vol. 91, No. 876, 2009.

transitional justice processes are often particularly relevant to the search for missing persons. Finding a way to balance these objectives and working with such mechanisms will often be beneficial, because '[a]s a multidimensional process designed to help people move beyond violence and embrace peace, democracy and respect for human rights, transitional justice should provide an appropriate response, by working with the affected community, to the issue of missing persons'.<sup>74</sup> In order to provide the best services possible to beneficiaries, it is critical to determine a plan for cooperating with these other entities whenever possible.<sup>75</sup> The importance of cooperation, and of recognising where the ICRC can add value and where it might be best to leave the field to organisations with other expertise, is thus a central consideration in both the ICRC's RFL work and its work to support the families of the missing and to clarify the fate of missing persons.

## Conclusion

Going forward, the ICRC will be continually challenged to keep pace in a fast-changing world. Targeting its efforts and maintaining a focus on the services and elements that make it unique, that are its strengths, will be the most fruitful way forward for the organisation and, more importantly, for beneficiaries. The ICRC's activities in support of separated families provide an example of playing to these strengths, and suggest recommendations for the ICRC's broader work moving forward. Understanding and identifying the most effective ways to utilise new technologies, for example, will allow the ICRC's efforts to more efficiently and effectively serve beneficiaries. In addition, the longer-term approach and capacity-building focus of many of the programmes now established to work with the families of missing persons will have more lasting positive impacts for beneficiaries. The challenge will be in balancing the ICRC's traditional work with longer-term considerations, and identifying ways to work effectively with other actors so that the programmes undertaken by the ICRC can complement longer-lasting development efforts.

74 Anne-Marie La Rosa, 'The missing and transitional justice: the right to know and the struggle against impunity', in *Report of the Second Universal Meeting of National Committees on International Humanitarian Law: Legal Measures and Mechanisms to Prevent Disappearances, to Establish the Fate of Missing Persons, and to Assist Their Families*, ICRC, Geneva, 2007, p. 155, available at: [www.icrc.org/eng/assets/files/publications/icrc-002-0924.pdf](http://www.icrc.org/eng/assets/files/publications/icrc-002-0924.pdf).

75 *Ibid.*, p. 160. For a discussion on the challenges associated with coordinating humanitarian action, see also Max Stephenson Jr., 'Making humanitarian relief networks more effective: operational coordination, trust and sense making', in *Disasters*, Vol. 29, No. 4, 2005, pp. 337–350.



# A new challenge or a new role? The ICRC in Northern Ireland

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## **Abstract**

*Despite the narrative of success surrounding the Northern Ireland peace process, which culminated in the 1998 Good Friday Agreement, there remain significant humanitarian consequences as a result of the violence. The International Committee of the Red Cross (ICRC) has opened an office in Belfast after its assessments demonstrated a need for intervention. While a two-year 'dirty protest' in Northern Ireland's main prison has been recently resolved, paramilitary structures execute punishments, from beatings to forced exile and even death, outside of the legal process and in violation of the criminal code. This article examines the face of modern humanitarianism outside of armed conflict, its dilemmas, and provides analysis as to why the ICRC has a role in the Northern Ireland context.*

**Keywords:** Northern Ireland, the Troubles, Good Friday, transition, legacy, punishment beatings, dirty protest.



The signature of the Good Friday Agreement in 1998 signalled the end of a long-drawn-out period of violent conflict in Northern Ireland. With nearly 4,000 people killed and many more scarred physically and mentally, a line was drawn through

\* This article was written in a personal capacity and does not necessarily reflect the views of the ICRC.

this turbulent and violent period of unrest. Fourteen years after the effective end of the use of force by all belligerents, the vestiges of this era remain worrying and carry significant humanitarian problems. These include the continuing use of punishment beatings by paramilitary-style groups, the unaccounted-for missing persons, persistent use of force by so-called dissidents, the ongoing detention of persons for ‘terrorist’-type offences and their separation in segregated prison wings, and street violence of a sectarian nature and against security forces.

As there is no armed conflict in Northern Ireland, the ICRC does not operate there on the basis of the provisions of the Geneva Conventions; instead, the ICRC’s responses are based on its humanitarian ‘right of initiative’.<sup>1</sup> They are defined by considerations relating to the ICRC’s added value as a neutral and independent international organisation that works with a variety of groups and governments in generating better humanitarian outcomes for persons who require them.

Throughout the cycle of violence<sup>2</sup> in Northern Ireland in the 1970s and 1980s, responses to humanitarian consequences of this violence were addressed by the state authorities, local communities and their leaders, and the paramilitary groupings engaged in the use of violence. The international humanitarian community was not present, or monitoring the context, and the absence of a label such as ‘humanitarian crisis’ reinforced state responsibility over a voluntary internationally led response. During this period, this eruption of violence, leading to more than 3,600 fatalities amongst a population of just over a million,<sup>3</sup> was seen through a variety of prisms depending on the viewers’ perspectives – but humanitarian crisis was not one of them. And yet, the targeting of civilians sometimes by virtue of their religious-ethnic background, the use of lethal force, and the deployment of a security apparatus which included up to 26,000 troops on the ground<sup>4</sup> would, with hindsight in most observers’ eyes, raise questions about the humanitarian consequences of the situation. Northern Ireland today remains, in part, a deeply sectarian community where divisions run deep; Belfast alone has

- 1 ‘The four Geneva Conventions and Additional Protocol I confer on the ICRC a specific mandate to act in the event of international armed conflict. In particular, the ICRC has the right to visit prisoners of war and civilian internees. The Conventions also give the ICRC a broad right of initiative. In non-international armed conflicts, the ICRC enjoys a right of humanitarian initiative recognized by the international community and enshrined in Article 3 common to the four Geneva Conventions. In the event of internal disturbances and tensions, and in any other situation that warrants humanitarian action, the ICRC also enjoys a right of initiative, which is recognized in the Statutes of the International Red Cross and Red Crescent Movement. Thus, wherever international humanitarian law does not apply, the ICRC may offer its services to governments without that offer constituting interference in the internal affairs of the State concerned.’ See ICRC’s mandate and mission, available at: [www.icrc.org/eng/who-we-are/mandate/overview-icrc-mandate-mission.htm](http://www.icrc.org/eng/who-we-are/mandate/overview-icrc-mandate-mission.htm). All internet references were last accessed in November, unless otherwise stated.
- 2 The period between 1968 and the signing of the Good Friday Agreement in 1998 is known colloquially as ‘the Troubles’, a term that does not carry any legal significance per se and which has been contested by some of the groups engaged in the violence there. For the purposes of this article, reference will be made to the use of violence as reflective of the context during that time.
- 3 For example, see ‘Northern Ireland: conflict profile – the Troubles in Northern Ireland’, in *Insight on Conflict*, available at: [www.insightonconflict.org/conflicts/northern-ireland/conflict-profile/](http://www.insightonconflict.org/conflicts/northern-ireland/conflict-profile/).
- 4 For troop numbers, see ‘Table NI-SEC-03: British Army personnel (number) in Northern Ireland, 1969 to 2005’, compiled in Fionnuala McKenna, Brendan Lynn, and Martin Melaugh, *Background Information on Northern Ireland Society: Security and Defence*, available at: <http://cain.ulst.ac.uk/ni/security.htm>.

ninety-nine 'peace walls' dividing communities, and a week does not go by without the threat of violent dissident republican action.<sup>5</sup> The main prison was the host of an ongoing dirty (or no-wash) protest for nearly two years, and the annual marching season generates sporadic street violence. For most of 2013, sustained protests over the removal of the Union flag from Belfast City Hall and violent protests over curtailed parades have led to violence, injuries, and growing national and international concern.

In the Northern Ireland context, peace processes dominate the national and international narrative and have become an exportable commodity through which former combatants can advise in new conflict-prone emergencies, for example. But what about those marginalised, radical, and frustrated communities who feel that the peace dividend has not reached them and/or where the overarching unanswered question remains an open and fluid political dispensation? What drives such groups to the continued use of force, protest, bombs, and even killings? And what particular value can the ICRC bring in such contexts, and in Northern Ireland specifically?

There is no gainsaying the challenges involved in looking at the very real difficulties of understanding and responding in humanitarian terms to these internal disturbances and tensions which at local levels cause suffering, injury, fear, and division, and where armed groups still manage to exert a mobilising influence amongst certain sections of society. Young men on dirty protest in prison, exiled and/or injured victims of so-called 'punishment beatings', households evacuated because of repeated bomb alerts, and children growing up with a strong sense of distrust in 'the other side' are all too common and unacknowledged features of the working class in Northern Ireland – these are all images that re-emerge when the television cameras highlight one or other grievance.

In such circumstances, the ICRC offers a perspective of independence and neutrality in its analysis and approach, and is one of a limited number of organisations that can cross political and community lines at ease and talk in confidence with cross-sections of society. This renders it uniquely placed to consider offering interventions, humanitarian in nature, in respect of those affected by violence, protests, or attack.

This article will discuss Northern Ireland during the violence in past decades and today, looking then at the existing need and the ICRC's responses. This will include examining some of the challenges and dilemmas faced by humanitarian actors, and a discussion of the added value that the ICRC can bring. The article will conclude by looking at the legacy of transitions more generally.

## Northern Ireland: the context

The long shared history between the British Isles and Ireland reflects a not uncommon pattern of tribal loyalties and territorial raids over centuries. In time the

5 Sean O'Hagan, 'Belfast, divided in the name of peace', in *The Guardian*, 22 January 2012, available at: [www.guardian.co.uk/uk/2012/jan/22/peace-walls-troubles-belfast-feature](http://www.guardian.co.uk/uk/2012/jan/22/peace-walls-troubles-belfast-feature).

larger island was not only to dominate the relationship but also to assume a position as an imperial power globally, and while Ireland was incorporated into the state (Great Britain and Ireland), it retained an ambiguous and sporadically violent relationship with London, most notably around the allocation of resources, both political and material. The mainly intermittent and low-intensity struggle, with some notable armed confrontations, to achieve independence, occasionally aided by the enemies of Britain, finally led to an insurgent military campaign,<sup>6</sup> which gave rise to the Anglo-Irish Treaty of 6 December 1921. With hindsight, the almost inevitable civil war (1921–1923) that followed focused most energies on managing the horror of divided communities and families, and not on addressing one of the main causes of the conflict, the last-minute partition of the island into two jurisdictions. Whilst this conflict was to ultimately lead to the formation of the Irish state, the temporary nature of partition remained and remains a political feature of the island.

Traditional Irish republican sensitivities, throughout the island and beyond, found it difficult to accept this political separation of the island, notwithstanding that it reflected the predominant wish of communities living in respective parts of the island at that time. This again intermittently led to violent campaigns by actors who cited physical force as the only way to secure full and rightful independence.<sup>7</sup> Britain and its loyal (loyalist) citizens in Northern Ireland consistently viewed such behaviour as terrorism and as a violation of the criminal code. The conflict between armed and violent (proscribed) groups and the UK state was seen by the groups as a legitimate political struggle and by both the Irish and UK states as criminal activity to be prosecuted accordingly.

Irish Republican Army (IRA) violence re-emerged in the 1940s (1942–1944) through the Northern Campaign<sup>8</sup> and again in the 1950s (1956–1962) through the Border Campaign,<sup>9</sup> before the protracted violence that started at the end of the 1960s and was to persist until the end of the 1990s, known as the Troubles.

The rise of an activist civil rights movement in response to human rights abuses and the economic exclusion of specific groups in Northern Ireland, and the parallel and not unrelated emergence of militant republicans (and loyalists) in the late 1960s, led to four decades of violence and human tragedy on a scale not seen before in Northern Ireland. The period saw several thousand fatalities, bombings,

6 The War of Independence, as it became known, lasted from 21 January 1919 until 11 July 1921. It resulted in partial independence and the partition of the island.

7 Physical Force Irish Republicanism has a long history: see Dr Fearghal McGarry (Queen's University Belfast), 'The Easter Rising', in *Irish History Live*, available at: [www.qub.ac.uk/sites/irishhistorylive/IrishHistoryResources/ArticlesandLectures/TheEasterRising/](http://www.qub.ac.uk/sites/irishhistorylive/IrishHistoryResources/ArticlesandLectures/TheEasterRising/), which discusses the effect of the Easter Rising in 1916 – it 'led many nationalists to believe that the use of force had achieved more than decades of patient constitutional activity'. In more recent history, such tactics are cited in the Troubles-era Irish Republican Army Green Book; see *Irish Republican Army 'Green Book'* (Books I and II), available at: [http://cain.ulst.ac.uk/othelem/organ/ira/ira\\_green\\_book.htm](http://cain.ulst.ac.uk/othelem/organ/ira/ira_green_book.htm).

8 The Northern Campaign refers to the IRA plan to attack British forces in Northern Ireland during the Second World War, between September 1942 and December 1944.

9 The Border Campaign, also known as Operation Harvest, was a series of attacks by the IRA on Northern Ireland in 1956–1962.

bomb alerts, a highly visible military presence, and the temporary introduction of powers to detain without trial,<sup>10</sup> as daily life came to be viewed through a security prism. This violence was led by a largely Northern Irish-dominated faction of the IRA that became known as the Provisional IRA (in opposition to the Official IRA, who continued to function but at a much reduced level). Loyalists in Northern Ireland also armed themselves through a series of paramilitary organisations, and in fact initiated armed action in 1966, before the IRA had begun its campaign<sup>11</sup>. The presence of diverse paramilitary organisations and the security forces of the state (police, army, reservists) on the streets, and the concomitant levels of violence, came to symbolise this part of the United Kingdom (UK).

After nearly four decades of intermittent violence in 1998, most parties came publicly to the table (although not together), and a peace settlement was hammered out with the support of the Irish (who had long held the constitutional view that the government of Ireland was responsible for the entire island<sup>12</sup>) and UK governments, supported strongly by the United States, which had recently entered the negotiations through the intervention of then President Bill Clinton. The Good Friday Agreement (also commonly referred to as the 'Belfast Agreement') was shrouded in 'constructive ambiguity', and while this allowed all parties to consider that they had in effect 'won', an immediate and short-lived round of dissent followed.

The Omagh bomb in the same year, which killed twenty-nine people, was planted by armed dissident factions opposed to the peace agreement.<sup>13</sup> The outrage that accompanied this taking of life drove the then nascent dissident movement into the shadows for the best part of a decade. Dissenting republican views remain based on two political arguments; first, that the Good Friday Agreement has failed to deliver an all-Ireland state, and second, that it has only been through generations of dissent and physical force that political achievements have been won.<sup>14</sup>

10 Detention without trial was introduced on 9 August 1971 in the Special Powers Act. See '1971: NI activates internment law', in *BBC News*, 'On this day – 9 August 1971', available at: [http://news.bbc.co.uk/onthisday/hi/dates/stories/august/9/newsid\\_4071000/4071849.stm](http://news.bbc.co.uk/onthisday/hi/dates/stories/august/9/newsid_4071000/4071849.stm).

11 'On 7 May 1966 The UVF carried out a petrol bomb attack on a Catholic owned bar and off-licence in Upper Charleville Street in the Shankill Road area of Belfast': see Brendan Lynn, 'A chronology of key events in Irish history: 1800 to 1967', available at: <http://cain.ulst.ac.uk/othelem/chron/ch1800-1967.htm>.

12 'It is the firm will of the Irish Nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland': Article 3, Bunreacht Na hÉireann – Constitution of Ireland, enacted 1 July 1937, in operation from 29 December 1937.

13 'Bomb atrocity rocks Northern Ireland', in *BBC News*, 16 August 1988, available at: [http://news.bbc.co.uk/1/hi/northern\\_ireland/151985.stm](http://news.bbc.co.uk/1/hi/northern_ireland/151985.stm). See more recently, John Hall, 'Two men found responsible for Omagh bombing after landmark civil action', in *The Independent*, 20 March 2013, available at: <http://www.independent.co.uk/news/uk/crime/two-men-found-responsible-for-omagh-bombing-after-landmark-civil-action-8542702> (last visited March 2013).

14 Rejection of the Good Friday Agreement is outlined in a recent paper by the Republican Network for Unity, which can be seen at: [www.scribd.com/doc/112236562/RNU-Standing-outside-the-Peace-Process](http://www.scribd.com/doc/112236562/RNU-Standing-outside-the-Peace-Process). On violence, groups espousing such beliefs will often announce it following a bomb or attack: see, for example, 'ONH claims rocket attack', in *Irish Republican News*, 3 August 2012, available at: [http://republican-news.org/current/news/2012/08/onh\\_claims\\_rocket\\_attack.html](http://republican-news.org/current/news/2012/08/onh_claims_rocket_attack.html).

## ICRC re-engagement

Whilst the cycle of violence has ended and the large-scale security infrastructure has been removed from Northern Ireland, republicans and loyalists remain divided over the future of the political dispensation. Such is the division and political separation that Belfast has more than ninety-nine so-called ‘peace walls’ dividing communities; (London) Derry sees regular violence and growth, albeit limited, in support for dissident republicanism; and the security forces are on permanent alert to the threat of paramilitary targeting. Bomb scares and the threat of violence are frequent occurrences, and outside the city centres (a newly shared middle-class and commercial space), divisions are as fiercely demarcated as at the height of the Troubles. The main prison has again hosted a ‘dirty protest’<sup>15</sup> by dissident republicans, and whilst the main paramilitary groups have disarmed, their structures and leadership are widely considered to remain intact. Such is their continued relevance that many paramilitary leaders are referred to directly in name or through their political front organisations, and their role as supporters or spoilers is widely discussed.

In 2010, the ICRC decided to review, together with the Northern Ireland Office (and subsequently, the devolved Department of Justice in Belfast), the long-standing agreement regarding ICRC visits to prisoners in Northern Ireland.<sup>16</sup> The last prison visit had taken place in 1999, and the dialogue had ended at that point. This dialogue required an engagement with a variety of civil society institutions, which led to the ICRC’s increased awareness of several additional humanitarian issues of concern. These included ongoing prison protests, the undermining of both prison and staff dignity, and the existence of low-intensity but clear use of violence by small dissident groups and the persistent use of punishment by paramilitary groups. This ongoing violence, through bombs, riots, and the continuing practice of punishment beatings in which alleged paramilitaries physically injure, expel, or kill, often on the pretext of correcting anti-social behaviour, is a legacy of the Troubles that has outlasted the signing of the 1998 peace agreement.<sup>17</sup>

In assessing these dynamics in Northern Ireland, it was apparent that in some sections the levels of sectarianism, far from falling, had actually risen. Faced with this division and the resulting violence and humanitarian problems, the ICRC was well placed to offer its neutral services to both sides in an effort to mitigate these humanitarian problems. The independent nature of the ICRC has allowed it to

15 Infamously in 1981, ten republican detainees died after a protracted hunger strike which followed nearly five years of a dirty protest in which detainees refused to wear prison clothes and smeared their excrement on the cell walls.

16 The ICRC established a series of agreements throughout the period in question in the form of memoranda of understanding, letter exchanges, and oral agreements, which facilitated ICRC visits to places of detention in Northern Ireland. On at least one occasion, the ICRC also visited a prison in Ireland housing political (IRA) prisoners.

17 Some of the violence is discussed in Jamie Smyth, ‘Northern Ireland: a peace to protect’, in *The Financial Times*, 14 August 2012, available at: [www.ft.com/cms/s/0/0e11edd8-da2a-11e1-b03b-00144feab49a.html#axzz2BeAIU2AL](http://www.ft.com/cms/s/0/0e11edd8-da2a-11e1-b03b-00144feab49a.html#axzz2BeAIU2AL).

move with ease from one community to another and to be accepted for only having a single agenda, that of support to victims of violence.

In the course of the period 2010 to date, extensive consultation with the Northern Ireland Office, the devolved authorities, political parties, the police, and institutional hosts in Whitehall has been sought at each step of the way so as to ensure that a gap is not generated between ICRC analysis, action, or activities and the expectations and support of the authorities. Critically, it is through this support and engagement that the ICRC has been able to take the steps it did. Such endorsement has always been forthcoming and has provided valuable and important insights.

## The ICRC's response

The determination of any ICRC response systematically demands clarity around criteria of intervention and added value in operational terms. The added value comes in two forms: first, the experience of an organisation in dealing globally with similar phenomena; and second, the value of being an organisation whose effectiveness is perceived and measured on the basis of its practical humanitarian contribution to a given situation.

The criteria of intervention have been based on the clear identification of a set of humanitarian consequences or implications of violence, some of which was generated on an ideological or political basis. Despite any motivations lying behind violence in Northern Ireland, it is a violation of the criminal code and is treated as such by the authorities. The role of the ICRC per se does not confer any combatant status<sup>18</sup> on those who promote and engage in acts of violence, and the ICRC's engagement does not legitimise the criminal use of violence, but promotes an insertion of notions of humanity, as a principle, with key stakeholders.<sup>19</sup> In operational terms, a close working partnership between the ICRC and the British Red Cross is seen as a potentially key element of this engagement. The ICRC's historical operational familiarity with Northern Ireland has been limited to episodic prison visits, in particular during the 1970s and 1980s.

The methodology that the ICRC established during the process of re-engagement in 2010 addressed some of the lessons learned from other contexts as well as from Northern Ireland itself. These elements reflect a response to

18 Combatant status under international humanitarian law is granted to those who do not enjoy the protection against attack accorded to civilians (for more information, see rule 3 of the ICRC Customary Law Study: ICRC, *Customary International Humanitarian Law, Vol. I: Rules*, Jean-Marie Henckaerts and Louise Doswald-Beck (eds), Cambridge University Press, Cambridge, 2005, pp. 11–14). This status is not conferred or otherwise by the presence of ICRC operations. ICRC operational or monitoring presence is mainly based on an analysis that an organisation like the ICRC can provide services to respond to the likely humanitarian consequences arising from the use of violence, and in particular related to legal protection and humanitarian assistance. Any legal considerations regarding the qualification of the conflict or attribution of combatant status will be addressed separately.

19 The situation in Northern Ireland, not fulfilling the legal criteria of armed conflict, allows for all forms of violence, except those authorised by the state, to be prosecuted as violations of the criminal code.

humanitarian situations in general that was applied to Northern Ireland, and include some basic considerations. The delegation assumed from the outset that dialogue and transparency of dialogue were key to any presence of merit. As a result, it focused on establishing links with as broad a spectrum of stakeholders as possible. Primarily, this dialogue respects the primacy of the state as in all contexts, but takes into consideration the role of the Good Friday guarantor states, the United States and Ireland. It has also necessarily embraced contact with those opposed to the peace process and with a wide range of political and civil society groupings.

For the ICRC, an immediate difference between Northern Ireland and other contexts in which the organisation is present is that the former has not been defined by its explicit humanitarian needs and therefore by the identification of standard programme responses, based on indicators linked with mortality, economic security, health care, and availability of water and other public services. In examining the situation in Northern Ireland, such immediate indicators were not relevant as the humanitarian issues were linked with more subtle effects of the violence. Therefore the approach taken had to be adapted to one in which assumptions about needs could not be made. As such, the ICRC's approach has been based to date primarily on a listening model – on understanding the interplay between various pressures and relationships. This model, in turn, allows the ICRC to identify what role, if any, an independent humanitarian organisation can bring in response to specific humanitarian consequences. The listening model is in effect a way to accompany communities and organisations in a process of acknowledgement of the use of violence and a recognition that it has humanitarian consequences.

A key element for such a process in developing relationships with perpetrators and victims of violence has always been the guarantees around confidentiality. Long an ICRC operational modality, this has proved critical, together with some other elements discussed below, in establishing levels of confidence conducive to persuasion, the key factor in the delivery of humanitarian inputs anywhere.

In relation to the key substantive issue, that of the measurement of humanitarian needs, the starting point lies with the protection and vulnerability of the individual. It presupposes that whilst the use of force may have no legal legitimacy, it takes place and therefore causes harm and suffering. Northern Ireland has proven very challenging in this regard. Violence is meted out in the name of politics, criminality, and community justice (where communities call in paramilitaries to execute summary justice), and while humanitarian consequences flow as a result of each of these processes, appropriate responses from state, civil society, and international organisations need to be established in transparency and consistent with agency principles, values, and doctrine. Thus, states need to balance national security, foreign policy, and other priorities, whereas the ICRC focuses exclusively on the humanitarian situation.

