

*THE ICRC, THE LEAGUE AND THE REPORT ON  
THE RE-APPRAISAL OF THE ROLE OF THE  
RED CROSS (III)*

**Protection and assistance in the event  
of armed conflict**

Comments by the ICRC

**Introduction**

The concepts of assistance and protection are of fundamental significance for the Red Cross and it was therefore appropriate for the Tansley Report to devote nearly two-thirds of its pages to them.

It also seems proper that both questions should be discussed simultaneously, as they are linked in a number of ways, especially in armed conflicts and similar situations. In such situations, assistance activities often assume the character of protection operations and vice versa, to such an extent that they become inseparable. That is one reason why the International Red Cross, in article 6 of its Statutes, entrusted the ICRC with the final responsibility for carrying out the humanitarian work of the Red Cross in the event of armed conflict.

The idea of entrusting both functions to a single body derives its source and justification from experience; to protect an adversary in captivity or in occupied territory is not the same as to bring relief to the needy inhabitants of the country concerned. Admittedly, a humanitarian body will not refuse to distribute relief supplies even if it is not allowed to protect the victims; but, in the event of armed conflict, the co-operation of the authorities will vary both in matters of assistance and of protection; under such circumstances it is necessary, if unity in humanitarian action is to be maintained, that a single body should have a global view, and have final responsibility for the conduct of these operations.

Basically, protection and assistance cannot be separated in situations of conflict, even though it may be possible, in the interest of clarity, to consider them separately, as will be done here.

## 1. Protection

### Definition

The Tansley Report does not define the meaning of “protection”, but it obviously refers to the protection of victims of armed conflicts or internal disorders who are in the hands of an adverse authority or of an authority which does not afford them appropriate guarantees. Thus, the action of protection is linked with the ICRC’s role as a neutral intermediary entrusted to it by the Geneva Conventions, the Statutes of the International Red Cross and the resolutions of International Conferences of the Red Cross, and has in practice frequently been exercised in situations beyond the scope of the Conventions.

Like the Tansley Report, the Geneva Conventions and the Red Cross Statutes contain no definition of “protection”, undoubtedly because it is a concept that is easily understood. Yet if a definition were required one might say that, in Red Cross action, “to protect” implies preserving victims of conflicts who are in the hands of an adverse authority from the dangers, sufferings and abuses of power to which they may be exposed, defending them and giving them support.<sup>1</sup>

Neutrality is a fundamental principle which is binding on all Red Cross components, not only on the ICRC. However, the multinational structure of the League and the fact that the National Societies are auxiliaries to the public authorities make it more difficult for any of them to act as a neutral intermediary than for the ICRC, which is uni-national and whose members are co-opted. This view is supported in the Geneva Conventions which refer nearly forty times to assistance and protection activities to be entrusted to the ICRC (whether named specifically or not), in its capacity as an impartial humanitarian body.<sup>2</sup>

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<sup>1</sup> In a broader context, one might say that “protection” also includes developing, publicising and ensuring application and respect for international humanitarian law.

<sup>2</sup> Conv. I: art. 3, 9, 10, 11, 23;

Conv. II: art. 3, 9, 10, 11;

Conv. III: art. 3, 9, 10, 11, 56, 70, 72, 73, 74, 75, 77, 79, 81, 122, 123, 124, 125, 126, Annex II and III;

Conv. IV: art. 3, 10, 11, 12, 14, 25, 30, 59, 61, 76, 96, 102, 104, 106, 108, 109, 111, 113, 129, 137, 140, 141, 142, 143, Annex II.

Impartiality, like neutrality, is not the prerogative of the ICRC alone; it is an obligation both for National Societies and for the League. However, the States chose to assign to the ICRC the task of protecting and assisting the victims of armed conflicts without discrimination.

### **Participation of National Societies**

The Tansley Report has made a number of practical suggestions regarding participation by National Societies in protection. Most of these suggestions should be supported. National Societies are in fact associated by the ICRC in the function of protection wherever circumstances permit. To discharge its responsibilities, the ICRC directs and co-ordinates their action.

In cases of armed conflict or disorder National Societies are of course generally engaged in assistance tasks, but they can also play a useful part in protection. They can do so all the more effectively if the manner in which they exercise their responsibilities is clearly defined and in harmony with that of the ICRC.

