

Between insurgents and government: the International Committee of the Red Cross's action in the Algerian War (1954–1962)

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Abstract

The French government and an armed insurrectionary movement – the National Liberation Front (FLN) – confronted each other for over seven years in the Algerian War, which would become the archetype of wars of national liberation. It brought the new conditions of struggle in revolutionary warfare to a convulsive climax characterized by terrorist attacks, underground warfare, and repression. On the humanitarian front, the challenge of ensuring respect for humanitarian rules in asymmetric warfare was posed more bluntly than in any previous conflict. The International Committee of the Red Cross (ICRC) faced the triple challenge of offering its services to a government facing an armed insurgency that it claimed to be able to bring under control through police action alone, of entering into contact with

a liberation movement, and of conducting a humanitarian action in the context of an insurrectionary war.



From insurrection to independence

On the night of 31 October/1 November 1954, a series of bomb attacks shook thirty locations in Algeria, while a communiqué of the National Liberation Front (FLN) revealed the existence of an armed struggle organization capable of conducting co-ordinated actions throughout the entire country. This ‘Night of All Saints Day’ would mark the beginning of eight years of fratricidal strife that would cause the collapse of the Fourth Republic, drive France to the brink of civil war, and lead to the independence of Algeria.

It was not a bolt from the blue. France had conquered Algeria between 1830 and 1848 without having a clear colonial plan and without knowing what it would do with this conquest. While it had only taken a few days for the French army to seize Algiers, eighteen years of persistent struggle followed before the interior was conquered. Heavy fighting and the large-scale scorched earth policy of Marshal Bugeaud left deep wounds in Algerians’ collective memory. The confiscation of land to facilitate the installation of European settlers – the *pieds noirs* – led to the impoverishment of the Algerian population, while the eviction of the local aristocracy caused the erosion of traditional social structures. An assimilation policy, applied with little determination, aroused the distrust of defenders of Islam without attracting the support of the Algerian elite. Finally, the *colons* defeated all attempts made by a number of governments of the French Republic to grant political rights to the indigenous people. Young Algerians, only a small minority of whom had had the opportunity to attend school and even fewer of whom had had access to university, discovered that France taught them human rights but denied them the benefits of this body of law. There was an uneasy cohabitation between the Muslim and European populations: they were two communities that had not learned to share the same fate.

France’s June 1940 defeat by Germany had demonstrated the country’s weakness. The Allies’ success in the 8 November 1942 Anglo-American landings in Algeria and Morocco was seen by Muslims as an indication of a further decline of metropolitan France. Overly timid overtures by the French Committee of National Liberation aroused the scorn of Algerian nationalists, while they were violently rejected by the settlers. On 8 May 1945, at the very moment that the German surrender was putting an end to six years of war in Europe, riots broke out in Sétif. The disproportionate repression persuaded many Algerian leaders that the equal rights promised by France were a sham and that there was no way out other than the independence of their homeland.

On 7 May 1954, the surrender of the fortified camp of Dien Bien Phu in Laos gave further evidence of France’s weakness and isolation and showed the

effectiveness of a revolutionary struggle involving the mobilization of the whole nation. The example had been given. During that summer, a group of young militants from the Algerian People's Party decided to transform the political fight into an armed struggle.

As in 1945, the attacks of 1 November 1954 provoked a disproportionate response. Indeed, France considered Algeria a French territory, inhabited by more than one million French settlers whom it was unthinkable to abandon. But the FLN, which had taken the lead in the insurgency, aimed at continuing the fight until Algerian independence was granted. The use of spectacular terrorist attacks was meant to provoke a violent reaction by security forces and settlers. Such a reaction would in turn unite the Muslim community behind the FLN and cause an irreparable rupture between that community and the settlers. These conditions led to a brutal struggle. The FLN, which did not hesitate to execute Algerians collaborating with France, won increasing numbers of supporters among the Algerian population. A part of French public opinion and some politicians gradually came to the conviction that the struggle was hopeless and that, following the granting of independence to Tunisia and Morocco in March 1956, Algerian independence had become inevitable. But part of the army and the vast majority of settlers refused to consider the prospect of an independent Algeria, leading France to the brink of civil war.

The war years were thus marked by the tragic cycle of terrorist attacks provoking repression followed by new attacks resulting in ever harsher repression. The end result was that there were increasing numbers of victims in both camps.

From the spring of 1955, the French authorities declared a state of emergency and deported those suspected of FLN sympathies to internment camps, leniently entitled *centres d'hébergement* (accommodation centres). The FLN then multiplied attacks against Europeans, who in turn created 'anti-terrorist groups'. The FLN also established a political structure: the Congress of Soummam (a valley in the Kabyle region) met secretly from 20 August to 5 September 1956, founding the National Council of the Algerian Revolution (CNRA) with thirty-four members and a Coordination and Implementation Committee (CCE) composed of five members.

Clandestine contacts between French emissaries and leaders of the FLN were made in Morocco. However, on 22 October 1956, the plane from Morocco to Tunis bringing back five leaders of the FLN – Ait Ahmed, Mohamed Boudiaf, Ahmed Ben Bella, Mohamed Khider, and Professor Mostefa Lacheraf – was intercepted by the French Air Force and the five occupants were incarcerated in France.

Ten days later, Israel, France, and Great Britain launched the Suez expedition. While Israel's main objective was to destroy the bases of the Palestinian *fedayeen* in Gaza and the Sinai, and England's was to regain control of the Suez Canal (which had been nationalized by Egypt a few weeks earlier), France primarily aimed at depriving the FLN of its main external support by overthrowing President Gamal Abdel Nasser, seen as the figurehead of Arab nationalism and as the main backer of the Algerian uprising. The expedition ended in a humiliating fiasco for the

former colonial powers: under the double pressure of the United States and the Soviet Union, France and England were forced to withdraw their troops. Nasser triumphed and the FLN could now count on greater support from Egypt.

In Algeria the insurgency continued to grow, and spread to the cities. General Salan, a veteran of the war in Indochina, was appointed commander-in-chief in Algeria, while General Massu, commander of the 10th Parachute Division, was named responsible for restoring order in Algiers. On 7 January 1957, the 'paras' took over Algiers. They entered the kasbah on 13 January, arresting 1,500 suspects. But the attacks continued and it was not until September 1957 that the parachutists managed to take control of the situation. Yet the guerrilla struggle continued, especially in the Aurès and Kabyle regions. The French army recruited *harkis* (soldiers of Algerian origin) throughout the country. Repression deepened and entire populations were confined to 'regroupment centres'.

In 1958 the leaders of the FLN set up a base for the National Liberation Army (ALN) in Tunisia near Sakiet Sidi Youssef. On 11 January, French soldiers were ambushed by the ALN on the Algerian–Tunisian border. Fifteen were killed, one was wounded, and four were taken prisoner. On 8 February, the French army bombed Sakiet Sidi Youssef. Habib Bourguiba, President of the Republic of Tunisia, recalled the country's ambassador in Paris, demanding the withdrawal of French troops from all Tunisian territory, including the Naval Air Station at Bizerte that France had been allowed to keep at the end of the protectorate.

In the following months, clashes between the French army – which had enrolled almost 20,000 *harkis* – and the ALN intensified. On 10 May 1958, the FLN executed three French soldiers in Tunisia in retaliation for the execution of several of its activists who had been sentenced to death by French courts in Algeria. This execution provoked a very strong emotional reaction. On 13 May, the French Algerians organized a massive demonstration in Algiers calling for a 'French Algeria'. Generals Massu and Salan formed a 'Committee of Public Safety' that took power in Algeria, while, in Paris, the Fourth Republic was going through a new ministerial crisis. On 15 May, General de Gaulle made it known that he was ready to 'assume the powers of the Republic'. On 29 May, René Coty, President of the Republic, announced in Parliament that he had called on General de Gaulle to form the next government. Thus, the coup of 13 May marked the end of the Fourth Republic, whose authority was undermined by incessant governmental crises, defeat in Indochina, and its inability to restore order in Algeria.

On 17 September 1958, in Cairo, the CCE approved the creation of the Provisional Government of the Algerian Republic (GPRA), headed by Ferhat Abbas, author of the *Manifesto of the Algerian People* (March 1943), who had long been seen as a moderate leader before joining the FLN in April 1956. In the following days, the GPRA was recognized by Tunisia, Morocco, Syria, Lebanon, and Egypt.

With the FLN expanding its control over the Muslim population, ensuring external support, and opening a second front by organizing a wave of bombings in metropolitan France, General de Gaulle became convinced of the inevitability of Algerian independence. On 16 September 1959, he unveiled his plan for the self-determination of Algeria and offered a 'peace of the braves'. The announcement

stunned the settlers, who had appealed to de Gaulle on behalf of French Algeria. They saw self-determination as the first step towards withdrawal. It also disappointed the military, who were convinced that they could prevail in the field. The first Franco-Algerian negotiations took place at Melun, near Paris, from 25 to 29 June 1960. They failed because France demanded that the FLN renounce armed struggle during the negotiations but intended to continue its own contacts with the Algerian National Movement (MNA), a rival of the FLN. The FLN, on the other hand, had no intention of renouncing the continuation of armed struggle during the negotiations or of its claim to be recognized as the only representative of the Algerian people. By September, the attacks had resumed in force in Algiers.

The move towards self-determination led to a split between the government in Paris, on the one hand, and the French in Algeria and a part of the army, on the other. This in turn led to barricades (January 1960), an attempted coup d'état (22 April 1961), and a wave of terrorist attacks perpetrated by Europeans and orchestrated by the Secret Army Organization (OAS). By December 1961, the OAS had nearly taken control of Algiers. This wave of attacks destroyed the last possibility of cohabitation between the two communities and caught the French government in the crossfire, putting it under increasing pressure to reach an agreement with the FLN before France in turn slipped into civil war.

Organized through the good offices of Swiss diplomacy, several secret contacts took place at Les Rousses, near Geneva. Negotiations resumed on 7 March 1962 and the Evian agreements were signed on 18 March 1962. The cease-fire came into force the next day. On 8 April, the population of metropolitan France massively approved the Evian agreements. However, during the months of April, May, and June, Europeans fled *en masse* from Algeria.

On 1 July 1962, the Algerian population voted almost unanimously for independence, which was proclaimed on 3 July.

