

APPLICATION OF THE GENEVA CONVENTIONS
 — PARTICULARLY THE FOURTH —
 IN TERRITORY OCCUPIED BY ISRAEL

Since the end of the open hostilities in the Middle East the International Committee of the Red Cross has provided humanitarian assistance not only to the wounded, prisoners of war and civilian detainees, but also to civilian populations in the occupied territories West of the Jordan, in the Gaza-Sinai sector and in Kuneitra. For this purpose ICRC delegations were set up in Gaza, Jerušalem and Kuneitra. The Israeli authorities granted these delegations practical facilities to carry out their humanitarian mission, which will be continued so long as it is necessary.

However, the International Committee of the Red Cross deemed it expedient to draw the attention of the governments involved in the conflict to the disadvantages of there being no Protecting Power to ensure the application of the Fourth Convention of 12 August, 1949.

We quote below the note sent on 4 April 1968 to the governments of Israel, Syria, Jordan and the United Arab Republic.

In accordance with the provisions of the Geneva Conventions and with the agreement of the Powers concerned, the International Committee of the Red Cross has, for the past ten months, been pursuing its humanitarian action on behalf of the victims of the conflict of June 1967, through the intermediary of its delegations in the United Arab Republic, Israel, Jordan, Syria and the Lebanon, and of its sub-delegations in Jerusalem (occupied territory on the West Bank of the Jordan), Gaza (occupied territory of Gaza and the Sinai), and Kuneitra (occupied territory of the Golan Plateau).

The activities deriving from the First Convention (Protection of the sick and wounded) and the Third Convention (Treatment of Prisoners of War) having, generally speaking, been successfully

concluded, it is essentially the application of the Fourth Convention (Protection of civilians) on which the International Committee of the Red Cross must now concentrate its efforts, chiefly in the three occupied territories above-mentioned.

When signing and ratifying the Geneva Conventions of August 12, 1949, for the protection of the victims of war, the contracting Parties undertook to respect them and to have them respected in all circumstances. It is therefore States, and States alone, which are responsible for the correct implementation of the said Conventions, each one, first of all, in the territories over which it exercises its power.

However, the Conventions themselves stipulate that the Conventions will be applied "with the co-operation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict".

For reasons which have not yet been communicated to the International Committee of the Red Cross, and upon which moreover it is not for it to express an opinion, no Protecting Power has, so far, been designated in the conflict opposing Israel and the neighbouring States. This, without a doubt, constitutes a regrettable gap in the fabric of the Geneva Conventions which are based on the existence of Protecting Powers, whose action constitutes an essential guarantee of their strict observance, especially in occupied territories.

The case where any Protecting Power might be lacking, for whatever reason, has been foreseen in the Conventions. In such an eventuality, the Detaining or Occupying Power shall request a neutral State, or an organization offering all guarantees of impartiality and efficacy, to assume the functions performed by Protecting Powers under the Conventions.

If, even so, such protection cannot accordingly be arranged, the Detaining Power shall request a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian tasks performed by Protecting Powers.

To our knowledge, the governments involved in the conflict have not requested neutral States, nor a special organization, nor even the International Committee of the Red Cross, to act as substitutes for the Protecting Powers.

This situation has not presented very serious drawbacks in the United Arab Republic, Syria, the Lebanon and Jordan where, after the repatriation of prisoners of war and of a certain number of civilians, the application of the Geneva Conventions now only concerns particular cases. On the other hand, in the territories occupied by Israel, the prolonged absence of Protecting Powers, or of their duly designated substitutes, is a major impediment in the safeguarding of the interests of persons protected by the Fourth Convention.

The International Committee of the Red Cross has endeavoured to extend its humanitarian activities in such a manner as to palliate, in so far as it could, the absence of Protecting Powers. It has been granted by the authorities concerned, on many points, facilities enabling it to carry out its humanitarian mission. In other spheres, however, it has noted that it has not been in a position to further the application of the Fourth Convention, for example, as regards the destruction of property, the expulsion of persons, public prosecution, the status of officials, etc.

In view of this situation, the International Committee of the Red Cross therefore insists in pointing out clearly that it does not exercise the control entrusted by the Fourth Convention to the Protecting Power or to its duly appointed substitutes.

However, the International Committee of the Red Cross will continue, with all means at its disposal and within all possibilities offered to it, to bring its humanitarian aid to the victims of events.