

# INTERNATIONAL COMMITTEE OF THE RED CROSS

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## Respect for International Humanitarian Law

### **ICRC Report on its Activities**

delivered by

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International Committee of the Red Cross

AT THE TWENTY-FIFTH INTERNATIONAL  
CONFERENCE OF THE RED CROSS  
*(Geneva, October 1986)*

MR. CHAIRMAN, LADIES AND GENTLEMEN,

After Bucharest in 1977 and Manila in 1981, this is the third time I have the honour of addressing you in my capacity as President of the ICRC. As it is also the last time, I would like to ask for your patience because, after ten years at the head of the ICRC, I wish to avail myself of this final opportunity—and do so without having constantly to glance at my watch—to take stock with you and, together, look to the future.

## I. THE MAIN CONCERNS OF THE ICRC

### **The growing number and length of armed conflicts**

Over the past five years, the number of armed conflicts—international, internal and a combination of both—has risen sharply; this has entailed a very substantial increase in ICRC activities in the field.

Thus, in 1976, the ICRC maintained 27 delegations in the field: today, there are 38. The number of our delegates and other staff (including those from National Societies) has grown in ten years from some 600 to almost 1,200 today, in addition to which there are more than 2,000 locally recruited employees.

**These conflicts, in which it is the ICRC's bounden duty to intervene, have not only grown in number but have also tended to last longer.** Let us consider some examples: ICRC delegates have been at work for almost 20 years in the territories occupied by Israel; for 11 years they have been endeavouring to protect and assist the victims of the tragic events in Lebanon. The conflicts in Kampuchea, Afghanistan and Iraq/Iran have been going on for six to seven years and more; in the conflicts in the Western Sahara and the Ogaden, some prisoners of war have been held in captivity for almost 10 years; in many cases, their families have had no news of them for years and often do not even know whether they are alive or dead.

Not only are conflicts increasing in number and length, but **practices prohibited by international humanitarian law are becoming more and more common:** the taking of hostages and sometimes their subsequent murder, acts of terrorism, torture and other ill-treatment of detained persons, and people reported unaccountably missing; it has even reached the point where whole civilian populations are subjected to starvation for the purposes of war.

Grave problems are being encountered in the application of humanitarian law. But it is not enough to speak of those problems without considering why there are so many conflicts in the first place, without considering the general state of international relations; for there too the situation is alarming:

**The use of force takes pride of place over negotiation.** Obligations under international law are too often neglected or scorned; humanitarian principles lag far behind other priorities—legitimate or not—set by States, such as what they conceive to be their immediate security and other strategic and military concerns. The fundamental rule prohibiting the use of threats and force in relations between States is thus frequently violated.

**Mistrust is one of the causes of over-armament, which, in turn, begets even greater mistrust.**

There is some promise, however, in the bilateral and multilateral efforts currently being made towards disarmament, such as the Conference on Disarmament and the Stockholm Conference on confidence and security-building measures and disarmament in Europe. We earnestly hope that this dialogue will blossom and bear fruit. Mankind simply must begin the process of disarmament. It is no exaggeration to say that it is probably a *sine qua non* for our very survival. This is the chilling reality which nuclear arms force us to face. As I said, over-armament, which is largely engendered by mutual mistrust, itself begets mistrust. We must break out of this vicious circle and restore a climate of trust in international relations based on mutual respect and international law. As dialogue between States is vitally important, my most fervent wish is that this Conference will be a scene of dialogue and that the Red Cross and Red Crescent Movement, by virtue of its unity and universality, will in this respect set an outstanding example.

Having said that, I cannot but acknowledge the fact that in recent years it has been an uphill struggle for the ICRC to carry out the mission of protection and assistance which the international community of States has assigned to it. To be sure, the international humanitarian law on which it has based those activities is highly developed; but it is necessary that the States respect these instruments and comply with their provisions.

## **The intrinsic nature of international humanitarian law**

What, in practical terms, is international humanitarian law? It is the concrete expression of the desire, affirmed by States in peacetime, to restrict violence in times of war, and of their willingness to accept the aid of a humanitarian institution in this endeavour.

The limit which humanitarian law sets to violence is based on the very simple idea of **respecting those who do not take part, or are no longer able to take part, in the fighting**. For what wounded, sick and shipwrecked persons, prisoners and civilians all have in common is that they are not—or are no longer—in a position to harm the enemy and therefore are not—or are no longer—legitimate targets for armed violence.

The world's States wanted to ensure that if their nationals fell into the hands of the enemy they would nevertheless be protected, not by the force of arms but by the force of law. As a natural consequence of the desire to protect their own nationals, the States committed themselves to granting similar protection to enemies who were not taking part in the fighting, whether in international or non-international armed conflicts.