**The National Society of a country stricken by armed conflict or some similar situation can play its part in various ways, namely by:**

- a) having its government ensure that the Geneva Conventions are fully respected and implemented;*
- b) making its government aware of the paramount importance of protection by the ICRC;*
- c) organizing assistance operations;*
- d) making occasional visits to detainees pending ICRC visits and in close liaison with the ICRC.*

**The National Societies of countries not involved in a conflict may:**

- a) participate in assistance action, as a number of them have done;*
- b) undertake protection tasks when asked to do so by the ICRC or by all parties to a conflict.*

**All National Societies can and should co-operate in preparations for protection, especially through the dissemination of knowledge of humanitarian law, and the ICRC should arouse their interest in such activity and co-ordinate their operations.**

## Role of the League of Red Cross Societies

The League should obviously take an active part in protection in the wide sense given to it by the Tansley Report. Article 5, para. 1 (j), of the League's new Constitution says that one of its functions is *to assist the ICRC in the promotion and development of international humanitarian law, and collaborate with it in the dissemination of this law and of the Fundamental Principles of the Red Cross among the National Societies.*

This article, which was almost unanimously adopted by the League members and fully approved by the ICRC, indubitably constitutes a further step forward in ICRC-League co-operation.

Moreover, article 5, para. 1 (i), of the League's new Constitution enjoins the League *to bring help to victims of armed conflicts within the framework of the agreed functions of the League as a member of the International Red Cross and in accordance with the agreements concluded with the ICRC.*

This article confirms article 2 (Red Cross action in the event of conflict) of section I (Relief actions of National Societies for the civilian population) of the ICRC-League Agreement of 25 April 1969, while leaving the door open for other similar future agreements. Here too the text was adopted almost unanimously and was welcomed by the ICRC

## 2. Assistance

### In case of an armed conflict :

a) The 1969 ICRC-League Agreement <sup>1</sup> provides that where the civilian population stricken by an international conflict is in its own national territory, and particularly where displaced persons are involved, the

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<sup>1</sup> The ICRC/League Agreement states in Article 2 that:

*In countries where there is an international war, civil war, blockade or military occupation, the ICRC, in virtue of the functions of a neutral intermediary devolving on it under the Geneva Conventions and the Statutes of the International Red Cross, shall assume the general direction of the Red Cross international action.*

*If, in these countries, as a result of special circumstances or in the event of a natural disaster, the League is, at the request of a National Society, called upon to give assistance to the civilian population of its country, the ways and means of the intervention of the League as well as its cooperation with the ICRC and the National Societies concerned shall be defined from case to case in accordance with Articles 5 and 6 of the present Agreement.*

*When the intervention of a neutral intermediary is not or is no longer necessary, the ICRC shall reach agreement with the League with a view to associating it with the relief action or even handing over to it the entire responsibility.*

ICRC assumes general leadership of international action on behalf of the Red Cross as a whole. As we have seen above, this is necessary because of the close links between protection and assistance in the event of conflict and in order to reach all victims, including those who would otherwise be left without help. This also holds good where action is to be for the benefit of the civilian victims of a domestic conflict. In both cases it is necessary to protect certain categories of the population from discrimination. The League of course maintains full relations with National Societies of countries involved in a conflict. It might even, at times, intensify them within the framework of articles 4 and 5 of the 1969 Agreement.

*b)* To ensure protection in countries at war, the ICRC considers that it may have to direct all operations, including those relating to civilians who have taken refuge in a third country, sometimes even when the intervention of a neutral intermediary is theoretically not or no longer necessary. Sometimes, as in cases where frontiers are easily crossed or where neighbouring countries may exert considerable influence, a global approach by a single institution is indispensable if the unity of Red Cross action is to be maintained.

*c)* In situations where, in the victims' interest, the ICRC has to direct assistance operations, it will do so in close contact with the National Societies of the countries concerned. It may also appeal for the co-operation of other National Societies and, depending on circumstances, of the League pursuant to the League-ICRC Agreement of 25 April 1969.

#### **In case of a mixed situation : armed conflict and natural disaster :**

Action in favour of victims of natural disasters falls within the competence of the League and National Societies. In exceptional cases where a natural disaster coincides with armed conflict or political or social unrest, it might be necessary for the ICRC, in consultation with the League, to take the initiative of intervening in its capacity as neutral intermediary to ensure that the governments agree to the provision of relief to the entire stricken population.

#### **Common elements :**

Insofar as there are factors common to armed conflicts and natural disasters, the ICRC favours planning and a more thorough standardization of relief operations. To this end it is prepared to consider the establishment of a joint study group. This matter will be developed in the chapter on relations between the ICRC and the League.