

# Red Cross assistance and protection <sup>1</sup>

by Jacques Moreillon

## 1. Introduction

Assistance is the essence of all Red Cross actions; protection and assistance are the essence of all ICRC actions.

To approach the subject of this paper "Red Cross assistance and protection", one should recall a few basic rules and concepts as guidelines in this study.

Firstly it should be clear that we shall not deal here with situations of natural disasters, which normally require Red Cross assistance only. Nor shall we deal with situations of internal disturbances or tensions, which involve mainly the ICRC and its activities in favour of persons detained for political or security reasons.

We shall therefore address ourselves only to situations of armed conflicts—whether international or not—and of their direct results, including refugees.

Secondly we should determine the categories of persons who, in these situations, call for Red Cross assistance and protection: to use one word for all of them, one could say that they are "the helpless". Indeed, whether prisoners of war, civilian internees or refugees, whether wounded, women, children or aged, their common denominator is helplessness. Helpless in the hands of the enemy or helpless in the face of sudden adversity and on foreign soil, they need the assistance and the protection of the Red Cross, whether to survive or simply to keep their human dignity.

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<sup>1</sup> Introductory speech read at the Second Asian Regional Conference of the Red Cross, Djakarta, 4-11 February 1981.

## **2. The relation between protection and assistance in armed conflicts**

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

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

Thus, basically, protection and assistance cannot be separated in situations of conflict, even though it may be possible, in the interest of clarity, to consider them separately, as we shall do in this paper.

## **3. Protection**

### *Definition*

Neither the Geneva Conventions nor the International Red Cross Statutes contain a definition of “protection”, undoubtedly because it is a concept that is easily understood. Yet if a definition were required one might say that, in Red Cross action, “to protect” implies preserving the helpless victims of conflicts who are either in the hands of an adverse authority or, as refugees, totally dependent on the will of a host country, not party to the conflict, from the dangers, sufferings and abuses of power to which they may be exposed; it also implies defending them and giving them support. In a broader sense, one can say that “protection” also includes developing, publicising and ensuring application of and respect for international humanitarian law.

Basically, the action of protection is linked with the ICRC’s role as a neutral intermediary entrusted to it by the Geneva Conventions, the

Statutes of the International Red Cross and the resolutions of International Red Cross Conferences; in practice it has frequently been exercised in situations beyond the scope of the Conventions.

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

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

#### *Participation of National Societies in the function of protection*

National Societies are in fact associated by the ICRC in the function of protection wherever circumstances permit.

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

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

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

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

- (a) participate in assistance action;

(b) undertake protection tasks when asked to do so by the ICRC or by all parties to a conflict.

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

### *Role of the League of Red Cross Societies*

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

This article indubitably constitutes a further step forward in ICRC-League co-operation, a co-operation which has been intense in the past years.

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

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

The mention of this agreement brings us to the question of assistance strictly speaking, especially for refugees.

## **4. Assistance**

### *In case of an armed conflict*

The 1969 ICRC-League Agreement provides that where the civilian population stricken by an international conflict is in its own national territory, and particularly where displaced persons are involved, the ICRC assumes general leadership of international action on behalf of the Red Cross as a whole.

As we have seen above, this is necessary because of the close links between protection and assistance in the event of a conflict and in order

to reach all victims, including those who would otherwise be left without help. This also holds good where action is to be for the benefit of the civilian victims of a domestic conflict. In both cases it is necessary to protect certain categories of the population from discrimination.

The League of course maintains full relations with National Societies of countries involved in a conflict. It might even, at times, intensify its contact with them consistent with articles 4 and 5 of the 1969 Agreement.

### *In favour of refugees*

To ensure protection in countries at war, the ICRC may have to co-ordinate all operations, including those relating to civilians who have taken refuge in a third country, sometimes even when the intervention of a neutral intermediary is theoretically not or no longer necessary. Sometimes, as in cases where frontiers are easily crossed or where neighbouring countries may exert considerable influence, an overall approach by a single institution on both sides of the border is indispensable if the unity of Red Cross action is to be maintained. This has, for instance, been the case on the border between Thailand and Kampuchea.

However, there are many situations where this comprehensive aspect of the situation does not have to be taken into account or is non-existent and where it is quite naturally the League which co-ordinates the action of National Societies for the benefit of refugees. Such has been the case, for instance, with refugees in Malaysia.

There can be no hard and fast rule settling beforehand whether it is the League or the ICRC which co-ordinates Red Cross efforts for refugees. This can only be established on a case by case basis, through dialogue between the Geneva institutions. The co-ordinating body provided for in the ICRC-League Agreement is precisely there to make these discussions easier, and what matters is much more the human quality of that dialogue than the legal quality of written agreements.

### *Protection in a broad sense*

As we have indicated before, protection in a broad sense includes the development of international humanitarian law and the dissemination of knowledge of that law.

There are two points regarding protection in its broad sense that are of particular concern to the ICRC and to the Red Cross movement at the moment, namely promoting ratification by the governments of the 1977 Protocols and defining the ICRC attitude towards allegations of violations of international humanitarian law. Because of lack of space,

these two important matters are simply mentioned here, but the reader will no doubt grasp the paramount significance of having the 1977 Protocols, which are the latest development in international humanitarian law, ratified by as many States as the Geneva Conventions; on the second point, the attitude the ICRC should adopt in case of alleged violations of international humanitarian law, an article was published in the *International Review of the Red Cross* (March-April 1981), to which the reader may refer.

**Jacques Moreillon**

*Director of the Department  
of Principles and Law in the ICRC*

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