But this protection is not granted as a matter of course when men's hearts are filled with hate and fear. The States are perfectly aware of this

and have therefore created **mechanisms to ensure respect for humanitarian law**. They have assigned to the States designated by the belligerents as Protecting Powers and to the ICRC, which inspired the development of this body of law, the difficult task of protecting defenceless persons who are in the hands of the enemy. Their task is not to plead these people's political cause but to alleviate their suffering, to guarantee that the minimum requirements of humanity which the international community has enshrined in the Geneva Conventions are fully respected.

Where Protecting Powers have not been designated, the ICRC must act as their substitute. This task is particularly difficult in an occupied territory, especially where the occupation is prolonged.

It is not always easy to persuade States in conflict to **maintain a balance between humanitarian imperatives and their security requirements**. It is even more difficult to convince States that their security would be improved if they granted victims of the conflict who are hors de combat the protection to which they are entitled under international humanitarian law. Yet is it not vital that civilians be treated humanely and that prisoners be granted adequate protection?

## Prisoners of war

This task should be easier in cases where the Third Convention—for the protection of **prisoners of war**—applies. The prisoners are entirely under the control of the enemy and are confined to camps which are run according to strict rules. It can hardly be difficult fully to respect the pertinent provisions of humanitarian law if the detaining authority has the will to do so, or to let the ICRC discharge its mandate without restriction, whether under the Third Convention in its entirety or simply under Article 3 common to the four Conventions, which relates to non-international armed conflicts.

Yet in recent years, the ICRC has observed an **undeniable deterioration in the implementation of these provisions by the States**. Whether holding several hundred prisoners of war or several tens of thousands, certain governments or other parties to the conflicts have, on the most varied pretexts, regularly or even systematically violated not only the provisions of the Geneva Conventions but even elementary rules of humanity. When you think about the suffering endured by these unfortunate prisoners—some of them hardly more than adolescents—you cannot help being saddened by the long list of violations, the first of which is **failing to give notification of capture**. This lack of news leaves not only the families of the prisoners to suffer the anguish of uncertainty but also the families of

servicemen killed in the fighting, for as long as there is no exhaustive list of survivors it is impossible to determine exactly who has died on the battlefield. This uncertainty is being experienced today by tens of thousands of families in Iraq, Iran, Lebanon, Western Sahara, Chad, Ethiopia, Somalia, Angola, Kampuchea, Afghanistan and other parts of the world; there, each day, people agonize about what has happened to a son, a husband or a father who has disappeared. Yet what would be more simple than to allow these prisoners, immediately after they are captured, and as required by the Third Convention, to fill in a capture card, and to authorize ICRC delegates regularly to visit all the captured combatants and interview them without witness? Too often in modern conflict, the prisoner of war becomes a sort of hostage, in complete violation of humanitarian law.

And I am not even speaking of the ill-treatment to which they are sometimes subjected, be it for the purpose of interrogation or to break their morale, or even to induce them to change allegiance. Obviously, the detaining authorities usually deny allegations of such violations, but they lend credibility to them as soon as they refuse the ICRC access to the prisoners of war. If the ICRC is barred from prisoner-of-war camps, then the international community must sit up and take notice, for that violation opens the way to all the others. Although ICRC visits do not constitute an absolute guarantee that ill-treatment will not take place, where they are carried out on a regular basis and include the possibility of interviewing the prisoners freely and without witness as required by the Third Convention, they generally guarantee at least a minimum observance of humanitarian norms. **The fact that the ICRC is allowed to make regular visits to all the prisoners and interview them without witness is unquestionably an initial indication that a State intends to respect the Third Geneva Convention.**

Thus, it is only when the authorities go beyond high-flown rhetoric and grant a neutral and impartial humanitarian organization access to defenceless individuals that they prove their willingness to respect their humanitarian obligations under the Conventions. The International Conference fully realizes this and since 1969, on the basis of this criterion of the ICRC's being allowed to take action, has adopted resolutions expressing its support for these activities and its concern about the question of respect for humanitarian law.

These then are the main concerns of the ICRC, stemming from its experience in recent years. The international community is kept abreast of them, through the ICRC's Annual Reports for example. In addition, this Conference has been given a summary of those reports in the form of our five-year report for the years 1981 through 1985; the five-year report is supplemented by the report on our activities in the first six months of 1986 and by this oral report.

## II. ARMED CONFLICTS OF PARTICULAR CONCERN

### Introduction

Besides these issues of general concern, there are certain situations which we think this Conference should concentrate on in the coming days. Those situations all have in common the fact that they are **armed conflicts, that is situations in which the Geneva Conventions apply**. Some of them are international armed conflicts in which the Conventions are applicable in full. Others are non-international armed conflicts in which only Article 3 common to the four 1949 Conventions, and also possibly Protocol II of 1977, applies. Still others are armed conflicts, the international or internal character of which is contested by one of the parties; these are often "mixed" situations: internal conflicts which have been "internationalized" by the presence of foreign troops, considered as occupation by one side and as military assistance by the other. Finally, there are situations of occupation to which the Fourth Geneva Convention applies, in the ICRC's opinion at least.