The activities of the International Committee of the Red Cross¹

The ICRC's offer of services

On 16 November 1954, in Paris, Jacques Chenevière, a member of the International Committee of the Red Cross (ICRC)'s Presidential Council, met Professor Brouardel, President of the French Red Cross. He pointed to the experiences in the Bengal region and in Guatemala,² as well as to the work of the Commission of Experts for the Examination of the Question of Assistance to Political Detainees that

- 1 For a more complete overview of the ICRC's activities during the Algerian war, see the following works: 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, pp. 177–221; Magali Herrmann, *Le CICR et la guerre d'Algérie: une guerre sans nom, des prisonniers sans statut (1954–1958)*, mémoire de licence de la Faculté des Lettres de l'Université de Genève, 2006.
- 2 Catherine Rey-Schyrer, *De Yalta à Dien Bien Phu: Histoire du Comité international de la Croix-Rouge, vol. III, 1945–1955*, ICRC and Georg Éditeur, Geneva, 2007, pp. 421–427 and 671–676.

the ICRC had brought together in a meeting in Geneva from 9 to 11 June 1953.³ He stressed that the presence of ICRC delegates and their visits in situations of unrest such as those prevailing in Tunisia and Algeria could bring about an element of *détente*, independently of any material aid. Although President Brouardel showed a great deal of interest in these questions, the conversation did not lead to any concrete results. Moreover, this exchange of views was merely of an exploratory character, mainly to emphasize the attention that the ICRC was bound to bring to these problems.⁴ At its meeting of 25 November 1954, having heard the report of Chenevière, the Presidential Council decided to instruct the head of the ICRC delegation in Paris, William Michel, to raise the issue – at the appropriate moment – with ‘an eminent French personality well known to him’.⁵ To this end, the Council decided to prepare a note setting out the general framework of the approach that should be used. It was further decided to inform the honorary delegate of the ICRC in Algeria, Roger Vust, of this initiative.⁶

In this important approach to the French government, the ICRC was aided by a fortuitous circumstance: William Michel, its head of delegation in Paris, and the Prime Minister, Pierre Mendès-France, had married two cousins who were so closely related that they were often taken for sisters. During World War II, Mendès-France was forced to seek refuge in Switzerland, where he stayed temporarily with Michel and his wife before joining the Free French Forces in London.⁷

According to the testimony of Pierre Gaillard, who would become the backbone of the ICRC's activity in Algeria, Michel and Mendès-France discussed the North African situation in December 1954 during a family celebration.⁸ The drawing up of the aide-mémoire that was to serve as the basis of Michel's approach necessitated several discussions in the Presidential Council, demonstrating the importance that the ICRC attached to this first formal approach to the French government. In the end, the ICRC relied on the findings of the Commission of Experts mentioned above.⁹

Pierre Mendès-France received William Michel on 31 January 1955. The delegate offered the services of the ICRC regarding the situation prevailing in Algeria, Morocco, and Tunisia, pointing to the activities that the ICRC could initiate in such situations and highlighting the advantages for the French authorities. At the request of the Prime Minister, Michel confirmed the offer of the ICRC's services in a letter dated 1 February 1955, in which, on the basis of instructions received from

3 *Commission of Experts for the Examination of the Question of Assistance to Political Detainees, Geneva, June 9–11, 1953*, ICRC, Geneva, 1953; also published in *Revue internationale de la Croix-Rouge*, English supplement, Vol. VI, No. 7, July 1953, pp. 124–131, and in *Annual Report 1953*, pp. 66–68 and 84–91; C. Rey-Schyr, *De Yalta à Dien Bien Phu*, above note 2, pp. 318–323.

4 ICRC Archives, A PV C1 Pl, Minutes of the Presidential Council, 25 November 1954, p. 3.

5 *Ibid.*

6 *Ibid.* An honorary delegate of the ICRC is a Swiss citizen resident in a foreign country where, in general, he is employed by a Swiss company, and who has been asked by the ICRC to render various services: for example, contacting certain personalities, visiting prisoners, distribution of relief supplies, etc.

7 Interview with Christian Michel, son of William Michel, by François Bugnion, 7 March 2008.

8 ICRC Archives, ‘Oral history: interview with Pierre Gaillard, May–July 1992’, transcription, pp. 99–100.

9 ICRC, *Commission of Experts for the Examination of the Question of Assistance to Political Detainees, Geneva, June 9–11, 1953*, ICRC, Geneva, 1953.

Geneva, he stated the ICRC's objectives in North Africa and its mode of action: receiving lists of names of those arrested; obtaining permission for ICRC delegates to visit all detention sites and to hold private interviews with the prisoners, it being understood that the purpose of these visits would be strictly limited to the conditions and not to the motives of detention; exchanging correspondence between prisoners and their families; and having the right to distribute aid to detainees and their families. Finally, the ICRC ensured that its activities would be directed as usual at strictly humanitarian ends and would not result in any publicity.¹⁰

The next day, Pierre Mendès-France informed the ICRC that the French government was prepared to allow its delegates to go to Algeria and Morocco and visit detention sites with the right to hold private interviews with detainees. In his response, the Prime Minister wrote that it would not be possible to communicate the list of names of those arrested as it changed daily, owing to new arrests as well as releases from detention. However, he agreed to visits to detention sites under the terms specified by the ICRC and accepted the principle of distributing relief supplies where needed. He placed particular emphasis on confidentiality. Finally, he invited the ICRC to contact the Governor General of Algeria to establish the procedures for the implementation of the proposed action.¹¹ The almost immediate response from the Prime Minister suggests that the two men had agreed, both on procedure and in substance, during their meeting of 31 January 1955.

However, this exchange of notes – which for eight years fixed the framework of the ICRC action in Algeria – is silent on the crucial question of the legal characterization of the situation in Algeria. The memorandum of 31 January 1955 that defined the framework of William Michel's approach is entitled 'Troubles intérieurs' ('Internal Strife').¹² Thus, three months after the 'Night of All Saints Day', the ICRC position still remained within the context of its jurisdiction as recognized in Article VI, Section 5 of the Statutes of the International Red Cross revised by the Eighteenth International Conference of the Red Cross meeting in Toronto in 1952,¹³

10 ICRC Archives, B AG 200 (3), Letter from the head of delegation of the ICRC in France, William Michel, to the Prime Minister, Pierre Mendès-France, 1 February 1955 (for an English version, see below, Appendix 1).

11 ICRC Archives, B AG 200 (3), Letter from Pierre Mendès-France to the head of the delegation of the ICRC in France, 2 February 1955 (for an English version, see below, Appendix 2).

12 ICRC Archives, A PV C1 Pl, 'Troubles intérieurs, Aide-mémoire approuvé par la séance de Présidence du 16 décembre 1954' [Internal strife, memorandum approved by the Presidential Council, 16 December 1954], annex to the minutes of the Presidential Council, 16 December 1954. ICRC Archives, B AG 012 004, 'Troubles intérieurs', 31 January 1955.

13 'As a neutral institution whose humanitarian work is carried out particularly in time of war, civil war, or internal strife, it endeavours at all times to ensure the protection of and assistance to military and civilian victims of such conflicts and of their direct results'. Art. VI, para. 5, of the Statutes of the International Red Cross adopted by the Thirteenth International Conference of the Red Cross, The Hague, 1928, and amended by the Eighteenth International Conference meeting in Toronto, 1952: see *Handbook of the International Red Cross*, 10th edition, ICRC/League of Red Cross Societies, Geneva, 1953, pp. 305–311, *ad loc.* p. 308. The International Conference of the Red Cross brings together representatives of the National Societies of the Red Cross, of the ICRC, of the League of Red Cross Societies (today the International Federation of Red Cross and Red Crescent Societies), and of the states that are signatories to the Geneva Conventions. It is the highest deliberative authority of the Red Cross and, in principle, meets every four years.

and not that of an armed conflict not of an international character within the meaning of Article 3 common to the four Geneva Conventions of 1949 (Common Article 3).

We can easily understand why this was the case. As early as 7 November 1954, François Mitterrand, the Interior Minister of the government of Pierre Mendès-France, had set the tone by stating emphatically: 'Algeria is France'. On 12 November 1954, the Prime Minister repeated: 'Between Algeria and metropolitan France, there can be no conceivable secession'.¹⁴ From this perspective, the French government could not recognize the existence of a non-international armed conflict within the meaning of Common Article 3. Like virtually all governments confronting an insurrection and despite the immediate dispatch of massive military reinforcements to Algeria, the French government initially denied the existence of an armed conflict and claimed to be able to deal with this situation by use of police resources and the application of criminal law alone.

In addition, the application of Common Article 3 presupposes the existence of an 'armed conflict not of an international character'. Although Common Article 3 does not define the minimum level of hostility required for its implementation, it is clear that it assumes the existence of an armed conflict and of parties involved in the conflict: that is, a minimum of organization on both sides.

It would take eighteen months and an extension of fighting to most of the territory of Algeria before the French government would admit the existence of a non-international armed conflict to which Common Article 3 applied.¹⁵ For the time being, the Prime Minister's response authorized the ICRC to send delegates to Algeria and Morocco, where they would have access to detention sites and would be able to hold private interviews with the captives. For the ICRC, this was the main point. The exchange of notes on 1–2 February 1955 therefore marked the starting point of the ICRC action in Algeria, and also defined its scope and limits. On this basis the ICRC would develop its action, at least until the summer of 1956.

On 6 February 1955, Pierre Mendès-France was overthrown by a cabal orchestrated by René Mayer, the deputy from Constantine and chief spokesman for the Algerian settlers at the Palais Bourbon. However, the successor government of Edgar Faure did not call into question the agreement of its predecessor. The ICRC delegates were therefore able to take up their posts.

First missions in Algeria and Morocco

Visiting detainees was the essential element of the ICRC's work in the Algerian conflict. All visits were made following the same scenario: the delegates began by contacting the local French authorities in order to draw up the list of places they intended to visit and to establish the procedures that would guide their visit accompanied by a liaison officer. Once at the detention site – internment camp or

14 Alain-Gérard Slama, *La guerre d'Algérie: histoire d'une déchirure*, Gallimard, Paris, 1996, pp. 48–49; Pierre Miquel, *La guerre d'Algérie*, Fayard, Paris, 1993, p. 153.

15 For the text of Common Article 3, see below.

prison – the delegates would discuss with the commander and visit the facilities (dormitories or cells, kitchens, sanitary facilities, solitary confinement units, etc.). They would then hold interviews without witnesses with the detainees of their choice. These interviews were the crucial point of the visit because this was most often the moment at which delegates were able to gather information about possible ill-treatment. A doctor also participated in these interviews as a delegate, in order to verify the health of prisoners and, where applicable, the accuracy of allegations of mistreatment. After the visit, the delegates had a final interview with the commander, sharing with him their findings and making recommendations for certain improvements. This practice was consistent with that followed by the ICRC since World War I.¹⁶

With the end of the tour, the delegates would draw up a detailed report with their observations and recommendations to the authorities for measures to improve the lives of the detainees. The report would then be sent to ICRC headquarters in Geneva, which would in turn transmit it to the French authorities in Paris, along with a covering letter in which the institution drew the government's attention to the improvements that should be made to the detention regime and, where appropriate, to cases of ill-treatment identified by its delegates. In addition, delegates would send relief supplies to detainees in accordance with their certified needs.

The first mission, including the head of the ICRC delegation in France, William Michel, and two delegates, Pierre Gaillard and Jean-Pierre Maunoir, went to Morocco from 23 February to 30 March 1955 for a series of visits to detention centres where Algerians were being interned. In accordance with the agreement given by the Prime Minister, the ICRC delegates received permission to interview the detainees of their choice during these visits, which covered forty-one centres with approximately 2,000 people.

