

Assistance to protected persons

by Jean-Luc Blondel

The questions facing the International Red Cross and Red Crescent Movement today are no different from those with which the Movement began: What is the best way to help? How can we give immediate aid and also provide long-term protection? To answer these questions we have to go back to the early years of the Movement.

I. Protection and assistance

The idea of aid is not new: there are abundant examples of altruism and unselfish assistance, prior to and apart from the Red Cross and Red Crescent Movement. The innovation brought by the Movement was twofold: **continuity** and **protection**, assured by the **neutrality** of the assistance. Thus, while the “Solferino reflex” is to give immediate help, “Geneva reflection” is to plan and organize relief activities. From the beginning this was to be done in two ways, by:

- The establishment of corps of volunteer nurses, auxiliaries to the military medical services. These “aid societies”, first described by Henry Dunant, should be permanent, which implies **preparation** in peacetime for wartime activities.
- Recognition of the neutrality not only of the sick and wounded on the battlefield but also of those who came to their assistance, along with their equipment. In concrete terms such recognition implied **protection**. This was the vital root of what was to become international humanitarian law.

The latter point is essential, for it is **law** that protects; the law constituted by the Geneva Conventions and their Additional Protocols which assures protection of the lives and dignity of the victims of a conflict. The Red Cross and Red Crescent can and must perform important services in this connection by encouraging knowledge of humanitarian law and seeing that it is effectively applied. With reference to the latter point, the Geneva Conventions place a number of obligations on the International Committee of the Red Cross, making it the particular institution within the Movement responsible for protecting the victims of conflict. Protecting the victims implies making it possible for them to benefit from the guarantees provided by international humanitarian law. All the varied activities of the ICRC are designed to make the protection afforded by the humanitarian conventions real and effective. The Geneva Conventions give considerable emphasis to **relief**, a way of saying that the protection of the victims of a conflict requires that they be given assistance.

The expression “protection and assistance” appears for the first time in the Statutes of the International Red Cross as revised in 1952 (adopted by the XVIIIth International Conference in Toronto). In the article devoted to the ICRC it replaces the expression “**humanitarian activities**” used in the first Statutes of 1928, which was probably considered too vague. This dual designation of the protection and assistance activities of the ICRC was repeated in Article 5.2 (d) of the revised Statutes adopted by the Twenty-fifth International Conference in Geneva in 1986, which specified that it is one of the functions of the ICRC “to endeavour at all times—as a neutral institution whose humanitarian work is carried out particularly in time of international and other armed conflicts or internal strife—to ensure the protection of and assistance to military and civilian victims of such events and of their direct results”.

Neither in 1952 nor thereafter was there any intention through the use of this expression to designate two **distinct** activities of the ICRC. The words were used together specifically for the purpose of emphasizing the scope of “**humanitarian activities**”: the **variety of activities undertaken** on behalf of the victims should not distort the **unity of practical purpose** which underlies **all** the ICRC’s interventions.

In an armed conflict, as we have seen, it is not the provision of relief as such which gives the Red Cross its unique character but rather the **conjunction** of relief and protection. The Red Cross was

born of the observation that when the services of a neutral intermediary are necessary in time of war, protection is a prerequisite for the efficacy of assistance. To express this in other terms, the innovation represented by the Red Cross does not consist in Dunant's humanitarian actions at Solferino, but in the creation of permanent aid societies and, in parallel with this, the drafting of the Geneva Conventions.

What makes this combination necessary is the position in which both the victims and those bringing assistance find themselves in conflict situations. The provision of relief in peacetime certainly presents many difficult technical problems, but at least it does not encounter military obstacles; since in peacetime aid to the victims is not regarded as a contribution to the war effort of an opposing party. In wartime, however, relief itself often falls victim to the atmosphere of hostility and mistrust. Relief must therefore be **protected** and a right of passage and distribution must be agreed on between the parties to the conflict or, better, by a higher authority. This right cannot, however, be granted to aid societies unless each party has a guarantee that the relief will not benefit the opposing army. Hence the importance of the idea of neutrality, which primarily concerns the wounded and sick and those who bring aid to them.