In any case, considering that these conflicts are covered by the Geneva Conventions and bearing in mind the **obligation which all States party to the Geneva Conventions have to "ensure respect" for those Conventions, it is natural for this Conference to concern itself with the ICRC's possibilities of taking action in all of these armed conflicts**. This concern is especially justified with regard to armed conflicts during which **the ICRC has had no access at all to the captured combatants**, such as in Iran for the last two years and in Afghanistan, Kampuchea, northern Chad, Angola and Mozambique. This has been the case despite the fact that the ICRC is currently carrying out major relief operations in several of these countries.

It would also be useful for this Conference, however, to give its attention to situations in which **the ICRC is present and does have access to captured combatants, prisoners of war or civilian internees, but in conditions which could and should be improved**: this is so in Iraq and Iran, in Lebanon, in the Western Sahara, in Morocco, in Algeria, in the Ogaden, in Ethiopia, in southern Chad, in Namibia, in Israel and in the occupied territories.

There are other armed conflicts in this troubled world of ours in which the ICRC is able to act without major restrictions and for which we do not have to request the particular attention of this Conference. Likewise, in the situations we are about to describe, the picture is not as black as could be,

and the ICRC's efforts have sometimes met with positive results. That being said, we shall now be focusing on situations currently posing problems to the ICRC; the more positive aspects of our work you will find mentioned in our Annual Reports.

Let us now take a look at the armed conflicts in which the ICRC feels that it needs—though not always to the same extent—the support of the International Conference.

## **1. Afghanistan**

Some consider the armed conflict in Afghanistan as being international in character; others consider it to be a non-international conflict. The ICRC, for its part, wishes to obtain an effective application of the fundamental rules of humanitarian law and, above all, wishes to be able to carry out its activities there in aid of the military and civilian victims of the conflict.

Will we be allowed to do so in the foreseeable future? This conflict has lasted for nearly seven years; since the Manila Conference and the solemn appeal directed to the parties to the conflict, the ICRC has spared no effort in its attempts to ensure respect for humanitarian principles. It has made many urgent approaches to the Afghan and Soviet authorities to obtain access to persons captured in the fighting or arrested for security reasons, and to be allowed to bring assistance to civilians affected by the hostilities.

However, except for two brief missions to Kabul in 1980 and 1982, during which the delegates were allowed to visit several hundred prisoners, the ICRC has not been permitted consistently to develop its activities as is required by its mandate and its customary practice.

Since April of this year, we have been conducting fresh negotiations with the authorities in Kabul. The dialogue is continuing, but we cannot yet predict what its results will be. We can only carry on hoping that an agreement, which has been sought for so long, will be reached and that we will be allowed to do effective humanitarian work to help the captured combatants, the civilian population, the wounded and the sick.

Parallel approaches made to the Afghan opposition movements with a view to aiding and protecting enemy soldiers captured by them resulted in 1980—following protracted negotiations carried on separately by the ICRC with the Afghan opposition, Pakistan, the USSR and Switzerland—in an agreement providing for the internment in a neutral country of Soviet soldiers held prisoner by them. Between 1981 and 1985, this agreement made it possible for eleven Soviet prisoners to be transferred to Switzerland under the aegis of the ICRC. There they were interned under

the responsibility of the Swiss authorities for a period of two years. However that complex procedure, which was the result of painstaking negotiations, has ultimately made it possible to provide protection and assistance for only a very small number of prisoners; it can therefore not be considered to have provided a sufficient solution to the problems at hand.

For this reason, the ICRC also expects the Afghan opposition to respect its humanitarian obligations, particularly with regard to the prisoners it captures.

## **2. Conflict between Iraq and Iran**

The war between Iraq and Iran is by far the biggest international armed conflict that the ICRC is dealing with at the present time. Although the belligerents have recognized the applicability of the Geneva Conventions protecting civilians and prisoners of war, considerable difficulties have been encountered in practice in securing respect for their provisions. Having noted serious and repeated breaches of international humanitarian law, the ICRC appealed to public opinion no less than six times between May 1983 and May 1985 in connection with the treatment of prisoners of war, the use of chemical weapons, and the bombing of civilians, instances of which are unfortunately increasing again today.

Moreover, in the face of these continuing violations, which threaten the lives and abuse the dignity of tens of thousands of victims and are contrary to the very essence and fundamental principles of international humanitarian law, the ICRC found itself compelled to appeal on three occasions to the States party to the Conventions, invoking Article 1 common to these Conventions, whereby these States undertake not only to respect these treaties, but also to **ensure respect** for them.

**In Iraq**, with regard to the protection of Iranian prisoners of war, the implementation of the Third Geneva Convention by the Iraqi authorities has steadily improved over the last few years. There nevertheless remains the problem, which dates back to the early days of the conflict, of a small group of prisoners who have never been visited by the ICRC.