In addition, from 14 March to 18 April 1955, ICRC delegates visited prisons in Algeria, but here they faced great difficulties. Most detainees arrested because of the recent events were still defendants. Therefore, they were under the jurisdiction of the investigating judges. For each visit, the delegates had to obtain authorization from the judges, which proved to be a long and difficult process. This was particularly the case because some judges were not willing to grant the ICRC delegates the authorization to hold private interviews with detainees under interrogation. However, during this mission the delegates were able to visit forty-three prisons. Following these visits, the ICRC communicated its delegates' reports to the detaining authority, namely, the French government.¹⁷

16 For ICRC practice concerning visits to detention sites, see François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, ICRC, Geneva, and Macmillan Education, Oxford, 2003, pp. 90–96, 176–186, and 580–657.

17 ICRC Archives, B AG 225 (12), Report on visits to detention centres in Morocco and Algeria by ICRC delegates (23 February–18 April 1955).

Approaches to the French authorities and to representatives of the insurgency

While the situation in Algeria continued to worsen in the second half of 1955, the ICRC made new approaches to the French government in order to send a second on-site mission.¹⁸ Simultaneously, it attempted to establish contacts with people close to the Algerian nationalists so as to draw their attention to the universal obligation to respect the fundamental rules of international humanitarian law (IHL).¹⁹

Finally, an ICRC delegate, David de Traz, managed to make contact with representatives of the Algerian revolution in Cairo in February 1956. The delegate informed his interlocutors of ICRC activities in Algeria. He urged them to ensure that their followers respected the principles of the Geneva Conventions of 1949, in particular the provisions of Common Article 3.²⁰ At the same time, William Michel met a representative of the FLN.²¹

On 23 February 1956, the Algerian delegation in Cairo sent a letter to David de Traz signed by Mohamed Khider for the FLN and Ahmed Ben Bella for the ALN and by which the signatories undertook to implement the provisions of the Geneva Conventions concerning all French prisoners of war taken by the ALN, 'subject to reciprocity on the part of the Government of the French Republic'.²²

This reserve was of paramount importance, because France did not recognize the applicability of the four Geneva Conventions of 12 August 1949 to the Algerian conflict. These Conventions relate to international armed conflicts and, for France, the Algerian conflict was a non-international conflict to which only Article 3 Common to the four Geneva Conventions could be applied. This article stipulates:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

- 1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

18 ICRC Archives, B AG 200 (3), Minutes of meeting between Prime Minister Edgar Faure's technical advisor and Roger Gallopin, Executive Director of the ICRC, 27 August 1955; ICRC Archives, B AG 200 (3), Minutes of meeting between Edgar Faure's technical advisor and William Michel, 2 September 1955; ICRC Archives, B AG 200 (3), 'Le Comité international de la Croix-Rouge et les événements de l'Afrique du Nord' ('The ICRC and the events in North Africa'), January 1956 – Note No. 1, D. 425.

19 ICRC Archives, B AG 200 (3), Note by Pierre Gaillard, 5 September 1955.

20 ICRC Archives, B AG 200 (3), Radiogram from David de Traz to the ICRC, 16 February 1956.

21 ICRC Archives, B AG 200 (3), Note by William Michel, 16 February 1956.

22 ICRC Archives, B AG 200 (12), Letter from the Algerian delegation in Cairo to David de Traz, 23 February 1956.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - b) taking of hostages;
 - c) outrages upon personal dignity, in particular humiliating and degrading treatment;
 - d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
- 2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

In fact, it was only on 23 June 1956 that, by a declaration of Prime Minister Guy Mollet, the French government recognized the applicability of Common Article 3 to the Algerian conflict. But the Algerians, who insisted on the international character of the conflict, called for full implementation of all four Geneva Conventions.

The stakes were high, especially in regard to the individual responsibility of combatants. In international conflicts the soldier is seen as an instrument of the state. Provided he has complied with the laws and customs of war, he incurs no individual responsibility for the fact of taking up arms. In cases of non-international armed conflict, the state reserves the right to suppress the rebellion by using the instruments of criminal law. An insurgent could therefore be convicted for the mere fact of participating in hostilities. This implementation of criminal law provides the state with substantial means of repression. However, it erases the distinction between the combatants who respect the laws and customs of war and those who do not respect them. In addition, it will almost inevitably lead to a spiral of reprisals and counter-reprisals. Indeed, the insurgents, who no longer recognize the jurisdiction of the courts or the legal system of the state against which they are fighting, will consider each conviction in the courts as a new injustice and every execution as an assassination.

In an attempt to break the deadlock, the ICRC delegates sought to obtain the guarantee that FLN fighters captured while bearing arms openly would be granted the same protection as that provided in the Third Geneva Convention of 12 August 1949 to prisoners of war in cases of international armed conflict. The goal of this approach was to convince the French authorities to renounce bringing before a tribunal fighters who bore arms openly.

New missions to Algeria

In early 1956, the ICRC had still not received the French government's authorization to send a new mission to Algeria. The ICRC President, Léopold Boissier, therefore went to Paris, where he was received on 26 March by the Prime Minister, Guy Mollet, who welcomed the proposal that ICRC delegates visit detention sites in Algeria.²³ By a letter dated 6 April 1956, Guy Mollet informed the ICRC that he agreed to a new mission to Algeria, reiterated the objectives and modalities that Pierre Mendès-France had accepted on 2 February 1955, and put particular emphasis on the respect of confidentiality.²⁴ This authorization locked the ICRC's work into a relatively narrow framework, but it nevertheless represented a substantial expansion in relation to Common Article 3.

Thus, from 12 May to 28 June 1956, five ICRC delegates (Claude Pilloud, René Bovey, Pierre Gaillard, and the doctors Gaillard and Willener) visited sixty-one internment camps and detention sites throughout Algeria. During these visits the delegates were allowed, as was the case in previous visits, to hold private interviews with detainees. Through these interviews the delegates discovered the existence of other camps, the 'Transit and Screening Centres', which were under military administration and where prisoners sometimes remained for several months undergoing interrogation that could go as far as torture. The delegates then tried to get authorization to visit these centres, which were spread over many military sectors, each of which was under the command of a different military officer, which of course greatly complicated their efforts. The ICRC did not publicize the mission of its delegates but, on 23 June, Guy Mollet spoke of it publicly in a speech at the Maison de l'Amérique latine in Paris. In that speech he said that, 'in accordance with Article 3 common to all four Geneva Conventions', the French government had allowed ICRC delegates to visit the internment camps and detention sites in Algeria.²⁵

This statement marked an important turning point in the attitude of the French government. Until then, despite a growing commitment of the French army and fierce fighting in the mountainous areas of Algeria, France had refused to recognize the existence of an armed conflict and the application – albeit in the rudimentary form of Common Article 3 – of the laws of war to the events taking place in Algeria.

From 16 October to 3 November 1956, Pierre Gaillard and Doctor Gaillard undertook a new mission to Algeria, during which they visited six internment camps.

23 ICRC Archives, A PV C1 Pl, Minutes of Presidential Council, 29 March 1956.

24 ICRC Archives, B AG 251 (12), Letter from Prime Minister Guy Mollet to the ICRC, 6 April 1956.

25 ICRC Archives, B AG 251 (12), Mission of the ICRC in Algeria – May–June 1956 – Report presented to Prime Minister Guy Mollet; ICRC Archives, B AG 251 (12), Note by Pierre Boissier, ICRC delegate in France, to the ICRC, 26 June 1956; *Revue internationale de la Croix-Rouge*, No. 452, August 1956, pp. 441–442; Communiqué of the Prime Minister, 23 June 1958, quoted in Jean Siotis, *Le Droit de la guerre et les conflits armés d'un caractère non-international*, Librairie générale de Droit et de Jurisprudence, Paris, 1958, p. 211; interviews with Pierre Gaillard by Françoise Perret, January–February 1992.

Continuation of contacts with representatives of the FLN

While developing its activities for Algerian militants in French hands, the ICRC endeavoured to maintain its dialogue with North African political figures, especially in order to get the opportunity to aid soldiers and French civilians in the hands of insurgents. It instructed David de Traz to take steps along these lines with the FLN delegation in Cairo.²⁶ De Traz wrote to Mohamed Khider, representative of the FLN, on 24 April 1956 to inform him of the new mission of the ICRC delegates in Algeria and to request lists of prisoners held by the ALN, as well as the authorization for ICRC delegates to visit them.²⁷

However, at a meeting held on 4 June at the FLN headquarters in Cairo, Ben Bella informed the ICRC delegate that the conditions in which the combatants of the FLN were fighting in Algeria – with no fallback positions, constantly on the move, looking for makeshift shelters – made such visits impossible.²⁸ Thus, the ICRC approaches to the FLN delegation in Cairo on behalf of French prisoners in the hands of the insurgents appeared to have failed temporarily. In addition, the FLN did not transmit to the ICRC the lists of the French held by them.

The ICRC then decided to contact the FLN representatives in Morocco. De Traz informed Khider, who approved this initiative and gave him a letter of introduction to a representative of the FLN in Tangiers.²⁹ De Traz then left for Morocco on 3 October 1956, while the ICRC delegate in Cairo, Edmond Müller, continued his contacts with the FLN delegation, who once again gave him reason to hope that ICRC delegates would soon be able to visit the prisoners in the hands of the ALN.³⁰

During his mission to Tangiers and Tetouan, de Traz interviewed FLN leaders who promised him that he would be able to meet with prisoners held by the ALN as soon as they had been brought into Moroccan territory: that is, within one or two months. However, on 22 October 1956, the plane bringing the five historic leaders of the FLN back from Morocco to Tunis was intercepted by the French Air Force and its occupants were detained in France. The ICRC thus lost valuable contacts. Nevertheless, negotiations with the FLN were not completely interrupted. Indeed, the ICRC immediately took steps to gain access to the FLN leaders imprisoned in metropolitan France. So it was through prison visits that the ICRC continued its dialogue with these leaders.