A further clarification is helpful in relation to these organised groups which challenge the state through their actions. Their classification as illegal, because they promote and engage in the use of force against the state, means that states neither recognise them nor engage with them other than through security operations and litigation. The ICRC as a humanitarian organisation has an established practice

of talking to and questioning such groups, for humanitarian purposes.<sup>20</sup> This practice is accepted, subject to the proviso that engagement in this practice is transparent. While it is therefore incorrect to say that the ICRC negotiates with terrorists, it is correct to say that the ICRC needs to have a dialogue on its own terms with those taking part in armed conflict or other situations of violence. This dialogue and its confidentiality need to be explicitly endorsed not only by states themselves, but also by other actors.

## Range/typology of ICRC activities in the context of Northern Ireland

We will now look at substantive intervention/programming of ICRC activities in this context. Three areas of operation have emerged, each of which is in its own phase of implementation. These are discussed below.

### *Dialogue with prison authorities*

Since 2004, separated housing has been re-introduced for republican and loyalist prisoners in Maghaberry Prison on the basis that their respective security required it.<sup>21</sup> Prisons in Northern Ireland have long been used by differing groups as places to develop and apply a variety of strategies aimed at frustrating or drawing attention to the political environment, if not at mobilising action on the outside in their favour. In Easter 2010, republican prisoners launched a protest against the prison regime involving destruction of their facilities and including for some the act of smearing their excrement on their walls. This 19-month long protest resulted in a curtailment of freedoms, opportunities, and socialisation, and led to heightened tension between prison groups and with prison authorities. Amongst the community of prisoners, staff, their families, and communities, significant concern has been expressed regarding the impact of this protest, and the dissident killing of a prison officer in December 2012 only served to heighten concerns. The loss of dignity associated with this protest and the security tensions and adversarial behaviours underpinning it are matters of humanitarian concern. The ICRC's operational role, as established with the Department of Justice, is to gather and analyse perspectives from groups, families, significant individuals, staff, and officials in order to make its own independent assessment of the current prison context, which forms the basis of confidential reports to the authorities. Such reports, it is hoped, can serve to generate more positive outcomes in relation to the treatment and conditions of detention, as appropriate.

20 Such engagement has been discussed in recent issues of the *International Review of the Red Cross*: see the issues on 'Engaging armed groups' (Vol. 93, No. 883, 2011) and 'Understanding armed groups' (Vol. 93, No. 882, 2011).

21 For detailed information, see House of Commons, Northern Ireland Affairs Committee, 'The separation of paramilitary prisoners at HMP Maghaberry', Second Report of Session 2003–04, Vol. I, 3 February 2004, available at: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmselect/cmniaf/302/302.pdf](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmselect/cmniaf/302/302.pdf).

### *Support to grassroots organisations working to reduce inter-communal violence*

A second avenue for ICRC action is through the support of grassroots organisations throughout the community who provide a service in relation to the threat and implementation of paramilitary ‘punishment beatings’, usually against young men, allegedly for anti-social behaviour or for internal discipline. A generic punishment tariff exists, ranging from warnings and threats to physical beatings, shootings, exiling, and even killings. The practice of punishment beatings is historical and is based on limited police access to hard-to-reach neighbourhoods. It can be mobilised by community residents on the basis that they know the perpetrators of both anti-social behaviours and those who can execute punishments, as both are from the same community. It was used in most areas where paramilitary organisations were active and was expected to ensure selected community discipline. It is often appreciated by the communities themselves, many of whose members have grown to favour summary and rapid justice for anti-social or criminal activity.<sup>22</sup> The ICRC-supported community organisations provide a range of interventions to limit or address this practice. These include verification of the supposed threat, support for the victims in providing counselling, and activities which can substitute temporarily or permanently for the punishment. Associated with this is the ICRC support given to organisations that are working on the incidence of interface<sup>23</sup> violence, by establishing alternatives to sectarian violence for young people.

### *Work on missing persons*

The third area is one of common practice in ICRC operations, that of the unresolved humanitarian issue around those persons missing as a result of the conflict – a legacy of all conflicts. This remains an issue also regulated by criminal law, and the police may investigate it as such. However, from a humanitarian perspective, the families of the missing have a right (and need) to know the fate and location of their loved ones,<sup>24</sup> and the state has an obligation to facilitate the return of the remains.<sup>25</sup> In Northern Ireland, the organisations involved, the IRA and the Irish National Liberation Army, have acknowledged their role and have been

22 Based on discussions with ICRC interlocutors.

23 Points of intersection between the two communities are known as interfaces and are often the scene of tension and clashes between communities who live in very close physical proximity to each other.

24 Including under the prohibition of torture, the right to privacy and family life, and the right to an effective remedy under human rights law. See *inter alia* Arts. 3, 8, and 13 of the European Convention on Human Rights. Under international humanitarian law, see Art. 32 of Additional Protocol I which provides for the right of families to know the fate of their relatives. See also Rule 117 of the ICRC Customary International Humanitarian Law study provides that: ‘each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate’. ICRC, *Customary International Humanitarian Law*, Vol. I: Rules, Jean-Marie Henckaerts and Louise Doswald-Beck (Eds.), Cambridge University Press, Cambridge, 2005 [hereafter ICRC Customary Law Study], p.421.

25 Under human rights law, see recent case law, e.g. Inter-American Court of Human Rights, *Moiwana Village V. Suriname*, Judgment of 15 June 2005, (Ser. C), No. 124, 2005; European Court of Human

forthcoming in providing information to the Independent Commission for the Location of Victims' Remains, established by British and Irish governments. Whilst cooperation is at a reasonable level and family support organisations are well established, the nightmare of not being able to bring these tragic deaths to a closure through a recovery of the remains and their burial weighs heavily on families. The role of the ICRC focuses exclusively on using its contacts and access to promote as strongly as possible the sharing of all information that may bring this part of the Troubles to a complete conclusion.

## Challenges

Aid conventionally appears to be non-controversial, and yet humanitarian assistance is challenged on a wide number of grounds. It can be viewed as interference, or even as a cover for intelligence gathering.<sup>26</sup> Aid is often criticised as inadvertently legitimising or reinforcing the authority of different groups through granting them the potential to administer, manage, provide, or hold back assistance<sup>27</sup>. And in the twenty-first century, it has become synonymous with all kinds of state intervention, as an integrated part of government response.<sup>28</sup> All of that being said, there remains a common endorsement of the humanitarian project, and it is one that has proven hard to reject. It even stretches beyond that to be projected as a global human value which knows no boundaries because it is based on the value of humanity – global humanity.<sup>29</sup>

The ICRC's brand of humanitarian action is both at the origin of the wider notion and a specific form of intervention. It rests its interventions on a universal set of international treaties – the Geneva Conventions, which mandate impartial humanitarian organisations such as the ICRC to offer their services<sup>30</sup> – and on a set of principles which underpin large parts of humanitarian action. Notable amongst these are the principles of humanity, independence, neutrality, and impartiality. The ICRC itself has interpreted and applied these principles in situations of armed

Rights, *Maskhadova and others v. Russia* (application No. 18071/05), and *Sabanchiyeva and other vs. Russia*, (application 38450/05). Under international humanitarian law, see Art. 17(3), Geneva Convention I, Art. 20, Geneva Convention II, Art. 120(6), Geneva Convention III, Art. 130(2), Geneva Convention IV, Art. 34, Additional Protocol I, and Rule 114 of the ICRC Customary International Humanitarian Law study: 'parties to the conflict must endeavour to facilitate the return of the remains of the deceased upon request of the party to which they belong or upon the request of their next of kin. They must return their personal effects to them' (*Ibid.*, p. 411).

26 'Save the Children foreign staff ordered out of Pakistan', in *BBC News*, 6 September 2012, available at: [www.bbc.co.uk/news/world-asia-19500103](http://www.bbc.co.uk/news/world-asia-19500103).

27 There is a wealth of literature on this topic. For one introduction, see Shyam Nath and Sanjeev K. Sobhee, 'Aid motivation and donor behavior', in *American Review of Political Economy*, Vol. 5, No. 1, pp. 1–13, available at: [www.arpejournal.com/ARPEvolume5number1/nath-sobhee.pdf](http://www.arpejournal.com/ARPEvolume5number1/nath-sobhee.pdf).

28 Sarah Collinson, Samir Elhawary, and Robert Muggah, 'States of fragility: stabilisation and its implications for humanitarian action', in *Disasters*, October 2012, available at: [www.ncbi.nlm.nih.gov/pubmed/20846346](http://www.ncbi.nlm.nih.gov/pubmed/20846346).

29 One indicator of this could be the existence of Red Cross and Red Crescent societies in 187 countries.

30 This can be found in Art. 3 common to the four Geneva Conventions of 1949, and further examples exist elsewhere, for instance in Art. 70 of Additional Protocol I.

conflict as well as in situations that do not reach the legal threshold of armed conflict.<sup>31</sup>

As a matter of practice, the ICRC considers that its interventions should favour those in need of protection and assistance, and as it relies on establishing a dialogue with all parties to a conflict for reasons both of staff security and the impartiality of its support, it generally works with what could be termed as 'hard-to-reach communities'. Such communities are typically in close proximity to violence or in prison, and have in common the need to engage in political dialogue and diplomacy in order to reach them. Such is the sensitivity about these populations in all conflict-affected and violent areas that extensive negotiations, often over protracted periods of time, are required in order for the ICRC to secure the necessary confidence of all belligerents or communities and thereby to be effective in its work of providing protection and assistance. An overriding common denominator in looking at the effectiveness of an ICRC action is its exclusive focus on humanitarian issues, while basing these on an understanding and analysis of the political context. Such analysis is important not only for determining potential or real humanitarian issues, but also for distinguishing between the political and the humanitarian, a crucial element for the ICRC.

The work of the ICRC in Northern Ireland is in the early stages of implementation. It is premised on key operational pillars, those being a transparent and confidential dialogue with the main stakeholders in different jurisdictions and an awareness of and building on the qualities of an international organisation with many years' experience of working abroad in similar situations. It relies on the diplomatic, moral, and financial support of a donor base that also provides non-earmarked funding on the basis that ICRC operations are worth supporting.

All of this being said, working in such a context poses a number of dilemmas and challenges. Some of these are unique to the nature of Northern Ireland, while others, such as the those relating to the missing, are shared with other contexts. An exploration of these challenges and the processes by which they are addressed may provide insights into comparable areas. In particular, Latin America, where criminal behaviour generates humanitarian problems on a par with or even more severe than those created by armed conflict, but where the law of armed conflict does not apply, has served as a useful reference point for this operational approach. When working in such contexts, emphasis is necessarily placed on the support of civil society or state structures in the provision of sustainable interventions, based solely on criteria of mitigating suffering. This contrasts with the more classical humanitarian response, which substitutes itself for state structures and replaces their service delivery, such as in food delivery or provision of health care through parallel humanitarian structures. The design of programme intervention needs to be based on the unique added value of an independent

31 International humanitarian law applies in international and non-international armed conflicts, when the legal threshold is reached, whereas below this threshold, human rights law and domestic law apply. In all cases, humanitarian principles guide the decision-making and humanitarian action.

neutral intermediary and the programme responses require widespread acceptance by groups that prefer to hide in the shadows.

### Access and acceptability in relation to operations

Central to any humanitarian intervention are the key notions of access and acceptance. It is now well established that recognised humanitarian needs alone are not sufficient to ensure access to victims and acceptability to leaders. Political, security, and other potential obstacles need to be negotiated before protection and assistance can be extended to victims of violence. However, the reality is that whilst overt opposition is infrequent – although never excluded – states and non-state actors find ways to limit foreign access to sensitive places or persons. The pursuit of an operation which will address needs across the board is premised on assurances that such activities are acceptable. These assurances need to be explicit and largely unconditional, and they rely heavily on the perception that what the organisation offers is indeed humanitarian, and exclusively so. In political contexts – and Northern Ireland is no exception – these assurances need to be secured repeatedly; once is never enough. Contexts are fluid, leaderships and strategies change, and humanitarian organisations need to affirm their acceptance regularly.

Thus, while it is tempting for humanitarian reasons to implement programmes as a matter of urgency because of need, such implementation must always take account of different stakeholders. The case of punishment beatings therefore needs to be continuously discussed with a variety of concerned authorities, including in particular the police, as well as with community-based or other local groups whose relevance as supporter or opponent is high. Any doubts about the motivation of an organisation will directly impact on its acceptance by leaders and its efficacy in reaching communities. Community political leadership seems to accept agencies on the basis that they limit themselves to humanitarian issues and do not stray into anything that can be considered political.

### Peace narrative versus humanitarian needs

As with all transition contexts, in Northern Ireland an adaptation in dialogue and relationships is required in order to recognise the changing and emerging roles that leaders have, whilst recognising their backgrounds, in what becomes a different political dispensation from one based on a level of violence. Political antennae, however, remain sharpened and sensitive to all perceptions around messages and substance, and messages are carefully scrutinised for any elements that go beyond the strictly humanitarian.

The pre-eminent state in the peace narrative remains the British government, which, with the support of Ireland and the United States, sponsored the Good Friday Agreement and remains deeply committed to its execution. Specifically, there is a devolved power-sharing executive in Northern Ireland charged with taking the peace process forward. To that end, the dominant political discourse and narrative is the success of the peace process. If peace can be

understood as the absence of violence, then the years since the agreement have been an essentially successful period: the number of security incidents is very small compared to the past.<sup>32</sup> However, if peace is understood as a process that will examine and over time resolve the differences that led to conflict in the first place, a journey remains to be travelled. In the meantime, people in communities on both sides suffer unnecessarily from a low-intensity projection of politically motivated force, through bombs, threats, punishments, and protests.

The ICRC rises to the challenge of providing assistance and protection where needed as a result of violence. As an organisation, the ICRC must assess, identify, and share its analysis with regard to humanitarian needs, despite the fact that in the Northern Ireland context, needs seem less massive than in the large-scale, armed conflict contexts in which the ICRC operates on a regular basis. It behoves the organisation to share these findings with all concerned, be they perpetrators, victims, political structures, or others, in an effort to draw attention to the existence as well as to the lack of acceptance of such problems. The dilemma that arises is how to articulate the balance between the ICRC's provision of added value for persons and institutions based on the organisation's mandate whilst not adding substance to those arguments which would see it to be an indicator of an emerging or growing armed conflict. In brief, in what ways is the ICRC of benefit, based on its capacity to work simultaneously with divided – and sometimes violent – communities? This, after all, is one of the fundamental strengths of the organisation.

### Lack of institutional experience in Northern Ireland versus experience in similar situations

In many ways, the lack of specific institutional knowledge has been a significant challenge, all the more so because many of the current points of contact were present during the Troubles and shared a disappointment, or curiosity, over the absence of the ICRC during various stretches of time. Added to this is the scrutiny that any new actor, such as the ICRC, will inevitably be subjected to in a closely managed and crowded context such as Northern Ireland, where roles, responsibilities, and space are clearly demarcated and managed. It took a great deal of time to identify and establish relationships of confidence that would lead to a clear view on priorities and concerns. Such start-up operations in virtually new contexts like this have similarities to sudden onset emergencies such as the Arab Spring, the difference being that the latter are contexts in which humanitarian needs are easily identified and responses are evident. In all cases, the management responsibility is to be sure that, despite recently arriving in a context, leaders, their communities, and victims are ready to identify and accept the support that can be offered. Such acceptance is never a given, and there is a vast gulf between active support for the

32 The Police Service of Northern Ireland records a total of 127 incidents in 2011 compared to (for instance) 2,438 in 1975. See 'Security-related incidents: 1969–29 February 2012', available at: [www.psnipolice.uk/security\\_related\\_incidents\\_cy.pdf](http://www.psnipolice.uk/security_related_incidents_cy.pdf).

ICRC and reluctant acquiescence, where a group might accept ICRC presence only because – faced with its own limited resources – it has no choice.

The lack of institutional familiarity in Northern Ireland is counterbalanced by the ICRC's experience elsewhere, working in countries emerging from conflict. All societies in such situations present similar challenges: demobilised combatants/prisoners, lack of employment opportunities, missing persons, lack of long-term institutions, residual rancour, and criminality. Of the typical transition challenges, policies tackling the problem of the missing and that of detainees are those that have informed ICRC operations in Northern Ireland; new interventions have focused, very precisely, on those targeted by ongoing punishment-related violence. At the same time, each of the organisation's programme approaches has been informed by existing policies but has adapted the approach to be consistent with needs in Northern Ireland. Thus, for example, in the case of the missing, the ICRC engages with the perpetrators and others and encourages, persuades, and works with them in terms of the identification of the location of remains.

Northern Ireland continues to challenge the ICRC in relation to the existence of problems in which the organisation can play a role and provide standardised humanitarian responses. Agencies, their supporters, and authorities are arguably more comfortable in an environment which corresponds to regulated and accepted limits, involving health-care needs, food assistance, shelter, logistics, and the whole humanitarian machinery. Northern Ireland does not require those inputs but remains beset by direct humanitarian challenges, and it behoves agencies and others to articulate how these challenges can most effectively be met. The operational choices made by the ICRC respond to real needs but are not based on a standard set of responses that exist in-house. Working with detainee issues whilst not visiting the detainees and supporting efforts to limit physical and other injuries inflicted as punishment by paramilitary bodies are new challenges requiring a scope of action that of itself is different to the known and tested standards for which policies and procedures exist in abundance.

### Existing humanitarian needs versus lack of acceptance

If the operational challenge remains the balancing of field needs against policy, guidelines, and practice, it would be dangerous to assume that humanitarian intervention is accepted precisely because of the unconditional support of action per se. Humanitarian action must demonstrate an ability to convince those responsible that some space is always reserved for addressing the needs of people who suffer unnecessarily or inappropriately, even if, as in the case of punishment beatings, those inflicting the damage are those that control access and influence. Thus, perpetrators of violence need to be convinced of the humanitarian prerogative that prevails, regardless of their own established priorities.

It goes without saying that contexts such as Syria and Libya have generated widespread international humanitarian support because of the obvious and high numbers of victims there, whereas Egypt and Tunisia have received relatively less attention. In order for the ICRC to address a context like Northern Ireland in

transition, it needs to generate understanding and acceptance that politically motivated, even if criminal, violence results in consequences for which first responses need to be sought; that state structures may not be the fully appropriate responses; and that an organisation whose primary experience is working in conflict is in a very good place to address these specific needs.

The key to effective operations lies in the design of programmes that target the needs of people affected by violence, be they the families of protesting detainees, threatened prison staff, or the mothers of young men threatened with exile. The humanitarian needs of these groups are very precise, and efforts to provide protection and support must deal directly with the threats posed by their experiences in order to be accepted both as legitimate and as relevant and meaningful.

On the assumption that the programme is indeed relevant and that beneficiaries are convinced of its relevance, the final external acceptance needed is that of the local community leaders. Such individuals have multiple motivations, and are conscious of the management of the relationship with statutory and other authorities with whom they may compete for influence. Their capacity to block access because of political or other reasons is enormous.

Acceptance, either internally or externally, is always based on a careful negotiation of demonstrating the humanitarian considerations of a given situation. Internally, it must reflect core values and priorities such as protection and assistance, and externally programmes need to be developed that meet direct recognisable needs and at the same time are exclusively humanitarian. Any suggestion that additional motivations exist will reduce levels of acceptability and, certainly, humanitarian impact.

## Humanitarian needs versus ICRC added value

At this point we must look again to a guiding principle in humanitarian action, and one that is all too often overlooked, which is that the primacy of humanitarian response belongs to state authorities.

Northern Ireland presents a curious case study in that the level of peace resources provided to civil society structures from 1998 to date runs into billions of euros.<sup>33</sup> The majority comes from state bodies, including the United Kingdom, United States, European Union, and Ireland, but private American philanthropy has made huge contributions. How can we best assess the impact and contribution these resources have made to alleviating the problems of Northern Ireland? The impressive public works and vibrant civil society are testament to the delivery and use of support, but ordinary working-class communities, often the very communities most engaged in and affected by the violence, reflect the lack of resources and opportunities at that level. Indeed, there is a certain level of frustration

33 The EU alone has delivered several tranches of disbursement: see Peace III EU Programme for Peace and Reconciliation 2007–2013, *Northern Ireland and the Border Region of Ireland – Operational Programme*, available at: [www.dfnri.gov.uk/peace\\_iii\\_operational\\_programme.pdf](http://www.dfnri.gov.uk/peace_iii_operational_programme.pdf).

present in communities who point to the obvious peace dividends for some sectors while noting the relative disadvantages for others in terms of jobs, services, and benefits from the peace. Thus, prison officers did not benefit from the overhaul of their service that was carried out by police through the Patten Commission; urban regeneration benefited public housing but did not create large numbers of jobs; and only a limited number of former prisoners and persons engaged in violence benefited from reintegration opportunities while many were left dealing with a range of psychosocial scars and trauma, including alcohol dependency, depression, broken marriages, poverty, and alienation.

It is in these latter communities that the perpetrators and victims of violence are to be found. Young men find themselves trapped in a logic of criminality or political confrontation, only to discover that such activities bring them in front of the criminal justice system (sometimes facing a prison sentence or surveillance), or even a more arbitrary system based on punishment outside the law. The frustration that exists is then reflected in protests, violence, sectarianism, and an alienation and lack of confidence in anything other than street leadership. The extension of state services to these hard-to-reach communities and their families is very challenging, despite the significant resources that have been made available. Recent loyalist protests in Belfast and other places have ironically often ended in violence against the state security services with which the protesters identify so strongly, reflecting this frustration with the status quo.

The wider public policy issues are beyond the remit of an international humanitarian organisation, but key to making a difference to those affected by violence, frustration, and alienation is establishing links with those grass-roots community organisations whose leadership is based on principles and making a difference, and supporting their local leadership in the face of others who use violence to express themselves. Such support requires explicit understanding of central and regional structures, and these organisations' role in providing that endorsement is essential.

As with all operations, decisions need to be made against certain criteria, and these need to be made explicit. The ICRC, because of its mandate, has made a deliberate choice to provide support to victims of violence, and to work on prison issues. These choices represent a response based on the integrity of the organisation to do this wherever it works. It does not attempt to respond to all needs; rather, it aims to reach out to those who may need what the ICRC can offer best and to encourage others to assume their proper roles and responsibilities, be they local, state, or international. The emerging dilemma is on what basis to choose to disengage or hand over to others. This question is one which accompanies the start-up of any humanitarian action, and some elements of it are considered in the next section.

## Local versus international actors

The phenomenon and identity of aid as it is perceived in the West is that of focused, specialised experts arriving, often courageously, in a conflict scene and administering aid in a variety of forms to those most in need. Indeed, this image is one we are

both familiar with and can relate to. And though that response is often what is required of agencies, we need to question more fundamentally the value of an international agency in order to justify the considerable expense associated with international deployments, especially in contexts where expert staff are readily available.

Northern Ireland presents an unusual set of parameters in that regard: a sophisticated society, endowed with experts in all forms of support and with a high skill set. Any effort to address humanitarian needs must consider the challenges of resource mobilisation in this case. What is the value of an international organisation with foreign staff, who inevitably take time to understand the context? The strength and value of such bodies lies precisely in their distance from the context; they have no biases in relation to what has happened or what is happening, beyond any needs that are generated. They have the benefit of analysing and drawing conclusions without recourse to sentiment, emotions, or indeed a desired outcome. Theirs is a will simply to mitigate the humanitarian impact.

Local organisations equally possess a skill set and expertise that cannot be competed with by international bodies. They know the population, and their access, while often limited to their constituencies, will nearly always be excellent at that level. They enjoy high levels of confidence and trust and their commitment to their communities goes way beyond the provision of an annual running-costs budget.