The ICRC has regularly had access to some 10,000 Iranian prisoners of war; it has also just been granted access to approximately 2,700 other prisoners captured since February 1986, whom it had not been able to register until very recently. The Iranian prisoners are being visited by the ICRC delegates about once every six weeks, and have received such visits since the beginning of the conflict. These visits are carried out in strict compliance with the provisions of the Third Convention. Conditions of captivity in the camps visited by the ICRC have considerably improved in the course of the last few years.



The ICRC has, moreover, since 1983, been assisting several thousand Iranian families from Kurdistan and Ahwaz who are presently in Iraq. ICRC delegates regularly visit these families to assist them, pursuant to the Fourth Convention.

**In the Islamic Republic of Iran**, between September 1980 and October 1984, the ICRC registered some 45,000 Iraqi prisoners of war, but was unable to register several thousand others.

Most of the registered prisoners were unable to receive more than one visit from the ICRC. Over these four years, visits were often interrupted and the visiting procedure provided for under the Third Convention was constantly disputed and impeded.

In October 1984, the Iranian authorities halted the ICRC's protection activities in the prisoner-of-war camps. Throughout the two years which have elapsed since visits were suspended, the ICRC has nevertheless maintained its delegation in Iran so as to continue forwarding correspondence between the prisoners and their families. The ICRC's access to prisoners of war currently held in Iran has been the subject of renewed negotiation since spring 1986, and recently the Ministry of Foreign Affairs notified the ICRC of the Government's agreement in principle to the ICRC's resuming its visits; this agreement has been publicly confirmed. The ICRC thus hopes today to be able to resume its visits in the near future and to carry them out in accordance with the provisions of the Third Convention. In compliance with its humanitarian mandate, the ICRC urges the Iranian Government to co-operate and the community of States party to the Conventions to support its humanitarian mission.

### **3. Israel and the occupied territories**

#### *The legal situation*

Israel and the application of the Fourth Convention in the territories occupied since 1967 is a special case in the list of situations that deserve the attention of this Conference. This conflict is one in which the ICRC is not physically absent; on the contrary, our delegates have been present there for the past 19 years. It is an instance of particularly long-term application of the Fourth Geneva Convention, and a specific situation in which the Occupying Power disputes the applicability *de jure* of this Convention, whilst nevertheless stating its willingness to comply in practice with certain of its provisions. This being so, and in the absence of a Protecting Power, the ICRC's role as *de facto* substitute for such a Protecting Power is clearly not an easy one.

In January 1984, the ICRC handed the Israeli authorities a document listing the humanitarian problems encountered in the occupied territories

since 1967 and requesting the State of Israel to adopt a series of measures in conformity with the provisions of the Fourth Convention.

### *Protection of the civilian population*

So in Israel, and more particularly in the occupied territories, the ICRC has for 19 years been continuing its activity in aid of the civilian population protected by the Fourth Geneva Convention.

In 1982 and 1983, the West Bank, and to a lesser extent, the Gaza Strip experienced a period of turmoil and tension following the establishment of a **civilian administration in the occupied territories** in November 1981. There were demonstrations, which were sometimes brutally quelled, and which resulted in various counter-measures such as curfews and restrictions on freedom of movement imposed on entire towns and villages.

On the **Golan** heights, following Israel's decision to annex the area in 1981, the ICRC is finding it almost impossible to do its mandatory protection work in aid of the civilian and prison population. It is not even being notified of arrests.

ICRC delegates also carried out a further evaluation of the humanitarian consequences of Israeli **settlements** in the occupied territories, a colonization project conducted with the support of the Israeli authorities, which violates the Fourth Convention, in particular Articles 27, 47 and 49. The same applies to the destruction or walling up of houses, which is contrary to Article 53 of the Fourth Convention.

### *Visits to prisoners*

In Israel and the occupied territories the ICRC carries out two types of visits to prisoners: since 1967 it has been going to prisons to visit prisoners on remand and those who have been sentenced and since 1978 it has been visiting detainees under interrogation.

By way of example, with regard to detainees no longer under interrogation, the ICRC last year carried out—in addition to the series of complete visits—86 partial visits to places of detention and 73 special visits to detainees in 17 prisons, 12 police stations and one military prison: the total number of detainees visited comes to some 4,000, and 3,000 interviews without witnesses were held during the visits.

The ICRC has continued visiting detainees under interrogation, to whom it has had access, pursuant to an agreement with the Israeli authorities which has enabled the ICRC to carry out between 1,000 and 1,500 visits each year. It has recently been confirmed that—unless for absolute security reasons—the interrogation period for these detainees will not last more than four weeks, with the ICRC having access to these

people after 14 days in detention. The ICRC has likewise had access to persons arrested by the Israeli army during demonstrations and interned in military barracks.

