

# Applicability of international humanitarian law to United Nations peace-keeping forces

by Umesh Palwankar

## Introduction

In recent years, and especially in 1992, the number of United Nations peace-keeping operations has increased at an unprecedented rate. Thirteen such operations were carried out between 1945 and 1987, whereas fourteen have been initiated since 1987. In 1992 alone, three new operations were started — in Cambodia, the former Yugoslavia and Somalia — and 1993 brought another, in Mozambique. The number of United Nations personnel deployed in the field quadrupled during 1992 to more than 50,000 persons, with a total budget of some \$2,500 million at the end of the year.<sup>1</sup>

## United Nations peace-keeping forces: definition and characteristics<sup>2</sup>

United Nations peace-keeping forces (PKF) are not armed forces raised by the Security Council by virtue of Articles 43 and 47 of the United Nations Charter, nor are they organized by the States Members on the basis of an invitation (as in Korea in 1950) or of an authoriza-

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<sup>1</sup> Figures taken from a UN publication: "Background Note: United Nations Peace-keeping Operations", prepared by the Communications and Project Management Division, Public Information Department, PS/DPI/15/Rev.2, September 1992.

<sup>2</sup> For general works on United Nations forces, see: Michael Bothe, "*Le droit de la guerre et les Nations Unies*", *Etudes et travaux de l'Institut Universitaire de Hautes Etudes Internationales*, No. 5, Geneva, 1967, pp. 137-239; D.W. Bowett, *United Nations peace-keeping. A legal study of United Nations practice*, Stevens & Sons, London, 1964; Rosalyn Higgins, *United Nations peace-keeping 1946-1967: Documents and commentary*, Oxford University Press, Oxford, Vol. I: *The Middle East* (1969), Vol. II: *Asia* (1970), Vol. III: *Africa* (1980), Vol. IV: *Europe* 1981; Finn Seyersted, *United Nations forces in the law of peace and war*, Sijthoff, Leyden, 1966.

tion by the Security Council (as in the Gulf in 1990, and Somalia in 1992). Both these categories are empowered to use coercive measures to *restore* international peace and security (or adequate security conditions) in the region concerned.

The PKF differ from the forces previously mentioned, primarily in that their mandate is to *keep* the peace.<sup>3</sup> In this area, two broad types of operations undertaken by the UN may be distinguished. One involves the sending of an *observation mission* [examples: United Nations Truce Supervision Organization (UNTSO) in Palestine, 1948, and United Nations Military Observer Group in India and Pakistan (UNMOGIP), 1949]. Here, the sole function of the mission's members was *observation*, any active role being ruled out. Since these forces are unarmed, no questions concerning the applicability of international humanitarian law (IHL) arise.

UN forces taking part in the other broad category of operations have the specific mandate to *keep* the peace by supervising the armistice or ceasefire agreements which are a precondition for the deployment of such forces. A peace-keeping operation, therefore, is a temporary arrangement aimed at maintaining the necessary conditions of peace and security, and especially preventing a resumption of hostilities, so that negotiations for settling the differences between the parties can take place; the idea being that the physical presence of a neutral and impartial multinational force could have a powerful deterrent effect on the combatants. Such PKF were first deployed in 1956 [United Nations Emergency Force (UNEF I, in the Sinai and the Gaza Strip)], and continue to be used today [United Nations Protection Force (UNPROFOR) in the former Yugoslavia, and United Nations Transitional Authority in Cambodia (UNTAC)].

The contingents assigned to the PKF are provided by the States on a voluntary basis at the request of the UN Secretary-General. Moreover, the government of the territory to which the PKF is to be sent, as well as the other party or parties directly involved in the conflict, must also give their assent.