On 11 December 1956, an ICRC delegate in Paris, Pierre Boissier, met Ben Bella in the Santé prison. Ben Bella told him that he believed that an ICRC visit to detainees held by the FLN in Morocco would be possible. In March 1957, Claude Pilloud met with FLN leaders in Morocco and gave them a consignment of medicine worth 10,000 Swiss francs. He again tried to obtain permission for the ICRC to visit detainees held by the FLN either in Morocco or in Algeria, and received certain

26 ICRC Archives, B AG 251 (12), Letter from Roger Gallopin to David de Traz, 10 April 1956.

27 ICRC Archives, B AG 251 (12), Letter from David de Traz to Mohamed Khider, 24 April 1956.

28 ICRC Archives, B AG 251 (12), Letter from Edmond Müller (delegate in Cairo) to the ICRC, 7 June 1956.

29 ICRC Archives, B AG 200 (12), Note by Jean-Pierre Maunoir, 3 October 1956.

30 ICRC Archives, B AG 251 (12), Notes by Edmond Müller to the ICRC, 10 and 17 October 1956.

assurances in this regard. So in April 1957 the ICRC sent two delegates to Morocco in order to visit detainees held by the FLN. But by the end of May 1957 these visits had still not been realized and the delegates returned to Geneva. However, the ICRC remained in contact with representatives of the FLN, particularly in Cairo, Morocco, and Tunisia, and submitted several proposals to them in order to enhance respect for the basic rules of IHL, particularly Common Article 3.³¹

New missions to Algeria (1957–1958)

In May and June 1957, and then again from November 1957 to February 1958, Pierre Gaillard and Doctor Gaillard visited 115 internment camps and detention sites in Algeria. They travelled throughout the country and, taking advantage of the contacts they had made with the military authorities and of the confidence that had been established, were able to negotiate the granting of a special status to combatants captured while carrying arms openly. This negotiation – mainly led by Pierre Gaillard, with the support of the ICRC's Legal Division – took place over several months with the relevant Ministries in Paris, as well as with the Military High Command in Algiers.

Finally, on 19 March 1958, General Salan, commander-in-chief of French forces in Algeria, ordered the creation of special camps for ALN fighters who were captured while bearing arms openly. Although the circular stated that the captives should not be considered as prisoners of war, the regime that would henceforth be applied to them would be similar to that of war prisoners.

The link between the conduct of the insurgents in battle and their fate in case of capture clearly emerges from this directive. Under the heading 'general ideas', the following points are made:

Rebels who are driven into a corner in combat very often display a determination that leads to their extermination.

This tenacity is less a manifestation of a spirit of sacrifice in the service of a cause deemed sacred than the result of effective psychological training.

In fact, prisoner interrogations show that the 'mujahedeen' are insistently warned during their training concerning the dangers they face in case of surrender: French troops massacring prisoners after torture or, in the most favourable case, bringing them before tribunals that automatically condemn them to the death penalty.

Cuttings from some French and foreign newspapers and from foreign radio stations widely cited by the rebels very effectively support this propaganda.

The level of fear thus maintained gives the bands a cutting edge that it is important to wear down as much as possible in order to reduce our losses.

31 ICRC Archives, B AG 210 (12–51), Minutes of meeting between Pierre Boissier and Ahmed Ben Bella, 11 December 1956; ICRC Archives B AG 200 (12), 'Le CICR et les événements d'Afrique du Nord – Résumé chronologique' ('The ICRC and the events in North Africa – chronological summary'), 27 June 1957.

One way to do this is to give prisoners as liberal a treatment as possible and to make this well known.³²

As a result, General Salan ordered the establishment of military camps where rebels who were captured while bearing arms openly would be interned. While stressing that the military internees should not be considered prisoners of war, he ordered that the regime that would henceforth be applied to them should in fact correspond to that of war prisoners. Thus, the military internment camps should 'be subject to military discipline, with the aim of prohibiting any act and every word that could be interpreted as an affront to the dignity of prisoners'. Finally, under this directive, the French authorities abandoned the practice of systematically bringing to trial all ALN members captured while bearing arms: 'The proposals to bring prisoners to trial will be systematically avoided, except for those who have committed atrocities or who demonstrate a fanaticism that may affect the positive development of the general state of mind'.³³ In short, this instruction, whose importance should not be underestimated, aimed at inserting the fighting in Algeria into the framework of IHL, and not into that of French criminal law alone, which was rejected by the Algerian nationalists.

Of course, General Salan placed himself on his own terrain – that of military effectiveness. However, the creation of these internment camps also represented the culmination of efforts by the ICRC conducted for over a year, both in Algiers and in Paris, to ask that fighters captured while bearing arms openly have a special status, based on that which the Third Geneva Convention provides to prisoners of war. The objective was to distinguish between the combatants who openly bore arms and those who resorted to attacks intended to spread terror among the civilian population, and thus to induce the combatants to comply with the laws and customs of war. More generally, it was a question of reintegrating the war in Algeria into the only legal framework that could contain the violence: international humanitarian law.

In December 1958, during a new round of visits to sixteen detention sites, Pierre Gaillard and Doctor Gaillard went to two military internment centres. On the occasion of their visit, the military released ten Algerian fighters. At the same time, two other delegates, William Michel and Jean-Pierre Maunoir, visited the Algerians arrested in France and held in the administrative centre of Vadenay (Seine-et-Marne).³⁴ In March, June, and November 1959, delegates visited four Algerian internment camps in France and prisons in Paris and other regions,

32 See Appendix 3 below for the complete text of General Salan's directive of 19 March 1958.

33 ICRC Archives, B AG 225 (12), Army High Command, 10th Military Region, Note of 19 March 1958, reproduced in: *The ICRC and the Algerian conflict*, ICRC, Geneva, 1962, p. 7. In a subsequent directive dated 23 March 1958, General Salan corrected the terminology of the directive of 19 March 1958, substituting the expression '*camps militaires d'internés*' ('military camps for internees') for the expression '*camps d'internés militaires*' ('camps for military internees'). This terminological clarification reflected the concerns of the French authorities and of the High Command to avoid any expression that could be interpreted as conferring the status of prisoners of war on fighters captured while bearing arms openly.

34 ICRC, *Annual Report 1956*, pp. 43–44; ICRC, *Annual Report 1958*, pp. 7–9. *Revue internationale de la Croix-Rouge*, No. 464, August 1957, pp. 438–439; No. 471, March 1958, p. 153; No. 476, August 1958, pp. 405–408; No. 481, January 1959, pp. 24–25; No. 482, February 1959, pp. 68–70.



Figure 1: An ICRC delegate visiting a prisoners camp, Oranie, 1958. © ICRC.

including Fort Liedot on the island of Aix, where they met the leaders of the FLN: Ben Bella, Ait Ahmed, and Khider.

Creation of the Algerian Red Crescent

During David de Traz's mission to Morocco in October 1956, his contacts informed him of their decision to establish an Algerian Red Crescent, and, on 10 January 1957, a communiqué in the FLN journal, *Résistance algérienne*, announced the founding of this association. On 14 March 1957, the President of the Algerian Red Crescent, Omar Boukli Hacène, who had had contact with Claude Pilloud in Morocco, asked for official recognition of his society by the ICRC. On 29 April 1957, the ICRC informed him that it could not recognize the Algerian Red Crescent because it did not meet the conditions for recognition approved by the Seventeenth International Conference of the Red Cross, held in Stockholm in 1948, particularly the condition that a National Society must exercise its activity on the territory of an independent state where the Geneva Conventions are in force.³⁵ However, the ICRC

35 According to the Statutes of the International Red Cross, approved at the Eighteenth International Conference of the Red Cross held in Toronto in 1952, the ICRC has in particular the responsibility of recognizing any newly created or reconstituted National Society fulfilling the conditions for recognition currently in force. The first of these conditions, fixed at the Seventeenth International Conference of the Red Cross held in Stockholm in August 1948, stipulates that a society that is a candidate for admission

said that it was ready to maintain a working relationship with the Algerian Red Crescent in carrying out humanitarian action.³⁶

On 22 May 1957, Ferhat Abbas, a member of the National Council of the Algerian Revolution, came to the ICRC headquarters in order to accredit Doctor Ben Tami as the Algerian Red Crescent liaison representative with the ICRC. While refusing a formal accreditation as the representative of a National Society, which it could not recognize as such, the ICRC agreed to correspond with Doctor Ben Tami for all matters relating to the association he represented. But the Algerian Red Crescent did not accept the ICRC's refusal to recognize it and, in June 1957, it sent a letter to the ICRC, in which it strongly objected to this position.³⁷

In the following months, the Algerian Red Crescent intensified its approaches so as to be allowed to participate in the Nineteenth International Conference of the Red Cross, which was to be held in New Delhi in October and November 1957. It would not be invited there, but the fate of the Algerian people was widely discussed and was the focus of a resolution (see below).

Relief for Algerian refugees in Morocco and Tunisia and for displaced persons in Algeria

Since Moroccan independence on 2 March 1956, Algerian civilians – mostly women, children, and the elderly fleeing the fighting or avoiding internment – had been taking refuge in Morocco. A very difficult situation soon arose for these refugees. In the spring of 1957, ICRC delegates estimated that there were about 40,000 refugees scattered along the Algerian–Moroccan border. Thanks to the donations it received from a number of National Red Cross and Red Crescent Societies, the ICRC decided to undertake a relief effort for these refugees. With the agreement of the Moroccan authorities, ICRC delegates distributed food and clothing to them.

Algerian civilians also took refuge in Tunisia, which had been independent since 20 March 1956. In June 1957 the authorities and the Tunisian Red Crescent requested aid from the ICRC. The ICRC delegate who had been dispatched there noted the presence of some 5,000 refugees in the border region, and by mid-August

must have been founded in the territory of an independent state that is a signatory of the Geneva Conventions (*Seventeenth International Conference of the Red Cross, Stockholm, 20–30 August 1948, Report*, Swedish Red Cross Society, Stockholm, 1948, p. 89). The ICRC is bound by the conditions adopted by the International Conference; its role is like that of a notary who ensures that the conditions have been truly fulfilled. However, the ICRC is ready to collaborate on a pragmatic basis with any Red Cross or Red Crescent Society that respects the Fundamental Principles of the Red Cross and Red Crescent, whether or not the Society has been formally recognized. Concerning the work of the Algerian Red Crescent during the Algerian War, see Farouk Benatia, *Les actions humanitaires pendant la lutte de libération (1954–1962)*, Éditions Dahlab, Algiers, n.d.

36 ICRC Archives, B AG 251 (126), Mission report of David de Traz, 25 October 1956; ICRC Archives, B AG 122 (12), Letter from ICRC to Omar Boukli Hacène, 29 April 1957; ICRC Archives, B AG 200 (12), Note of David de Traz, 30 July 1957.

37 ICRC Archives, B AG 200 (12) 'Le CICR et les événements d'Afrique du Nord', above note 31; ICRC Archives, B AG 200 (12), Note by Claude Pilloud, 23 May 1957.



Figure 2: Aïn Bessens, distributing milk in school canteens, 1960. © ICRC.

the ICRC, in collaboration with the Tunisian Red Crescent, had organized the distribution of food, clothing, and blankets.³⁸

At the end of 1957, the fate of Algerian refugees in Tunisia and Morocco was a concern of the entire Red Cross and Red Crescent Movement. The Nineteenth International Conference of the Red Cross, meeting in New Delhi from 28 October to 7 November, unanimously adopted a resolution that stressed the utter destitution of the Algerian refugees and launched 'an urgent appeal to the world' to come to their aid.³⁹ With this resolution, on 12 December 1957 the ICRC and the League of Red Cross Societies⁴⁰ launched a joint appeal for Algerian refugees in Morocco and Tunisia.⁴¹

During the winter of 1957–1958, the ICRC distributed aid from the United Nations High Commissioner for Refugees to Algerian refugees in Tunisia. It undertook this action in conjunction with the League of Red Cross Societies and with the assistance of the authorities and the Tunisian Red Crescent. Such a distribution was in progress when the French Air Force bombarded Sakhiet Sidi Youssef on 8 February 1958, and the ICRC trucks were damaged.