Local leaders themselves also often manage multiple identities, so it is always useful to know which of those identities they are reflecting in their discourse. For example, a community worker involved in youth activities may also be campaigning for demobilisation of dissidents, both of which are very different roles. Thus, activities in one area may be undertaken in order to secure leverage in the other area, thus mixing priorities that are social (youth) and political (demobilisation) in nature. Such parallel objectives will be open to misinterpretation if not carefully managed. An independent, purely humanitarian agency minimises the risks of concerns over multiple agendas.

The peace process, meanwhile, has ironically led to a situation in which local bodies and people are expected to assume responsibility for the emergence of a resilient and sustainable peace, which was delivered by the Good Friday Agreement in 1998. This relationship between political peace negotiators and community structures places high demands on the latter, as any behaviours seen as undermining the peace agreement (protests, riots, violence, and bombs) can be perceived as a failure of the local communities to exercise the peace. As international actors, it becomes possible for organisations like the ICRC to stand outside this linear paradigm, as their exclusive responsibility is towards people and not behaviours. From the perspective of local organisations, juggling multiple mandates, this single mandated approach towards people's welfare can be a precious source of support.

## Humanitarian action versus sustainable peace

The operational challenge of providing long-term solutions as opposed to addressing symptoms remains a valid one in all contexts of humanitarian need.

Over time, the promotion of resilience is crucial to giving communities the space and means to continue addressing the demands placed on them. To what extent are humanitarian actors accountable for correcting immediate liabilities and supporting life, and to what extent are they responsible for addressing a wider framework of institutional change? Against a backdrop of sometimes indiscriminate violence, in what ways can humanitarian work make a contribution to a sustainable peace? And, for that matter, what skills do these organisations possess to make a difference in the longer term?

The short answer is that humanitarian action assumes precedence over the longer term in the case of urgent operational needs, and the value of protecting and assisting human life is the priority objective of humanitarian action. The ICRC's clear remit from the international community to address protection and assistance needs provides the orientation for ICRC action. However, when conducting programmes and operations, the ICRC must also ensure that it does not eschew its responsibilities towards the interests of a sustained resilient community who can withstand the pressures that inevitably accompany disagreement. In so doing, the ICRC nonetheless recognises the risk that there may be unintended consequences connected to the work that it undertakes, and always aims to mitigate these as much as is possible.

In the case of Northern Ireland, operations focus tightly on the immediate humanitarian needs – those that require an international organisation with a neutral and independent identity to address. Yet, if we look at any of the current ICRC operations, we are faced with a more challenging question. At a community level, the practice of ‘punishment beatings’ may be considered a contribution to a safer neighbourhood, and the perpetrators claim public interest and support. In both cases the exclusion of the police from performing their duties is taken as a fact. This extra-judicial form of dealing with justice has direct and measurable humanitarian impacts on many lives. The role of the ICRC is to address and support local mechanisms to find alternative solutions to the use of paramilitary violence and exile. As long as police access is challenged by communities and paramilitary groups continue to exert punishments, interventions will be needed to limit the humanitarian consequences for individuals, their families, and communities.

Many of the groups and individuals that the ICRC works with in Northern Ireland are not only deeply committed to peace, but they will use their influence and role to persuade those engaged in violence to reconsider their methods and to identify alternative ways through the existing political machinery. The memory of decades of violence serves as an important impulse for attempting to limit violence, whilst not yet eradicating it altogether.

The ICRC's role is strictly circumscribed by the obligation to provide protection and support where it can. This is not to argue that the ICRC avoids the political issues linked with peace processes; full discussions take place with all parties on the threats and opportunities provided by the peace agreement, but operations must focus almost exclusively on the addressing of humanitarian concerns.

This of course begs the related question of withdrawal. At what point will the ICRC be ready to withdraw from its humanitarian operations in Northern Ireland, on the basis that its services are no longer required or of added value? As an operational matter, ICRC budgets are established on a year-by-year basis, so longer-term commitments are rarely taken, although it is widely and correctly understood that as long as there are victims of violence and armed conflict, the ICRC will remain present and active, subject to the ongoing support of host governments and others with whom the organisation works.

The obligation on the ICRC is to make its contribution in ways that allow for local, sustainable, and resilient options to be developed – in other words, to prepare for its withdrawal once it starts any operations. This includes encouraging the presence of other organisations playing the same or complementary role – such as the local Red Cross National Society, also guided by the fundamental principles of neutrality and impartiality – in order to provide a continuing response to humanitarian need; the creation of a detention regime which reinforces the notions of respect and dignity for and by all; the resolution of missing persons cases through identification of the victims' remains; and more effective access to hard-to-reach areas.

### Partnership versus ICRC direct operations

Different sets of criteria apply in the decisions around partnerships and ICRC action. The overriding operational criteria concern the need for both respecting and being perceived as respecting the fundamental principles of humanitarian action. In any context where political issues have risen to or have the potential to rise to the use of violence, local organisations will be viewed also through the prism of their own activities. ICRC operational partnerships demand that partners focus exclusively on providing neutral and independent support to victims of violence. Identifying and partnering with an organisation that has its own set of values, principles, and operating criteria, which are often broader than a narrow ICRC interpretation, is a significant challenge. Should the ICRC request a shift in values, and in what ways can organisations adapt to such criteria?

A second challenge concerns programme implementation at a community level. Local communities are comfortable working with their own organisations without the need for a neutral intermediary, and local organisations are best placed to respond to needs and will manage their relationships in ways that are sustainable and positive. Lastly, local organisations have many more resources available than international organisations, which cannot and will not deploy the level of resources necessary to manage operations on the ground in such detail. Under these circumstances, the ICRC plays a role of supporting other organisations in programme implementation. Such support takes the form of working together on analysis, providing guidance on areas where it has expertise, and by providing financial support, where relevant. Defining the terms of this form of arrangement requires close monitoring, as respective institutional interests need to be respected in order to guarantee effectiveness. For the ICRC these interests are that the action

is seen as strictly humanitarian, independent, and neutral: such challenges are intense in polarised and political societies.

The classical form of collaboration is with the National Red Cross Society. The ICRC and British Red Cross have a close institutional partnership, based on shared values and approaches, agreed goals and objectives, and the promotion of their respective institutions. The opening of an ICRC operational role in Northern Ireland challenged that partnership inasmuch as it opened up an operational area domestically. As the partner of choice in this context, the ICRC works with the British Red Cross, whose operational interests in Northern Ireland tend towards other areas of expertise, including working collaboratively across health and personal social services, and with emergency responders, to address the crisis needs of individuals, families, and communities. Over time – and with a clear understanding of respective roles and mandates – an increasingly shared assessment of local needs provides a useful framework for examining and promoting areas where either geographically or thematically, a partnership approach or enhanced British Red Cross approach can be developed. The challenge in this regard is to bring together the National Society, with its emphasis on its statutory role as an auxiliary to government, and the ICRC, with its objective to be a neutral and independent organisation. Thus the values implicit in negotiating between paramilitaries, community organisations, individuals, the police and security services, and state authorities demand a different set of skills and capabilities. These need to be examined, considered, and ultimately introduced.

Ultimately, local organisations, be they National Societies or community organisations, are enduring. Their role in responding to the needs of their populations will be stronger and more effective as long as a third, neutral and independent organisation is not needed. This complementarity is one that is continuously assessed and adapted according to the specific circumstances.

## Legacy

The enduring feature of any transition will always be associated with how societies deal with their legacies. The tragedy of violence can be measured through the tragedy of individuals, their families, and lost opportunities, and this feature will have a profound impact over time as diverse communities learn to live together in trust and growth. Those who inflict pain and suffering also have to carry that memory, and to find ways to account for and identify what has happened. The consequences of violence are significant: families break up, alcohol and drug abuse are not uncommon, and depression and suicide will always be at higher levels than in peaceful societies.

At a wider level, societies want in their way to have resolution and closure on a period of immense sadness and grief. Former adversaries may face up to each other and find an acceptance that each had a role to play, whatever that was. Justice systems, families, communities and even states need to find ways to deal with the past.

The ICRC in Northern Ireland can testify to the pain and suffering that lie even on the surface of people's everyday experiences, and have been privileged to hear and take part in many discussions. Views are multiple and diverse, and dialogue is sincere and authentic. For some, closure will come through the return of mortal remains of a loved one; for others, through a modern-day prosecution; for others still, a sense of forgiveness will allow them to move forward. For many, closure will not be possible. In addition, current violence, motivated through political concerns, generates a range of problems and stirs up barely submerged memories.

The ICRC's contribution to Northern Ireland takes a number of forms. Operationally, the organisation is able to talk to people with whom it is difficult for state organisations to communicate, and to highlight elements of humanity as priorities. It can provide direct support to victims of violence through its operational support for grass-roots organisations, which has encouraged and incentivised other agencies to provide funding for separate activities. Its experience in working both in post-conflict societies and with divided and often violent communities puts it in a strong position to understand how to provide resources and support on the basis of need and independent of any other considerations. As an organisation, perceptions around its neutrality are deep and widespread, which allows it the privilege of addressing violence regardless of its source and doing so on all sides of the community. The feedback it provides in relation to perceptions around prison conditions is designed to support operational and policy-making decisions that aim to ensure optimal treatment and conditions for detainees.

For the ICRC, what does this work in Northern Ireland bring to the organisation, its mandate, and its mission? As for many operational structures, field experiences go far in informing or contributing to policy and doctrinal discussions. Initial work in Northern Ireland has demonstrated a remarkable openness as well as a very strong need in people who have lived through, and in some cases still live in, high levels of violence to explore what this has meant for them and what their priorities are. The ease with which those affected by violence find it possible and indeed important to talk about it, and share with an international organisation how it feels, reinforces key notions. Perhaps an understanding of the depth of the feelings that accompany violence, the trauma that remains for decades, and the value and importance of trust in human relationships are areas where further and continuing work are needed in looking at other contexts of violence and ICRC's engagement with them. Undoubtedly the role of the National Society is therein critical and their engagement with their people in their own context, is all the more challenging.

# Challenges to international humanitarian law: Israel's occupation policy

**Peter Maurer**

President of the International Committee of the Red Cross



The complexity of the ever-shifting humanitarian landscape in the Middle East region – where the effects of perennial conflict and instability have rarely been contained within one country – is a major preoccupation for humanitarian organisations like the International Committee of the Red Cross (ICRC).

As fighting continues in Syria, unprecedented levels of displacement and destruction have resulted in a region that has already suffered various forms of violent upheaval for most of its modern history. The humanitarian catastrophe that has unfolded in Syria is bound to have long-term repercussions there, and in neighbouring countries too. With huge numbers of people fleeing across borders to escape the fighting, and many more displaced within Syria, the strain on host communities and governments is immense. The lack of tangible progress on both the political and humanitarian fronts is having a profound impact on the region and putting pressure on fragile ethnic and religious balances within numerous communities.

The ICRC is particularly concerned with the situation in Lebanon, which is hosting hundreds of thousands of refugees amidst a fragile equilibrium between different communities. Another cause for concern is the serious deterioration of the situation in Iraq, where resurging sectarian violence is claiming a heavy death toll.

For many, the regional instability resulting from the Arab Spring, be it in Egypt, Yemen, Bahrain, or Tunisia, has outlasted the euphoria of social transformation. While this transformation is of critical importance in addressing

the rising needs and expectations of the vast majority of the population – namely those under the age of 30 – governments seem insufficiently prepared to engage with their demands and to find innovative ways to tackle rampant poverty, unemployment, and ineffective public services.

Perhaps the most protracted and entrenched humanitarian situation in the region is the continued alienation of the Palestinian population living under occupation in the West Bank and the Gaza Strip, or displaced in refugee camps across the region. Their dire situation further demonstrates the need to find practical steps to rebuild basic human capital within Palestinian communities, which is sorely needed to generate hope and stability in the region as a whole.

All these situations must be seen against the background of an international order undergoing profound transformation, with power centres moving southwards and eastwards and the traditional international system shifting towards a multi-polar world. Critically, the disintegration of traditional power bases is hindering the stability and resilience of fragile states and increasing the risk of civil disturbance and even war in today's global environment. These developments naturally pose extraordinary challenges for states, international organisations, and legal systems.

Without renewed commitment from governments to address growing social inequities and other sources of instability in the region, any quest for peace and prosperity will remain elusive. As a neutral and independent humanitarian organisation, the ICRC can only remind the parties to these conflicts that without respecting the basic tenets of international humanitarian law (IHL) in these testing times, it is most unlikely that the various communities will find their way toward reconciliation or be prepared to share the burden of a just peace after decades of conflict. Considering that the customary core of that law is older than the state-based system itself, the specific nature and extraordinary significance of IHL in today's armed conflicts provide a legitimacy beyond the current international system. Far from being outdated, humanitarian law is very much a contemporary and future-oriented body of law.

While respect for IHL is a crucial element of the protection of victims of armed conflict, and ultimately of fostering stability in such contexts, a critical analysis of the policies underpinning the status quo in conflict-affected states is also indispensable.

Turning specifically to the situation in Israel and the Occupied Palestinian Territory, the particular challenges facing humanitarian action there cannot be tackled without an honest look at certain Israeli policies that have become key features of the occupation.

Israel has exercised 'actual authority'<sup>1</sup> over the West Bank and the Gaza Strip for almost half a century, making its presence in these areas one of the longest sustained military occupations in modern history. While the shape and degree of this military occupation have varied, Israel has continuously maintained effective

1 The Hague Convention of 1907 specifies that 'territory is considered occupied when it is actually placed under the authority of the hostile army'. The form of administration by which an Occupying Power exercises government authority over occupied territory is called 'military government'.

control over the territories it occupied as a result of the Six Day War in 1967, and over the Palestinian population living there.

The constant pressure that Israeli occupation has imposed on the Palestinian population has had a profound impact on both the Palestinian and the Israeli economies, cultures, and societies. Beyond the recurring excesses of armed violence, the ensuing grief among the people affected, and the trauma among the broader community, the lack of progress on issues of major humanitarian concern further illustrates the inability of a generation of decision-makers to find constructive ways to bring concrete improvements to the lives of millions of Palestinians.

At the same time, the Israeli population has had to deal with difficult and diverse security challenges and threats over the decades due to direct attacks against civilians and indiscriminate attacks perpetrated by various Palestinian groups, resulting in civilian loss of life and undeniable suffering.

The ICRC's role is to work together with the parties to the conflict to ensure proper implementation of IHL in these situations; to find practical ways to improve the life, health, and dignity of those affected; and to offer its humanitarian services when needed. Providing humanitarian assistance goes alongside ensuring protection against violations of IHL, and with working to prevent violations from happening in the first place.<sup>2</sup>

As its name implies, international humanitarian law is primarily designed to serve the basic humanitarian interests of people affected by armed conflict. Whether displaced, under siege or occupation, facing attacks from a regular army or rebel groups, in detention or held hostage, all are in dire need of protection. The international community is well aware of the dangers inherent in armed conflict marked by unregulated violence. The purpose of humanitarian law is to lay down a series of inviolable standards of humanity, as well as to preserve and safeguard core values even in the midst of horrendous violence.

International humanitarian law is meant to strike a balance between military necessity and humanitarian considerations. It does not allow military endeavours that aim to make permanent changes to occupied territory; to force people to leave their homes; or to unlawfully seize land and resources from communities. Humanitarian law is and will remain a tool for the protection of the life and dignity of civilians and combatants and thus for a modicum of stabilisation in the midst of conflict.

This is obviously a difficult mission. At first sight, the call for military force to put an end to existential threats cannot be easily counter-balanced with the requirements for discriminate targeting and proportionate use of force under international humanitarian treaties. In this regard, most military commanders would agree that respect for the core rules of IHL is an essential component of successful military operations, once 'success' is defined in the context of the long-term legitimate security goals of a state, recognised under international law.

2 For more information on the ICRC's activities in favour of people affected by armed conflict and other situations of violence, see: [www.icrc.org/eng/what-we-do/index.jsp](http://www.icrc.org/eng/what-we-do/index.jsp). All internet references were accessed in April 2013.

Nevertheless, in the age of terror and counter-terror operations, the political objectives of military campaigns are increasingly predicated on the concrete outcome of particular military operations. The eradication of threats becomes the end goal of political strategies without much vision on how to address potential disparities and bring back stability. In this context, it may be legitimate to ask how one can achieve an acceptable balance between intrinsic humanitarian considerations and short-term political and security objectives.

These are critical questions for which there are no easy answers. From an ICRC perspective, there are several key points that are essential to maintaining a regulated framework for the conduct of hostilities and military occupation, and thereby ensuring basic standards of humanity in conflict.

First and foremost, the rules set out in the 1949 Geneva Conventions represent universal legal standards recognised by states and international courts alike as paramount in armed conflicts and military occupation.

In the Occupied Palestinian Territory – that is, the West Bank, East Jerusalem, and the Gaza Strip – the applicable legal framework is the law of belligerent occupation. This consists of the rules enshrined in the 1907 Hague Regulations, the Fourth Geneva Convention, and customary IHL. The latter provides a critical and universally accepted legally binding framework to ensure respect for the life and dignity of people living under military occupation.

While the Israeli government has consistently contested that the Fourth Geneva Convention is applicable *de jure* to the situation prevailing in the Occupied Palestinian Territory, it does nevertheless accept a *de facto* application of what it calls the 'humanitarian provisions' of the Convention. Moreover, the Israeli Supreme Court has clarified that certain provisions of the Convention as well as the rules of the 1907 Hague Regulations reflect customary IHL and are therefore binding on the authorities in the territories.

Beyond certain legal discussions on the applicability of specific provisions of the Fourth Geneva Convention to the situation in the Occupied Palestinian Territory – which in the ICRC's view is beyond doubt – the relevance of IHL goes further. The ICRC is convinced that compliance with and respect for IHL – while by no means a panacea – would significantly reduce human suffering on both sides, and would help restore confidence and ultimately offer the best chance of preparing the ground for a peaceful resolution of the conflict.

The critical issue to consider is what steps are needed to restore and improve the living conditions of affected Palestinians with a view both to ensuring respect for their basic rights and offering the prospect of a future political solution to the conflict.

In these circumstances, the positions expressed by the ICRC over the years on recurring violations of IHL in the Occupied Palestinian Territory remain central.<sup>3</sup> Since the beginning of Israel's occupation of the West Bank

3 See, for example, 'Implementation of the Fourth Geneva Convention in the occupied Palestinian territories: history of a multilateral process (1997–2001)', *International Review of the Red Cross*, Vol. 84, No. 847, 2002.

(including East Jerusalem) and the Gaza Strip in 1967, the ICRC has been systematically monitoring and reporting violations of IHL by all sides to the conflict, regularly submitting recommendations for corrective measures, while providing humanitarian assistance and protection to the people living under occupation.

One of the key features of the occupation is the Israeli government's settlements policy. The ICRC's publicly stated position is that this policy amounts to a violation of IHL, in particular the provision of the Fourth Geneva Convention prohibiting the transfer of part of the population of the Occupying Power – in this case Israeli citizens – to the occupied territory. This provision aims to prevent the Occupying Power from modifying the social, demographic, and economic pattern of the occupied territory, against the interests of the population living there. The Israeli government's decisive and systematic support over the years to the establishment of settlements, including by taking away land, has effectively achieved just that: a profound alteration of the economic and social landscape of the West Bank, which hinders its development as a viable nation and undermines future prospects for reconciliation.

Another key feature of the occupation is the West Bank Barrier. The Barrier, to the extent that it deviates from the Green Line established at the end of the 1948 Arab–Israeli War, not only violates IHL but further undermines the living conditions of the affected communities – depriving them of normal economic and social connections, and hindering their access to their jobs, their fields, their schools, their health-care centres, and their places of worship. The fact that the Barrier now reaches deep into Palestinian territory, with a projected total length of more than twice that of the 315 km Green Line, is seriously curtailing freedom of movement in certain areas of the West Bank and effectively cutting the land into small isolated parcels. The simultaneous expansion of settlements throughout the West Bank, served by those settlements' own road network, is effectively increasing the isolation of Palestinian communities.

The ICRC's position<sup>4</sup> – that the construction and management of the Barrier has entailed various violations of IHL provisions, including those prohibiting disproportionate security measures, destruction and seizure of property, and restrictions of access to land, work, and basic services – is by no means unique. For example, the 2004 Advisory Opinion of the International Court of Justice stated that the West Bank Barrier contravenes several of Israel's international legal obligations, including rules of IHL.<sup>5</sup>

The effects of occupation have been particularly stark for Palestinians living in East Jerusalem ever since Israel occupied the eastern part in 1967, gradually expanded the municipal boundaries, and formalised its annexation in 1980.

4 'Israel/Occupied and Autonomous Palestinian Territories: West Bank Barrier causes serious humanitarian and legal problems', Press Release No. 04/12, 18 February 2004, available at: [www.icrc.org/eng/resources/documents/news-release/2009-and-earlier/5wacnx.htm](http://www.icrc.org/eng/resources/documents/news-release/2009-and-earlier/5wacnx.htm).

5 'Legal Consequences of the construction of a wall in the Occupied Palestinian Territory (July 2004)', available at: [www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6](http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6).

This annexation – prohibited under public international law<sup>6</sup> – cannot deprive the Palestinians living there of protection under the Fourth Geneva Convention.<sup>7</sup> On the ground, however, restrictions imposed on urban planning, residency permits, and access to the West Bank have imposed constant pressure on the Palestinian community, which is unable to lead a normal life even after decades of occupation.

Finally, the social and economic situation of the population living in the Gaza Strip represents one of the most depressing sights in the region. Even though Israel has not had a permanent presence in Gaza since its official disengagement in 2005, it has in fact maintained effective control over the Strip and its borders since 1967. In addition, it has employed various coercive measures that continue to impede the Strip's development. These closure measures have severely limited economic and social contacts with the West Bank, and undermined efforts to stabilise the social situation. They have also impeded efforts to build proper democratic institutions across areas under Palestinian administrative authority. In the ICRC's view, Israel continues to be bound by obligations under occupation law that are commensurate with the degree to which it exercises control.

While significant exchanges of views and technical cooperation are taking place regarding the humanitarian consequences of the continued closure of the Gaza Strip, the ICRC has been unable to engage in any meaningful dialogue with the Israeli government on the impact for Palestinians of Israel's annexation of East Jerusalem, the routing of the West Bank Barrier, and the presence and further expansion of Israeli settlements. The ICRC has therefore opted to engage with civil society, academia, and the Israeli public directly in explaining its position regarding the discrepancies between IHL and the Israeli government's policies in the Occupied Palestinian Territory. Each of these policies has distinct and complex consequences from a humanitarian viewpoint. The main common feature is undoubtedly the steady loss of Palestinian land, coupled with severe restrictions in terms of movement and access to services. Both the demographic balance and the physical map of the Occupied Palestinian Territory have been transformed over the years, to the clear detriment of Palestinian communities.

The ICRC certainly recognises the Israeli government's need to ensure the security of its own population and territory. This is an inalienable right of any state, though with the understanding that any measures to ensure national security must remain in accordance with the rules and procedures prescribed by international law. There may be no exceptions to compliance with the rules of humanitarian law, given its unique and universal humanitarian character.

The West Bank Barrier is a case in point. In the way it has been planned, constructed, and operated, the Barrier cannot be justified as a security measure, consolidating and perpetuating as it does the illegal presence of settlements.

6 See UNSC Res. 242 of 1967, available at: <http://unispal.un.org/unispal.nsf/0/7D35E1F729DF491C-85256EE700686136>.

7 See 'Illegal Israeli actions in occupied East Jerusalem and the rest of the Occupied Palestinian Territory', statement by the ICRC at the United Nations General Assembly, resumed tenth emergency special session, New York, 13 November 1997, available at: [www.icrc.org/eng/resources/documents/misc/57jntp.htm](http://www.icrc.org/eng/resources/documents/misc/57jntp.htm).

Its cumulative effects have led to consequences of a magnitude and gravity well out of proportion with what may be the legitimate security concerns of Israel. As such, it cannot be reconciled with the duties of an Occupying Power.