The **wounded and sick** are neutral; they are "neutralized" (hors de combat) by their very situation. They accordingly benefit from protection which is both "negative" (they must not be killed) and positive (they must be cared for and removed from the combat zone). Assistance corresponds to this positive aspect of protection.

Relief workers are also neutral, for humanitarian assistance never constitutes interference in a conflict. Those who help are also neutralized and therefore protected (this point is at the heart of the first Geneva Convention of 1864).

Finally, **assistance** itself is neutral and impartial: its only purpose is to help the victims. The only rules governing it are those determined by the urgency of the needs and respect for medical ethics.

The three elements of assistance are accordingly regulated by a number of principles, respect for which confers upon the Red Cross its unique character: humanity (the welfare of the victims), impartiality (the absence of any discrimination in the distribution of aid, which goes to the victims of both camps), independence (of those who bring the aid) and neutrality (the aid goes only to the victims

and cannot therefore affect the balance of power), voluntary service (there is no selfish motive for the assistance), unity (only one Red Cross, only one Red Cross "front") and universality (the relief operation is a manifestation of international solidarity).

Humanitarian law supplies an answer to the question of efficacy: How else can conflict victims be guaranteed a minimum of security and certain rights so that they can live and survive amidst the calamities afflicting them? The Geneva Conventions were obviously created first and foremost for the purpose of bringing aid to the victims of conflicts, but they had to be equally concerned with protecting those victims.

Let us now see what the Geneva Conventions and their Additional Protocols provide for in this respect.

II. Relief in international humanitarian law

It is natural to wish there were better practical co-ordination of international relief operations, but it is unrealistic to think of including a "right to relief" in a convention. This was demonstrated by the experience of the *International Relief Union* (1927-1967). In the field of relief, action on a purely voluntary basis (illustrated by the action of the Red Cross and Red Crescent) has proved more certain and more effective than attempts at codification and regulation. In any event, although it is clear who would benefit from such a convention, it is difficult to imagine that States would accept the obligations resulting from it. It is undoubtedly better in this connection to retain enough freedom of action to leave the door open to humanitarian initiatives rather than to adopt an excessively restrictive law.

Humanitarian organizations do not, however, work in a complete legal vacuum. The principles of international humanitarian law are determined by the Geneva Conventions and the resolutions of the International Conferences of the Red Cross and Red Crescent.

We shall not consider here relief operations in natural disasters, which are the responsibility of the League and the National Societies: we shall concern ourselves primarily with relief activities in situations of conflict, in which it is for the ICRC to intervene, either alone or as co-ordinator of assistance given by the National Societies.

The Geneva Convention of 1864 established the initial rules for the protection of wounded and sick on the battlefield, granting victims the right to be rescued and the rescuers the right to help them, and obliging States to provide necessary—at that time only medical—relief or allow it to be provided. The same protective purpose was manifested in adapting the principles of the 1864 Convention to war at sea (1899) and in drafting the Geneva Convention relative to the treatment of prisoners of war (1929). These Conventions were of benefit to countless victims of international conflicts who could be given relief precisely because they were protected by this law. This was in contrast to the immense misery of people not protected by the Conventions, such as civilian prisoners or the millions of internees in concentration camps, who had no protection and therefore no relief. Until 1949 there was practically no provision in international humanitarian law regulating relief for civilian populations.

Relief for the civilian population in case of international armed conflict has been of concern to International Conferences of the Red Cross ever since the XIth International Conference (Geneva, 1923) when Resolution 10 was passed requesting the adoption of an international convention with provisions for the care and relief of vulnerable groups, namely old people, women and children. From that time on, successive conferences have repeatedly discussed the protection of civilians in the event of blockade, or against the effects of certain weapons, and the protection of civilians of enemy nationality in the territory of a belligerent or in occupied territory.¹

The Geneva Conventions of 1949 have numerous provisions relating to relief in the event of international armed conflicts, some of which merely repeat earlier rules as in the case of relief for prisoners of war.