38 *Revue internationale de la Croix-Rouge*, No. 468, October 1957, pp. 551–553.

39 Resolution XI, *Nineteenth International Conference of the Red Cross, New Delhi, October–November 1957, Report*, Indian Red Cross, New Delhi, 1958, p. 153.

40 Today, the International Federation of Red Cross and Red Crescent Societies.

41 ICRC, 'Appeal from the International Red Cross: International aid to Algerian refugees', Press release No. 634b (joint communiqué of the ICRC and the League), 12 December 1957.



Figure 3: Distribution of emergency relief to orphans by the French Red Cross at the cité de regroupement de Bazer Sakra (Bazer Sakra regroupement centre), 1961. © ICRC.

As of 15 March 1958, the Tunisian Red Crescent took responsibility for this distribution in collaboration with the League. During that year, the ICRC also continued its distributions of relief supplies to Algerian refugees in Morocco. From December, the responsibility for this action was taken over by the Moroccan Red Crescent in collaboration with the League.⁴²

Since 1957, ICRC delegates in Algeria had been allowed to make a limited distribution of emergency relief to internally displaced populations of Algeria.⁴³ These relief efforts, conducted in partnership with the French Red Cross, grew in proportion to the increasing number of displaced persons inside Algeria. In 1962, there were an estimated 2.2 million displaced persons, mostly women and children, spread across some 2,000 centres. At this stage of the war, one quarter of the Muslim population of Algeria were thus interned in 'regroupment centres'.

Release of prisoners held by the ALN

In early 1958, two ICRC delegates were for the first time allowed to visit prisoners held by the ALN: on 30 January, Jean de Preux and Georg Hoffmann came from

42 ICRC Archives, A PV A PI, Minutes of the Committee, Plenary Sessions, 13 February, 6 March, and 1 May 1958, and 3 June 1959. ICRC, *Annual Report 1957*, pp. 27–33; ICRC, *Annual Report 1958*, pp. 10–12. *Revue internationale de la Croix-Rouge*, No. 470, February 1958, pp. 85–86; No. 471, March 1958, pp. 141–142; No. 473, May 1958, pp. 278–280; No. 476, August 1958, pp. 410–412; No. 482, February 1959, pp. 70–73; No. 486, June 1959, pp. 308–309; No. 494, February 1960, pp. 89–90.

43 *Revue internationale de la Croix-Rouge*, No. 476, August 1958, p. 409.

Tunis and, on Algerian territory, not far from the Tunisian border, visited four French prisoners captured in the region.⁴⁴ The ICRC did not ask for the authorization of the French authorities to carry out this visit. It limited itself to informing the military authorities on the spot, suggesting that they ‘close their eyes to the clandestine crossing of the border by its delegates’.⁴⁵

To our knowledge, this semi-clandestine border crossing by a delegate without seeking formal approval of the government of a state torn by civil war is unprecedented in the history of the ICRC. In all likelihood it was due to the political issues of the day and the opposing positions that were held by the parties to the conflict:

- The FLN claimed to control a portion of Algerian territory, which allowed it to claim a form of international recognition;
- France claimed control of all Algerian territory, while acknowledging that the Salan Line, a fortified military line along the Tunisian border, was not based exactly on the border between Algeria and Tunisia but was slightly set back from the border itself.

In this context, if the ICRC had asked the French authorities for permission to send a delegate to an area of Algerian territory controlled by the FLN, Paris would have had no choice but to refuse. However, the humanitarian issue was important, since it meant seeing four French prisoners never previously visited, hence the risk taken by the ICRC.

On 20 March 1958, the FLN gave de Preux, who had returned to Tunis to continue the negotiations begun in January, a list of ten recently captured French soldiers. Following its usual practice, the ICRC immediately notified their families.⁴⁶ On 20 October, the ALN decided to release the four prisoners that de Preux had met earlier in the year. They were turned over to two ICRC delegates at the headquarters of the Tunisian Red Crescent. Similarly, on 4 December, eight French soldiers captured by the ALN were turned over to ICRC delegates in Rabat at the headquarters of the Moroccan Red Crescent. In addition to these prisoner releases, the ICRC obtained the ALN's agreement that the prisoners whom it held could send messages that would be forwarded to their families. Thus, in 1958 the ICRC received 169 messages from French prisoners, as well as lists of prisoners held by the FLN.

The ICRC remained in regular contact with the FLN, and on 20 February 1959 in Oujda, a Moroccan town near the Algerian border, six French prisoners were released during a ceremony at the local headquarters of the Moroccan Red Crescent. Following numerous approaches by the ICRC to the GPRA, on 15 and 18 May 1959, the FLN released fifteen French prisoners in the Kabyle countryside – including six civilians – and a Swiss citizen who had been detained for months in

44 ICRC, ‘Two delegates of the International Committee of the Red Cross see the four prisoners of Sakhiet’, Press Release No. 636b, 3 February 1958.

45 ICRC Archives, A PV C1 Pl, Minutes of the Presidential Council, 23 January 1958, pp. 3–4; 30 January 1958, pp. 2–3; dossier 210 (12–15).

46 ICRC, ‘The ICRC receives a first list of French combatants captured by the FLN’, Press Release No. 641b, 20 March 1958.

the Kabyle maquis. No ICRC representative attended this release, which, for reasons of military security, obviously could only have taken place clandestinely. During the following months, the ICRC obtained several more releases of individuals held captive by the ALN. At the end of 1959, the number of those released totalled forty-five.⁴⁷

Confronting violations of the Geneva Conventions

In every conflict in which it operates, the ICRC receives protests relating to violations of the Geneva Conventions. From the beginning of the war in Algeria, the opposing forces accused each other of dreadful atrocities. Thus, the ICRC received complaints from both the FLN and French authorities requesting that it investigate violations of IHL allegedly committed by the opposing party, which led it repeatedly to present the reasons why it felt that it was not justified in conducting investigations to ascertain violations of the laws and customs of war.⁴⁸

In the summer of 1957, the Syrian and Jordanian Red Crescent Societies submitted protests to the League in which they accused the French Red Cross of denying medical assistance to 'Algerian nationalists' and 'Algerian victims of the events'. They also accused the French authorities of preventing physicians from going to their aid.⁴⁹ The League forwarded these two letters to the ICRC, which, in accordance with established custom in such cases, transmitted them to the French Red Cross. The latter responded by denying the allegations and adding that, in many cases, ambulances and nursing staff of the French Red Cross were attacked by the indigenous population. The ICRC sent this response to the Syrian and Jordanian Red Crescents.⁵⁰

The Syrian and Jordanian Red Crescents brought this matter before the Nineteenth International Conference of the Red Cross in the autumn of 1957. The Conference adopted a resolution that, while not specifically mentioning the situation in Algeria, clearly referred to it and reaffirmed the principle of the neutrality of medical action:

The XIXth International Conference of the Red Cross, considering the efforts already made by the International Committee of the Red Cross to minimize the suffering caused by armed conflicts of all types, expresses the wish that a new

47 ICRC Archives, A PV C1 Pl, Minutes of the Presidential Council, 23 January 1958. ICRC, *Annual Report 1958*, pp. 9–10. *Revue internationale de la Croix-Rouge*, No. 470, February 1958, pp. 84–85; No. 472, April 1958, p. 192; No. 476, August 1958, pp. 408–409; No. 479, November 1958, pp. 617–618; No. 481, January 1959, pp. 24–25; No. 482, February 1959, pp. 70–71. See also F. Bugnion, above note 16, p. 451.

48 ICRC Archives, B AG 202 (12), Note from the ICRC to the French Government, 4 June 1957.

49 ICRC Archives, B AG 202 (12), Letter from the Syrian Red Crescent to the League, 22 July 1957; Letter from the Jordanian Red Crescent to the League, 14 August 1957.

50 ICRC Archives, B AG 202 (12), Letter from the ICRC to the French Red Cross, 22 August 1957; Letters from the French Red Cross to the ICRC, 6 and 19 September 1957.

provision be added to the existing Geneva Conventions of 1949, extending the provisions of Article 3 thereof so that:

- a) the wounded may be cared for without discrimination and doctors in no way hindered when giving the care which they are called upon to provide in these circumstances,
- b) the inviolable principle of medical professional secrecy may be respected,
- c) there may be no restrictions, other than those provided by international legislation, on the sale and free circulation of medicines, it being understood that these will be used exclusively for therapeutic purposes.

Furthermore, makes an urgent appeal to all Governments to repeal any measures which might be contrary to the present Resolution.⁵¹

From 1958, the ICRC delegates in Algeria lodged requests with the French authorities in support of doctors who were being prosecuted for having treated insurgents. The ICRC based its actions on Article 18, paragraph 3, of the First Geneva Convention and on Resolution XVII of the Nineteenth International Conference. In most cases these approaches led to measures of leniency or reductions in sentences.⁵²

In May 1958, following the execution of three French soldiers by the FLN, the ICRC approached the Coordination and Implementation Committee of the FLN, in session in Cairo, to put an end to such retaliatory measures.⁵³ It also sent the French government and the FLN an important memorandum on 28 May 1958, urging them to respect the fundamental principles of international humanitarian law.

After reminding both parties of the strictly humanitarian nature of its action, the ICRC reiterated the critical importance of compliance with Common Article 3 and requested that, in case of capture, members of the armed forces should not be subject to criminal proceedings 'for the mere fact of having taken part in the struggle' and that they should receive 'humane treatment and all the essential safeguards accorded to prisoners of war'. If criminal proceedings were nevertheless engaged against captured members of the armed forces because of crimes or misdemeanours they had allegedly committed, the ICRC requested that it be informed and allowed to follow the proceedings and provide legal assistance to defendants. If the proceedings resulted in death sentences handed down in legal form by competent courts, the ICRC called for a stay of the executions during the hostilities and that the condemned should be accorded the treatment due to prisoners of war. The ICRC also reiterated that reprisals were prohibited. In conclusion, the ICRC asked that 'the FLN decide that it is able to make such commitments to the ICRC which the latter is also trying to obtain from the French

51 Resolution XVII, *Nineteenth International Conference of the Red Cross, New Delhi, October–November 1957, Report*, pp. 154–155.

52 ICRC Archives, A PV C1 Pl, Minutes of the Presidential Council, 23 October 1958; ICRC, *Annual Report 1958*, p. 9; F. Bugnion, above note 16, p. 479.