As the ICRC witnesses the Middle East region's tragic descent into further instability and armed violence – with the resurgence of radical ideologies purporting to justify unspeakable violence against civilians – it has grave concerns about the uncharted territory to which unrestrained military power and dominance will lead the region.

International humanitarian law is probably the last universal bulwark against such unacceptable abuses. While that law has never prevented any state from maintaining its basic security prerogatives in times of crisis, it does provide not only a minimum binding legal framework but also a space for thinking and engaging critically on the human consequences of security policies. It is therefore paramount that a sincere and effective dialogue be maintained at all levels on how consistent the policies and practices of the parties to conflict really are with the basic provisions of IHL.

The ICRC's role in such dialogue may raise legitimate questions about its traditional policy of confidentiality.<sup>8</sup> As in other regions of the world, the ICRC remains fully committed to engaging with all sides in bilateral confidential dialogue on issues of humanitarian concern in order to offer a space for pragmatic improvements. The purpose of confidentiality is precisely to enable candid talks in an atmosphere of trust, to explore with the parties concerned the best possible practices, and ultimately, to find practical solutions in compliance with international norms and standards. This is particularly important in situations of armed conflict, which sometimes pose difficult dilemmas for those responsible for actual implementation of the law. The ICRC intends to remain a reliable partner in approaching these sensitive tasks, whether in the context of active hostilities, detention, or use of force. Such dialogue is critical to maintaining a proper balance between legitimate military necessity and imperative humanitarian interests.

However, when confidential dialogue is unsuccessful in bringing concrete improvements to the affected populations, it becomes untenable to remain silent on important discrepancies between public policies and legal frameworks. In such cases, the ICRC believes that it has the responsibility under its humanitarian mission to engage in a more public manner on violations of IHL. Sustained and unwavering attitudes of parties violating some of the core rules of the law not only result in a tragic cost to the people affected by those violations, but are also to the profound detriment of that party's own strategic thinking, its planning capabilities, and ultimately, its own long-term national interests. The role of the ICRC is to maintain

8 See 'Action by the International Committee of the Red Cross in the event of violations of international humanitarian law or of other fundamental rules protecting persons in situations of violence', in *International Review of the Red Cross*, Vol. 87, No. 858, June 2005; 'The International Committee of the Red Cross's (ICRC's) confidential approach', policy document, December 2012, in *International Review of the Red Cross*, Vol. 94, No. 887, Autumn 2012, available at: <http://www.icrc.org/eng/resources/documents/article/review-2012/irrc-887-confidentiality.htm>.

a watchful eye on these choices, propose its guidance when necessary, and offer humanitarian assistance when needed.

The importance and value of comprehensive dialogue on core humanitarian challenges cannot be overestimated. International law has established clear legal obligations for the parties to armed conflict and for States party to the Geneva Conventions in terms of ensuring respect for IHL. Yet the reality is that humanitarian organisations such as the ICRC are facing growing dilemmas in working towards the implementation of those rules and in deciding how best to orientate their work in connection with armed conflict, whether in Israel and the Occupied Territories the broader Middle East, or anywhere else in the world.

These dilemmas facing humanitarian action may be synthesised into three key questions. Firstly, how can one determine a practical and acceptable balance between the legitimate security requirements of the parties to conflict while effectively protecting the civilian population? Secondly, how can one remain committed to confidential dialogue on humanitarian concerns with the parties to conflict and at the same time meet the growing requirement for greater public engagement and transparency? And thirdly, to what extent should one focus on the short-term humanitarian needs of populations affected by protracted conflicts, as opposed to investing more in the resilience and self-sufficiency of these communities?

The future of humanitarian action depends on our ability to engage on these issues with the parties to armed conflict in a practical and proactive manner. The ICRC's role is not to impose standards and give lessons on these dilemmas, but rather to engage in real dialogue and find the best possible outcomes in any given context. Rather than pushing a strict advocacy or doctrinal line, the ICRC proposes to establish a structured dialogue on these dilemmas, to share experiences, and to identify practical solutions in line with IHL. The ICRC remains convinced that improved compliance with IHL – in the Occupied Palestinian Territory as in other situations of armed conflict or occupation anywhere in the world – is a crucial factor in helping to reduce the suffering of all those affected.

# International humanitarian law, ICRC and Israel's status in the Territories

## Alan Baker

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*This article discusses contentions voiced by ICRC President Maurer in a speech on 'Challenges to humanitarian action in contemporary conflicts: Israel, the Middle East and beyond', developed in the form of the article in this issue of the International Review of the Red Cross.*

*It discusses challenges to international humanitarian law in situations where one party violates humanitarian norms, and questions some ICRC contentions and assumptions regarding the status of the West Bank territories, the status of Israel-Palestinian agreements, the status of the Gaza Strip, the concept of 'occupation', Israel's settlement policy, Israel's separation barrier, East Jerusalem, and concludes with a discussion of ICRC policies of confidentiality, as opposed to public engagement.*

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This article discusses and analyses several points and contentions voiced by ICRC President Peter Maurer in his article in this issue of the *International Review of the Red Cross*.<sup>1</sup>

In his article, President Maurer discusses the significance, importance and challenges of international humanitarian law in general, as well as specific topics relating to Israel's status and actions in the territories.

## Significance of international humanitarian law

In expounding the ICRC view on the significance of international humanitarian law (IHL) in today's difficult and testing times, especially in the context of the situation in the Middle East, ICRC President Maurer attributes to humanitarian law an 'extraordinary significance in providing a legitimacy beyond today's international system'. As such, he considers humanitarian law to be a 'future-oriented body of law'.

Undoubtedly, IHL constitutes a vital and significant component in any and every conflict situation. It carries a huge potential for regulating the behavior of the various parties to such a conflict situation, reducing suffering and encouraging stability.

However, it cannot function independently of, beyond and separately from the historic, legal and political realities of today's international system. As such, it cannot exist or be implemented in a normative, legal or political vacuum. In order for it to be effective, IHL must relate to, and take into consideration each specific and individual framework, situation or circumstances in which it needs to be invoked and implemented.

While President Maurer correctly describes IHL as a 'tool for the protection of the life and dignity of civilians and combatants and thus a modicum of stabilisation in the midst of conflict',<sup>2</sup> this is accurate and workable as long as, and inasmuch as it is respected and implemented by all elements involved in any particular conflict.

However, despite what is obvious, obligatory and second-nature for military commanders and soldiers of the official, organised armed forces of a state that conducts itself in accordance with international law, and duly regulates such matters as discriminate targeting and ensuring proportionate use of force, this is regrettably not so obvious and acceptable to terror forces, organised or otherwise. Such forces, by definition, have no obligation or inclination to abide by humanitarian norms. The opposite is in fact the case. For their own tactical purposes aimed at targeting and harming civilians, they determinedly and indiscriminately attack civilian areas, centers, dwellings, protected public areas and cynically abuse

1 See Peter Maurer, 'Challenges to international humanitarian law: Israel's occupation policy', in this issue. President Maurer's article is based on a speech delivered at the Minerva Center for Human Rights, at the Hebrew University of Jerusalem, Israel, on 3 July 2013, entitled 'Challenges to humanitarian action in contemporary conflicts: Israel, the Middle East and beyond'.

2 *Ibid.*

buildings such as churches, mosques, schools and hospitals, using them as shields for rocket and weapons emplacements. They take civilian hostages and generally, knowingly utilize and rely on the above-noted assumption that an organized army or military forces of a state will function in accordance with such norms and will therefore hesitate before responding.<sup>3</sup>

## Status of the Territories

Moving from the universal and general challenges to implementing IHL to the specific humanitarian challenges in the context of the relationship between Israel and the Palestinians, there are some basic assumptions figuring in ICRC official positions and statements, including the contribution of President Maurer in this issue of the *Review*<sup>4</sup> regarding the status of the territories administered by Israel since 1967, that appear to have become *lingua franca* within the ICRC itself as well as in the United Nations (UN) and the international community in general. These assumptions, mostly politically-generated, call for some clarification inasmuch as they would appear to be inaccurate and to run counter to the ICRC's fundamental principles of impartiality and neutrality as defined in the Preamble to the Statutes of the International Red Cross and Red Crescent Movement,<sup>5</sup> and reaffirmed in the Article 4 of the ICRC's own Statutes.<sup>6</sup>

The first and perhaps the most frequently repeated and inaccurate assumption, including by the ICRC President himself, is to describe the historically-termed areas of Judea and Samaria, the Gaza Strip and the eastern part of Jerusalem held by Israel since 1967 as the 'Occupied Palestinian territory'.<sup>7</sup> This expression is inaccurate historically and legally, and is inherently and clearly politically-slanted.

These areas, situated in the 'West bank' of the River Jordan, an area originally described in the 29 November 1947 UN General Assembly 'partition' resolution 181 as 'the hill country of Samaria and Judea'<sup>8</sup> have never been part of, nor have they ever belonged to, or been seized from any sovereign or other formal

3 See Alan Baker, 'Legal and Tactical Dilemmas Inherent in Fighting Terror: Experience of the Israeli Army in Jenin and Bethlehem (April–May 2002)', in Richard B. Jacques (ed.), *International Law Studies Vol. 80: Issues in International Law and Military Operations*, US Naval War College, pp. 273–285.

4 See P. Maurer, above note 1.

5 Statutes of the International Red Cross and Red Crescent Movement, Preamble, in *Handbook of the International Red Cross and Red Crescent Movement*, 13<sup>th</sup> ed., ICRC/International Federation of Red Cross and Red Crescent Societies, 1994, p. 417: 'in order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature'.

6 See *ibid.*, p. 449, Art. 4 (1)(a), Statutes of the International Committee of the Red Cross as revised, which defines the role of the ICRC as 'to maintain and disseminate the Fundamental Principles of the Movement, namely, impartiality, neutrality, independence, voluntary service, unity and universality'.

7 See P. Maurer, above note 1.

8 See UNGA Res. 181, 29 November 1947, section II, available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/038/88/IMG/NR003888.pdf?OpenElement>. All internet references were last accessed in October 2013.

Palestinian entity, which has never existed. There has never been any binding treaty, agreement, resolution or any other international document that has accorded this territory to the Palestinians. The expression ‘Occupied Palestinian Territory’ is nothing more than a political term that has been commonly and frequently used in non-binding political resolutions, principally in the UN General Assembly, but also by the ICRC, representing nothing more than the political viewpoint of the majority of states voting in favour of such resolutions. These political determinations have never constituted, nor can they or should they constitute an authority for any determination by the ICRC that the territories are Palestinian. Such determination is clearly partisan.<sup>9</sup>

To arbitrarily make such a misleading determination, in fact represents a complete denial of legal, historic and political rights and realities regarding the areas in question, as well as undermining and even attempting to pre-determine the outcome of an ongoing negotiating process, based on valid agreements between Israel and the Palestine Liberation Organisation (PLO), intended to determine, by agreement, the ultimate ‘final status’ of these areas.

## Agreements between Israel and the Palestinians

In a similar vein, the position of the ICRC, as voiced by its President, according to which Israel, for 47 years, has exercised: “‘actual authority’” over the West Bank and the Gaza Strip<sup>10</sup> and ‘continuously maintained effective control over the territories it occupied as a result of the Six Day War in 1967, and over the Palestinian population living there’<sup>11</sup> would appear to be somewhat over-generalised and factually inaccurate. It overlooks the landmark 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip,<sup>12</sup> witnessed by the United States’ President as well as leaders of Jordan, Egypt, Russia, Norway, and the European Union and endorsed by the UN, in which the parties agreed that effective control over the area would, pending a final status agreement, be divided between a Palestinian Authority established for that purpose, and Israel.

As such, the PLO, as the formal representative of the Palestinian people, freely and formally agreed that in addition to those West Bank and Gaza Strip areas in which all powers and responsibilities for governance and administration would be transferred into the hands of the Palestinian Authority (Areas A and B and Gaza), Israel would retain effective control over a part of the area (Area C) only. To ignore this fact and claim that the whole area is still ‘occupied’ by Israel and subject to

9 On this issue see Robbie Sabel “The ICJ opinion on the Separation Barrier: Designating the Entire West Bank as “Palestinian Territory””, in *Jerusalem Viewpoints*, No. 535, 2 October 2005, available at: <http://jcpa.org/jl/vp535.htm>

10 See P. Maurer, above note 1.

11 *Ibid.*

12 See Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II), Washington, D.C., 28 September 1995, available at: <http://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT.aspx>.

Israel's effective military control would appear to be inaccurate and misleading at the least.

This unique and *sui generis* situation, including the history and circumstances of the Israeli-Palestinian conflict regarding the territories, as well as the series of agreements and memoranda that have been signed between the Palestinian leadership and the Government of Israel,<sup>13</sup> have produced a special independent regime – a *lex specialis* – that governs all aspects of the relationship between them, including the respective status of each party *vis-à-vis* the territory. As such, the oft-repeated contention that the Fourth Geneva Convention is applicable to the territories would appear to ignore this unique situation and this vital body of agreements.

The Israeli-Palestinian agreements call for a final status negotiating process to determine the fate of the territories. This process is underway, and thus the necessities of complete neutrality oblige the ICRC, as well as the international community as a whole, to allow this process to proceed, without attempting to prejudge or predetermine the outcome.

## Status of the Gaza Strip

By the same criteria of accuracy, some eight years after Israel's forces and settlements were removed by Israel, unilaterally, from the Gaza Strip, the contention as articulated by the President of ICRC that Israel continues to maintain 'effective control over the Strip', that it uses 'coercive measures' which impede 'efforts to build proper democratic institutions across areas under Palestinian administrative authority', and that Israel is responsible for the 'depressing' social and economic situation in this area,<sup>14</sup> would appear to indicate of a certain lack of awareness of the actual situation on the ground.

The international community has repeatedly acknowledged the regrettable fact that since Israel's unilateral redeployment out of the Gaza Strip in 2005, the area was occupied by the Hamas terror organization which physically and brutally ousted the Palestinian Authority and established its own effective military control and fundamentalist Islamist administration, totally opposed to any democratic form of governance. This has been accompanied by oppression and ongoing systematic violations of humanitarian norms by the Hamas administration, both *vis-à-vis* its own local Palestinian population as well as against the Israeli towns and villages in proximity to the Gaza Strip, through repeated indiscriminate firing of rockets

13 See Israel-Palestinian Declaration of Principles, 13 September 1993; Exchange of Letters between Prime Minister Rabin and Chairman Arafat of 9–10 September 1993; Agreement on the Gaza Strip and the Jericho Area, 4 May 1994; Interim Agreement between Israel and the Palestinians, 28 September 1995; Agreement on Temporary International Presence in Hebron, 9 May 1996; The Wye River Memorandum, 23 October 1998; The Sharm el-Sheikh Memorandum on Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations, 4 September 1999; Protocol Concerning Safe Passage between the West Bank and the Gaza Strip, 5 October 1999. All these documents are referenced in: <http://www.mfa.gov.il/mfa/peace%20process/reference%20documents/>.

14 See P. Maurer, above note 1.

against civilian concentrations in Israel and dispatching terrorists into Israel and into Egyptian territory in the Sinai with the sole intention to kill Israeli civilians.

To disregard the acts of terror emanating from the Gaza Strip, willfully and deliberately directed against Israel’s civilian population, and to overlook the ongoing threat to Israel’s security through the continued stockpiling of offensive weaponry and missiles, would appear to belie reality.

Any limitation on economic and social contacts with the West Bank cannot in good conscience, be attributed to Israel, but is rather the result of the well-known and widely visible hostile internal relationship between the Hamas administration and the Palestinian Authority leadership in the West Bank.

With regard to Israel’s ‘closure measures’ considered by the ICRC to ‘impede efforts to build proper democratic institutions’,<sup>15</sup> the 2011 report of the UN Secretary-General’s Panel of Inquiry on the 31 May 2010 Flotilla Incident clearly acknowledges that:

Israel faces a real threat to its security from militant groups in Gaza. The naval blockade was imposed as a legitimate security measure in order to prevent weapons from entering Gaza by sea and its implementation complied with the requirements of international law.<sup>16</sup>

## Assumptions regarding ‘occupation’

The long-held assumption and determination by the ICRC that the territories are ‘occupied’ would appear to be based on an inaccurate and partisan reading of the factual situation and of the relevant international legal documentation.

Indeed, in the 1967 ‘Six Day War’ Israel took control *inter alia* over the West Bank areas of Samaria, Judea, eastern Jerusalem and the Gaza Strip, that had been previously occupied and held by the Hashemite Kingdom of Jordan and Egypt respectively, since the 1948 war initiated against Israel by the neighboring Arab states. Neither of these areas constituted the legitimate sovereign territory of Jordan and Egypt respectively, the two High Contracting Parties to the Fourth Geneva Convention. Hence, Israel has consistently held the view that the classic definition of occupation embodied in the Fourth Geneva Convention regarding the status of territory cannot be attributed to Israel’s status in these areas.

The unique historic and legal nature of the West Bank territories of Samaria and Judea and eastern Jerusalem, with basic historic rights emanating from time immemorial and encapsulated legally in official, binding and still valid international documents, inevitably render these territories as *sui generis*, and thus run against any attempt to use standard, loaded and inappropriate definitions such as ‘occupied territories’ to designate or describe their status.

<sup>15</sup> *Ibid.*

<sup>16</sup> See Report of the Secretary-General’s Panel of Inquiry on the 31 May 2010 Flotilla Incident, September 2011, para. 82, available at: [http://www.un.org/News/dh/infocus/middle\\_east/Gaza\\_Flotilla\\_Panel\\_Report.pdf](http://www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf).

However, at the same time, Israel has, from the start, never denied its humanitarian obligations pursuant to international customary and humanitarian law *vis-à-vis* the local population in these areas, and to this end has cooperated and continues to cooperate with the ICRC's humanitarian role as set out in the Fourth Geneva Convention, to restore and improve the living conditions of affected Palestinians with a view to both ensuring respect for their basic rights and offering the prospect of a future political solution to the conflict. Furthermore, Israel's Supreme Court maintains strict supervision with a view to ensuring that the Israeli official bodies conduct themselves in accordance with Israel's international humanitarian obligations.<sup>17</sup>

By any objective criterion, the status of the territory could only be considered to be 'disputed territory', subject to an ongoing negotiation process between the involved parties, aimed at determining by agreement the fate of the territory. Any claim or determination, even by the ICRC, attempting to designate and assign the territory to one party, or to deny the rights and status of any party, could only be seen as a departure from the strict policy of neutrality dictated by the fundamental principles of the Red Cross Movement.

## Israel's settlement policy

The ICRC's consistently held claim, as voiced by President Maurer, that the Israel government's settlements policy is a violation of the Fourth Geneva Convention, merits some discussion.

Both the text of the Fourth Geneva Convention as well as its *travaux préparatoires*, indicate that in the post-World War II circumstances under which the convention was drafted, it was clearly never intended to deal with situations such as Israel's settlements. The authoritative and official commentary by the ICRC, edited by Jean S. Pictet and published in 1958 attributes the origin of Article 49 to situations where portions of an Occupying Power's own population were coerced into being transferred in order to colonise those territories.<sup>18</sup>

Historically, during the period of the Second World War, over 40 million people were subjected to forced migration, evacuation, displacement, and expulsion, including 15 million Germans, five million Soviet citizens, and millions of Poles, Czechs, Ukrainians and Hungarians. The vast numbers of people affected and the aims and purposes behind such a population movement speak for themselves. Realistically, there is nothing to link such circumstances to Israel's settlement policy.

17 See High Court of Justice (HCJ), *Beit Sourik Village Council v. Government of Israel*, HCJ 2056/04, Judgement, available at: [http://elyon1.court.gov.il/Files\\_ENG/04/560/020/A28/04020560.A28.pdf](http://elyon1.court.gov.il/Files_ENG/04/560/020/A28/04020560.A28.pdf); *Mariabe v Prime Minister of Israel*, HCJ 7957/04, Judgement, available at: [http://elyon1.court.gov.il/Files\\_ENG/04/570/079/A14/04079570.A14.pdf](http://elyon1.court.gov.il/Files_ENG/04/570/079/A14/04079570.A14.pdf).

18 For an extensive summary of the reasoning behind the drafting of the convention, see Jean Pictet (ed.), *Commentary on the Geneva Conventions of 12 August 1949*, Vol. 4, *Geneva Convention relative to the Protection of Civilian Persons in Time of War*, ICRC, Geneva, 1958, pp. 3–9.

Article 49 of the Fourth Geneva Convention uses terminology that is indicative of governmental action in coercing its citizens to move. Yet Israel has not forcibly deported or mass-transferred its citizens into the territories. It has consistently maintained a policy enabling people to reside voluntarily on land that is not privately owned. Any claim regarding ownership of land is open to supervision and adjudication within Israel's justice system, including by Israel's Supreme Court, and all this is subject to the outcome of the final status negotiations in which the fate of the territories will be agreed-upon.

In some cases Israel has permitted its citizens who have for many years owned property or tracts of land in the territories, and who had been previously dispossessed and displaced by Jordan, to return to their own properties. The presence in these areas of Jewish residence and settlement from Ottoman and British Mandatory times is totally unrelated to the context of, or claims regarding, the Geneva Convention.

Israel has never expressed any intention to colonise the territories, to confiscate land, nor to displace the local population for political or racial reasons, nor to alter the demographic nature of the area.

The background and circumstances in which the Fourth Geneva Convention was drafted, and specifically Article 49, raises a serious question as to the appropriateness and relevance of linkage to and reliance on the article by the ICRC and international community (including the International Court of Justice in its Advisory Opinion on Israel's security barrier)<sup>19</sup> as the basis and criterion for determining that Israel's settlements are illegal. One may further ask if this is not a misreading, misunderstanding, or even distortion of that article and its context.<sup>20</sup>

The agreed-upon final status negotiating issue of settlements is on the negotiating table, and this negotiating process cannot and should not be prejudiced or undermined by politically inspired and inaccurate determinations.

## Separation barrier

While President Maurer acknowledges Israel's inalienable right and need to ensure the security of its own population and territory,<sup>21</sup> he appears to take issue with the security barrier that Israel was obliged to construct in order to stem a tragic bout of infiltrations from Palestinian areas into Israel by suicide bombers who wreaked havoc and tragedy, brutally murdering hundreds of innocent Israeli civilians.

19 See International Court of Justice (ICJ), *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, *Advisory Opinion*, 9 July 2004, ICJ Reports 2004.

20 For a detailed study of this issue see Alan Baker, 'The Settlements Issue: Distorting the Geneva Convention and the Oslo Accords', in *Jerusalem Center for Public Affairs (JCPA)*, Vol. 10, No. 20, 5 January 2011, available at : <http://jcpa.org/article/the-settlements-issue-distorting-the-geneva-convention-and-the-oslo-accords/>.

21 P. Maurer, above note 1.

The justification for this barrier was, and continues to be solely pragmatic and based on security considerations, aimed at preventing the above-noted infiltrations. Its routing within or outside Palestinian areas bears no relation whatsoever to, nor does it prejudice the negotiating issues of borders and settlements, presently under active negotiation by the parties concerned. Israel's Supreme Court, seized with weighing the proportionality of the security justification on the one hand, with the concomitant humanitarian considerations on the other, has maintained a constant vigil to ensure that this proportionality is observed.<sup>22</sup>

While the Advisory Opinion of the ICJ indeed questioned the legality of the barrier, but as observed in the separate opinions of the judges, the court based its opinion solely on positions presented to it opposing the barrier, and thus failed to consider the terror activity that served as justification for its emplacement.<sup>23</sup>

## East Jerusalem

As explained by President Maurer in his article, the ICRC as well as the international community in general, regards east Jerusalem as no less 'occupied' than any of the other areas in the West Bank and Gaza Strip.

However, as explained above, inasmuch as the status of the West Bank territories of Samaria and Judea are *sui generis*, and by the very nature of their unique historic, legal and political circumstances and characteristics, are in a category that falls outside the accepted frameworks known within the international community, so the status of Jerusalem is no less unique.