The Fourth Convention has several important articles concerning protection of the civilian population (Part II, Articles 13 to 26). We may refer, for example, to Article 23, the first paragraph of which reads as follows:

¹ In 1923, the XIth International Conference of the Red Cross eliminated from an ICRC draft all provisions concerning the protection of civilian populations, retaining only those relating to prisoners of war, which were subsequently to constitute the basis of the Geneva Convention of 1929 on that subject. Eleven years later in Tokyo, the XIVth International Conference approved an ICRC draft for a convention which would protect civilians. ICRC efforts to have this adopted by the States were interrupted by the Second World War.

“Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.”

The purpose of this article is to alleviate the consequences of blockade for the civilians most exposed to them; but it does not solve all the problems of a relief action. Shipments of medicaments are authorized for all civilians, but not shipments of food; these are allowed only for children under fifteen, pregnant women and maternity cases. The obligation to allow free passage is not absolute, as the parties have a duly recognized right of inspection and especially of effective supervision. The grant of facilities and exemptions from charges is not expressly provided for, except in Article 142, which grants relief societies the right to facilities for the distribution of relief to protected persons only, and not to the entire civilian population.

In addition to the articles in Part II of the Convention, there are several others on relief, especially Article 38 (relief for aliens in the territory of a party to the conflict), Articles 59-62 (relief of the population in occupied territories), and Articles 108-111 (relief shipments to internees).

The Geneva Conventions contain another important provision (Article 9 in the first three Conventions and Article 10 in the Fourth Convention) authorizing the ICRC, subject to the consent of the parties to the conflict, to undertake any humanitarian initiative considered useful for the protection of the victims of armed conflicts and for their relief. This right of initiative enables it to undertake any relief activities not already provided for by the Conventions.

The Protocol additional to the Geneva Conventions which relates to the protection of victims of international armed conflicts (Protocol I) was designed to improve the system established by the Fourth Convention. The Diplomatic Conference (after discussion at commission level and in plenary session) adopted four articles relating to relief, the main provisions of which are as follows:

- The Conference maintained the principle upheld by the ICRC that relief is intended for the whole civilian population and not only for some vulnerable categories (Article 68).
- Departing from the ICRC draft, the Conference adopted a special article (Article 69) on basic needs in occupied territories, thus supplementing Articles 59-62 and 108-111 of the Fourth Convention.
- Relief operations in territories other than occupied territories are governed by Article 70. This article specifies that if supplies of basic needs to a civilian population are insufficient, relief actions of a humanitarian and impartial character shall be undertaken, subject to the agreement of the parties concerned.
- The High Contracting Parties (to the Protocol) and the parties to the conflicts must authorize the rapid passage of relief equipment and personnel, even if it is intended for the adverse party. They may nevertheless prescribe technical arrangements and make their permission conditional on the distribution of relief being made under the supervision of a Protecting Power (Article 70, paragraphs 2 and 3). They are obliged to protect relief consignments, doing everything possible to prevent relief being diverted from its legitimate recipients, especially by severely repressing pillage and giving strict orders to the armed forces.
- International co-ordination of relief is encouraged (Article 70, paragraph 5), but the Protocol does not impose any system of co-ordination.
- The admission of relief personnel is subject to the approval of the party concerned. Such personnel must be respected and protected, but their mission may be terminated if they exceed the terms of their mission (Article 71).