53 ICRC Archives, A PV A Pl, Minutes of the Committee, plenary session, 4 June 1958.

Government', and requested both the French government and the FLN to refrain from any action that would be likely to endanger its efforts on behalf of the victims of the conflict until it had received responses from both sides.⁵⁴

Not surprisingly, the French government did not like being put on almost the same level as the FLN and it so informed the ICRC. In a letter dated 18 June 1958, the ICRC said that it wrote its memorandum with the 'conviction that only certain decisions to be taken or confirmed by both parties to the conflict would lead to satisfactory results', and that in using the term "both parties to the conflict" it did not ignore the essential difference between the Government of a State and a group that has de facto authority without having a clearly defined legal status'.⁵⁵

In August 1959, the ICRC President, Léopold Boissier, met with the President of the GPRA, Ferhat Abbas. He reminded him of the memorandum of 28 May 1958, to which the Provisional Government had not responded, and expressed the concerns of the ICRC concerning French civilians and soldiers who had fallen into the hands of the ALN. Ferhat Abbas assured him that specific instructions had been given to the fighters that prisoners be humanely treated, but he recognized that it was difficult to have control of the situation given the extreme dispersal of units in constant movement. Moreover, local commanders who had witnessed aerial bombardments that caused severe losses among the civilian population were likely to resort to reprisals.

At the end of 1959, the ICRC wrote to Ferhat Abbas, expressing the hope that the GPRA would respond concretely to the memorandum of 28 May 1958. In January 1960, having still received no reply from the GPRA, the ICRC sent its Delegate General for the Middle East, David de Traz, to Tunis in order to get a satisfactory response from the GPRA representatives there to the proposals made by the ICRC.

On 11 June 1960, the GPRA informed the ICRC of its decision to accede to the Geneva Conventions of 12 August 1949. Without taking a stand on the legal status of this declaration, the ICRC viewed it as a positive response to its memorandum of 28 May 1958. So it resumed its approaches to the GPRA to develop practical measures to help prisoners held by the ALN, such as transmitting lists of names of prisoners, conveying messages to family members, and the authorization of visits by ICRC delegates. However, these efforts were of no avail.

In an attempt to resolve the situation, the ICRC sent several temporary missions to Tunis to meet with the GPRA. However, despite an interview on 22 November 1961 with the new President of the GPRA, Ben Youssef Ben Khedda, and the Vice-President, Krim Belkacem, the ICRC never received an answer to its memorandum of 28 May 1958. Indeed, since the Algerian insurgency had established a provisional government, the GPRA, which postulated the existence of an Algerian Republic in conflict with France, it could not accept, without contradicting itself, the formal ICRC memorandum, which was based on Common

54 ICRC Archives, B AG 225 (12), Memorandum of the ICRC, 28 May 1958 (for an English version, see below, Appendix 4).

55 ICRC Archives, B AG 200 (12), Letter from the ICRC to the French Government, 18 June 1958.

Article 3, which applies to non-international armed conflicts.⁵⁶ Nevertheless, to demonstrate its commitment to respect IHL, the FLN, in the presence of ICRC delegates, released in Tunisia and Morocco some of the French prisoners that it held.⁵⁷

The French press publishes reports of ICRC visits

Visits to detention sites and private interviews with the prisoners were the cornerstone of ICRC activity in Algeria. From 15 October to 27 November 1959, four delegates undertook a new mission to Algeria, during which they visited eighty-two detention sites.⁵⁸ This was the seventh series of visits since the beginning of the war. In accordance with prior agreement with the French government, the ICRC sent reports of the visits of its delegates to the General Delegation of the government in Algiers, as well as to the Ministry of Foreign Affairs and the Ministry of Justice in Paris. After forwarding the reports, Pierre Gaillard and William Michel attended an inter-ministerial conference that met in Paris with representatives of the relevant ministries, as well as with two generals who had come specifically from Algeria. None of the participants disputed the findings of the delegates, including those regarding the interrogation methods used in some centres.

A thunderbolt struck on 5 January 1960: the newspaper *Le Monde* published a summary of the reports of the seventh mission of the ICRC in Algeria, clearly showing that it possessed the entire collection of these reports: eighty-two detailed reports, accompanied by a position paper summarizing the most important findings – a total of 270 pages. At the same time, *Le Monde* published a statement from the Prime Minister that declared that the ICRC missions had received every facility for visiting detention sites.⁵⁹

This publication had a considerable impact, since the debate dividing France at the time specifically concerned the use of torture in Algeria. It had been a continuous debate since the beginning of the war. On 13 January 1955, *France-Observateur* published an article by Claude Bourdet entitled 'Your Gestapo in Algeria'. Two days later, *L'Express* published an article by François Mauriac entitled 'The Question'.⁶⁰ On 17 February 1958 there appeared, also under the title *The*

56 Mohammed Bedjaoui, *La Révolution algérienne et le droit*, Éditions de l'Association des Juristes démocrates, Brussels, 1961, p. 216.

57 ICRC Archives, A PV C1 Pl, Minutes of the meeting of the Presidential Council, 27 August 1959; ICRC Archives, B AG 200 (12), Letter from Léopold Boissier to Ferhat Abbas, 4 December 1959; ICRC Archives, B AG 200 (12), Minutes of meeting between Pierre Gaillard, the Minister of Health of the GPRA, and Doctor Ben Tami, representative of the Algerian Red Crescent in Geneva, 22 November 1960. ICRC, *Annual Report 1959*, pp. 10–12; ICRC, *Annual Report 1960*, pp. 17–18; ICRC, *Annual Report 1961*, p. 20. *Revue internationale de la Croix-Rouge*, No. 495, March 1960, pp. 122–123; No. 518, February 1962, pp. 71–72. Interviews between Pierre Gaillard and Françoise Perret, June to September 1992.

58 ICRC, 'The ICRC visits places of detention in Algeria and France', Press Release No. 688b, 16 October 1959; ICRC, 'The seventh mission of the ICRC in Algeria', Press Release No. 692b, 7 December 1959.

59 *Le Monde*, 5 January 1960, pp. 1 and 3. *Libération* had also received a copy of the ICRC report but issue number 5 of 5 January 1960 had been seized 'because of the commentary which accompanied the analysis of the ICRC reports' (*Le Monde*, 6 January 1960).

60 A.-G. Slama, above note 14, pp. 68 and 148–149.

Question, the precise and terrifying testimony of the former editor of the *Alger Républicain*, Henri Alleg, on the way he was tortured. Censorship prohibited the distribution of the book, but it was then published in Lausanne, with an afterword by Jean-Paul Sartre entitled 'A Victory'.⁶¹

In May 1958, Albert Camus, to whom the Swedish Academy had awarded the Nobel Prize for literature only a few months earlier, in turn denounced the practice of torture in the introduction to *Chronique algérienne*. He not only described this practice as a 'crime' and a 'humiliation' that might easily 'justify the crimes that we want to fight', but he also wrote that it was his belief that the use of torture inevitably paved the way for 'the demoralization of France and the abandonment of Algeria'.⁶²

For five years the war in Algeria had torn France apart, and the dispute over torture was the most painful point of this fault line. Indeed, many French people could not bear the idea that the police or the French army would use interrogation methods based on those of the Gestapo, against which they had rebelled – risking their lives – only fifteen years earlier.

The ICRC report contained no revelation of practices that were not already known through previously published testimony. However, it came from an institution outside the debate that divided France, respected for its neutrality and impartiality. Above all, it was based on interviews that the delegates had had with the prisoners in detention facilities and on the findings that delegates and medical doctors of the ICRC had made inside prisons. While written in the restrained, factual style that is customary for the ICRC, the report of the delegates nevertheless put its finger on the wholly inadequate prison conditions, the overcrowding and lack of hygiene in many camps, and especially on cases of torture and forced disappearances.

At no time did the French authorities lay the responsibility for the release of this report at the ICRC's doorstep.⁶³ Nevertheless, the ICRC feared that its publication would undermine its reputation for discretion, and the trust that governments had in its ability to meet its commitment to confidentiality. It feared that this exposure would compromise its potential for action over the long term, not only in Algeria and France but wherever it tried to help prisoners of war or political prisoners. Conversely, some journalists and writers criticized the ICRC for not

61 Henri Alleg, *La question*, with afterword 'Une victoire' by Jean-Paul Sartre, La Cité, Lausanne, 1958. The same editor from Lausanne would publish in 1959, under the title *La gangrène*, a collection of accounts by Algerian victims of torture.

62 Albert Camus, *Actuelles III: Chronique algérienne*, Gallimard, Paris, 1958, pp. 15–16; *Œuvres complètes*, Gallimard (Bibliothèque de la Pléiade), Paris, 2008, vol. IV, p. 299.

63 According to the testimony of the historian Pierre Vidal-Naquet, the origin of the leak was Gaston Gosselin, who was then a close collaborator of the Minister of Justice Edmond Michelet: 'At the Ministry of Justice, which was occupied by Edmond Michelet from January 1959 to August 1961, there was a small group formed by two of the Minister's former fellow-deportees [at Dachau], Gaston Gosselin and Joseph Rován. Both of them were resolutely hostile to the current practice in Algeria. While Rován acted in a discrete manner, Gosselin did not hesitate at provoking scandals, for example, by transmitting to a journalist, Pierre Viansson-Ponté, the report on Algeria by the ICRC. This document was published in *Le Monde*, 5 January 1960.' Pierre Vidal-Naquet, *La raison d'État*, La Découverte, Paris, 2002, p. 6.

having alerted the public itself as soon as it found cases of torture in Algeria. On 8 January 1960, the ICRC published a long statement in which it reiterated the purpose and procedures for visits to detention sites, as well as the reason for the confidentiality agreement, without which the ICRC would never have obtained access to the captives.⁶⁴

There is no doubt that the article in *Le Monde* and the disclosure of the ICRC report on the seventh series of visits to detention sites in Algeria forced the French government to confront its responsibilities, obliging the political authorities to put a minimum of order in the detention system in place in Algeria and, in particular, in the interrogation methods. However, the ICRC had to pay the price for this disclosure. It took one year of approaches and negotiations before the French authorities allowed it to once again send delegates to visit detention sites in Algeria, under the pretext that the prisons were being reorganized.

It was only in January 1961 that the ICRC was allowed to resume visits to detainees in Algeria. That year its delegates made three series of visits, during which they went to 124 detention sites. Meanwhile, ICRC delegates continued to visit the Algerians detained in France: between March and July 1961, they visited twenty detention centres.

A new series of visits in France took place from 5 to 20 November 1961, while most of the Algerian detainees were on a hunger strike. Delegates went to the hospital in Garches, where three ministers of the GPRA were interned: Ben Bella, Ait Ahmed, and Khider. After their meetings with the ministers, they submitted to the French authorities some proposals to improve the detention conditions. These were accepted, and the ICRC informed the Algerian detainees, who decided to end their hunger strike.