### *Occupation of a part of Lebanon by Israel*

After its troops entered Lebanon in June 1982, the Israeli Government likewise considered that the Third and Fourth Conventions were not applicable to that situation. The ICRC considered that the said Conventions were applicable to it. On 7 June 1982, the ICRC therefore launched an appeal to the parties engaged in the hostilities to remind them of their obligations under international humanitarian law in force.

The ICRC repeated its approaches on several occasions, such as the blockade of West Beirut, when, on account of the very heavy shelling, the ICRC had to appeal to all the States party to the Conventions to put a stop to the suffering inflicted on the civilian population.

ICRC delegates were authorized to visit all the prisoners captured during this period, despite the fact that their status as prisoners of war or civilian internees had not been recognized by Israel.

Subsequently many repatriations, organized from August 1982 to May 1985, enabled these prisoners to rejoin their families. Two of these operations involved thousands of men and took several months of negotiations to organize and carry through.

Today, the ICRC is particularly concerned about the plight of arrested persons to whom it has no access and that of the civilian population in the area of southern Lebanon controlled by the Israeli armed forces. Confronted by the hundreds of houses destroyed, the thousands of people displaced and the very high number of arrests, it is continuing its approaches to the Israeli Government and the local authorities with a view to putting an end to these violations and being allowed to provide the victims with the protection they are entitled to.

### *Conclusion*

Both in the occupied territories and during Israel's intervention in Lebanon, failure to recognize the applicability of international humanitarian law has substantially diminished the protection of persons covered by the Conventions and weakened the influence that humanitarian law is designed to bring to bear upon government action; this more often than not leads to practices conflicting with the provisions of international humanitarian law. Moreover, this is a general issue which goes beyond the context of this conflict and warrants the full attention of this Conference.

#### 4. Kampuchea

The conflict in Kampuchea, like several others, is considered to be international by some and to be internal by others. There again, the main concern of the ICRC is to provide protection and assistance to all of the victims, wherever they may be.

Admittedly, the joint action taken since 1979 by the ICRC and UNICEF within Kampuchea and along the Khmer-Thai border, together with very many other humanitarian organizations, has brought relief to hundreds of thousands of starving and often sick **civilians**. But this statement does not mean that the fate of those Kampucheans, who are massed in a narrow strip of Thai territory along the Kampuchean border or even in unsafe zones inside the country, is any less tragically uncertain today. The food and medical assistance with which they continue to be provided in no way represents a lasting solution to the calamity which has befallen these people, who are trapped between opposing forces and who look with increasing despair to the future.

As I am speaking today to the assembled representatives of governments who have influence which could be used to hasten a solution to this conflict, I would like to plead with them, on behalf of all those men, women and children, to encourage more active attempts to find that solution and thus not overlook a tragedy which has ceased to be headline news.

And those civilians are unfortunately not the only human pawns whose lives and welfare are at stake in this conflict; the ICRC remains very concerned about the lives and welfare of the **prisoners**. Despite repeated approaches made to the various parties to the conflict, the ICRC has so far not been allowed to carry out its mandate and provide protection for prisoners inside Kampuchea, and it has only occasionally been allowed access to a very limited number of prisoners along the Khmer-Thai border.

Here too I launch an urgent appeal to all the parties to the conflict and to all governments in a position to support our efforts vis-à-vis those parties, and call for the rules of humanitarian law to be respected and the ICRC to be authorized without delay to carry out its mission on behalf of all the prisoners, wherever they are to be found.

#### 5. Lebanon

In a conflict which has been claiming countless civilian victims for over eleven years, ICRC delegates have been able, despite the gravity of the situation and thanks to their contacts and the relations of trust that have been established with all parties to the conflict, to provide protection and

assistance to thousands of people directly affected by the events.

Over the past few years, both the ICRC and the Lebanese National Red Cross Society have been facing increasing difficulty in fulfilling their mandates. Despite these difficulties, the ICRC and the Lebanese Red Cross have succeeded in assisting the wounded, even though they were not always able to intervene as rapidly as required. The ICRC has managed to gain access to certain persons held by certain parties to the conflict, although its delegates have been unable to visit many persons detained in connection with the events. The fate of thousands of persons reported missing since the beginning of the conflict remains unknown. Among the vast numbers of victims of this tragedy, the many first-aid workers of the Lebanese Red Cross who have lost their lives in the accomplishment of their duty are especially in our thoughts. With innocent civilians as the victims of shelling, car-bombs and hostage-taking, the ICRC appeals to all the parties to this conflict to curb the use of violence and to ensure that fundamental humanitarian principles are respected by all.

## **6. Namibia/South West Africa**

In Namibia the existence of an armed conflict cannot be denied.

On account of the restrictions imposed upon the work of its delegates by the South African authorities and despite numerous representations to these authorities, the ICRC has been able, since the opening of an office in Windhoek in 1981, to carry out only some of the tasks incumbent upon it under its mandate.