The question of **relief in non-international armed conflicts** has been of concern to the Red Cross for a very long time.² Since 1949

² Although the Red Cross was concerned in *practical* terms with this question very early in its career—as illustrated by its intervention in the third Carlist war in Spain, 1872-1876, and in Bosnia-Herzegovina in 1875—it was not until the IXth International Conference in Washington in 1912 that the question was taken up of an international convention on the subject. This proposal, put forward by Mr. Clark, a delegate of the American National Society, was not followed up. In 1921 the Xth Conference adopted a resolution (Resolution XIV) which recognized the right to humanitarian intervention by National Societies in the event of civil wars and social and revolutionary disturbances, and entrusted the ICRC with the task of supplementing, if necessary, the efforts of the National Society of the country

the legal position has been marked by the existence of a new regulation, Article 3 common to the four Geneva Conventions. Although this Article does not explicitly mention relief to the population, it nevertheless sets forth the spirit in which such relief should be provided, by stating that "*persons taking no active part in the hostilities ... shall in all circumstances be treated humanely,*" and "*the wounded and sick shall be collected and cared for.*" These phrases clearly indicate an obligation to provide assistance.³

At the time of the Diplomatic Conference which finally adopted the Additional Protocols, the ICRC had prepared a draft which sought to make the two Protocols as similar as possible. When adopted, however, the Additional Protocol relating to the protection of victims of non-international armed conflicts (Protocol II) contained only one provision concerning relief, Article 18, which is limited to a statement of the fundamental principles for relief actions without entering into the mechanisms for putting them into effect.

In situations of internal conflict, therefore, the main basis for relief actions for the population is still the right to humanitarian initiative, which Article 3 common to all the Convention accords to the ICRC.

No provision in the Conventions or Protocols, however, covers **assistance activities in the event of internal disturbances or tensions.** In these circumstances, the right of initiative which the Statutes of the Movement confer upon the ICRC constitutes the basis of its humanitarian activity. The International Committee is mainly concerned with the treatment and protection of political detainees, but

concerned and organizing an international relief action. Resolution XIV of the XVIth Conference held in London in 1938 confirmed the scope of Red Cross intervention as set forth in 1921.

³ Bearing in mind, but not mentioning explicitly, the blockade of Algeria by France, the XIXth International Conference of the Red Cross held in New Delhi in 1957 availed itself of what one might call the humanitarian opening left by Article 3 common to the four Geneva Conventions by expressing "*the wish that a new 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."

apparently its activities have to be extended into other domains such as relief for the civilian population and displaced persons, and protection against arbitrary treatment and indiscriminate attacks, in which the National Societies did most of the work until 1921. Their activities in these spheres have since tapered off because of the development of the ICRC's right of initiative and because many States disapprove of "their" National Societies giving aid to opponents of the regime.

For that matter, with a few outstanding exceptions, not all the National Societies possess the independence required for such tasks. The International Committee attempts, however, to associate the Societies with medical or food relief activities, dissemination of the Fundamental Principles and of humanitarian law, and the tracing of missing persons (Tracing Agency work).

III. Protecting assisted persons

The ICRC has always tried to link its relief activities and its protective mission. Assistance is complementary to protection. As we have seen, the Red Cross contribution in armed conflicts is to **associate** assistance and protection. Obviously, relief in itself is not what gives the Red Cross its unique quality (even if it does often do pioneer work in this respect!) but then neither is protection, of which it has no monopoly. Protection is not the preserve of the Red Cross alone, but of **law**, and in this particular case humanitarian law. It is a legal rule which primarily expresses, in a more or less mandatory manner, the determination of the political community to provide its members with a number of guarantees. Humanitarian law is also a product of this determination; it lays down rules that can protect victims of conflicts. It is for this reason that we began by examining the provisions in the Conventions and in customary law which relate to relief.

PROTECTION: A TERM WITH MANY CONNOTATIONS

We should look more deeply into the fundamental concept of protection. The Latin root of the word, *pro tegere*, which literally means "to cover in front", suggests a curtain or shelter against sun or storm, or a screen or shield to preserve a person or thing from danger. Synonymous or explanatory terms such as safeguard, guarantee, help, envelop, cover, screen, protect or mask all have the same connotation of security.

Along with the direct material sense of the word, there are derivative connotations which are of particular concern to us here. Generally speaking, to **protect** signifies:

- to help (a person) by sheltering him from attack, mistreatment or danger;
- to nullify attempts to compromise his integrity or to make him disappear;
- to satisfy his need for security; to preserve and defend him.

