

## THE STRUGGLE AGAINST TORTURE: TOWARDS GREATER EFFECTIVENESS

*Torture is prohibited by public international law and explicitly forbidden by domestic legislation in many countries. Yet the least that can be said is that it continues to be practised today, whether by the use of violence or by increasingly insidious methods, more and more frequently involving children. To such an extent that in 1976, realizing the magnitude and seriousness of the problem, the ICRC felt obliged to speak out and explain the efforts it deploys to combat torture.<sup>1</sup> And perhaps never since the end of the seventies have so many governmental and non-governmental international organizations been so active in the fight against torture.*

*As the international community has recently celebrated the 40th Anniversary of the Universal Declaration of Human Rights and prepares to mark the bicentenary of the Declaration of Human and Civil Rights, it seems an appropriate moment to review the legal and practical measures taken to combat torture and the campaigns launched in recent years by public and private organizations and within the International Red Cross and Red Crescent Movement.*

*In an in-depth analysis of the instruments of public international law aimed at combating torture, Professor Hans Haug, Member of the ICRC and President of the Swiss Committee against Torture, retraces events which led up to the "Conventions against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" adopted by the United Nations on 10 December 1984. He goes on to review the provisions of the Convention in order to highlight not only the progress achieved, but*

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<sup>1</sup> "In general,... the ICRC unequivocally and unreservedly deplores and condemns all torture, in any form and on any pretext. It supports all efforts at international or domestic legislation intended to safeguard human beings more effectively against torture. Above all, it appeals to the conscience of every individual to put an end to this vilest and most degrading practice devised by man". This statement was made in 1976 by the ICRC, which was particularly disturbed by the repeated and even systematic recourse to torture. "The International Committee of the Red Cross and torture", *International Review of the Red Cross*, No. 189, December 1976, p. 610.

also the limitations which become apparent as soon as the principles come up against everyday reality. Indeed, the international supervisory measures provided for under the Convention to guarantee its application are far from satisfactory (see page 9).

If there are so many legal and judicial obstacles to proper application of the Convention, and if it is so difficult to eradicate torture both internationally and domestically, would it not be better to attach greater importance on the one hand to prevention of this evil, and on the other to tackling it at the regional level? These questions have prompted initiatives aimed at drawing up regional conventions and improving inspection systems. Since 1977, for instance, the Swiss Committee against Torture and the International Commission of Jurists have been endeavouring to make preventive mechanisms and supervision more effective, by instituting a system of periodic visits to places of detention by an international committee. At first the Swiss Committee was in favour of a separate Convention, but it later modified its approach and proposed a Protocol additional to the 1984 UN Convention. It is these bodies which also inspired the Council of Europe to adopt, on 26 June 1987, the "European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment", which provides for a non-judicial preventive mechanism based on visits. Inspections would be carried out by a European Committee responsible for organizing visits to places where persons are detained by a public authority.

It is interesting to note that the Convention expressly stipulates that the future European Committee "shall not visit places which representatives or delegates of Protecting Powers or the International Committee of the Red Cross effectively visit on a regular basis by virtue of the Geneva Conventions of 12 August 1949 and the Additional Protocols of 8 June 1977 thereto".

This provision, which takes account of the specific terms of reference conferred on the ICRC by the Geneva Conventions, also highlights the problems raised by detention in times of armed conflicts, whether international or non-international, which differs in many respects from detention in times of peace.

It therefore seems opportune in this issue of the Review to recall the ICRC's contribution to efforts to prevent torture, and in particular its activities for the benefit of political prisoners, its objectives in this regard and the methods it employs, which have enabled it to visit some 500,000 detainees in around 100 countries since 1918 (see page 26).

There is no doubt that the new European Convention adds a further dimension to the fight against torture insofar as it provides that the future

*Committee will carry out visits to all categories of persons deprived of their freedom at all times, even when there are no disturbances or tensions.*

*The activities of the ICRC and of the future European Committee are therefore complementary. Accordingly, and especially in the event of internal disturbances and tensions, there will be a need for co-operation, the arrangements for which will have to be worked out as soon as the European Committee has been set up.*

*The need for joint discussions was highlighted at a seminar organized in Strasbourg on 7-8 November 1988 by the Council of Europe, the Swiss Committee against Torture and the International Commission of Jurists to prepare for implementation of the European Convention, which is scheduled to come into force on 1 February 1989.*

*Encouraged by the extremely favourable reception of the June 1987 Convention by the European States, the Swiss Committee against Torture and the International Commission of Jurists are also endeavouring to promote a similar Convention for the Americas, to be applicable to both North and South America. And what is to prevent the extension of such instruments to Africa and Asia?*

*Many public and private initiatives are being taken in all regions of the world. These initiatives testify to the extent to which torture has become a matter of prime concern for the international community and has mobilized governmental and non-governmental organizations alike to show the same determination in order to achieve a universal goal: stamping out torture in all its forms. This task requires regular exchanges of information and co-ordination of action at all levels, a fact reflected by the objectives of the recently established World Organization against Torture, set up to assist the NGOs (see page 33).*

*The International Red Cross and Red Crescent Movement has always worked along the same lines. ICRC efforts have always been backed by the other components of the Movement, especially since 1977 when, by its Resolution XIV, the Twenty-third International Conference of the Red Cross in Bucharest condemned torture in all its forms.*

*The Twenty-fourth Conference held in Manila in 1981 even called for large-scale mobilization of the Movement against the practice of torture, requesting "the United Nations Organization to expedite the adoption of an international convention against torture and other cruel, inhuman or degrading treatment or punishment" and appealing to the National Red Cross and Red Crescent Societies and the League of Red Cross and Red Crescent Societies to enhance public awareness of and support for the struggle against torture and to support the ICRC's efforts to prevent and eliminate torture.*

*At the Twenty-fifth International Conference (Geneva, 1986), States were encouraged to step up their efforts to combat torture, in particular by ratifying the United Nations Convention against Torture and by drawing up regional conventions (Resolution X). At the same time, however, the Conference also appealed to the National Red Cross and Red Crescent Societies, urging them "to take the initiative to give, either independently or in co-operation with their government, humanitarian, legal, medical, psychological and social assistance to victims of torture in exile and, whenever possible, in their own countries" (Resolution XI).*

*In this connection, the Review felt it would be useful to include in this issue an account of the work being carried out by the Swedish Red Cross for refugees who have been subjected to torture, through its Centre for Treatment of Victims of Torture (see page 38). This experiment enters on a whole new area of medical and social activities which may be adopted by other National Societies and thereby contribute to the fight against torture, the "cancer of humanity".*

*The Review*

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