The ICRC must be granted access to areas in Namibia which are particularly affected by the conflict in order to carry out a truly effective operation in aid of prisoners and civilian victims. Its delegates must be notified of captures and arrests and be able to visit without hindrance persons detained in connection with the conflict, such visits being conducted in accordance with the relevant procedures under international humanitarian law. To date, the ICRC has not received a satisfactory reply concerning any of these points, despite the fact that, from the humanitarian point of view, the situation is extremely disturbing.

## **7. The aftermath of the Ogaden conflict**

Although the Ogaden conflict which set Ethiopia and Somalia at variance in 1977 is a situation clearly covered by the Geneva Conventions, the ICRC has encountered constant difficulty, in both countries, in fulfilling its mission of protection and assistance in aid of prisoners of war, some of whom have now been held captive for almost ten years.

Contrary to the provisions of Article 126 of the Third Convention, only on very rare occasions have ICRC delegates been authorized to speak

without witness with the 213 Ethiopian prisoners of war and one Cuban POW held in Somalia. On the other hand, in Ethiopia delegates have not been able to speak without witness with the 215 Somali prisoners of war for almost one year.

Notwithstanding repeated approaches since August 1977 to the two parties concerned, and despite the resolution adopted by the Twenty-fourth International Conference of the Red Cross in Manila in 1981, the ICRC is still awaiting a positive response to the question of repatriation of the seriously sick and wounded and access to all prisoners of war, as the two countries accuse each other of withholding prisoners from ICRC visits. Moreover, 10 years after the prisoners were captured, and although there is no longer any state of active hostility between the two countries, both governments still refuse to consider a general repatriation of all these prisoners, though they are obliged to repatriate them under the provisions of the Third Convention.

These men, whose health has in some cases been very seriously impaired, have become the forgotten hostages of political differences that persist between the two countries. This being so, the ICRC can but call once again upon the community of States party to the Geneva Conventions to support its efforts to ensure that the fundamental rules of humanitarian law are respected without further delay.

## **8. Western Sahara**

There is also some dispute as to whether the armed conflict in the Western Sahara should be regarded as an international or an internal conflict, and as to the obligations of the parties involved. For the ICRC, the situation is of particular humanitarian concern. Combatants have been captured on both sides. Their capture should have been notified to the ICRC and they should have been able to correspond with their families and receive regular visits without witness from ICRC delegates. The possibility of their repatriation after such lengthy captivity should also be seriously examined.

In 1984, the ICRC was granted access to 210 Moroccan prisoners held by the Polisario Front and to 99 Algerian soldiers in Moroccan hands. The same year 10 Moroccan prisoners were released by the Polisario Front and repatriated with the ICRC acting as intermediary. In 1985, a second group of 208 Moroccan prisoners was visited, and ICRC delegates twice visited another 35 Moroccan prisoners held by the Algerians. A few days ago, a further visit took place to 99 Algerian prisoners in Moroccan captivity.

The figures I have just quoted for the frequency of ICRC visits and the number of prisoners seen are not as impressive when considered against the length of time for which this conflict has gone on and when it is borne in

mind that years of intense negotiation elapsed between these all too infrequent visits to only a certain number of the prisoners. It should be pointed out that the ICRC has still not been notified of the identity of all the Moroccan prisoners held by the Polisario Front and all the Sahrawi prisoners held by the Moroccans. Moreover, since 1978 the ICRC has no longer been authorized to visit any Sahrawi prisoners in Moroccan hands. Most of the prisoners are victims of the political issues at stake in this conflict, and many are now entering their tenth year of captivity without ever having been able to communicate with their families, some of them not even receiving more than very intermittent visits—at best—from the ICRC.

This is a desperate situation for men who, simply because of the attitude of the parties to the conflict, find themselves deprived of effective and regular protection under the Conventions and have been waiting so many years for repatriation to put an end to their tragic plight.

## 9. Chad

In Chad, where our institution has been active since 1978, the ICRC has tried, in an extremely unsettled situation, to fulfil its mandate in aid of the victims of clashes between the *Forces Armées Nationales Tchadiennes* (FANT) and troops of the *Gouvernement d'Union Nationale de Transition* (GUNT). Since March 1984, the ICRC has regularly had access to some 700 prisoners detained by the government in N'Djamena. Conversely, it has not been able to visit prisoners captured by the government during the clashes in February and March 1986, nor has it succeeded, despite its repeated requests, in obtaining permission to visit government soldiers held in the north of the country.

## III. OTHER CONFLICT SITUATIONS

This summary account of the ICRC's field operations would certainly be incomplete if I did not also briefly refer to other conflicts, those in which the ICRC has been able to carry out its activities only to a very limited extent, or has not been able to act at all, certain parties to these conflicts preventing the victims from receiving the protection and assistance which the ICRC is authorized to offer.