The word **assistance** encompasses several of these ideas—of rescue, defence, etc.—and gives prominence to the idea of **presence**; of standing ready to assist someone. In legal terms, for example, a **defence** lawyer **assists** a defendant who cannot **defend** himself.

In the International Red Cross and Red Crescent Movement the term protection is used in various contexts:

- The purpose of the Movement is “*to protect life and health and to ensure respect for the human being.*” (The Fundamental Principle of humanity).
- The XXth International Conference recalled “*the historic role of the Red Cross as a protector of victims of war.*” (Resolution XXIV of the XXth International Conference, Vienna, 1965).
- The new Statutes of the Movement define the ICRC as “*a neutral institution whose humanitarian work is carried out particularly in time of international and other armed conflicts or internal strife... to ensure the protection of and assistance to military and civilian victims of such events and of their direct results.*” (Statutes of the International Red Cross and Red Crescent Movement, Article 5, para. 2 d.)
- The Conference “*...urges the International Committee of the Red Cross to continue its efforts for the protection of the civilian population against the evils of war.*” (Resolution XIII of the XIXth International Conference, New Delhi, 1957.)
- Red Cross protection, as described in the background paper *Present role of the Red Cross in protection*, embraces “*three main categories of activities aimed at protecting individuals in conflicts: helping to develop international humanitarian law; helping to apply that law; engaging in ad hoc diplomacy on the basis of humanitarian motivation.*” (Re-appraisal of the Role of the Red Cross, Final Report, by D. Tansley: *An Agenda for the Red Cross*, page 21, July 1975.) This report does not, strictly speaking, define the notion of protection.

Despite the variety of ways in which the principle is expressed, we can distinguish two major forms of protection, determined by the circumstances of the victims.

- a) **In time of peace and social tranquillity**, when medical, social, and legal institutions, etc. are functioning normally: The persons to be protected are exposed to natural disasters or dangers or those due to shortcomings in medical and social structures. They are not in an intentionally hostile environment and they do not necessarily lack protection. In this case, Red Cross and Red Crescent action consists mainly in preventing disease, averting disasters or accidents or reducing their impact by protecting life and health. This is the special responsibility of the National Societies and their federation, the League of Red Cross and Red Crescent Societies.
- b) **In periods of international or internal armed conflict**: These are the circumstances covered by international humanitarian law; its particular purpose is to provide rules and mechanisms for aid to victims of conflict or of its direct consequences.⁴ This body of law has far-reaching objectives: through a very detailed structure of rules, it seeks to assure for an individual who is placed by the fortunes of war in the power of an adverse party **as normal a life as possible**, taking military necessity into account. Protection of course aims primarily at **preventing physical or psychological attacks** on the victims, but it also has the more ambitious and broader purpose of **preserving a certain quality and dignity of life** for them.

Humanitarian law, which links action in the field with the statement of principles, assigns the International Committee a special mandate. The situations in which the ICRC is called upon to act—armed conflicts, internal disturbances and tensions—produce victims who need to be both assisted and protected. The persons in need of protection are in an environment that is hostile or likely to become so. They have been deprived of their natural protectors, who are absent or powerless, incapable of assuming their proper role, or—as in the case of political detainees—unwilling to do so.

⁴ Quite different from “human rights” provisions, which are generally declarative and lacking in mechanisms designed to ensure effective respect for them in the field. International humanitarian law requires legal protection to be accompanied by verification procedures on the spot, carried out by Protecting Powers or the ICRC. This law does not provide absolute guarantees that it will always be fully respected, but it does lay down the “rules of the game” and means for their application.

They are **in the power of their adversaries** or threatened by them. They are regarded by the government (or party exercising authority) as enemies, even when they are nationals of the country it rules. These categories of persons are exposed to the risk of arbitrary treatment by the authorities. This is why the ICRC attaches such importance to their protection; protection here means ensuring that they enjoy humane treatment and basic security.

Their first line of protection is the law, which represents a guarantee upon which an individual or social group can depend. This is why the ICRC gives high priority to increasingly comprehensive rules capable of assuring the protection of victims, and to the dissemination of humanitarian law.