In fact, it is more so, in light of the city's central place, from time immemorial, in world history, and specifically in that of the world's three monotheistic religions - Judaism, Christianity and Islam, as well as being the location of Holy Places and other historic sites to all three religions.<sup>24</sup>

From its entry into eastern Jerusalem in 1967 and with the concomitant realisation of the dream and prayers of every Jew in the world who turns in prayer to Jerusalem, the eastern part of the city has been considered an integral part of Israel

22 See *Beit Sourik case*, above note 17. See also *Hawaja v. Prime Minister of Israel*, No 2577/04 at <http://uri.mitkadem.co.il/wall/bagatz-257704.html>; *Salim and others v. Commander of IDF Forces in Judea and Samaria*, available at: [http://www.psakdin.co.il/fileprint.asp?filename=/minhali/private/ver\\_dzhe.htm](http://www.psakdin.co.il/fileprint.asp?filename=/minhali/private/ver_dzhe.htm); and *Head of the Azoun Local Council v Government of Israel* No. 2732/05, available at: <http://www.azriel.co.il/modules.php?name=News&file=article&sid=518> (these 3 internet references are in Hebrew).

23 See ICJ, *Advisory Opinion*, above note 19, separate opinions of Judge Higgins Higgins, paras 15–20, 22, 23, 28, 30, Judge Kooijmans, paras 13, 26, 30, 32 and declaration of Judge Buergenthal, paras 3, 7.

24 See above note 8. Jerusalem's unique status and character was acknowledged in the 1947 UN General Assembly 'partition' resolution 181, recommending that Jerusalem and its environs become a '*corpus separatum*' under a special international regime for the City of Jerusalem, to be administered by the United Nations. Additional attempts in the UN to internationalize Jerusalem never gained support. See also attempts by the UN General Assembly to internationalize Jerusalem in UNGA Res. 185 (S2), 26 April 1948; UNGA Res. 187 (S2), 6 May 1948; UNGA Res. 303 (IV), 9 December 1949.

and not part of the territories as such. Israel indeed extended its law, jurisdiction and administration to the eastern part of the city.<sup>25</sup>

At the same time, Israel is committed, pursuant to the Oslo accords, to negotiate 'the issue of Jerusalem' with the Palestinians, with the aim of reaching a satisfactory settlement of the issue, as well as the other final status issues, during the course of the ongoing negotiations.<sup>26</sup>

Palestinians living in east Jerusalem are given the option to choose between full Israeli citizenship and alternatively permanent residency status, enjoying full Israeli social welfare and humanitarian benefits in accordance with Israeli law. As such they are equally subject to the requirements of Israeli law governing urban planning, zoning and construction.

In a similar vein, it is agreed in the Oslo Accords that Palestinian residents of eastern Jerusalem may vote and be elected in Palestinian Authority elections.<sup>27</sup>

As part of the functional relationship between Israel and the ICRC, and notwithstanding the lack of agreement between the ICRC and Israel regarding the status of Jerusalem, the ICRC carries out, to the best of its ability, its functions in the eastern Jerusalem area in coordination, as necessary, with the appropriate Israeli authorities with a view to ensuring the humanitarian needs of the Palestinians in east Jerusalem.

## Conclusion: confidentiality or public engagement

In concluding his article, President Maurer discusses the relative aspects of the ICRC's traditional policy of confidentiality in dealing with issues of violations of international humanitarian law on the one hand, and dealing with such issues in a more pro-active manner through engaging the public, on the other hand.<sup>28</sup>

In order to fulfill its humanitarian functions in the manner set out in the Statutes of the Movement itself and the ICRC Statutes, as well as in the specific international conventions, the ICRC is bound by its guiding fundamental principle of neutrality, which invokes a specific obligation 'in order to continue to enjoy the confidence of all', not to 'engage at any time in controversies of a political, racial, religious or ideological nature'.<sup>29</sup>

Engaging the public, whether through public speeches and statements, the public use of politically-generated terminology, reliance on biased and inaccurate information, and the adoption of formal policy positions based on political

25 Law and Administration Ordinance (Amendment No. 11) 5727-1967, 21 L.S.I. 75 (1967). There is no reference in this legislation to annexation.

26 See Israeli-Palestinian Interim Agreement, above note 12. For an in-depth study of the Jerusalem issue, see Alan Baker, 'Is Jerusalem Really Negotiable – An Analysis of Jerusalem's Place in the Peace Process', in JCPA, No. 11, May 2013, available at: <http://jcpa.org/article/is-jerusalem-really-negotiable-an-analysis-of-jerusalems-place-in-the-peace-process-2/>.

27 See Israeli-Palestinian Interim Agreement, above note 12, and specifically Annex II concerning elections, available at: [http://www.knesset.gov.il/process/docs/heskemb3\\_eng.htm](http://www.knesset.gov.il/process/docs/heskemb3_eng.htm).

28 P. Maurer, above note 1.

29 See above note 6.

assumptions that have the potential to influence, undermine or prejudice ongoing processes of negotiation and reconciliation, would all appear to run contrary to the fundamental obligation of neutrality.

The ICRC has a vitally important, sensitive and inherently difficult task to perform – whether in general or whether in the specific context of the Middle East and Israel-Palestinian relationship. The historic and legal complexities of the territories in question place an even heavier responsibility upon the ICRC in general, and upon its President in particular, to religiously honor and maintain the principle of neutrality and not to permit the organisation to prejudice its historic and vital task by any hint or perception of bias or partisanship.



## OPINION NOTE



# Médecins Sans Frontières and the ICRC: matters of principle

## Rony Brauman

Rony Brauman, born in 1950, is a medical doctor with degrees in epidemiology and tropical medicine. After working as a physician in the field for several years, he became president of Médecins Sans Frontières (Doctors Without Borders) in 1982 and held that post until 1994. He is now Director of Studies at the Fondation Médecins Sans Frontières, associate professor at the Institute of Political Studies in Paris, and director of the Humanitarian and Conflict Response Institute at the University of Manchester, United Kingdom. He is a columnist for the quarterly magazine *Alternatives Internationales*.

**Keywords:** humanitarian principles, neutrality, independence, impartiality, Biafra, Syria.

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How do Médecins Sans Frontières (MSF) and the International Committee of the Red Cross (ICRC) differ, and how are they alike? The question came from the Editor-in-chief of this *Review*, but it is regularly discussed at MSF, which might just as well have queried a member of the ICRC on the same subject. It comes up all the more frequently because, since the early 1990s, the two organisations have often worked in close cooperation, particularly in cities at war. Their central leaderships meet regularly; their members now speak the same language, and agree about where to draw the line, in particular, regarding the proper relationship between civilian humanitarian agencies and the military. In short, their ‘Dunantist’ mission – inherent for one, acquired for the other – seems to bring them together to the point where there is no need to talk about the difference or differences between them, the main point being what they have in common. This is what I discuss below.

I should first explain that it is not my intention here to go into the specifics of the relief efforts, which for MSF are basically limited to medical care, while for the ICRC they have many other facets. As a result, any attempt to make a comparative assessment of these organisations' overall action would be very difficult. Instead, I focus on their operational choices in conflict situations, the principles underlying those choices, and the public expression of these principles, while noting that, in contrast to the ICRC, working in war zones accounts for no more than a third of all MSF operations. Defining the scope of the comparison in this way facilitates discussion of the two organisations' discourse and action in similar situations. However, it leaves intact a major difficulty with the argument, which relates to their very different structures. When the ICRC makes a public pronouncement, it speaks with one voice. Its appeals and statements are clearly signed 'International Committee Geneva', in line with the words appearing on the emblems. The same is not true for MSF. It consists of five national sections known as operational centres,<sup>1</sup> which are attached to partner sections. Each one has its own history and organisational form – in short, its culture – and disagreements between, and within, the sections are rife. This complicates and undermines, but does not prohibit, the treatment of MSF as a homogeneous entity. This article is not, therefore, the expression of a shared doctrine, but of ideas running through the overall MSF movement, which it does not claim to represent.

## The myth of Biafra

It is commonly acknowledged that MSF was established in response to the commitment to remain silent made by French Red Cross personnel working under the auspices of the ICRC during the war in Biafra (1967–1970). Hence, MSF began by rejecting a predetermined neutrality that the French doctors viewed as passive complicity with the Nigerian government, which had been accused by its adversaries of committing genocide. The silence of all parties, including the ICRC, about the annihilation of the Jews under the Third Reich formed the backdrop to this accusation.

'I had signed; I was a perjurer. Upon my return [from Biafra] to France', wrote Bernard Kouchner, 'I formed a committee against genocide in Biafra. My reasoning was simple. I did not want to repeat the mistake of the ICRC, which, during the 1939–1945 war, had not condemned the Nazi extermination camps. That was the origin of Médecins Sans Frontières and Médecins du Monde (Doctors of the World)'.<sup>2</sup>

In this passage, Kouchner described the *raison d'être* behind 'bearing witness' – a moral challenge, an action slogan, a call for mobilisation. It was necessary to free oneself from an organisation that, bound by diplomatic constraints, was repeating

1 Paris, Brussels, Geneva, Amsterdam, and Barcelona, in order of establishment.

2 Bernard Kouchner, *Charité Business*, Editions Le Pré aux Clercs, Paris, 1986, p. 217.

the ‘mistake’ made during the Second World War.<sup>3</sup> Speaking out, denouncing, standing up for victims against their murderers, such was to be the thrust of the new humanitarian commitment embodied by MSF, founded in 1971 – in opposition, therefore, to the ‘culture of silence’ imposed by the Red Cross.

The historian Marie-Luce Desgrandschamps has shown what this account owes to retrospective reconstruction, stressing in particular that the articles published by the French doctors were well received in Geneva. The ICRC even asked the newspaper *Le Monde* for permission to reprint large excerpts from one of them in the *International Review of the Red Cross*, which was done in January 1969.<sup>4</sup> It is true that in these articles Bernard Kouchner and Max Récamier eloquently described the horrors of the Biafra war and the hard work of the humanitarian volunteers, and did so without making accusations against the Nigerian government. Some of the French doctors felt the need to go further and to denounce the atrocities committed by the federal troops, while others confined themselves to a more tactful reminder of the government’s commitments. In fact, Desgrandschamps notes, there was a dividing line running ‘apparently not only between the small number of French doctors and the ICRC, but also within the ICRC itself, between the staff in Biafra and those responsible for managing the whole operation’. The ICRC’s publication of the article from *Le Monde*, like the subsequent return of its authors to Biafra, again with the Red Cross, proves that the tensions were far from the breaking point that was described years later.

Nevertheless, the myth of a condemnation leading to a break with the Red Cross, of a refusal to consent through silence to the alleged genocide against the Biafrans, emerged as a story of origins – not at the time, incidentally, but at the end of the 1970s when humanitarian action and its spokespersons began to interest the media and even to make headlines occasionally. It was only then that the myth became the distinctive brand of MSF,<sup>5</sup> in the eyes of its members and the media: ‘Aiding the victims is a humanitarian approach; denouncing their executioners remains a militant one. This mix is what makes MSF such a valuable organisation’, *Le Monde* editorialized, on the day of the announcement in 1999 that MSF had been awarded the Nobel Peace Prize.<sup>6</sup> Contrary to what was abundantly said and written

3 Jean-Claude Favez, with Geneviève Billeter, *Une mission impossible? Le CICR, les déportations et les camps de concentration nazis*, Éditions Payot, Lausanne, 1988 [published in English as Jean-Claude Favez, John Fletcher and Beryl Fletcher, *The Red Cross and the Holocaust*, Cambridge University Press, Cambridge, 1999 ].

4 Marie-Luce Desgrandschamps, ‘Revenir sur le mythe fondateur de Médecins Sans Frontières: les relations entre les médecins français et le CICR pendant la guerre du Biafra (1967–1970)’ [Retracing the founding myth of Médecins Sans Frontières: Relations between French doctors and the ICRC during the war in Biafra (1967–1970)], in *Relations internationales*, No. 146, April–June 2011, available at: <http://www.cairn.info/revue-relations-internationales-2011-2-page-95.htm> (all the Internet references were accessed in January 2013, unless otherwise stated).

5 For a detailed analysis of MSF’s founding myths, see Rony Brauman, ‘Les liaisons dangereuses du témoignage humanitaire et de la propagande politique’ [The dangerous relationships between bearing witness and political propaganda], in Marc Le Pape, Johanna Siméant and Claudine Vidal (eds), *Crises extrêmes: Face aux massacres, aux guerres civiles et aux génocides* [Extreme crises: Facing massacres, civil wars and genocide], Éditions La Découverte, Paris, 2006, available at: <http://www.msf-crash.org/publications/#article99>.

6 ‘La cause des victimes’ [On the side of the victims], in *Le Monde*, 17 October 1999.

on that occasion, it must be pointed out that the concept of humanitarian intervention was never mentioned in connection with Biafra; that term (coined by Bernard Kouchner) dates from the 1980s and refers to the ‘right’ that humanitarian doctors gave themselves to cross borders clandestinely in order to reach certain war zones to which access was prohibited. As to the accusation of genocide, which was understandable in the light of the atrocities committed by the federal army, we know that it was mainly a political tool, a means of mobilizing support for Biafra’s independence. What was known at the time as ‘bearing witness’ therefore belongs in the category of psychological action or, in more mundane terms, war propaganda.

Is this to say – this episode being at best only a misunderstanding, and at worst a political manipulation – that once the myth has been deconstructed, MSF will at last yield to the ICRC’s arguments and define itself as the ICRC’s medical wing? No, but the issue continually arises, as evidenced by the later history of MSF: public statements of position, and denunciation, where necessary, have been both a constant affirmation of MSF and an internal stumbling block throughout its existence. Thus, the charter adopted by MSF at its founding stated that: ‘Doctors Without Borders observes neutrality and . . . complete independence, barring it from any interference in the internal affairs of the States, governments and parties in whose territory it is called upon to serve.’ As if to dispel any uncertainty, the charter reaffirmed that MSF members must ‘refrain from passing judgement or publicly expressing an opinion – favourable or unfavourable – with regard to events and to the forces and leaders that accept their aid’. A stronger condemnation of the positions taken by some of the founders – of whom only a small majority had worked in Biafra – would be hard to find. No doubt the intention was to give prior assurances to the governments of the countries in which the brand-new organisation planned to work. Not being a founder of MSF, and having discovered no traces of the debates between them, the author is not in a position to say with certainty what reasons led to the adoption of these provisions. The fact remains that, in adopting such a charter, MSF aligned itself with the tradition of a silent humanitarian agency, wholly focused on medical aid, a role that would not have been disowned by the ICRC – which, for that matter, remained the primary model for MSF members. As we will see, throughout its history, MSF has been, and remains, torn between a desire to speak out strongly and a discreet approach more conducive to good relations with the political authorities.

## What are we talking about?

In an article entitled ‘Speaking out or remaining silent in humanitarian work’,<sup>7</sup> Jakob Kellenberger, the former president of the ICRC, recalls that, in order to carry out its exclusive mission of protecting and assisting victims of armed conflict, the ICRC must ensure that its presence is accepted by all parties. This is the essential

<sup>7</sup> Jakob Kellenberger, ‘Speaking out or remaining silent in humanitarian work’, in *International Review of the Red Cross (IRRC)*, Vol. 86, No. 855, 2004, pp. 593–609.

condition for implementing its mandate throughout the world. He adds that the ICRC does not refrain from commenting publicly in some situations, but that it must avoid any one-sided or overly explicit condemnation of one party. Bearing in mind that the ICRC can then be accused of helping to maintain an acceptable image of the oppressors, he notes that the action of numerous advocacy organisations nullifies this argument and exempts the ICRC from having to review its priorities. It must be acknowledged that, in many situations, MSF acts no differently, at times even going so far as to renounce in writing any public expression not explicitly approved in advance by the governmental authorities. Such was the case in Sri Lanka during the governmental assault on the Liberation Tigers of Tamil Eelam between January and April 2009, which ended in the crushing of the separatists and the death by bombing of tens of thousands of civilians. Having decided to conduct its terminal offensive in secret, the government had declared the combat zones off-limits to all humanitarian organisations except the ICRC, which alone was granted access to them in order to evacuate the wounded by sea. In this extreme state of affairs, MSF agreed, in the words of the president of the French section, to ‘abdicate [a strategy of roundly criticizing institutions], and wait for the order for all-out war to be replaced by one in which humanitarian aid can play its part’.<sup>8</sup>

It is not the aim of this article to reconstruct the tortuous path of the various public positions and controversies and the tensions that they aroused.<sup>9</sup> Having recalled that the demand for a critical or even denunciatory discourse is, along with medical care in crisis situations, MSF’s ‘signature’ – that which distances it de facto from the ICRC – the author turns instead to the interpretation of the principles common to both organisations, the ‘Dunantism’ to which MSF also lays claim, and which unites them.<sup>10</sup> As Marie-Luce Desgrandschamps has shown,<sup>11</sup> it was ultimately because of their political support for the cause of Biafran independence that several of MSF’s founders questioned the validity of the ICRC’s neutrality. While their successors surely do not identify with that position, they nonetheless, like the founders concerned, reject an ‘apolitical’ humanitarianism that takes refuge in a predetermined strict neutrality, which forbids them to make any public statement that could be interpreted as partisan. The ICRC’s bias toward confidentiality is not, of course, a vow of silence: the ICRC makes public declarations, but does so mainly in the form of appeals to warring parties to respect their treaty obligations. It may also, as was the case following the massacre in Douéké, Côte d’Ivoire (March 2011), bring to light atrocities and indirectly

8 Marie-Pierre Allié, ‘Introduction: Acting at Any Price?’, in Claire Magone, Michaël Neumann and Fabrice Weissman (eds), *Humanitarian Negotiations Revealed: The MSF Experience*, Hurst, London, 2011. See also, Fabrice Weissman, ‘Sri Lanka. Amid All-out War’, *idem*.

9 See, on this subject, Anne Vallaeys, *MSF: La biographie* [MSF: The biography], Editions Fayard, Paris, 2004, and Laurence Binet (ed.), *Prises de position publiques* [‘Case Studies: Médecins Sans Frontières Speaks Out’ series], MSF International, Paris, 2004.

10 It is common to distinguish between Dunantist organizations, such as the ICRC, MSF, and Save the Children, which distance themselves from the interests of the state, and ‘Wilsonian organizations, which consider American values and, more broadly, those of democratic states as a force for good.

11 M.-L. Desgrandschamps, above note 4.

implicate the guilty parties without naming them.<sup>12</sup> On an exceptional basis, during the Darfur war in 2004, for example, the ICRC has gone as far as to pinpoint the specific responsibility of one government in the commission of mass abuses.<sup>13</sup> It can be easily imagined that, as the guardian and promoter of international humanitarian law, and therefore as an actor in diplomacy, the ICRC would remain within the limits assigned to it by the law, while retaining the ability to act that the law specifically confers on it. It should also be noted that the ICRC's public presence has intensified in the past two years.

While for its part denying any statutory obligation to remain silent, MSF amended its charter in 1991, deleting the lines referring to 'interference in the internal affairs of States' and prohibiting the public expression of a judgement, and replacing them with references to the principles of neutrality, impartiality, and independence. This adjustment of its founding text in light of subsequent practices conflicting with it does not, however, allow MSF to speak as freely as the human rights organisations. Like the ICRC, MSF gives priority to providing tangible aid on the ground, a priority to which it subordinates any other aims. Nevertheless, it avails itself of the 'right' to speak out publicly against repeated abuses of which its members are the sole witnesses, asserting that it puts in question its presence in the field when the latter appears to be part of the machinery of oppression.<sup>14</sup> This is what the Belgian section of MSF did, for example, when denouncing the torture practised in Misrata in January 2012 by the new Libyan authorities who expected the doctors to merely patch up the victims so that the interrogations could resume.<sup>15</sup> What MSF rejected in this instance was not just torture, which is practised in many other countries in which it operates, rather, it refused to be an active accomplice, helping to optimize the results of torture. This decision in turn elicited a response from the ICRC in the form of an operational update underscoring its delegates' presence in the detention centres – an indirect criticism of MSF's position.<sup>16</sup> The need to avoid becoming the medical enabler of oppression, whether it involves torture, forced population displacement, or famine, is the main purpose of the public statements of position that may, if necessary, lead to a withdrawal or an expulsion of MSF teams. When it is impossible to prevent the commission of a crime, an outside party can always avoid taking part in it. MSF's history is punctuated by

12 ICRC, 'Côte d'Ivoire: hundreds of civilians killed in Duékoué', News Release No. 11/82, 2 April 2011, available at: <http://www.icrc.org/eng/resources/documents/news-release/2011/cote-d-ivoire-news-2011-01-04.htm>.

13 Jakob Kellenberger, 'Too little, too late for the victims of Darfur', in *International Herald Tribune*, 30 August 2004.

14 The ICRC also reserves the right to issue a public condemnation when four conditions are met. See 'Action by the International Committee of the Red Cross in the event of violations of international humanitarian law or of other fundamental rules protecting persons in situations of violence', in *International Review of the Red Cross*, Vol. 87, No. 858, 2005, p. 398, available at: [http://www.icrc.org/eng/assets/files/other/irrc\\_858\\_violations\\_ihl.pdf](http://www.icrc.org/eng/assets/files/other/irrc_858_violations_ihl.pdf).

15 MSF, 'Libye: Des détenus torturés et privés de soins médicaux' [Detainees tortured and denied medical care], in *msf.azg.be*, 26 January 2012, available at: <http://www.msf-azg.be/fr/presse/libye-des-d%C3%A9tenus-tortur%C3%A9s-et-priv%C3%A9s-de-soinsm%C3%A9dicaux>.

16 ICRC, 'Libya: hardship and danger remain', Operational Update No. 12/01, 16 February 2012, available at: <http://www.icrc.org/eng/resources/documents/update/2012/libya-update-2012-02-16.htm>.

such positions, which stem from an analysis of its political responsibilities rather than from bearing witness in the strict sense. Cambodia (1980), Ethiopia (1985), Bosnia (1994), the Rwandan refugee camps in Goma, Democratic Republic of the Congo (1994), the war in the Congo (1996–1997), North Korea (1999), Darfur (2005), and Libya (2012) are among the high points of this history, to mention only conflict situations, which are not the only examples in this regard as MSF works in many contexts other than wars.<sup>17</sup>

## Principles with varying interpretations

None of these positions is immune from criticism, and all have been the subject of internal discussions and, occasionally, public controversy. Sometimes what is at issue is the cogency of these positions, but for the most part it is the fact that they violate the principle of neutrality. In the first place, while compromise is always necessary for action, if that compromise crosses a certain threshold it becomes a surrender of principle. There is no perfectly reliable means of determining where that threshold lies. The danger exists that if this question is continually invoked, it will amount to empty rhetoric – and it must be acknowledged that ‘first, do no harm’ has become a widely echoed slogan in humanitarian forums. Yet if we are aware of the risk that our action may adversely affect those whom it was intended to help, we can guard against it. If, for example, we agree that, in extreme cases, abstinence may be preferable to action (putting into practice the Hippocratic oath), that gives us one of the main tools we need to negotiate with warring parties, or simply to exert pressure on them, as it leaves us the option of publicly implicating them. Second, as the concept of neutrality is vaguer and more open to interpretation than a simple refusal to take part in political controversies, such public positions do not in themselves undermine the principle of neutrality. Indeed, the historian Irène Hermann reminds us that:

in time of war or conflict, ‘neutrality’ may indicate a guarantee that a person will not be subjected to the ambient violence, and it is then similar to *inviolability*. In a less traumatic context, it is currently acquiring a second, derived meaning, and thus, like the word *impartiality*, designates those who do not belong to any camp. Lastly, the concept has many analogies to the notion of *independence* and thus relates to the possibility of taking decisions without needing to refer them to a higher authority.<sup>18</sup>

Any criticism addressed publicly to a political authority can be described (generally by the latter and its supporters) as breaking with ‘political’ neutrality. Strictly

17 See F. Weissmann, ‘Silence Heals . . . from the Cold War to the War on Terror, MSF Speaks Out: a Brief History’, in Magone *et al.*, above note 8.