In **Angola**, with the authorities' agreement, the ICRC has developed a large-scale food and medical assistance programme to help several hundred thousand civilians affected by the clashes on the high central plateau, in the provinces of Benguela, Huambo and Bié. It was able to provide protection

to a few prisoners captured in the south of the country following armed clashes between Angolan government forces and South African army troops. However, the ICRC's offers of services to the Angolan Government to visit persons captured during clashes inside the country have not so far met with any positive response.

In **Ethiopia**, in conjunction with the National Red Cross Society, the ICRC has launched a major food and medical assistance programme which, in May 1985, covered no less than one million persons living in areas stricken both by drought and by conflict situations, particularly in Tigre and Eritrea. However, the ICRC has still not been able to develop its traditional protection and assistance activities in favour of persons captured in the course of these internal conflicts.

In **Mozambique**, the ICRC has been trying since 1983 to set up programmes aimed at giving protection and assistance to the civilian and military victims of the conflict situation prevailing in the country, and has also offered its services to visit persons captured in that conflict.

Despite numerous requests, however, the ICRC has still not received the safety guarantees required for it to carry out its activities, nor has its role been fully recognized as that of a neutral institution working for the civilian population severely affected by the conflict.

In another area of the world, the situation in **Sri Lanka** is the source of serious humanitarian problems. The ICRC approached the Sri Lankan authorities back in 1983 to offer its humanitarian services and propose setting up programmes to ensure the protection of persons arrested in connection with the events, the transmission of news between persons detained and their families, assistance to civilians affected by the situation, and dissemination of knowledge of humanitarian law and the fundamental principles. The contacts made between members of the Sri Lankan Government and ICRC representatives both in Colombo and Geneva between 1983 and 1986 unfortunately achieved no concrete results, except for a project to disseminate knowledge of international humanitarian law, carried out jointly with the Sri Lanka Foundation. I can do no more here than express the ICRC's hope that it will be possible to re-establish and pursue a constructive exchange of views with the Sri Lankan authorities, and its desire to seek the support of the international community.

**Southern Sudan** — I should also like to voice my deep concern about the plight of the civilian population affected by the conflict situation in southern Sudan. In spite of numerous persistent negotiations conducted with the various parties, especially with the SPLA, the political and military priorities of the parties, as well as security problems, have thus far made it impossible for the ICRC to set up an operation to reach all the victims. The blockade of certain towns, used as a means of warfare, makes



this situation particularly intolerable. Nine ICRC delegates were stranded for over two months in the besieged town of Wau as helpless witnesses of the plight of its population.

**The Kurds** — Lastly, we cannot turn a blind eye to the long-standing conflict between the Kurds and several governments, a conflict in which the ICRC has been unable to carry out any of its humanitarian activities since 1981.

#### IV. DRAFT RESOLUTION

This brings me to the end of my review of conflict situations where the ICRC has been unable to carry out the basic humanitarian tasks which its mandate or its right of initiative should unquestionably enable it to perform; I should like to mention that the ICRC will be distributing, together with the text of this report, a draft resolution covering all the situations I have just described. After giving the matter careful thought, we considered it preferable to have a single resolution covering all armed conflict situations in which the ICRC expects firm support from this Conference.<sup>1</sup>

#### V. SITUATIONS INVOLVING INTERNAL DISTURBANCES AND TENSIONS

Besides the armed conflicts to which I have referred, there are *many situations involving internal disturbances and tensions* in which the ICRC works with varying degrees of difficulty or would like to be able to make use of its right of initiative laid down in the Statutes of the International Red Cross. These situations are not armed conflicts and are therefore not covered by the Geneva Conventions.

Information on those situations may be obtained from the various ICRC reports, and this Conference should take an overall approach to dealing with them, as it did in Resolution VI in Manila.

The fact that the situations in question are not mentioned in the draft Resolution to which I have referred, and which the ICRC is submitting to this Conference, does not mean that we are not concerned about them. On

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<sup>1</sup> This draft resolution was submitted to the Commission of International Humanitarian Law along with other draft resolutions and amendments introduced by several delegations. All the drafts were examined by a working group set up for this purpose. The working group tabled a draft resolution which was adopted by consensus first by the Commission and then by the Conference (Resolution I) during its plenary meeting of 31 October 1986 (See *International Review of the Red Cross*, November-December 1986, pp. 327-329 and 340-342).

the contrary, in some cases—as in South Africa, for example—they involve problems of humanitarian law and principles as severe as, if not even more severe than those encountered in certain armed conflicts, an example being the imprisonment of tens of thousands of security detainees.

## VI. FOR A HUMANITARIAN MOBILIZATION

Our review does not purport to be exhaustive; it makes no mention of numerous other, non-operational ICRC activities, most of which will be discussed in connection with other items on the Agenda.