“Prevention is better than cure” goes the truism. To disseminate the law and make it understood is indeed a form of prevention, of warning and instruction. Thus understood, dissemination is an essential means of protection.

PROTECTION: SUPPORT AND DEFENCE

Recitation of the law and proclamation of humanitarian rules, however, is still not enough to ensure that they are fully implemented. This gives rise to the **practical** role of the ICRC, whose intervention is specifically provided for in international law.

To the International Committee, therefore, protection means even more than the development and dissemination of humanitarian law; it has an essentially practical dimension. Protection implies “*Any humanitarian action whose purpose is to protect the victims of armed conflicts and situations of internal disturbances and tensions from the danger, suffering and abuses of power to which they might be exposed, and to take up their defence and come to their aid.*”⁵

It is clear that assistance constitutes a direct complement to protection. If the efforts of the ICRC and other institutions succeed in protecting a refugee camp from enemy attacks, but then the refugees die from an epidemic, the protection has no meaning. Conversely, what good would it do to set up a medical infrastructure in a camp which is constantly under attack? Worse yet, how can an ICRC doctor treat the wounds inflicted upon prisoners by a torturer without trying to put a stop to this abuse of human dignity?

⁵ See F. Bugnion: *Le Comité international de la Croix-Rouge et la protection des victimes de guerre*, ICRC, Geneva (presently being written): Introduction.

In the view of the ICRC, protection means above all **presence**, manifested by visits, distribution of relief, tracing missing relatives, etc. Here the primary meaning of protection, which we have defined as the whole range of steps taken to establish, make known and apply humanitarian standards and principles, acquires a wider dimension and encompasses all the activities undertaken by the ICRC to safeguard the rights of victims and to preserve them from death, attack and the anguish resulting from the insecurity of their situation.

The key element determining ICRC intervention is not knowing how the relationship between protection and assistance is established, but ascertaining the degree of insecurity affecting the victims: the extent of the dangers to which they are exposed by war, internal disturbances or tensions. This is what the ICRC needs to know in order to decide whether to intervene or not. When it does intervene, the presence of the ICRC has two aspects:

- a quantifiable aspect, consisting of the services rendered to an individual or group of persons in the form of visits, relief, care, etc.;
- a less easily measurable aspect, the value or efficacy of the ICRC's presence in relation to the security of the protected persons.

The idea of protection is associated mainly with the second aspect, but in no way rules out the first: presence takes the form of a number of **services**, which are expected both to manifest and to provide real protection. Protection in this context means two things:

- assessing and observing the situation and, on this basis, intervening on behalf of the victims;
- assuring against, forestalling and preventing (harm, suffering or attacks upon them).

Even though the Geneva Conventions, in Article 1 common to all four, obliges the States not only to respect humanitarian law but also to ensure respect for it, the ICRC nevertheless has a special and unique mandate in this connection. It is assigned the task of helping to develop and disseminate humanitarian rules and principles, and of ensuring their application in the field. Its presence close to the battlefield and in the secret places of prisons, where it mingles with victims, makes the ICRC particularly well placed to carry out the function of inspection and **verification**.

INTERVENTION ON BEHALF OF VICTIMS

The ICRC does not merely list violations and abuses; it **intervenes** on behalf of the victims, speaking for them and defending them.

The ICRC accepts this task and carries it out as well it can, but cannot guarantee that its presence alone will be sufficient to protect the victims. It cannot guarantee that its presence will prevent attacks against civilians, disappearances and torture. The ICRC can of course declare that humanitarian law is applicable and do its utmost to ensure that it is respected, but cannot guarantee that it will always be applied by all the parties to a conflict.

The purpose of the ICRC's presence, however, is to **eliminate abuses**. By its presence and interventions it hopes to dissuade, if possible to prevent, and perhaps to educate.

