

Tenth Anniversary of the 1977 Additional Protocols

A Jordanian View

by Dr. Ahmad Abu-Goura

Twenty years after the adoption of the four Geneva Conventions in 1949, the concerned world humanitarian organisations and in particular the ICRC, felt the need to develop these humanitarian treaties. After several preliminary meetings with experts from various governments and National Societies, the ICRC came to the conclusion that it would not be appropriate to revise the 1949 Conventions, but that two additional Protocols should be drawn up. The first should deal with "international armed conflicts" and the second with "non-international armed conflicts". Both Protocols were intended to complement and supplement the Geneva Conventions. They are the outcome of prolonged and diversified discussions among high-ranking Red Cross and Red Crescent officials and government representatives who all attempted to find new solutions for gaps in the Geneva Conventions, thereby taking into account developments on the world political scene.

Some people might wonder: "What happened between 1949 and 1970?". During this period, the number of independent states increased, as did the membership of the United Nations. New regimes appeared, as the colonial era declined.

It is interesting to note that only about half of today's sovereign states took part in drawing up the Geneva Conventions of 1949. However, some countries failed to gain independence; and their peoples had to suffer a lot, due to the confiscation of their land by some occupying power. Hence, we started to hear about enormous movements of people; we started to hear about the dispersed, the displaced, the refugees, the expellees and deportees. Under such circumstances, liberation movements began to emerge on

the world level; people deprived of their legitimate rights supported these movements. For those people, these movements represented the proper expression of resistance. Nowadays, some of these movements are engaged in international armed conflicts and others in internal conflicts.

*
* * *

The Hashemite Kingdom of Jordan ratified the two Protocols in 1979. For Jordan, the two treaties represent highly important legal instruments of a humanitarian character. However, we realize that they have not yet been accepted worldwide and that they are not implemented or observed in different ongoing armed conflicts. Israel, as a party to the Arab-Israeli conflict, has not yet ratified them. Besides, Israel states that the Fourth Geneva Convention is not applicable in occupied territories.

The Jordan National Red Crescent Society thinks that Protocol I in particular, is of great relevance. Part of our lands is under occupation and our brethren there suffer a lot. This Protocol provides an additional legal basis for our humanitarian work. The relevance of Protocol I to the occupied territories is important, not only for Jordan, but also for other neighbouring Arab countries, as this treaty grants security and protection for the civilians who are so often the target of attack and abuse. We should also appreciate the relevance of this particular Protocol, as an instrument to better protect the indigenous civilian population from expulsion from their homeland by the occupying power.

The current situation in our region has given rise to several liberation movements. They act to exercise their peoples' right to self-determination and self-defence, and also to safeguard the territorial integrity of their countries; this belongs to the scope of Article 1 of Protocol I.

Protocol I also introduces articles which greatly improve the pre-existing law. As an example, Article 74 entitled "Reunion of families" is extremely important. The new rule strengthens considerably the law of the 1949 Geneva Conventions. Indeed, in our world today, there are numerous dispersed families suffering because of lack of contact with their kin. This reminds me of attempts made by our Society to arrange the reunification of some families separated as a result of the 1967 War. Applicants under 18 years of age were turned down, while the elderly were permitted to spend the rest of their lives in their homeland.

Taking into account the persistent denial, by the occupying authorities, of the applicability of the Fourth Geneva Convention of 1949, Article 75 of Protocol I is also extremely important. This rule grants fundamental guarantees to all persons affected by an armed conflict. Meanwhile the

provisions relating to “Measures for execution” (Article 80) and to the activities of the Red Cross (as described in Article 81) are considerable steps forward with respect to the Geneva Conventions.

Among the other outstanding new provisions of this Protocol are Articles 85 and 86 which deal with the repression of breaches of the Protocol, Article 90 which establishes an “International Fact-Finding Commission”, as well as the provisions on Civil Defence and on the protection of objects and installations containing dangerous forces. In addition to the aforesaid articles, Article 1 (4) in particular, is the most important of all provisions; it has a very special significance.

Acting upon its firm belief in humanitarian work, and always consistent with its policy to respect all humanitarian rules and laws, the Jordanian Government, as I mentioned before, ratified the two Additional Protocols with goodwill. By doing this, it aimed at ensuring a better protection to the Arab civilian population and detainees in the occupied territories. Both the Jordanian government and the Jordan National Red Crescent Society consulted each other step by step before and after the ratification of the Protocols.

On the local scene, the Jordanian National Society is deeply concerned with the dissemination of international humanitarian law and has assumed a major role in this respect. Its dissemination programmes make use of the media: T.V., radio stations as well as the local newspapers. Up to now, it has organised two regional seminars on dissemination: the first in 1981 in cooperation with the ICRC, and the second in 1986 in cooperation with the ICRC, the League of Red Cross and Red Crescent Societies and the General Secretariat of Arab Red Crescent and Red Cross Societies. I seize this opportunity to recall that during the 18th Arab Red Crescent and Red Cross Regional Conference held last March in Doha/Qatar, Jordan was selected as the site for “The Permanent Arab Red Crescent and Red Cross Centre for Studies and Research”.

It is widely known that the international humanitarian law is part of public international law. On this basis, the Jordan Red Crescent submitted to the previously-mentioned conference a proposal that international humanitarian law be taught at the law faculties of all universities and also in schools.

*

* *

International humanitarian law is not more than 120 years old—it is therefore still new. Thus, I think we should make use of experiences from armed conflicts in ancient history. We could deduce general rules and

principles from history which would help us to better understand present-day humanitarian law. I believe it is our duty to collect, classify, and document these rules. Such an undertaking could be very useful and helpful for us should we consider another development of international humanitarian law.

Sometimes I ask myself: "Why would some states refuse to ratify the Protocols, though their delegates actively participated and contributed to their development?". Protocols I and II in their present shape were adopted as a compromise acceptable to all parties who attended the Diplomatic Conference between 1974 and 1977. When I meditate about the reasons why some states would refrain from ratifying them, I am disappointed. The reasons for their inaction should be thoroughly examined and analysed because the Protocols pertain to humanitarian issues and not to political ones. Frankly, I find it rather absurd and unreasonable that governments should act against not only their own good but also against the good of humanity in general. Against this background, I think we, as National Societies, should help to speed up the ratification process. I admit that I often go very far with my imagination. In some parts of the world, the law of the jungle is predominant. "Power" and "authority" in these communities are dominant. Despite this, we still claim that our world is a civilized one. It is true that technology and science have made huge progress, but regrettably they are often invested in developing various tools of destruction and degeneration.

Man still lacks respect for the rights and dignity of his fellow men. Violations continue to be perpetrated with indifference. Given all this, how can we describe some countries as civilized?

Finally, I think the only way out for this world is through proper and well-organised dissemination and promotion of international humanitarian law on all levels, and through creating a powerful body to supervise its application and implementation everywhere. After all, security and peace in the world are our goal.

Dr. Ahmad Abu-Goura, M. D.

*Chairman of the Standing Commission of the
Red Cross and Red Crescent*

President of the Jordan National Red Crescent Society.