18 Irène Hermann, ‘La Croix-Rouge et la neutralité’ [The Red Cross and neutrality], unpublished paper delivered at ‘Action humanitaire et complexité’ [Humanitarian action and complexity] symposium, Fribourg, 8 May 2009. I thank the author for having sent me the text.

speaking, however, it can be argued that it is the assent to political authority that constitutes such a break.

These lines are being written as war rages in Syria. Having succeeded in setting up three surgical units in opposition-held territory, without obtaining the government's permission to work there, MSF is continuing its efforts to establish itself legally, through one of its other sections not present in the 'liberated areas' (the South African section). In February 2012, on the basis of evidence gathered from wounded Syrians whom it was caring for in Jordan, MSF denounced the official authorities' use of medical facilities to capture alleged opponents.<sup>19</sup> It may be argued that taking such a public position is tantamount to accusing one of the warring parties and therefore represents a breach – one more! – of the principle of neutrality. On the other hand, it may be asserted that the authorities' action signals a breach of the principle that medical facilities are inviolable, and that to publicise the violation of a basic principle cannot be considered a breach of that principle. For its part, the ICRC is conducting a large-scale aid operation in Syria alongside the Syrian Arab Red Crescent (the National Society), providing food and water to more than a million people. Acting through a National Red Cross or Red Crescent Society can make for outstanding efficiency, as was the case during the worst moments of the war in Somalia, but it may raise issues in other circumstances, such as the Syrian armed conflict. While there can be no doubt that the members of the National Society's local branches are endeavouring to act in the best interests of the victims, whoever they may be, the fact remains that this organisation, like its counterparts, defines itself as an 'auxiliary of the public authorities', and therefore of the armed forces. This accounts in part for the hostility to which it has been subjected by Syrian armed groups (without, of course, justifying the murderous attacks carried out by some of them against the National Society's employees) and leads to questions about the impartiality of the ICRC's operations in Syria (as MSF's presence in opposition-held territory may also do). Inasmuch as the ICRC's observations concerning its visits to prisoners of war and civilian internees are confidential, that is, restricted to the authorities – in that country as elsewhere – we are unable to incorporate them into our analysis.

While recognizing that the goods provided by the ICRC are very useful and even essential to those who receive them, one may ask whether the ICRC's distribution priorities conform to the principle of impartiality, because, under such constraints, they cannot be commensurate with the scale of the needs. There again, however, we must first bear in mind the variable meanings of this seemingly clear and unequivocal concept (impartiality). Reflecting on the principles of commitment of the international humanitarian organisations, the philosopher Jennifer Rubinstein rightly highlights the tension between two equally humanitarian aims – prioritising those worst off and maximizing harm reduction. These are two different ways of meeting the needs created by a crisis – two ways of operating that

19 MSF, 'En Syrie, la médecine est utilisée comme une arme de persécution' [In Syria, medicine is used as a weapon of persecution], in *msf.fr*, 8 February 2012, available at: <http://msf.fr/presse/communiqués/en-syrie-medecine-est-utilisee-comme-arme-persecution>.

are certainly not always mutually exclusive, but that can in some cases conflict with each other and be reflected in different operational set-ups.<sup>20</sup> Thus, MSF-Holland clearly states its aim of reaching ‘those most abused and/or most in need in any context – over attempts to have the greatest impact for the greatest number’.<sup>21</sup> In other words, when the two aims cannot be achieved simultaneously, the former takes precedence over the latter. There is a similar order of priorities in Iraq, where MSF is focusing on complex surgeries, while the ICRC’s action extends beyond its traditional areas of activity (prisoners, the missing) to repairing infrastructure (water, electricity) and building agricultural capacity.

## Political meaning of the action

MSF’s and the ICRC’s choice of priorities in Syria can be recognized here, though we must be careful not to characterise them as representing exclusive leanings. Like their counterparts, both organisations plan their various programmes in accordance with one or another of those priorities. The point here is not to judge them morally, but to emphasise that, as we saw in other respects with regard to neutrality, impartiality lends itself to very different or even opposing practical interpretations that are also equally valid in terms of general humanitarian aims. In all situations, humanitarian organisations are compelled either to decide between these operational strategies or to combine them. It is therefore in their interest to clarify them, in the first place for themselves, for to do otherwise is to be content with putting forth abstract principles – useless moral and legal standards that they would be hard-pressed to enact. With regard to Syria, the ICRC chose to base its public communication on a ‘constructive dialogue’ with the government. This choice, reflected in the satisfaction, however cautious and conditional, expressed by the ICRC president after meetings with the highest authorities in Damascus, can only intensify the questioning of its impartiality. States are of course required to respect the impartiality of the ICRC and other humanitarian organisations, but in the final analysis the humanitarians are the ones who must be accountable for their decisions. In fact, contacts with the opposition groups were only fleetingly mentioned in the news releases and statements issued after the president’s most recent visit to Damascus in September 2012. The failure, for security reasons, of several attempts to send cross-border convoys to people under the control of the opposition forces, and the difficulty of identifying contacts regarded as credible among them, are the main reasons for the ICRC’s absence from the Syrian ‘liberated areas’,<sup>22</sup> with the

20 Jennifer C. Rubinstein, ‘The distributive commitments of international NGOs’, in M. Barnett and T. Weiss (eds), *Humanitarianism In Question: Politics, Power, Ethics*, Cornell University Press, New York, 2008.

21 MSF-Holland, *Middle-Term Policy, 1/2003-12/2005*, cited by J. C. Rubinstein, in M. Barnett and T. Weiss (eds), above note 20, p. 221.

22 Editor’s note: For an ICRC position on issues related to the impartiality of humanitarian aid in Syria, see Pierre Krähenbühl, ‘There are no “good” or “bad” civilians in Syria – we must help all who need aid’, in *The Guardian*, 3 March 2013, available at <http://www.icrc.org/eng/resources/documents/feature/2013/03-05-syria-aid-krahrenbuhl.htm> (last visited March 2013). For examples of ICRC activities carried out across

ICRC affirming its stubborn determination to reach all victims of the conflict from Damascus.<sup>23</sup>

Operations that are illegal under the law of the country concerned and international humanitarian law are rare for MSF. On the one hand, they are closely dependent on specific political configurations; on the other hand, MSF wishes to maintain proper relations with governments as this is generally the necessary condition for maximising the services provided. However, given the simple fact that some aid organisations have succeeded in establishing themselves in parts of Syria under the control of opposition groups, an observer is forced to conclude that, in the ICRC's view, laudable humanitarian efforts are being made by Damascus, whereas the opposition continues to require appeals for compliance with humanitarian law. In pointing out this asymmetry, it is not the ICRC's action that we are discussing, but its discourse about such action and hence the political meaning that the organisation attributes to it. It is undoubtedly here, in the political meaning attributed to the action, that the basic difference between the two organisations resides. For MSF, as soon as it becomes thinkable, and hence possible, to set up medical services in an area controlled by an opposition force, it is *necessary* to do so. If it is deemed useful to set up illegal medical services, then the only considerations that are taken into account are practical ones (whether a neighbouring country will authorise access, whether there is a liberated area, whether credible partners can be identified). From MSF's point of view, therefore, to decide instead to give priority to dialogue with the legal authorities in order to operate from government-controlled areas stems from a legitimate concern that MSF rejects, or from what amounts, by default, to a political choice, rather than a purely pragmatic one. Institutional constraints, like security problems and operational procedures, are specific and must be kept in mind if we are to understand this difference in positioning, but they do not fully account for it. The particular cultures of the two organisations – the way that they present their histories to themselves and others, and either do or do not discuss, internally and publicly, their relationships with political authorities and forces – must also be considered.

During the Libyan war, the ICRC immediately established itself in the 'liberated areas',<sup>24</sup> a decision that was remarkable for its rarity. Although this way of operating was introduced in Biafra under the auspices of the Red Cross, which made that choice after the Christian organisations had done so, it has become an identity

front lines, see, e.g., 'Syria: aid reaches beleaguered population in Homs and Harasta', Operational Update No. 14/2012, 25 October 2012, available at: [www.icrc.org/eng/resources/documents/update/2012/syria-update-2012-10-25.htm](http://www.icrc.org/eng/resources/documents/update/2012/syria-update-2012-10-25.htm); 'Syria: assistance reaches people in Old City of Homs', News Release No. 12/213, 4 November 2012, available at: <http://www.icrc.org/eng/resources/documents/news-release/2012/11-04-syria-homs.htm>; and 'Syria: Humanitarian situation catastrophic', Press Briefing, 19 February 2013, available at: <http://www.icrc.org/eng/resources/documents/press-briefing/2013/02-15-syria-humanitarian-situation.htm>.

23 Author's interviews with several ICRC members in early November 2012.

24 Editor's note: In accordance with its mission, the ICRC seeks, rather, to be as close as possible to the victims in all the conflict situations in which it works. Many recent operations also show that the ICRC operates on both sides of the front lines. For further information on each ICRC operation, see 'Where we work – the ICRC worldwide', available at: <http://www.icrc.org/eng/where-we-work/index.jsp>.

marker for MSF and an exception for the ICRC. It is symbolically significant for MSF because it is consonant with its story of origins. This *modus operandi* indicates the way in which the organisation believes it can be most useful in some war situations, and justifies the considerable resources devoted to it. Beyond the Syrian context, however, in war situations and in peacetime, MSF allocates its resources in accordance with criteria that are subject to the same elastic interpretation of its principles and to the same ethical discussion as the ICRC's. To assert one's impartiality is to express an intention that is undoubtedly valuable, but that says nothing about the content of the action.

## Acting and denouncing

The question of publicly condemning atrocities committed by warring parties is, however, addressed differently by the two organisations, as we saw with regard to the issues of torture and attacks on medical facilities. However, we are a long way from a striking contrast. Although more inclined than the ICRC to take public positions for the reasons set out at the beginning of this article, and because it is not bound by an obligation of confidentiality, MSF actually ventures to do so less often than when it was first founded, mainly because anti-totalitarian activism, which was the basis of its public condemnations during the 1970s, lost its relevance with the end of the Cold War. Another reason is that, in the context of the liberal neo-interventionism of the 1990s, greater emphasis was placed on critical analysis of the ways in which aid was being strategically manipulated. In these new conflicts, the critique of humanitarian rhetoric and of the use of aid for counterinsurrection purposes took precedence over the denunciation of crimes that had been exposed by the media and by human rights organisations, particularly Human Rights Watch; such organisations became then far more active in armed conflict situations than they had been previously. Breaking with the Wilsonism of its roots, MSF gradually moved closer to Dunantism. Did it go so far as to merge with it? It may sometimes appear so, to the regret of a significant portion of MSF's membership. In any event, MSF's rapprochement with the ICRC makes any clear distinction between the two organisations on this point impossible. Yet if there is one episode of recent history that led to criticism within MSF, it was the ICRC's silence about the torture in Abu Ghraib.<sup>25</sup> Many MSF members, including the author of this article, believed that the ICRC itself was the source of the leak of its report on Iraqi prisons. There was great disappointment when it transpired that the information came from an employee of the United States administration, for what we had seen as the building of a political relationship of forces turned out in the end to be no more than an accident. 'We are active in more than 70 countries and we visit more than 460,000 detainees. That's our mission. If we commented publicly on each of our visits, we would no longer have access to prisoners', the ICRC spokesperson explained at the

25 The 'Abu Ghraib scandal' broke out in May 2004, with the publication of photos taken by US soldiers showing the abuses that they were inflicting on Iraqi prisoners.

time.<sup>26</sup> No doubt, but it may be assumed that publishing the photographs and disclosing the report's content through indirect channels, as the ICRC could have done discreetly, would have been a strong incentive for the US authorities to take rapid steps, with considerable benefits for the victims. The risk that such practices might have led to curtailment of the ICRC's access must be placed alongside the increase in public esteem, and therefore in subsequent negotiating power, that might have been elicited. Such, at least, is the political risk calculation, defensible in the context described, that we favoured.

Here, too, we must guard against applying this criticism too broadly, because, as has been noted, aid workers have very limited room for manoeuvre when making public denunciations. In Syria, working under the auspices of organisations linked to the opposition, MSF still is not significantly freer in its speech or movements than is the ICRC. Each organisation can rightly maintain that the information work carried out by the human rights groups and the media essentially eliminates any moral ambiguity hanging over their organisation's presence (with reference to the ICRC-at-Auschwitz paradigm mentioned above). That is to say, they are not participating in an effort to deceive, as everyone knows the reality of the abuses and massacres. Nevertheless, this shows that the 'strict independence' claimed by the Dunantists must be understood, not as an illusory assertion of sovereignty over their own action, but as a search for a negotiating framework – a quest for acceptable compromises.<sup>27</sup>

## Principles – and then what?

MSF and today's ICRC are close in terms of their origins, their culture of action in armed conflict situations, their budget, and the concern that they show for keeping their distance from the political ambitions of the various forces operating in the places where they work. Their relations, which were asymmetrical and ambivalent during MSF's first twenty years of existence, have strengthened since the 1990s, particularly since the 1994 war in Rwanda, when, with MSF working under the emblem and authority of the ICRC in Kigali, they both denounced the genocide taking place. In a gesture of mutual recognition, each one now regards the other as a yardstick against which other humanitarian agencies are measured. While, in each organisation's eyes, some of the other's activities do not entirely correspond to its own standards, they are both fully qualified, because of their sustained efforts to improve the quality and effectiveness of their operations, to claim such a leadership position – at the risk, however, of becoming technocratically blind to their errors or to the pernicious effects of their action.

26 'Tortures en Irak: le CICR avait averti Washington' [Torture in Iraq: The ICRC had warned Washington], in *Swissinfo.ch*, 6 May 2004, available at: [http://www.swissinfo.ch/fre/archive/Tortures\\_en\\_Irak:\\_le\\_CICR\\_avait\\_averti\\_Washington.html?cid=3891812](http://www.swissinfo.ch/fre/archive/Tortures_en_Irak:_le_CICR_avait_averti_Washington.html?cid=3891812).

27 For a discussion in context of humanitarian negotiations, see most of the chapters of *Humanitarian Negotiations Revealed*, above note 8.

Starting from an approach based on common legal and ethical principles – neutrality, impartiality, and independence – the two organisations take action in accordance with procedures that are sometimes similar and sometimes dissimilar, reflecting, in their differences, the extent of what is possible within their ‘thin moral’, in the words of the philosopher Michael Walzer.<sup>28</sup> The task of comparison that was entrusted to the author has not been completed; in the author’s view, this would require a detailed examination of comparable programmes implemented in a single context, which would reduce the scope of the analysis to a single operational assessment. However interesting such an exercise might be, it was set aside in favour of a discussion of common principles, which better illustrate positioning choices that differ while deriving from an identical framework. The ‘distributive justice of wartime’,<sup>29</sup> which is the two organisations’ *raison d’être* and the basis of their legitimacy, affords them only the illusion of a common idiom, that of the shared principles that they tirelessly put forward. Far from advocating that they abandon these principles outright – they serve a valuable purpose as a compass – we maintain that many other considerations, stemming from different political and operational cultures, play a role in the decision-making process. Since a compass does not show the terrain, it cannot help us to plot any improbable ‘good humanitarian path’. Confusion between the actions or images of MSF and of the ICRC would not be in the interest of either organisation, whether we are talking about the procedures for their public statements or their positioning on the ground. Far from seeking to become more like each other in the quest for a mirror image, they, and their counterparts, should keep striving to meet the internal demand for consistency and practical utility.

Lastly, while critical discussion and internal debate, and the value attached to them, are characteristic of MSF and present in its various sections, they are barely audible in the ICRC. This is a striking contrast between the two organisations.

28 Michael Walzer, *Morale maximale, morale minimale*, Bayard, Paris, 2004 [translation of Michael Walzer, *Thick and Thin: Moral Argument at Home and Abroad*, Notre Dame, University of Notre Dame Press, 1994].

29 *Ibid.*



## OPINION NOTE

# Humanitarian care and small things in dehumanised places

### Paul Bouvier\*

Paul Bouvier is the senior medical adviser of the International Committee of the Red Cross (ICRC), Geneva, Switzerland, with specialisations in paediatrics and public health. His special interests include vulnerability, trauma, and resilience of victims of violence. Since 1979 he has visited or worked as a physician in various places of detention on various continents. At the ICRC his current activity deals with health and ethical issues in humanitarian action, and training humanitarian professionals in the public health responses in crises and armed conflict.

**Keywords:** ICRC, humanitarian action, humanitarian values, ICRC delegates, detention visits, interviews, ill-treatment, human dignity, confidentiality, trauma, resilience, care.

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### What is humanitarian action all about?

*Ce n'était rien qu'un peu de pain,  
Mais il m'avait chauffé le corps,  
Et dans mon âme il brûle encore,  
À la manière d'un grand festin.*

*It was nothing but one piece of bread  
But it had warmed up my body*

\* The opinions expressed in this article are those of the author and not necessarily those of the ICRC. The article was presented in part at the opening session of the 1<sup>st</sup> European Congress for Social Psychiatry, Geneva, 4 July 2012.

*And in my soul, it burns on still  
Just like a magnificent feast.*

Georges Brassens, *Chanson pour l’Auvergnat*

These are brief notes about very little things. Small things, just like a cup of coffee, pictures of flowers, animals, and landscapes, or a few drops of perfume. Very small things indeed, so derisory that they rarely dare to appear in reports, accounts, and media articles on humanitarian action in the field. Yet, such small things sometimes represent a substantial part, and perhaps a most meaningful one, of the activity of the International Committee of the Red Cross’ (ICRC) personnel in the field in the midst of armed conflicts and violence.

In my activity as a physician and as a medical delegate of the ICRC, I have visited various places of detention on various continents. When visiting places of detention, the ICRC works as an impartial, independent, and neutral organisation, within the framework of private, confidential interviews with detainees, and of a confidential dialogue with the detaining authorities.<sup>1</sup> Confidentiality in the interviews is essential to protect detainees and to establish a relationship of trust. The confidential dialogue with the authorities addresses general conclusions and recommendations based on observations made during the visits and on issues raised by detainees, while protecting the anonymity of the source of information. The aim of the visits is to improve the conditions of detention and the treatment of the detainees, to prevent or to stop the occurrence of ill-treatment, and to promote humane treatment and relationships in the detention facility. In 2012, ICRC delegates visited about 540,000 detainees in 97 countries and territories, more than 26,000 of whom were seen in private interviews. In many instances, the ICRC delegates are the only external visitors to the detainees.

These notes focus on visits to detainees. Because of confidentiality in ICRC activity, no place, time, or people’s names will be disclosed. But the reader can imagine that similar issues occur in many different contexts.

## **What is the use of a cup of coffee?**

This reflection stems from two questions asked by colleagues. These were perplexing questions, with no easy answers. Both questions, however, bring us to the core and to the limits of humanitarian action in situations of violence, and close to the very heart of humanitarian care and ethics.

The first question was in the form of a request from a renowned expert in positive psychology and resilience. He was looking for a study carried out by the ICRC some years ago in which, as he remembered it, people who had been

1 ICRC, *Visiting Detainees*, ICRC, Geneva, 2013, available at: <http://www.icrc.org/eng/what-we-do/visiting-detainees/> (last visited 22 June 2013). See also the leaflet *Ensuring respect for the life and dignity of persons deprived of their liberty*, ICRC, Geneva, 2011, available at: <http://www.icrc.org/eng/resources/documents/publication/p0543.htm> (last visited February 2013).

succoured talked about what had been most helpful and made them feel good. He recalled that their answers often underlined simple things, gestures of kindness, such as offering them a cup of coffee.

On one hand, I could certainly appreciate the value of a cup of coffee; I also recognised that when an ICRC delegate comes to visit a detainee for a private talk, listening and sharing a cup of tea, coffee, orange juice, or cookies, it is sometimes an extraordinary event in the life of a detainee. On the other hand, I found it embarrassing to talk about positive experiences and resilience in situations in which people strive to survive in appalling conditions, sometimes victims of inhumane and degrading treatment or extreme violence. Most of our private talks in detention visits were about life in detention, isolation from the loved ones, hardship, dreadful experiences, sadness, suffering, and pain; and because I am a medical doctor, our conversations would often address ill health, physical ailments, chronic diseases, and psychosocial and mental disorders often related to captivity.

In such circumstances, a cup of coffee could certainly be greatly appreciated; yet I felt it risky to overestimate its value, thereby denying the suffering and possible trauma endured. In such situations, what is really the value of a visit? Does a cup of coffee offered with kindness really make a difference?

In a remarkable engraving from the series ‘The Disasters of War’, Goya depicts an old woman bringing a bowl of soup to a starving person, on the verge of death, during the 1810 famine in Madrid in the Spanish War of Independence.<sup>2</sup> This is a scene of humanity. Yet Goya questions the limited and derisory extent of this pittance with the title: ‘What is the use of a cup?’

## Is this humanitarian action? Powerlessness in detention visits

The other question was raised a few months later by a medical doctor working with the ICRC in detention centres. This colleague had recently returned from a region of conflict where torture was a common and protracted practice. Detainees were beaten repeatedly and tortured in awful ways. The ICRC was visiting these places of detention, talking with detainees, collecting evidence of abuse and ill-treatment, and reporting to the authorities in order to obtain improvement and change. Yet not much progress occurred at the time, and the delegates could only witness the gravity, extent, and repetition of ill-treatment. Our colleague witnessed the devastating consequences of ill-treatment. The ICRC started to offer former prisoners psychosocial support after release, with counselling and mental health care if needed. The needs were huge however; hundreds of people would have benefited from such intervention, but the capacity to provide services was limited. Was it fair, to those not included in this programme? Then came other, more central questions: should the ICRC continue these visits? What was their value, if torture

2 Paul Bouvier, ‘“Yo lo vi” – Goya witnessing the disasters of war: an appeal to the sentiment of humanity’, in *International Review of the Red Cross*, Vol. 93, No. 884, December 2011, pp. 1107–1133.

and ill-treatment continued? Does that make sense? He asked: ‘Is this humanitarian action?’

The aim of ICRC’s visits to detainees is to ensure and promote humanity and respect for the dignity of the detainees, to improve their situation, and to ease their suffering. The ICRC knows from experience that perseverance is essential and that progress may only come in the long term through a confidential dialogue with authorities based on facts and on a strong commitment to humanitarian values. For the visits to make sense they must have an impact on the conditions of detention, and dialogue with the detaining authorities must be constructive. If these conditions are not met, the ICRC might decide to stop the visits and, eventually, to publicly denounce the situation.<sup>3</sup> This is a difficult decision to take, as in many instances it would leave the detainees without any other external visitor, thus increasing isolation, dependence and vulnerability.

## Moments of shared humanity

In a movie made by the ICRC some years ago,<sup>4</sup> former detainees talked about their detention and about ICRC visits. This film simply shows their suffering, expressions of distress, pain, and tears when they recalled a terrible time in detention. Some intended to explain the isolation, ill-treatment – but suddenly kept silent. Words were missing. Even years after the events, talking was not possible.

In the movie, some former detainees remembered visits from ICRC delegates and commented on the importance of these visits. This reminded me of confidential talks with detainees, around a cup of tea, coffee, orange juice, and cookies. On some occasions, the visit became a real encounter. We would talk about our lives and families, about nature, about art and culture, beliefs and hopes, but quite often just about little things, small things in everyday life. Humour sometimes emerged, and joyful laughter would unexpectedly burst out in the midst of dire realities. There were intense moments; moments of shared humanity.

## Pictures of hope

I experienced similar human encounters some years ago during visits in a particularly harsh place of detention. Whereas basic material needs, such as food, water, shelter, or medical services were met, the detainees suffered from isolation, inactivity, deprivation of personal property, tense relations with guards, and uncertainties as to their fate, all of which deeply affected their physical, mental, and psychosocial health. As in many places of detention, an important ICRC activity was the distribution and collection of family news through Red Cross messages,

3 ICRC, ‘Respect for the life and dignity of the detainees’, Overview, 29 October 2010, available at: <http://www.icrc.org/eng/what-we-do/visiting-detainees/overview-visiting-detainees.htm> (last visited 22 June 2013).