This special mandate gives the ICRC a unique place in the world of the Red Cross and Red Crescent, the other components of which of course share its concerns. To be more precise, however, just what constitutes the specificity of the ICRC? Let us consider the following factors:

- **Protection is not the preserve of the ICRC.** The primary guarantor and natural protector of the rights of individuals is obviously the **State**. It is mainly when government services break down, and in principle only in that event, that other institutions can or should take over. As we have seen, the idea of protection may also relate to medical activity as such (treatment and prevention of disease); to activities carried out by a National Society in peacetime (a first-aid worker who helps injured persons and saves them from death is performing a protective mission); or to the activities of other international bodies such as the United Nations, the Office of the High Commissioner for Refugees, Amnesty International, the International Commission of Jurists, etc.
- Protection is in no way limited to activities connected with **visits to detainees**. Indeed, the visit itself is only the culmination of a process in which preventive measures (agreeing on procedures for visits, obtaining systematic notification of arrests, registration), vigilance, and repeated approaches to the authorities all offer protection (in the sense of **protection against disappearance**). During the period of detention, when the visits take place, the ICRC assists as much as it protects. It provides the detainees with various services: family news, medical care, var-

ious forms of relief, etc. Improvement of the general conditions of detention is part of both assistance and protection. If a visit may be seen as having a specific protective function, this relates primarily to the **prevention of torture** or other forms of ill-treatment, calling to mind the image of the “shield” which the ICRC delegates interpose between the prisoner and the detaining power.

- Assistance, quite obviously, is not limited to the provision of relief or medical care. What about the moral assistance rendered to the families of detainees, of missing persons, of refugees? What is giving food to the hungry, care to the wounded, if not the most fundamental gesture of protection: saving people from death?

What conclusions can be drawn from these observations? First of all, that it is just as superficial to speak of “assistance” when we mean relief as it is to speak of “protection” when we are referring to visits to prisoners. Both the visits **and** the distribution of relief must be carried out as integral parts of protection.

This leads us to a further observation which brings us back to our original statement: for the ICRC, “protection” and “assistance” are two aspects of a single commitment to bringing relief to victims of armed conflicts. The two terms designate **concerns**, and not activities. Unless we revert to such general expressions as “**humanitarian activity**” there would appear to be no single concept that covers the whole range of ICRC activities; and in any event neither one of the terms under discussion is adequate.

THE NEED FOR A NEUTRAL INTERMEDIARY

ICRC intervention depends on the prevailing **situation**. By its very nature, the ICRC is best qualified to intervene in situations of armed conflicts and internal disturbances or tensions. This specific role is recognized by the Statutes of the International Red Cross and Red Crescent Movement. In such situations, in other words where a neutral **institution** or **intermediary** is necessary, the ICRC steps in. We should note, however, that the terms “institution” and “intermediary” have various shades of meaning:

- in a restricted sense, the term intermediary designates a **mediator**, an agent serving as a go-between for two or several parties, a negotiator designated or accepted by all parties;

- in a broader sense, it refers to someone who **stands between** two others, a third party who places himself between two parties, a “warrior without weapons” who is independent and neutral;
- a **neutral institution** is not necessarily an intermediary. It may simply offer its services without identifying itself with one cause or the other (Latin. *ne + uter*).

In practice, the ICRC corresponds more often to the last two definitions than to the first. It is rarely called upon to serve as a negotiator, to establish protected zones, arrange exchanges of prisoners, etc. Because it is neutral and independent, the ICRC:

- is **trusted** by all parties;
- may therefore act without restriction in favour of the victims, that is, provide them with **protective relief**;
- may also offer its services to facilitate a meeting or dialogue between the adversaries, or even their eventual reconciliation.

A special characteristic of the ICRC is its **availability** for humanitarian work. This is primarily assured by its complete and consistent neutrality. In all its activities it seeks to **defend** those it assists, to keep them from dying of hunger, to protect them from ill-treatment, to make sure they do not “disappear” and that they are not attacked. This is obviously a **concern** and not strictly speaking an activity.

The overriding principle that the Red Cross must defend is neither presence at all costs nor efficacy alone, but the welfare of the victims. Here “welfare” means protection.