A last visit to the Algerians detained in Algeria was conducted in May 1962.⁶⁵ In total, from February 1955 to July 1962, the ICRC sent ten itinerant missions to Algeria. Its delegates carried out 490 visits to detention sites: prisons, screening centres, military camps of internees, hospitals, and so forth. In addition, from 1958 to 1962, delegates conducted 96 visits in France to internment sites in which Algerian militants were detained.⁶⁶

64 ICRC, 'Information concerning visits to places of detention by the delegates of the International Committee of the Red Cross', Press Release No. 694b, 8 January 1960. ICRC Archives, A PV A Pl, Minutes of the Committee, plenary session, 9 January 1960. ICRC, *Annual Report 1959*, pp. 8–10; ICRC, *Annual Report 1960*, pp. 16–17. *Revue internationale de la Croix-Rouge*, No. 841, July 1959, p. 341; No. 493, January 1960, p. 18; No. 494, February 1960, pp. 87–89; English supplement, Vol. XIII, No. 2, February 1960, pp. 32–34.

65 ICRC, *Annual Report 1961*, pp. 17–19; ICRC, *Annual Report 1962*, pp. 8–9. *Revue internationale de la Croix-Rouge*, No. 508, April 1961, pp. 202–203; No. 516, December 1961, pp. 605–606; No. 517, January 1962, pp. 29–30; No. 519, March 1962, pp. 130–131.

66 ICRC, *Annual Reports*, from 1955 to 1962; ICRC, *The ICRC and the Algerian conflict*, above note 33; F. Bugnion, above note 16, pp. 632–633.



Figure 4: Transit and Screening Centre (CTT) of Barika Barika, 1961. © ICRC.

Events following the cease-fire

An emergency action plan

Following the announcement of the cease-fire on 19 March 1962, the OAS multiplied attacks throughout Algeria. The permanent delegate of the ICRC in Algiers, Roger Vust, tried to send relief supplies to the injured. He was joined by Pierre Gaillard. Together with the Algerian authorities and the High Commissioner of France, the ICRC delegates drew up an emergency action plan, including medical assistance for the civilian population, visiting prisoners, searching for the missing, and distributing relief supplies to displaced persons. In mid-May the ICRC medical teams arrived in Algeria.⁶⁷

The Evian agreements and the fate of prisoners

Signed on 18 March 1962 and followed the next day by the proclamation of the cease-fire, the Evian agreements provided for a twenty-day period, from 19 March, during which the parties undertook to release the prisoners they held. They were to

67 ICRC Archives, B AG 200 (12), Report on the mission of Dr. de Chastonay, 8 June 1962. ICRC, *Annual Report 1962*, pp. 10–11. *Revue internationale de la Croix-Rouge*, No. 520, April 1962, p. 177; No. 522, June 1962, pp. 294–295; No. 523, July 1962, pp. 330–332.

inform the ICRC of the locations of the prisoners as well as of 'any action taken for their release'.⁶⁸

At the end of that period, the French authorities notified the ICRC of the locations of 3,600 prisoners captured while bearing arms and the measures taken for their release and their return home. The first actual prisoner releases took place in early April.⁶⁹ At the same time, the GPRA released three French soldiers held since the spring of 1961. Two other French soldiers captured by the ALN in February 1961 were released in the Kabyle region to the local Armistice Commission in Tizi Ouzou. Four other French soldiers were released in June 1962 in Morocco. Finally, twenty legionnaires originating from a variety of European countries were released before the end of 1962.

The search for missing persons, visiting prisoners, and the *harki* problem

However, there were still no news concerning 330 French soldiers and 264 European civilians reported missing at one time or another during the conflict.⁷⁰ ICRC delegates organized research activities in different regions of Algeria in an effort to find these people. They launched regular appeals on the radio in French and Arabic, and they tried to gain the support of the newly established Algerian authorities.

In addition, the cease-fire brought about a complete reversal of the situation in Algeria. As FLN fighters were released and the ALN entered the country triumphantly from its bases in Morocco and Tunisia, vengeance fell on those Algerians who had remained loyal to France. The *harkis* and other auxiliaries of the French army were arrested en masse. There were also reports of disappearances among the *pieds noirs* who had not yet been repatriated to France.

ICRC delegates attempted to visit people arrested in the unrest following the cease-fire. They obtained a number of prisoner releases. In addition, at the request of French authorities, the ICRC sent a special mission to Algeria to trace missing persons. However, despite numerous visits to detention sites and a special mission of the ICRC's Vice-President, Samuel Gonard, who was received by the President of the Republic of Algeria, Ahmed Ben Bella, and several ministers who all promised their support, this mission obtained few concrete results.⁷¹ Similarly, whereas in the aftermath of independence the ICRC obtained permission to visit prisons where the former auxiliaries of the French army were confined, it could not get permission to visit those who were interned in military camps and the steps taken for these prisoners met with incomprehension and indifference.

68 'Accord sur le cessez-le-feu en Algérie, signé à Évian le 18 mars 1962' ('Cease-fire agreements in Algeria, signed at Evian, 18 March 1962'), in *Revue générale de Droit international public*, 66e année, vol. 3, tome XXXIII, July–September 1962, pp. 686–692. See also *Keesing's Contemporary Archives*, 9–16 June 1962, p. 18801.

69 ICRC, *Annual Report 1962*, p. 9. *Revue internationale de la Croix-Rouge*, No. 520, April 1962, p. 176.

70 ICRC, *Annual Report 1962*, p. 10. *Revue internationale de la Croix-Rouge*, No. 521, May 1962, p. 244; No. 522, June 1962, p. 289.

71 ICRC Archives, B AG 251 (12), Letter from Léopold Boissier, President of the ICRC, to Jean de Broglie, State Secretary in Charge of Algerian Affairs, 22 March 1963. ICRC, *Annual Report 1963*, pp. 9–11. *Revue internationale de la Croix-Rouge*, No. 531, March 1963, p. 138.

At its meeting of 19 September 1963, the Presidential Council of the ICRC noted that the problem of the *harkis* was now the responsibility of the Algerian and French governments. The special mission of the ICRC ended in September 1963. The Algerian Red Crescent – recognized on 4 July 1963 – now took over responsibility for the follow-up to the actions undertaken by the ICRC.⁷²

Conclusion

The ICRC action in Algeria took place within the framework of a war of national liberation that pitted against one another two opponents whose means were completely asymmetrical. On one side was an insurrectionary movement, originally consisting of small cells of fighters, including intellectuals, isolated and practically without material resources but highly motivated, that won the support of an ever-increasing part of the population. On the other was a regular army, with sophisticated weaponry, that would gradually be eroded by doubts. It was also a war marked by the cycle of terrorist attacks, repression, retaliation, and torture. In this situation, the primary aim of the ICRC was to ensure that all those who had fallen into the hands of their opponents were humanely treated. To accomplish this, it intensified its approach to both the French authorities and the leaders of the FLN.

The task was not an easy one. Indeed, at the beginning of the conflict, the French government, which denied the existence of an armed conflict to which humanitarian law was applicable, believed that it could overcome the insurgency by repressive – essentially police – measures and by the application of criminal law that the Algerian insurgents rejected, just as they rejected the jurisdiction of French courts. This inevitably led to the spiral of reprisals and counter-reprisals. To fulfil its mission, the ICRC would therefore try to reinsert the Algerian conflict into the only legal framework that could help contain the violence, that of international humanitarian law. This would be the linking thread of its action, from the offer of its services on 31 January 1955 up to independence.

In this context, particular attention should be paid to the negotiations that were conducted throughout the year 1957 for the establishment of a special status for captured combatants who had openly borne arms, to the directive of 19 March 1958 of General Salan and the memorandum of 28 May 1958. Article 3 common to the four Geneva Conventions of 12 August 1949, for which this would really be the first large-scale application, would become the main reference in this approach.

However, the asymmetry of forces was also felt in terms of humanitarian negotiation. Indeed, in its contacts with the French authorities, the ICRC negotiated both in Paris and in Algiers with people who had the necessary means to enforce their orders. To the extent that they accepted the proposals of the ICRC, the message

72 ICRC Archives, B AG 251 (12), Letters from Léopold Boissier, President of the ICRC, to Jean de Broglie, 5 April and 20 May 1963; ICRC Archives, B AG 251 (12), Report of the mission of Samuel Gonard, 28 June 1963; ICRC Archives, B AG 251 (12), Note of Roger Gallopin, Executive Director of the ICRC, to Georg Hoffmann, head of the ICRC special mission to Algeria, 1 July 1963. ICRC, *Annual Report 1963*, pp. 9–11. *Revue internationale de la Croix-Rouge*, No. 532, April 1963, pp. 178–179.

was passed on and improvements were obtained. The credibility of ICRC delegates in the eyes of the French military grew during the course of their missions. This took a quite visible form in the rank of the liaison officer who accompanied them: in early missions it was a captain, then a lieutenant colonel, and finally a general, with whom the delegates were authorized to enter any camp without warning.⁷³

While the ICRC's repeated actions led to many improvements in prison conditions and in particular to the establishment of a special status and of military internment camps for fighters captured while bearing arms openly, on the other hand, its actions did not stop the practice of torture during interrogations of prisoners. The publication by *Le Monde* on 5 January 1960 of extracts from the synthesis report on the seventh series of visits to detention sites in Algeria provoked very strong emotions and reopened the debate on the interrogation methods used in Algeria. However, this disclosure had its price. Although the French authorities admitted that the leak was not attributable to the ICRC, it would take more than a year before it was authorized to send a new mission to Algeria.

However, the ICRC action on behalf of prisoners held by the ALN faced almost insurmountable obstacles. Indeed, leaders of the FLN reported to ICRC delegates that the conditions under which their men fought did not permit the organization of visits to the prisoners they held. In addition they did not control all their fighters and could therefore not prevent acts of retaliation, which they attributed to the asymmetry of forces and to air strikes. In fact, the ICRC obtained only very limited results regarding French soldiers or civilians captured by the FLN. Another area in which the ICRC was unable to develop its activities was the protection of the *harkis* in the hands of the new Algerian authorities.

In parallel with its efforts for the various categories of prisoners, the ICRC managed to achieve, with the help of the French Red Cross, the Red Crescent Societies of Morocco and Tunisia, and the League of Red Cross Societies, a major relief action for the Algerian civilian population severely affected by the war.

Studied with hindsight, it is clear that the ICRC's action in Algeria represented a turning point. Indeed, in this first major war of independence in Africa, the ICRC had been a pioneer. Early in the conflict, while the FLN was considered by the vast majority of French public opinion – with the exception of a few famous artists and writers – as a terrorist movement, the ICRC immediately sought contact with its leaders to try to get their commitment to respect the fundamental principles of IHL. To rescue victims of a ruthless war and to contain the violence, the ICRC did not hesitate to deal with those whom the Western world rejected as purely criminal. This precedent for the ICRC would be a valuable experience for its future interventions in other wars of liberation, and paved the way for further developments of IHL. Indeed, some articles of the Additional Protocols to the Geneva Conventions, adopted on 8 June 1977, reflect the lessons learned during the war in Algeria, nearly twenty years earlier. Just as the war in Algeria has, from many points of view, been seen as the paradigm of wars of liberation, and has had exemplary significance for the conflicts that followed, particularly in Africa, the

73 Interviews with Pierre Gaillard by Françoise Perret, January–February 1992.

ICRC's work in the context of this conflict became the model for its commitment in subsequent conflicts.