4 ICRC, ‘Remembering the silence’, ICRC, Geneva, 1993, DVD, 34 min.

from families to their detained relative, and back from detainees to their families.<sup>5</sup> In this particular place there was another, quite peculiar, activity. ICRC staff also distributed pictures of landscapes, animals or flowers. During the visits we would see detainees selecting pictures from a pile presented by an ICRC delegate. This was a significant activity, with on average 20 pictures distributed per person in a visit. There was a vast choice of printed pictures of flowers, birds or wild beasts, cities and religious buildings and beautiful sunsets in vast landscapes.

What did the detainees do with these pictures? First, many hung them on the walls of their cells as a reminder that there is beauty in the world: there are beautiful flowers, strong animals, free birds flying, great cities, places for prayer and religious life – and beautiful sunsets. Second, many sent pictures to their relatives, often without any comment as if no words were needed, or as if no words could possibly tell what they were expressing; as if they were telling their loved ones: 'I am here, and I share with you this picture; I offer you the beauty of nature and cities; I vibrate to the beauty of a sunset. I am human'.

These detainees were expressing their humanity through this simple method. They had endured war, ill-treatment, separations, isolation and harsh conditions of detention. They had been treated as non-human, as outside humanity. Through these pictures they were simply expressing dreams, hopes and probably their belonging to humanity. The gift of these beautiful pictures to their relatives was an expression of love and shared humanity.

Some of the ICRC staff seemed to have particular relational skills and sensitivity to this human dimension of their activity. For example, women in the visiting team played significant roles: they had developed this activity, they selected pictures on the Internet, printed them in postcard format, and organised the distribution. Some ICRC delegates displayed much dedication in bringing these pictures to the detainees, helping them to choose the most beautiful image to send home, discussing their choice with them as well as the meaning of an image. These were precious moments.

## Small gifts and mutual recognition

Some detainees made yet another use of these printed images: during a private conversation, they would choose a picture from their collection and offer it to a visiting delegate. In a context deprived of most material objects, this small object became a gift of incalculable value. For detainees in very hard conditions of detention, the gift of a picture to the delegate expressed his or her own humanity, and restored his or her dignity. This small and gratuitous gift, from a most

5 Red Cross messages (RCM) are open letters that contain exclusively family or private news, and are collected and delivered personally by volunteers of the National Society of the Red Cross or Red Crescent, or by staff of the ICRC. The RCM contain the name and full address of the sender and the addressee and, in places of detention, they are read by the authorities before delivery. See ICRC, 'Restoring contact', available at: <http://familylinks.icrc.org/en/Pages/HowWeWork/restoring-contact.aspx> (last visited 22 June 2013).

vulnerable and deprived person, expressed a sense of mutual recognition as human beings, the recognition of our common humanity.<sup>6</sup>

Gifts by detainees to ICRC visitors are common, possibly having various meanings. If it is possible, detainees invite the ICRC delegate to share a cup of tea, a cold drink, or some food. This simple act establishes a relationship in which the visitor is received as a guest, thus restoring some symmetry and reciprocity in the relationship with the humanitarian actor. Many experienced delegates actually consider themselves as visitors to the detainees and express the same courtesy and respect they would expect from any guest in their home. Offering some drink or food is an invitation to a real encounter, to share a moment of humanity.

Also not infrequently, some detainees offer a drawing, a poem, or a piece of craftsmanship. This is not perceived as a response to a moral obligation to reciprocate the visit with a counter-gift, but rather as an expression of gratitude and a request for recognition as a human being with an identity and a history, emotions, sufferings and capacities.

### **A few drops of perfume and of dignity**

One day, during a prison visit, a delegate colleague, a woman, received an unusual request. A detainee asked her whether she would see him again another day and bring him some perfume. The delegate was perplexed by the nature of the request, and because of the security rules. In the evening she asked a male colleague for some eau de toilet, and on the following day she visited again the detainee and gave him some drops of the perfume. The detainee sprayed himself generously and joyfully with the perfume, on his face, his hair and his clothes. The man was radiant, he sat up and looked up and said with gratefulness: 'You know, today for the first time since I am here, I smell good. I feel I am human.'

Then he went to the courtyard to see his comrades, sharing his joy, and rubbing his clothes on theirs to share the perfume. When we saw them later in the day, they came to us, joyful and proudly sharing the good smell. A few drops of perfume that restored their feeling of human dignity.

### **Humanitarian care, from trauma to resilience**

The small events and little things mentioned above illustrate some aspects of humanitarian care and its value in harsh places of detention. In some dehumanised places, humanitarian care can provide drops of humanity. Health professionals working with victims of abuse and extreme violence have played key roles in recognising the mental suffering related to violence and inhumane conditions

6 Paul Ricœur, 'L'échange des dons et la reconnaissance mutuelle', in *Parcours de la reconnaissance*, Stock, Paris, 2004, pp. 342 and 352; Paul Ricœur, *The Course of Recognition*, Harvard University Press, Cambridge MA, 2005.



Detainee held by the Afghan authorities. March 2009 © CICR/VII/NACHTWEY, James



Western Highlands, Baisu prison, Papua New Guinea. View outside the window bars. 4 May 2012 © CICR/KOKIC, Marko



Bujumbura, Mpimba prison. Visit and writing of Red Cross messages. 7 May 2001  
© CICR/GASSMANN, Thierry



Phnom-Penh, Cambodia, Prison T3. Visit to the prison and interview with detainees.  
September 1993 © CICR/CORRIERAS, Serge



Kinshasa, office of the Central Tracing Agency. Writing a Red Cross message. 7 August 2000 © CICR/DI SILVESTRO, Jean-Patrick



Lima, Chorrillos high-security detention centre for women. Discussion between an ICRC delegate and a sick detainee in her cell. May 2007 © CICR/HEGER, Boris

and treatment. They have unveiled the reality of psychosocial trauma and its consequences. Yet, there is still a long way to go in the understanding and recognition of the deep damage that armed conflicts, extreme violence, inhuman and degrading treatment, or torture, cause to the health and dignity of the victims; and an even longer way to go in the learning of possible ways to help detainees recover and rebuild meaningful and active lives. Prudence and restraint are needed before drawing definitive conclusions on the possible role of a humanitarian encounter with those who are suffering, in particular in violent and dehumanising contexts.

Denying the reality of violence and abuse and their consequences easily occurs, and it may have lasting consequences on the fate of countless people in armed conflicts. Extreme violence is dehumanising. It is devastating to the human person. It destroys what is human in humans. For the humanitarian professional, meeting with a victim of extreme violence and listening to her or him can be a painful experience. Professionals are affected by the narratives of extreme violence and torture. They pay an emotional price for assisting victims of violence. Richard Mollica, who has worked with numerous victims of torture, calls this the ‘pain of the healer’. In his experience, ‘the act of witnessing violence can be as deeply injurious to the witness as it is to those actually experiencing violence’.<sup>7</sup> This secondary traumatisation, or ‘vicarious trauma’, results from ‘the cumulative effect of working with traumatised clients, and is reflected in interference with the professional’s feelings, cognitive schemas, memories, self-esteem, sense of safety’.<sup>8</sup> This unique consequence of trauma work was first described in psychotherapists, and more recently in families of prisoners of war,<sup>9</sup> in interpreters working with torture victims,<sup>10</sup> and criminal lawyers exposed to criminal situations.<sup>11</sup>

ICRC delegates can be affected by their activity related to victims of extreme violence. They may also witness the capacity of some victims to resist and to keep their own humanity despite dehumanising experiences. To what extent do the ICRC visits contribute to the resistance and coping capacities of victims? Do the visits at least contribute to promoting resilience? They probably do when the visits become the occasion of an encounter, a moment of shared humanity.

We were once discussing these issues in a training session. A female colleague, working as a physician in places of detention in which torture was common and protracted, said that things occurred in a different way. Indeed, professionals could be deeply affected by their work in places of detention, but it was

7 Richard F. Mollica, *Healing Invisible Wounds: Paths to Hope and Recovery in a Violent World*, Harcourt Inc., Orlando FL, 2006, p. 31.

8 Pilar Hernández, David Gangsei and David Engstrom, ‘Vicarious resilience, a new concept in work with those who survive trauma’, in *Family Process*, Vol. 46, No. 2, June 2007, p. 231.

9 Rachel Dekel and Zahava Solomon, ‘Secondary traumatization among wives of Israeli POWs: the role of POWs’ distress’, in *Social Psychiatry and Psychiatry Epidemiology*, Vol. 41, No. 1, 2006, pp. 27–33.

10 David W. Engstrom, Tova Roth and Jennie Hollis, ‘The use of interpreters by torture treatment providers’, in *Journal of Ethnicity and Cultural Diversity in Social Work*, Vol. 19, No. 1, January–March 2010, pp. 54–72.

11 Lila Petar Vrklevski and John Franklin, ‘Vicarious trauma: the impact on solicitors of exposure to traumatic material’, in *Traumatology*, Vol. 14, No. 1, March 2008, pp. 106–118.

not as if they visited a detainee and enhanced the detainee's capacity to build a resilience. She explained how, one day, she was meeting in private with a group of detainees. They were explaining terrible things, torture, suffering and pain. She was deeply moved, and she cried. The detainees spoke kindly to her. They explained how, together, they could overcome their suffering. They were supporting each other, and now they were supporting the delegate visiting them.

We learned important things from this narrative. First, this delegate was a good humanitarian and health professional; her tears simply expressed her sense of compassion and humanity in front of dehumanising narratives and the fact that, with all her experience, she had not become insensitive to suffering. Second, for the detainees this was the sign of an encounter with a human being. They found themselves in the position of providing her with support and advice, further sharing their experience.

The process of a positive learning by therapists from their patients about overcoming adversity has been described and called 'vicarious resilience',<sup>12</sup> an analogy to the vicarious traumas described in the work of professionals in contact with victims of extreme violence. Vicarious resilience is defined as a 'process whereby professionals are positively affected by clients' resilience'.<sup>13</sup> This is an interesting development in our understanding of trauma and resilience. It suggests that a meaningful relationship of care is a transactional intersubjective process. The core element in humanitarian care probably lies in the relationship between the professional and the visited person, when the meeting becomes an encounter between two human beings. In this encounter each one comes as a person, with his or her identity, history, capacity and vulnerability. The building of resilience after extreme violence could be a process of mutual humanisation.

## Humanitarian care facing aggressiveness

The small stories above describe situations in which the relationship between the humanitarian professional and detainees may possibly result in a human encounter. In their visits in detention centres, however, ICRC delegates sometimes face rejection or aggressiveness. They may also receive degrading insults, verbal abuse, even threats, or attacks with detainee's body fluids. These situations can be exceedingly difficult to endure and overcome. They can be another source of trauma to humanitarian professionals.

Many ICRC delegates have suffered from such situations. On occasion, detainees have come to the office to visit the delegates after release. They apologised, asked for understanding, and explained that this was their only means to express anger. Insults and aggressive behaviour were not personal, they said, but there were

12 P. Hernández et al., above note 8, p. 230.

13 Pilar Hernández, David Engstrom, and David Gangsei, 'Exploring the impact of trauma on therapists: vicarious resilience and related concepts in training', in *Journal of Systemic Therapies*, Vol. 29, No. 1, 2010, p. 73.

a means by which to communicate. A colleague commented that released detainees thanked her for her attitude when she was insulted, because she did not react personally. They said that this attitude helped them to cope with their suffering.

Aggressive acts against others or against oneself are often extreme ways of communication in detention. In a remarkable conference in 1975, dissident writer André Siniavski, released after seven years in camps in the Soviet Union, referred to some 'extreme forms of communication in conditions of solitude'.<sup>14</sup> He told about unusual, weird, or perhaps shocking acts as forms of communication 'where man is placed in an absolutely blocked situation'. 'Where language and need for communication have no way out, life itself has no way out', he commented.<sup>15</sup> In situations of extreme isolation, rejection or indifference, acts with or against one's own body, hunger strikes, mutilations, or other acts of self-violence should be understood as 'particular means of communication'.<sup>16</sup>

These acts express an extreme protest by the way of 'an entirely negative communication, a rupture in communication'.<sup>17</sup> Recent anthropological and linguistics studies on extreme communicative acts in such situations reach similar conclusions.<sup>18</sup> Aggressive acts, such as insults, throwing of body liquids onto visitors, spreading faeces on the walls of cells, hunger strikes or mutilations should be understood, first, as acts of communication. They are a protest or an expression of despair when no other means of communication are available. They are a cry for dignity and recognition.

Humanitarian visitors of detention facilities need to be prepared to deal with such situations in order to avoid reacting personally or too formally to aggressive acts. Restoring a verbal communication 'with' the detained person is important: rather than talking 'to' or listening 'to' the person, the key may lie in restoring a dialogue, opening up a method of mutual recognition as capable and dignified human beings. Such a dialogue may help the visitor to understand the meaning, the reasons and the purpose of aggressive acts, and open a shared reflection on possible ways to communicate with the concerned persons or authorities.

Humanitarian visitors face a similar process in their dialogue with the authorities on ways to promote positive communication in the detention facility. A human response to a hunger strike, for instance, may be to set up regular meetings, between the detaining authorities and the detainees or their representatives. These meetings are opportunities to address important issues and to share reflections on possible solutions. Improvements in communication can have a major impact on the nature of the relationship between detainees and those who detain

14 André Siniavski, '« MOI » ET « EUX ». Sur quelques formes extrêmes de la communication dans des conditions de solitude', in *Solitude et Communication, Rencontres Internationales de Genève – Tome XXV*, Éditions de la Baconnière, Neuchâtel, 1975, pp. 137–167.

15 *Idem.*, p. 138.

16 *Ibid.*, p. 145.

17 *Ibid.*, p. 145.

18 Lionel Wee, 'Extreme communicative acts and the boosting of illocutionary force', in *Journal of Pragmatics*, Vol. 36, No. 12, December 2004, pp. 2161–2178; Lionel Wee, 'The hunger strike as a communicative act: intention without responsibility', in *Journal of Linguistic Anthropology*, Vol. 17, No. 1, June 2007, pp. 61–76.

them in an institution, thereby leading to a decrease in violence and to better health of the detainees.

## Little things as a way to humanisation

Violence and armed conflicts have devastating effects on individuals, families, societies and humanity. Examples taken from places of detention show that humanitarian action is about taking care of the person, and about humanising dehumanised places. This work often requires much humility, and a deep confidence in our capacity as humans to renounce violence and to engage in respectful and constructive relationships, even in the midst of armed conflicts. It also requires acceptance that the effects of humanitarian action may not be immediately observed. They may well come to light years later, when former detainees recall a cup of coffee, pictures of flowers, wild beasts, or sunsets, drops of perfume, simple moments of shared humanity – small things that restored their dignity, because they were recognised as being human.

In his remarkable book *Humanity*, philosopher Jonathan Glover analyses faces of inhumanity.<sup>19</sup> In his exploration he only meets a few examples of humanity. Only a few people, it seems, have the courage to take risks and to give the ‘human responses’, which are respect and sympathy.<sup>20</sup> In Nazi-occupied Europe, for prisoners in Mauthausen or for Jews in Berlin, ‘even a friendly face made a difference’.<sup>21</sup>

Glover cites the case of writer and philosopher Jean Améry, who remembered cigarettes. After he had been tortured in Breendonk, one soldier tossed him a lighted cigarette through the cell bars. Later, in Auschwitz-Monowitz, he shared the last cigarette of Herbert Kap, a disabled soldier from Danzig. Améry remembered a few other people who made human gestures. They included Willy Schneider, a Catholic worker from Essen, ‘who addressed [him] by [his] already forgotten first name and gave [him] bread’.<sup>22</sup> But, Glover notes: ‘Jean Améry did not overlook how rare such gestures were.’ In his book, Améry explains that ‘the weight of these brave comrades was not enough’ when they were no longer in front of him ‘but lost in the middle of their people’;<sup>23</sup> for him, the human acts of a few cannot counterbalance the countless acts of complicity, consent, and collaboration by so many people. Améry explains the reasons for his resentment and the impossibility of overcoming what was done. He was deeply affected by torture and by the extermination camps. He did not consider himself to have been ‘traumatised’, instead, he wrote: ‘He had been dehumanized’.<sup>24</sup>

19 Jonathan Glover, *Humanity: A Moral History of the Twentieth Century*, Pimlico, London, 1999.

20 *Idem.*, pp. 22–23.

21 *Ibid.*, p. 383.

22 *Ibid.*, p. 383.

23 Jean Améry, *Par-delà le crime et le châtement – Essai pour surmonter l’insurmontable*, Actes Sud, Arles, 1995 (translated from German), p. 159.

24 *Idem.*, pp. 172 and 208.

In her narrative, Magda Hollander-Lafon also remembers small gestures of humanity in the midst of inhumanity and horror in Auschwitz:<sup>25</sup> someone, in the cattle train to Auschwitz, gave her a slice of sausage, which she shared with her mother and sister;<sup>26</sup> anonymous comrades saved her life, giving her a few drops of water while she was unconscious with thirst;<sup>27</sup> the ‘ugly guard with a mean voice’ gave her a pair of clogs and took care of her at work;<sup>28</sup> a comrade said words of fraternity, friendship and courage that helped her to live;<sup>29</sup> and a dying woman gave her four small pieces of bread so that she could survive and bear witness to what was happening in Auschwitz.<sup>30</sup> Such little things helped Magda Hollander-Lafon to overcome suffering and to follow her own way of humanisation.

There are many narratives of survivors of extreme violence. Each human experience is unique and irreplaceable. Likewise, there is no ‘ready-to-wear’ solution to humanitarian care. A request for a few drops of perfume emerged spontaneously in a particular place, during an encounter between two people. Through these drops a detainee felt recognised as a human being. The same liquid may be meaningless, and even offensive, in another context. People working in humanitarian action find their own way of humanitarian care. They work with their own humanity, their identity, their history, their capacities and vulnerabilities. All too often, especially in armed conflicts and other situations of violence, humanitarian professionals face the limits and powerlessness of their actions. But many of them know, from experience, that their ability to care and to act with respect and sympathy, along with their creativity, can help make a meeting with affected individuals – detainees, civilians, wounded or sick people – a real encounter, a moment of shared humanity. This relationship of humanitarian care is at the core of humanitarian action.

25 Magda Hollander-Lafon, *Quatre petits bouts de pain – des ténèbres à la joie*, Albin-Michel, Paris, 2012.

26 *Idem.*, p. 90.

27 *Ibid.*, p. 34.

28 *Ibid.*, p. 45.

29 *Ibid.*, p. 51.

30 *Ibid.*, p. 73.

## REPORTS AND DOCUMENTS

# Bringing the Commentaries on the Geneva Conventions and their Additional Protocols into the twenty-first century

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### **Abstract**

*The ICRC Commentaries on the 1949 Geneva Conventions date back to the 1950s, and those on the 1977 Additional Protocols were written in the 1980s. Since the original Commentaries were published, the Conventions and Protocols have been put to the test, and practice with respect to their application and interpretation has developed significantly. In order to capture these new developments a major ICRC project to update the Commentaries on these six treaties is now well underway. Its goal is to contribute to a better understanding of, and respect for, international humanitarian law. Ultimately, the project seeks to enhance protection for the victims of armed conflicts.*

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### **Introduction**

The Geneva Conventions of 1949 and their Additional Protocols of 1977 constitute the backbone of international humanitarian law. They contain many of the essential

rules of humanitarian law protecting civilians, medical and religious personnel, and other persons *hors de combat*. The Geneva Conventions enjoy universal adherence, while more than 80 per cent of all countries are States party to the Additional Protocols of 1977.<sup>1</sup>

Upon the adoption of the Geneva Conventions in 1949, the International Committee of the Red Cross (ICRC) proceeded to write a detailed Commentary on each of their provisions. This led to the publication between 1952 and 1960 of a Commentary on each of the four Geneva Conventions, in French and in English, under the general editorship of Jean Pictet.<sup>2</sup> Similarly, when the Additional Protocols were adopted in 1977, ICRC lawyers set out to write a Commentary on each Protocol. These were published in 1986 in French and in 1987 in English.<sup>3</sup> The ICRC undertook this work pursuant to its role as guardian and promoter of international humanitarian law. This role – in particular, the ICRC’s commitment to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts<sup>4</sup> – is recognised in the Statutes of the International Red Cross and Red Crescent Movement. The work also follows from the ICRC’s duty ‘to undertake the tasks incumbent upon it under the Geneva Conventions’ and ‘to work for the faithful application of international humanitarian law applicable in armed conflicts’.<sup>5</sup> In many cases, the ICRC cannot fulfil these tasks without interpreting the basic treaties of humanitarian law underlying the ICRC’s mandate. This is at the heart of the organisation’s daily work.

- 1 The Geneva Conventions have 195 States Parties, Additional Protocol I on international armed conflicts has 173 States Parties, and Additional Protocol II on non-international armed conflicts has 167 States Parties; see [www.icrc.org/ihl](http://www.icrc.org/ihl). A third Additional Protocol was adopted in 2005, introducing a new protective emblem, the Red Crystal. The current project does not deal with the 2005 Additional Protocol, as a Commentary on this Protocol was published recently. See Jean-François Quéguiner, ‘Commentary on the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)’, in *International Review of the Red Cross*, Vol. 89, No. 865, 2007, pp. 175–207, available at: [www.icrc.org/eng/resources/documents/article/review/review-865-p175.htm](http://www.icrc.org/eng/resources/documents/article/review/review-865-p175.htm).
- 2 Jean S. Pictet, with contributions by Frédéric Sordet, Claude Pilloud, Jean-Pierre Schoenholzer, René-Jean Wilhelm, and Oscar M. Uhler, *Geneva Convention I: Commentary*, ICRC, Geneva, 1952 (French original and English); Jean S. Pictet, with the cooperation of Rear-Admiral M. W. Mouton (Netherlands), with contributions by Frédéric Sordet, Claude Pilloud, Jean-Pierre Schoenholzer, René-Jean Wilhelm, and Oscar M. Uhler, *Geneva Convention II: Commentary*, ICRC, Geneva, 1959 (French) and 1960 (English); Jean de Preux, with contributions by Frédéric Sordet, Claude Pilloud, Henri Coursier, René-Jean Wilhelm, Oscar M. Uhler, and Jean-Pierre Schoenholzer, *Geneva Convention III: Commentary*, ICRC, Geneva, 1958 (French) and 1960 (English); Oscar M. Uhler, Henri Coursier, Frédéric Sordet, Claude Pilloud, Roger Boppe, René-Jean Wilhelm, and Jean-Pierre Schoenholzer, *Geneva Convention IV: Commentary*, ICRC, Geneva, 1956 (French) and 1958 (English).
- 3 ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC and Martinus Nijhoff, Geneva, 1987 : Additional Protocol I (and Annex I): Commentary by Claude Pilloud, Jean de Preux, Yves Sandoz, Bruno Zimmermann, Philippe Eberlin, Hans-Peter Gasser, and Claude F. Wenger; Additional Protocol II: Commentary by Sylvie-S. Junod. Both Commentaries were prepared under the editorship of Yves Sandoz, Christophe Swinarski, and Bruno Zimmermann.
- 4 Statutes of the Red Cross and Red Crescent Movement, 1986, Art. 5(2)(g). On the ICRC’s role in the interpretation of international humanitarian law, see also François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, ICRC and MacMillan, Geneva, 2003, pp. 914–922.
- 5 Statutes of the Red Cross and Red Crescent Movement, 1986, Art. 5(2)(c).

Over the years, the ICRC Commentaries have come to be recognised as essential and well-respected interpretations of the Geneva Conventions and their Additional Protocols. The original Commentaries were based primarily on the negotiating history of the Conventions and Protocols and on prior practice. They often provide a historical perspective and an explanation of the major steps in the development of the law. In that respect, they remain largely relevant.

## The need for an update of the Commentaries

With the passage of time and the development of practice, it has become necessary to update the original Commentaries. The update seeks to reflect the experience gained in applying the Conventions and Protocols during the decades since their adoption, while preserving those elements of the original Commentaries that are still relevant. The objective is to ensure that the new editions of the Commentaries reflect contemporary reality and legal interpretation.