DIVISION OF RESPONSIBILITIES

The ICRC has always stressed one very simple but essential point:⁶ in countries or regions ravaged by conflict, Red Cross unity of action absolutely must be maintained. The relief operations conducted by the Red Cross cannot be dissociated from other more difficult and thankless tasks which the ICRC undertakes for the benefit of all victims: the relief it provides serves to back up

⁶ See, for example, J. Moreillon: “Red Cross assistance and protection”, in *International Review of the Red Cross*, No. 224 (Sept.-Oct. 1981), pp. 263-268 and J.-P. Hocké: “Humanitarian action: protection and assistance”, in *IRRC*, No. 238 (Jan.-Feb. 1984), pp. 11-17.

approaches it makes to the authorities. To separate assistance from protection could only do harm to the victims.⁷

Since governments and opposition movements tend to accept assistance, which is often in their immediate interests, more readily than they do requests for the protection of groups they consider as enemies, the authorities on either side may attempt to take advantage of such a separation and accept relief while rejecting attempts to provide protection to victims. The Red Cross and Red Crescent Movement can resist this tendency common to all authorities and organizations only by maintaining a consistent attitude which seeks to serve the interests of **all** victims and does everything possible to prevent those authorities or organizations from giving special preference to any one category of protected persons.

Some critics accuse the ICRC of inflexibility and “narrow legalism”. They argue that its insistence on linking assistance and protection tends to alienate States, which then look elsewhere for help. Furthermore, they feel that this “dogmatic” attitude tends to force National Societies into inactivity while other bodies such as international organizations, churches and non-governmental agencies are busy helping, thus casting discredit on the National Societies in public opinion.

In reply to these criticisms, the ICRC points first of all to its long-term credibility, which is inseparable from its responsibility towards the victims. Can such credibility be enjoyed by a National Society serving as a “front” for its government? Placing the emphasis on efficiency alone—acting quickly and doing a great deal—might lead to the down-grading of the **specifically Red Cross** nature of the action taken. Adherence to its criteria for intervention and to the Fundamental Principles constitute the long-term guarantee of the permanence of the Movement.

The provision of assistance is a rather delicate matter, which is particularly subject to political pressure. If we are not very careful,

⁷ “The relief operations of the ICRC are inseparable from its visiting and information activities, all mutually complementary and supportive. Just as a relief operation could be diffuse and ineffective unless based on an exact knowledge of the needs, identity and numbers of the victims, so collection of the relevant information would fail in its purpose unless coupled with assistance.” André Durand: *History of the International Committee of the Red Cross—From Sarajevo to Hiroshima*. Henry Dunant Institute, Geneva, 1984, p. 470.

The example of the Allied blockade during the Second World War illustrates this point perfectly. Mass relief shipments for prisoners of war in German hands were authorized only when the ICRC had furnished proof that it was capable of *verifying* their distribution (an essential aspect of protection activities), that is, when it had access to the camps.

prejudice, bias, and even personal interest may override protection, and therefore the interests of the victims. Thus the argument about “protection and assistance” brings out the vital importance of the three major principles or causes that the Red Cross must defend:

- defence of the **victims**, respect for life and human dignity;
- preservation of **unity** within the Movement;
- the **long-term** preservation of the credibility of the Red Cross and Red Crescent Movement.

It is for this reason that in drawing up the Statutes of the Movement and agreements between the ICRC and the League care was taken:

- not to allocate responsibilities in terms of “assistance” and “protection”, since these two concerns are so closely interwoven, but according to **situations** and whether or not a **neutral intermediary** is required;
- to make a clear distinction between responsibilities and activities: in a conflict situation for example, the management of international operations is the responsibility of the ICRC, although it is understood that the latter will involve National Societies as closely as possible in its activities.

Compliance with these guidelines has done more than to clarify the distribution of responsibilities within the International Red Cross and Red Crescent Movement; above all it has strengthened protection for the victims of war and armed conflicts of all kinds.

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