Appendix 1: Letter from William Michel, head of the ICRC delegation in France, to the Prime Minister, Pierre Mendès-France, 1 February 1955

Mr. Prime Minister,

During the interview you kindly gave me on 31 January and for which I once again thank you, I had the honour of presenting to you the questions concerning North Africa which are of concern to the International Committee of the Red Cross.

I was able to inform you of the various steps taken in this region since 1952 to enable our institution to fulfil its strictly humanitarian mission.

Currently, the International Committee has the duty to once again draw the benevolent attention of the French government to its previous offers of service and to inform you of the measures that would enable it to carry out in the territories of Algeria, Morocco and Tunisia, some of its traditional activities as listed below:

1. Receive lists of the names of persons arrested due to the events (convicted or accused defendants, and possibly suspects).

In addition, the International Committee of the Red Cross would recommend that prisoners' families receive timely notification, if this is not already the case, of their detention.

2. Be authorized to visit sites of internment and detention of such people, it being understood that the purpose of these visits would be strictly limited to the conditions, and not to the motives, of detention. We would like the delegate of the International Committee to be authorized to hold private interviews with detainees during these visits. It goes without saying that, where appropriate, the delegate will not fail to present to the competent authorities the findings that he may have made during his visits.
3. Facilitate and if necessary organize – presumably with the assistance of the French Red Cross – correspondence between prisoners and their families or with the Red Cross . . .
4. Study and develop the possibility of the distribution of relief supplies (material or intellectual) to prisoners, no doubt with the help of the French Red Cross.
5. Study, under the same conditions, the possibility of relief action for the families of those detained or interned who, deprived of their natural support by recent events, may be in difficulty.

It is understood that the ICRC action would, as usual, be exercised with a strictly humanitarian purpose and would not result, on our part, in any publicity. It would still have a beneficial effect, we believe, as demonstrated by the International Committee's experiences in this domain.

In the hope, Mr. Prime Minister, that you will welcome the above proposals, which have, we think, some degree of urgency, please accept, with the expression of my thanks in advance, the assurances of my highest consideration.

W. H. Michel⁷⁴

Appendix 2: Letter from Pierre Mendès-France, Prime Minister, to William Michel, head of the ICRC delegation in France, 2 February 1955

Paris, 2 February 1955

Prime Minister,

Dear Sir,

I have received the letter of 1 February in which you confirm the oral requests you made on 31 January concerning the North African questions of concern to the International Committee of the Red Cross.

I have carefully studied your various requests and I have the honour to communicate to you, point by point below, the decisions taken by the Government.

1. For obvious reasons of public order, the French Government cannot give you the list of names of people who have been arrested due to the events that have occurred in North Africa. The list of those persons would in fact be of no practical interest to you, because it undergoes frequent changes, most people in question being quickly released, while others may be arrested.

For the same reasons, I cannot give you the list of family members of inmates. Moreover, these families – contrary to what your letter seems to imply – are notified of the arrest and place of detention of persons whom the police or justice system consider should remain in custody.

2. The French Government is willing to allow representatives of your Committee to go to Algeria and Morocco and visit detention centres, with the understanding that the purpose of these visits would be strictly limited, as you yourself suggest, to the detention regime. The Government will give instructions so that your delegates can, if they wish, hold private interviews with detainees.

I am certain that subsequently you will not fail to inform the French Government of any observations that your delegates might wish to make.

It seems to me that the stay of your delegates in Algeria and Morocco should be of limited duration, not exceeding one month.

3. Moreover, you suggest facilitating the exchange of correspondence between prisoners and their families. While thanking you for this proposal, I must tell you that it seems pointless to me, inmates being able to correspond in the framework of rules that take into account the humanitarian considerations

⁷⁴ ICRC Archives, B AG 200 (3), Letter from the head of the ICRC delegation in France, William Michel, to the Prime Minister, Pierre Mendès-France, 1 February 1955 (ICRC translation).

underlying your suggestion. You will be able to ascertain this point during the visits referred to above, under point number 2.

4. I would appreciate it if you would let me know more precisely the scope of the suggestion you wanted to make concerning the distribution of certain material or intellectual assistance to prisoners. It goes without saying that the French Government is willing to receive and transmit to the beneficiaries such relief supplies as the Red Cross may wish to send them.
5. The French Government is also at your disposal in response to any proposal that you might make concerning aid to the families of detainees or internees. I would be happy to hear any details on this point from you.

I took note that the action which your International Committee intends to conduct in North Africa, will not lead to any publicity. In fact, it is only on this condition that it is likely to achieve the beneficial effect you expect, without creating any difficulties.

I am sending a copy of this letter to the Resident General of France in Rabat and to the Governor General of Algeria. I leave it to you to get in touch with them as to the practical application to be given to it.

Please accept, dear Sir, my most devoted sentiments.

[Signed] P. Mendès-France⁷⁵

Appendix 3: Directive of 19 March 1958 by General Salan

Algiers, 19 March 1958
Joint High Command
10th Military Region
Staff Headquarters - 6th Bureau
No. 250 / RM.10/6/S. C.

MEMORANDUM

RE: Camps for Military Internees

REFERENCE: Memorandum No. 816/RM.10/6/SC, 24 November 1957

I. – General ideas

Rebels who are driven into a corner in combat very often display a determination that leads to their extermination.

This tenacity is less a manifestation of a spirit of sacrifice in the service of a cause deemed sacred than the result of effective psychological training.

In fact, prisoner interrogations show that the ‘mujahedeen’ are insistently warned during their training concerning the dangers they face in case of surrender: French troops massacring prisoners after torture or, in the most favourable case,

75 ICRC Archives, B AG 200 (3), Letter from Pierre Mendès-France to the head of the ICRC delegation in France, 2 February 1955 (ICRC translation).

bringing them before tribunals that automatically condemn them to the death penalty.

Clippings from some French and foreign newspapers and from foreign radio stations widely cited by the rebels very effectively support this propaganda.

The level of fear thus maintained gives the bands a cutting edge that it is important to wear down as much as possible in order to reduce our losses.

One way to do this is to give prisoners as liberal a treatment as possible and to make this well known.

The Reference Memorandum marked a first step in this direction. The creation of Camps for Military Internees will complete the solution to the problem to the extent permitted by current regulations, that is to say, without giving special status to prisoners.

II. – Organization

Upon receipt of this Memorandum, rebels captured while bearing arms openly, after a brief screening and their operational exploitation at the sector level, will be grouped in special centres.

The number and importance of these centres in each Army Corps will be a function of the number of prisoners detained.

In the absence of immediately available credits or those expected in the near future, the Camps for Military Internees [Camps d'internés militaires (CIM)] will be installed in the Transit and Screening Centres [Centres de Triage et de Transit (CTT)] which will thus become more specialized.

Credits which may be attributed in the future will be distributed with the aim of resuming the previously planned program for the improvement of the CTT.

III. – Operation

Just as is the case for the rehabilitation centres, there must be good administration of the CIM.

Their regime will be that of the CTT.

Efforts will focus on housing, bedding and the cleanliness of the surroundings.

The food will depend on the size of the allocated budget.

The camps will be subject to military discipline, with the aim of prohibiting any act and every word that could be interpreted as an affront to the dignity of prisoners.

IV. – Status of prisoners

A study of a special status for the prisoners, but excluding any idea of belligerency, has been requested.

Pending its further development, the legal status of prisoners will be that of suspects detained in CTT. Once the time limit of thirty days allowed for screening

has been exceeded, their detention in the Camps for Military Internees will be requested of the qualified administrative authorities.

The proposals to bring prisoners to trial will be systematically avoided, except for those who have committed atrocities or who demonstrate a fanaticism that may affect the positive development of the general state of mind.

V. – Psychological action and intelligence research

It is understood that the military internees should not be considered prisoners of war.

The Geneva Conventions do not apply to them and their being handed over to an appropriate civil body will be continued and the search for intelligence information through their interrogation still allowed.

The psychological action to which they will be subject should tend towards their incorporation into *harkas* or Military Units, or their use as monitors of psychological action in the *douars*.

The establishment of CIM should not, therefore, constitute an additional burden for the zones, the prisoners being in any case, currently the responsibility of the Units in various CTT.

The measures taken will be the object of a report to be sent under this stamp no later than 1 April 1958.

Signed: General R. SALAN
P. O. Brigadier General DULAC
Chief of Staff⁷⁶

Appendix 4: Memorandum of the ICRC, 28 May 1958

The main task of the International Committee of the Red Cross, a specifically neutral body, independent of any influence of national, racial or religious character, is to come to the aid of victims of armed conflict.

In its strictly humanitarian action, it is guided by the terms and spirit of the Geneva Conventions. Its authority is based on the experiences and services it has rendered for decades. To accomplish its humanitarian work, it relies solely on its responsibility to initiate action and the acceptance of its endeavours, which it undertakes with all possible persuasion and firmness. This is the way it has acted in the Algerian conflict since 1955, with results that must unfortunately be considered inadequate.

In recent weeks the situation has worsened. Thus, motivated by a desire to mitigate some of the particularly painful effects, the ICRC feels obliged to suggest to

76 ICRC Archives, B AG 225 (12), Army High Command, 10th Military Region, Note of 19 March 1958 (ICRC translation).

the FLN and the French Government that they make a commitment to the ICRC to observe the following rules:

1. Article 3 common to the four Geneva Conventions of 1949 will be fully respected.
2. In case of their capture, members of the armed forces will not be prosecuted for the mere fact of having participated in combat. They will receive humane treatment and all the essential safeguards accorded to prisoners of war. They will be allowed to communicate with their families and to receive communications from them. Their names will be communicated to the ICRC, which will be authorized to visit them, and, if necessary, to distribute relief supplies to them.
3. If criminal proceedings are engaged against captured members of the armed forces because of crimes or misdemeanours which they had allegedly committed, the ICRC will be informed and allowed to follow the proceedings and provide legal assistance to defendants.
If the proceedings result in death sentences handed down in legal form by competent courts, there shall be a stay of such executions during the hostilities and the condemned shall continue to be accorded the treatment due to prisoners of war.
4. Reprisals, for whatever reasons, will be excluded.

The International Committee of the Red Cross earnestly hopes that the FLN decide that it is able to make such commitments to the ICRC, which the latter is also trying to obtain from the French Government. In this case, it will take note of the commitments made to it by both sides and will immediately inform both parties.

Finally, the International Committee expresses the firm hope that any act likely to endanger its efforts in favour of the persons mentioned above will be avoided until an answer has been given to this communication and to that which it has simultaneously addressed to the French Government [the FLN].⁷⁷

⁷⁷ ICRC Archives, B AG 225 (12), Memorandum of the ICRC, 28 May 1958 (ICRC translation).