At this point, and by way of conclusion, I wish to confine myself to item 2.1 on the Agenda and focus on the main issue, that is **the supreme importance for the States party to the Geneva Conventions to respect and ensure respect for international humanitarian law.**

Whenever faced with serious and persistent difficulties in performing its tasks and unable to overcome them on its own, the ICRC has unfailingly drawn attention to this obligation, which, by virtue of Article 1 common to the four Geneva Conventions, is incumbent upon all the States party to the Conventions. In some particularly difficult situations, several governments have indeed made representations to States which were neglecting, partially or totally, to abide by the provisions of the Geneva Conventions. We wish to convey to those governments our sincere thanks, while emphasizing that every State party should give further careful consideration to the idea of the States' joint responsibility.

The ICRC wishes to take this opportunity to express its gratitude to all the governments and National Societies which give it their financial support. It is also grateful for the confidence they show in the ICRC every time they facilitate its work.

I should also like to thank the Council of Europe, the Organization of African Unity (OAU) and the Inter-Parliamentary Union (IPU), which have in the past two years adopted resolutions in support of the ICRC.

We must realize that only stricter respect for the rules of humanitarian law will make it possible to prevent the condition of defenceless human beings from fast becoming unbearable. It is therefore our collective duty to make those in power understand the many arguments in favour of enhanced respect for the Law of Geneva and the Law of The Hague.

I shall mention only a few here:

- **moral, religious, ideological, ethical or political principles** existing in all civilizations and in every political system demand respect for the person who is unable to or can no longer fight, and require that one should

- treat others as one would wish to be treated oneself in similar circumstances;
- **maintaining at least a minimum dialogue** between adversaries to help restore peace must remain a constant objective, and humanitarian law contributes towards its attainment: experience shows that unresolved humanitarian problems eventually become serious obstacles to the restoration of normal relations between countries. Conversely, humane treatment of prisoners or enemy civilians is the first step towards peace;
  - **the preservation of cultures, civilizations and life** in all its forms is an intrinsic part of humanitarian law: by affirming and strengthening the principle of distinguishing between combatants and non-combatants, in spite of the terrifying means of destruction invented by man, humanitarian law is ultimately a warranty of **mankind's survival**;
  - similarly, States are sensitive when it comes to their **image** in world opinion, and nothing tarnishes the image of a government more than its violations of essential humanitarian rules.

Even where the formal application of law is contested, humanitarian principles must prevail, the essential values of humanity must be respected at all times. The first of these is recognizing the spark of humanity in all men. As Octavio Paz, a Mexican writer, said, denying the humanity of another is denying our own humanity.

**The protection of humanitarian values must be one of the priorities of States and of every man, and part of a collective strategy; it must be included in negotiations and international agreements and have the support of the public conscience.**

It is therefore essential to understand that respect for humanitarian law is an indispensable stage in bringing back a more humane world. First of all civilians must be spared, then they must be able to have the medical aid and food they need for survival. But it is also necessary, once the initial emergency is over, to help them sink wells and give them seed with which to grow crops, and lastly, to make sure that the scourge of war will never again strike their families or their belongings and that their rights and convictions will be respected. **Respect for humanitarian law thus becomes the first step on the road to peace.**

The ICRC wishes to submit for your consideration this review, both comprehensive and fundamental, of respect for international humanitarian law, because the work you do, each one of you, as members of governments, National Societies, national or international organizations, contributes directly or indirectly towards ensuring the application of humanitarian law and humanitarian principles, thereby helping to foster the spirit of

peace in a world where conflicts abound. That was also the message which the ICRC wished to convey when, on 10 January 1985, its President launched the **"Appeal for a humanitarian mobilization"**, declaring that:

"Everyone must realize the urgent and drastic need for a great upsurge of humanity and solidarity, which has become indispensable in view of the present and potential madness of human violence. But the ICRC does not for a moment imagine that it can win the struggle on its own: it must mobilize governments and the Red Cross and Red Crescent Movement to join in the battle for universal respect of defenceless human beings.

"The staggering humanitarian needs of the future call for commensurable efforts. By States, first of all.

"By the Red Cross and Red Crescent Movement, which must throw into the struggle for the respect of man's dignity all the moral strength of its principles and universality. The ICRC, too, must be mobilized for an all-out, long-term effort to disseminate knowledge of international humanitarian law, contribute to the development of National Societies and seek material and political means to conduct a humanitarian strategy in keeping with the mandate entrusted to it by States in the Geneva Conventions. To cope with the increasing number, variety and duration of conflicts, with the inhumane treatment arising from the hardening of ideological, or even religious and racial attitudes, and with the declining respect for treaties and law in general, only a concerted action by all the forces of universal humanitarianism, a mobilization of States and peoples, might raise in any decisive manner the level of respect for humanitarian rules in conflicts—short of abolishing war altogether."

The need for this appeal and for an effective response to it remains as acute today as when it was made. May this Conference strive to give such a response, tackling important issues with calmness, determination and lucidity, and aware of its responsibility towards future generations.

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