For example, Common Article 1 of the Geneva Conventions states that the 'High Contracting Parties undertake to respect and ensure respect' for the Conventions 'in all circumstances'. The application of the obligation to 'ensure respect' for humanitarian law has significantly expanded since the 1950s, and current practice in this area indicates more clearly that this obligation extends to both international and non-international armed conflicts. The updated Commentaries need to capture and present this understanding.

Furthermore, Common Article 3, which is applicable in non-international armed conflicts, has become a central provision in recent decades due to the prevalence of this type of armed conflict. When this provision was adopted more than sixty years ago, no international criminal sanction was attached to its violation, and little to no international case law interpreting the prohibitions of this provision was available when the original Commentaries were drafted. Today however, under the influence of subsequent practice and developments in international law, it is recognised that serious violations of Common Article 3, such as murder, torture, and hostage-taking, also constitute war crimes in non-international armed conflicts. As a result, the elements of these crimes and their underlying prohibitions in Common Article 3 have been interpreted and further clarified in recent decades, in the case law of international criminal courts and tribunals, as well as in national courts. The updated Commentaries need to take account of these developments.

Another example relates to the area of humanitarian activities where the Conventions provide that both the ICRC and 'any other impartial humanitarian organisation' may offer to undertake such activities. The context in which this occurs today, in terms of the diversity of actors as well as the challenges for humanitarian action, is very different from when the original Commentaries were written. Today there is much discussion about the requirement to obtain consent from the parties to the conflict in order to access conflict zones and, in particular, about the prohibition on withholding such consent on arbitrary grounds. The updated Commentaries need to reflect such debates and present any fault lines that may be observed.

## The updated Commentaries

In order to capture such developments in law and practice, a major ICRC project to update the Commentaries is now well under way. Its ultimate goal is to contribute to better respect and protection for the victims of armed conflicts. The update will preserve the format of the existing Commentaries – that is to say, an article-by-article commentary on each of the provisions of the Geneva Conventions and their Additional Protocols. The new edition will provide many references to practice, case law, and academic literature, which should facilitate further research and reading. In addition, detailed cross-references will make it easy to find information on related provisions.

### Research and writing of the Commentaries

The updated Commentaries will be drafted by ICRC staff lawyers, as well as by a number of external contributors. Even though the format will eventually be that of an article-by-article commentary, the research and writing for the update are being undertaken topic by topic, not article by article, Convention by Convention, or Protocol by Protocol. This is necessary to ensure coherence across the Commentaries, as many topics are dealt with in one or more provisions of one or more Conventions and/or Protocols. For example, the provisions dealing with the wounded, sick and shipwrecked are found in Geneva Conventions I, II, and IV and in Additional Protocols I and II. As a result, the preparation of the Commentaries on these provisions needs to be carried out in a synchronised manner. Other such topics include children, missing persons and restoring family links, humanitarian assistance, and the distinctive Red Cross and Red Crescent emblems. This method allows for a better overview of the issues involved, consistency between related Commentaries, and a more efficient way of carrying out thematic research and writing.

Research for the project will examine a variety of sources relevant to the application and interpretation of the treaties in recent decades, including military manuals, national legislation, and case law, as well as academic commentary and the ICRC's own field experience. In addition, research staff will conduct consultations with practitioners. The project will also use the ICRC's customary law database, in particular regarding state practice with respect to the application and interpretation of international humanitarian law.<sup>6</sup>

Where relevant, the update will also take into account developments in related areas of international law, such as international criminal law and international human rights law. These branches of international law were still in their infancy when the Geneva Conventions were adopted, and have developed significantly in recent years. The interplay between these branches of international law and international humanitarian law makes it relevant for the updated Commentaries to consider these sources.

<sup>6</sup> See [www.icrc.org/customary-ihl](http://www.icrc.org/customary-ihl).

## Review process of the Commentaries

All draft Commentaries are submitted for review to the group of authors (the Reading Committee) of the Commentary on a particular Convention. The draft Commentary reviewed by the Reading Committee is then submitted to an Editorial Committee composed of senior ICRC and external lawyers. Finally, the drafts will be peer reviewed by a wide selection of scholars and practitioners involved in the interpretation and application of international humanitarian law. These various steps of review seek to ensure that the updated Commentaries reflect current reality and legal interpretation as accurately as possible.

## Publication and distribution of the Commentaries

The updated Commentaries will be easily accessible and made widely available. In addition to the printed version, an online version will be made available free of charge on the website of the ICRC, as is currently the case with the original Commentaries.<sup>7</sup> The electronic version should also facilitate easier search and navigation of the document.

The provisional timeline of the publication of the updated Commentaries foresees the publication of the updated Commentary on Geneva Convention I in 2015, on Geneva Convention II in 2016, on Geneva Convention III in 2017, on Geneva Convention IV in 2018, and on Additional Protocols I and II by the end of 2019. This timeline remains subject to confirmation.

## Conclusion

The updated Commentaries seek to provide a well-researched and up-to-date interpretation of the Geneva Conventions and their Additional Protocols. As guardian and promoter of humanitarian law, the ICRC needs to ensure that the Commentaries on the core treaties of international humanitarian law remain up to date. At the same time, in updating the Commentaries, the ICRC reaches out to external experts through research and writing and through review by scholars and practitioners.

The overall purpose of the update is to contribute to a wider dissemination and greater clarification of the content of the Geneva Conventions and their Additional Protocols, and ultimately to better respect and protection for the victims of armed conflicts.

7 See [www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp](http://www.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp).



## REPORTS AND DOCUMENTS

# International Tracing Service: 'Respect for the past, responsibility for the future'

**Speech by Peter Maurer, president of the International  
Committee of the Red Cross, at the International  
Tracing Service, Bad Arolsen, on 19 November 2012.\***

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'I would be grateful if the International Committee of the Red Cross were willing to take over the leadership and management of the International Tracing Service'. This simple request by Konrad Adenauer was the result of five years of discussions between the Allies and the Federal Republic of Germany, the other States concerned, and the International Committee of the Red Cross, or ICRC. The request, in the form of a letter sent to ICRC President Paul Rügger, must be viewed in the context of political developments at the time. For on 5 May 1955, the Federal Republic's status as occupied territory was lifted. This meant the end of the Allies' High Commission for Occupied Germany, which had the task of supervising the work of the Tracing Service. At the same time as the ICRC was asked to step into the breach, the Agreement Constituting an International Commission for the International Tracing Service – one of the very first treaties that the Federal Republic would sign as a sovereign State – entered into force. This Commission, which originally had nine member States, today has 11, and their representatives are sitting in this room as I speak.

Chancellor Adenauer's letter specified that the Tracing Service's activities should be carried out 'in the spirit of the 1949 Geneva Conventions'. In a further exchange, the ICRC undertook to shoulder the leadership position entrusted to it in

\* This text is also available at: <http://www.icrc.org/eng/resources/documents/statement/2012/11-29-arolsen-its-maurer.htm>

a manner true to the principles of impartiality and neutrality. This undertaking reflected a major development of international humanitarian law in the form of the 1949 Conventions, which channelled the lessons learned from the Second World War into improving legal protection for the civilian population. As we know, this attempt to protect civilians was to fail all too often in the decades to come. The Tracing Service's pledge of allegiance to the spirit of the Geneva Conventions nevertheless marked a significant step forward in the European political arena and the history of international humanitarian law.

And it is civilians – who in such appalling numbers have borne the brunt of every kind of tribulation – that are the focus of the Tracing Service's work. Millions of documents, gathered over the decades in Bad Arolsen and constituting the core of the Tracing Service's archives, bear witness to oppression and injustice, to the ordeal of prisoners of war, forced labourers, so-called displaced persons, families wrenched apart and childhoods stolen. These documents stand for flesh-and-blood individuals and for their very real families, and for the fate that they have suffered. Here we encounter the 'spirit of the Conventions', which regards people as individuals enjoying individual rights, and not simply as military or political objects and subjects.

Its determination to place human rights and human dignity at the forefront of its endeavour prompted the Tracing Service early on to take steps to shield the victims and survivors from inappropriate and obtrusive curiosity. With time, however, and as views changed, it was realized that giving researchers and other parties access to the archives represented a necessary and justified expansion of the Service's work. Since 2006, therefore, the archives have been open to researchers, and an organization that once confined its efforts to tracing people and giving information to families today also involves itself in historical research and education. The new International Tracing Service (ITS) agreement, which will take effect on 1 January 2013, represents an endorsement of this shift.

Since 1955, the ICRC has seconded a total of seven of its delegates to serve, each in his turn, as ITS director. Their names are Nicolas Burckhardt, Albert de Cocatrix, Philipp Züger, Charles Biedermann, Toni Pfanner, Reto Meister and Jean-Luc Blondel. Between five and six thousand staff – many of whom had themselves suffered the hardships of the war – have served the Tracing Service. On behalf of the ICRC, I would like to thank them for their work, and in many cases for their ongoing commitment in the years to come. In 1955 it was assumed that the Tracing Service's activity would be wound up within five years. Today, however, we see how this organization has had to transform itself to meet the need for research and commemoration. It will be with firm confidence that the ICRC hands over the directorship of the Tracing Service to Dr Rebecca Boehling a few weeks from now. We are delighted that the Tracing Service will be able to draw on Dr Boehling's extensive knowledge as it continues and develops the activities for which it has been renowned for decades now.

Can lessons be drawn from the past 60 years? I see at least three.

First, the founding of the International Tracing Service sent a political signal. Both the Allies and Germany were aware that the end of the war would usher

in a range of social challenges. Finding missing persons – or at least ascertaining what had happened to them – and reuniting families was, and remains, crucial to rebuilding society after such a harrowing event. If this task is neglected, as it has been following a number of more recent conflicts, then something remains missing from the process of social and psychological healing, and this in turn hampers the process of establishing the truth, ensuring justice, and achieving reconciliation. This is the essence of the Tracing Service's purpose, and I am convinced that in this way the ITS has had a real influence in promoting reconciliation within Europe and beyond.

Second, a neutral, impartial and independent humanitarian organization like the ICRC can help ease the political process, which is inevitably burdened at the outset by memories of past hostility and a lack of trust between the parties concerned. This applies equally to situations in today's world that are marked by tensions or open conflict. Though humanitarian activity alone cannot do everything, it can nevertheless serve to bridge the rift by standing up for people in need, and thus help pave the way for dialogue and mutual understanding. The Tracing Service has achieved this by issuing certificates that enable survivors or their next of kin to claim their due or simply to have the fate of a loved one confirmed.

Finally, the International Tracing Service illustrates how useful it is to be able to document historical events and how helpful it is to be able to base one's work on a sturdy set of archives, including when that work involves financial compensation and reparation. The same goes for research and education, which constitute in their way a continuation of humanitarian work by other means. Archives are not dusty rows of stacked paper that you can relegate to a back room somewhere. They are voices to be listened to by historians, teachers, journalists, political leaders, and by our collective consciousness. Conserving archives, protecting them and making them available to the public is part of our duty of memory, as it is of our endeavour to optimize education and to uphold people's rights.

While the ICRC will soon be giving up its directorship of the Tracing Service, it will not be losing the Service from view since it will remain as an observer in the International Commission for the ITS. From its headquarters in Geneva, and in particular through its Central Tracing Agency and its protection activities, the ICRC is anxious to remain in regular touch with the ITS and anxious that it be a key part of the worldwide humanitarian tracing network consisting of the ICRC itself and the National Red Cross and Red Crescent Societies. Much of what the ITS has learned over the decades will serve to make future ICRC operations more effective. We do not have to look far to see examples of that potential. When you see the glistening eyes of a mother and her daughter from Mopti, in northern Mali, reunited thanks to sound tracing work (after months of separation and uncertainty), you might almost be looking at photographs from postwar Germany.

After so many years of working together there will inevitably be a sense of nostalgia and even sadness as we part, but this is tempered by mutual gratitude and respect. The ICRC looks with pride and satisfaction on its work with the Federal

Republic of Germany and the Allied countries. The ITS is today a well-known and well-regarded organization. The International Commission plays its supervisory role with the greatest of confidence. And with the transfer of management responsibility, and thus the Interior Ministry's support for the ITS, to the federal government commissioner for culture and the media, the German government has shown that it regards the ITS – as it does the ITS's future partner, the German federal archives – as a driving force for culture and communication. I would like to ask Director-General Berggreen-Merkel, who is here with us today, to convey to the German government my thanks for its unstinting support for the ICRC over these many years.

The ITS strives to be of service to people. Yes, it possesses archives, but those archives reflect human beings and the unthinkable suffering of so many millions during the Second World War and beyond. With us today is Professor Thomas Buergenthal, whose own name is to be found in those archives. Professor Buergenthal, you have described yourself – not without a degree of irony – as a 'lucky child'. I look forward to hearing you talk to us about that luck.

It is perhaps by sheer luck that I meet you here today, in any case a significant event for me. For your personal history intersects world history, and your memories will enable us all to experience in a tolerable manner what was utterly intolerable in reality. As a historian I admire your trenchant analysis of the Nazi dictatorship; as a diplomat I greatly value your commitment to international law; and for me as ICRC president here today, you serve as a living memorial to the 'cognitive catastrophe' and the terrifying consequences of that catastrophe in the lives of so many people. That catastrophe was a signal historical juncture, one at which my own organization, the ICRC, failed. It failed because it lost its normative compass; it failed because it looked on helplessly, but also silently; and it failed because it drew inexcusably false conclusions from perfectly valid observations.

Today we know that expiating one's guilt by paying sums of money is a difficult matter in economic and legal terms – and that from a moral standpoint it simply does not work. Rhetorical flourishes may bring temporary relief, but that relief does not endure. Remaining silent may allow pressure to build up that will later burst forth in unforeseeably destructive ways. And talking is all too often an exercise in empty words. Still today we often struggle with how we should deal with guilt. The best we can do is perhaps to get the simplest part right, that is, to maintain our dogged determination to do better next time. Today we cannot afford to waver in that determination. I thank you, Professor Buergenthal, for the honour you do the ICRC and the ITS by being here with us today, prepared to speak to us of your own experiences.

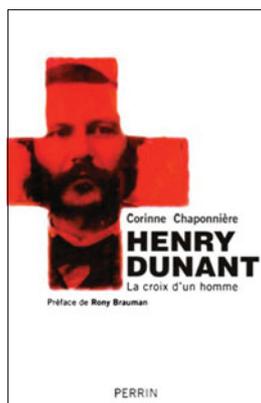
The ICRC is relinquishing the helm of the International Tracing Service, but we are confident that the humanitarian principles that we have learned to value together will continue to inspire its work. Neutrality, impartiality, independence and a balanced view are required, not to be interpreted as passivity or the dispassion of people peering at events from an ivory tower. Rather, these principles should be understood in the sense of availability and helpfulness. Conducting oneself in a neutral manner means being at the service of men and women in need, listening to

them and supporting them, without making any judgements. Being impartial forces one to take a balanced view. And independence is something any humanitarian organization needs in order to carry out those many, often extremely uncomfortable tasks demanded by its calling. The International Commission for the ITS has confirmed its independence by giving it a new legal status to take effect concurrent with the ICRC's departure.

Today we stand at the threshold of past and future. Who has described this better than Dietrich Bonhoeffer when he wrote that 'respect for the past and responsibility for the future is the right attitude to have in life'? That seems to me a good leitmotiv for the International Tracing Service, which we trust will continue to flourish with full confidence and in that very spirit.



## BOOKS AND ARTICLES



### Henry Dunant: La croix d'un homme

**Corinne Chaponnière\***

**Book review by François Bugnion**, an independent consultant in international humanitarian law and humanitarian action, and the author of more than fifty books and articles on international humanitarian law and on the International Red Cross and Red Crescent Movement. Mr. Bugnion is a Member of the International Committee of the Red Cross.

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### The biography of Henry Dunant that we've been waiting for

No Swiss historical figure is as well known outside his country as Henry Dunant (1828–1910). From Paris to Bangkok, capital cities have honoured his memory by naming a street, a boulevard or a square after him. Around the world, millions of Red Cross and Red Crescent volunteers seek to follow his example and his ideas. Even the founders of organisations established in opposition to the Red Cross, such as Médecins sans Frontières (Doctors without Borders) and Médecins du Monde (Doctors of the World), acknowledge him as the father of the modern humanitarian movement.

And yet, until recently, we had no comprehensive biography of Dunant in French, based on primary sources. There were, of course, interesting compilations, particularly those by Marc Descombes and by Gérard Jaeger, and above all the

\* With a foreword by Rony Brauman. Published by Éditions Perrin, Paris, 2010. The views expressed here are those of the book reviewer alone and not of the International Committee of the Red Cross.

*Actes du Colloque Henry Dunant*, held in Geneva in 1985.<sup>1</sup> In 2010, on the 100th anniversary of Dunant's death, Roger Durand published a short biography based on a lifetime of tireless research; however, this work – in paperback format – was limited to the essentials.<sup>2</sup> We still lacked a comprehensive biography.

This gap was incomprehensible, and all the more so considering that Dunant's life was among the most tragic imaginable. Published in 1862, his book, *A Memory of Solferino*, brought him fame throughout Europe and opened all doors to him; as the founder of the Red Cross and promoter of the first Geneva Convention, he received numerous medals and decorations, yet that only made his downfall, brought on by financial ruin, all the crueller. Having sat at the tables of kings and princes, Dunant would know poverty and hunger, live in slums and experience the shame of wearing rags, before being awarded the first Nobel Peace Prize in the twilight of his life.

The lack of a comprehensive biography was all the more regrettable in that, for over thirty years, Geneva has had a centre of excellence on Henry Dunant. Founded and run by Genevan historian Roger Durand, the Société Henry Dunant (Henry Dunant Society) brought together a wealth of documentation that made it possible to explore nearly all aspects of the Red Cross founder's life and work. For instance, the Society inventoried some 4,500 letters written by or addressed to Dunant, which had been kept in various archives. These included public archives, the repositories of the countless associations that Dunant founded or with which he became involved, and family archives in Switzerland, France, Germany, and elsewhere. The twenty-four volumes of the Society's *Bulletin*, supplemented by numerous thematic publications, constitute a virtually inexhaustible mine of information.

For this reason, Corinne Chaponnière's work, *Henry Dunant: La croix d'un homme*, could not be more timely. Its publication coincides with the celebration in 2013 of the 150th anniversary of the founding of the International Committee of the Red Cross (ICRC) and the International Red Cross and Red Crescent Movement, and it heralds the commemoration in 2014 of the 150th anniversary of the First Geneva Convention, the starting point for contemporary international humanitarian law.

On the basis of the Society's work, as well as her own research, Corinne Chaponnière gives us a portrait of Dunant stripped of the false legends and mystifications that had embellished his memory, sometimes at his own instigation. It is the portrait of a man, not of the monument that some hagiographers saw fit to build, in spite of the documents and sometimes in spite of Dunant's own testimony – but it is a far more human and believable likeness. In this book we see Dunant without his halo but resembling each one of us, with his tremendous qualities and his terrible faults, his visionary genius and his tragic tendency to build

1 Roger Durand (ed.), *De l'utopie à la réalité: Actes du colloque Henry Dunant tenu à Genève au Palais de l'Athénée et à la chapelle de l'Oratoire les 3, 4 et 5 mai 1985*, Société Henry Dunant, Geneva, 1988.

2 Roger Durand, *Henry Dunant 1828–1910*, International Federation of Red Cross and Red Crescent Societies and Société Henry Dunant, Geneva, 2011.

castles in the air, his surges of enthusiasm and his chasms of despair, his extravagant generosity and his petty miserliness.

What emerges is the picture not of a saint but of a man driven by a consuming ambition: to escape the middle-class environment to which he belonged by virtue of his birth and family, and to rise to the level of the great men of his time. He accomplished this through an accident of history – his arrival at Solferino on the evening of 24 June 1859, soon after one of the bloodiest battles of the nineteenth century had ended, leaving 6,000 dead and more than 30,000 wounded on the battlefield – but also through a stroke of genius. Dunant bore witness to the battlefield's horror in his book, *A Memory of Solferino*. Above all, he drew from that ghastly vision two ideas that would have a remarkable destiny: the Red Cross and the Geneva Convention. In this way, he achieved the fame to which he aspired.

He was not to enjoy it for long. As he had neglected his financial affairs, the business that he led went bankrupt. From one day to the next, Dunant was ruined, dishonoured and forced into exile. He was expelled from the ICRC, which he, more than anyone else, had helped to found.

Dunant devoted the rest of his life – forty years – to efforts to restore his reputation and to regain his former role as guiding spirit of the movement of which he rightly considered himself the founder. Thanks to an unparalleled communication strategy, he achieved this aim with the award of the first Nobel Peace Prize in 1901.

Chaponnière is able to avoid the trap of hagiography because Dunant's legacy – the Red Cross and the Geneva Conventions – is sufficient to cement his place in history; thus there is no need to embellish his memory. She manages to skirt the trap of exaggeration because Dunant's life was steeped in tragedy; thus there is no need to add to it. By quoting hundreds of excerpts from Dunant's letters, she recreates the infinitely complex personality of the Red Cross founder – a brilliant visionary, but a dangerous schemer; a creator of genius, but beset, as an old man, by delusions of persecution, seeing enemies and spies everywhere, even among the children playing under the windows of the asylum where he found refuge.

Chaponnière writes with a historian's skill, but a novelist's flair. She brings to life not only her character, Dunant, but also those whom he met along the way and who helped to shape his destiny – his mother, Gustave Moynier, General Dufour, Napoleon III, Léonie Kastner, and others. As a result, once you've opened this biography, you won't be able to put it down – you'll read it in one go. Lastly, the author is aided by an unusually elegant style, a way with words and a sense of drama, so that you read her book not only with great interest, but with relish.

It is understandable, therefore, that Dr. Rony Brauman has honoured this work with a fine preface – a stirring tribute from one of the co-founders of Médecins sans Frontières to the founder of the Red Cross, and a stark reflection on the fate, ambiguities, and limits of humanitarian action, from Solferino to the civil war now tearing Syria apart.

This biography leaves the reader with only one regret: that the editor did not see fit to enhance it with illustrations. It would have been of great benefit to provide a few portraits that would allow readers to better visualise the man whom they discover on page after page, as well as other key figures. There is certainly no shortage of sources; ever concerned about his image, Dunant left us excellent photographic portraits of himself not only as a white-bearded old man, at the time that he received the Nobel Prize, but also in his youth, during the founding of the Young Men's Christian Associations, and then in his prime, when the Red Cross was founded. The publisher, Éditions Perrin, will undoubtedly fill this gap in the next edition and in the publication of the translations, for this work is clearly destined to burst out of the boundaries of the French-speaking world.

## BOOKS AND ARTICLES

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**This selection is based on the new acquisitions of the ICRC Library and Public Archives**

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# International Law and the Classification of Conflicts – ERRATUM

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In the above book review by Dr Roberta Arnold, the affiliations for the book reviewer Dr Roberta Arnold and the editor of the reviewed book, Elizabeth Wilmshurst, have been published incorrectly and the footnotes should read as follows:

Edited by Elizabeth Wilmshurst\*

\* Elizabeth Wilmshurst is Fellow of the Royal Institute of International Affairs at Chatham House, and Professor of International Law at University College London. *International Law and the Classification of Conflicts* is published by Oxford University Press, 2012.

Book review by Dr Roberta Arnold\*\*

\*\* Dr Roberta Arnold is researcher at the Swiss Military Academy (ETH Zurich), Chair of Strategic Studies. She is former legal adviser within the International Relations Division of the Swiss Federal Department of Defence (Laws of Armed Conflict Unit), and a military investigating magistrate within the Swiss Military Justice. The views expressed here are those of the book reviewer alone and do not necessarily represent the opinion of the Swiss Federal Department of Defence or the International Committee of the Red Cross.

**Arnold, R** (2013) *International Law and the Classification of Conflicts*. By Elizabeth Wilmshurst Oxford University Press, 2012. *International Review of the Red Cross*, 94 1163–1172 .  
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