A PKF is placed under the command of the UN, in the person of the Secretary-General, but is under the authority of the Security Council, which the Secretary-General keeps fully informed. Command

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<sup>3</sup> Since the PKF are not mentioned in the Charter, their legal basis can be questioned. In practice, however, their legality has been uncontested whenever they have been set up by the Security Council. For fuller details on this point, see in particular Yves Sandoz, "The application of humanitarian law by the armed forces of the United Nations Organization", *IRRC*, No. 206, September-October 1978, pp. 274-284; and Michael Bothe, *supra*, note 2.

in the field is exercised by a commander appointed by the Secretary-General with the approval of the Security Council. The commander is answerable to the Secretary-General.

The characteristic of the PKF which directly raises the question of applicability of IHL is that its members are *armed*. It would be useful here to cite the relevant paragraph of the report that the Security Council requested of the Secretary-General when it was contemplating setting up the United Nations Interim Force in Lebanon (UNIFIL) on 19 March 1978.<sup>4</sup>

*“D) The Force will be provided with weapons of a defensive character. It shall not use force except in self-defence. Self-defence would include resistance to attempts by forceful means to prevent it from discharging its duties under the mandate of the Security Council. The Force will proceed on the assumption that the parties to the conflict will take all the necessary steps for compliance with the decisions of the Security Council”.*

The theoretical and practical problems involved in fulfilling the PKF mission within the limits of the above-mentioned guidelines but without violating IHL will be examined later in relation to the present operations in the former Yugoslavia and in Cambodia. It suffices here to stress the real risk of seeing the PKF becoming involved in a conflict, such as happened during the operation in the Congo in July 1960.<sup>5</sup> The question of the applicability of IHL to the PKF thus has two aspects: first, the respect for IHL shown by these forces; and secondly, the part they can play in ensuring respect for the law.

## **Applicability of IHL to the PKF: position of the ICRC and the International Conference of the Red Cross and Red Crescent**

Both the ICRC and the International Conference of the Red Cross and Red Crescent have on many occasions expressed their opinion on the applicability of IHL to the PKF. Several examples of these affirmations, made at various times and in different forms, could be cited.

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<sup>4</sup> UN document S/12611, p. 2.

<sup>5</sup> “To a large extent, the United Nations troops have been able to fulfil their mandate solely by their presence, using persuasion and conciliation. But they have also made use of their weapons. The nature, extent and duration of these armed incidents have varied”, Michael Bothe, *op. cit.*, p. 143.

*At the official level*, we should mention the *Memorandum* entitled “Application and dissemination of the Geneva Conventions” of 10 November 1961, addressed to the States party to the Geneva Conventions and Members of the UN, in which the ICRC draws the attention of the UN Secretary-General to the necessity for ensuring application of the Conventions by the forces placed at the disposal of the United Nations. Since the UN, as such, is not party to the Conventions, the ICRC considers that each State remains individually responsible for the application of these treaties whenever it provides a contingent for a PKF. In consequence, the State should do what is necessary, especially by issuing appropriate instructions to the troops before they are posted abroad.

The Memorandum also stressed that by virtue of Article 1 common to the four Conventions, which also requires the High Contracting Parties to ensure respect for the Conventions, the States providing contingents “*should each, where necessary, use their influence to ensure that the provisions of humanitarian law are applied by all the contingents concerned, as well as by the unified command*”.

Resolution XXV (“Application of the Geneva Conventions by the United Nations Emergency Force”), adopted by the 20th International Conference of the Red Cross (Vienna, 1965), made three recommendations. Two of them propose:

- that appropriate arrangements be made to ensure that armed forces placed at the disposal of the UN observe the provisions of the Geneva Conventions and be protected by them (para. 1); and
- that the authorities responsible for the contingents agree to take all necessary measures to prevent and suppress any breaches of the said Conventions (para. 3).

Similarly, in a letter of 10 April 1978 addressed to the UN Secretary-General when a PKF was set up in Lebanon (UNIFIL), the President of the ICRC referred to the contents of the above-mentioned memorandum and resolution, and also proffered an opinion on relations between the PKF and the ICRC, both of which were operating on the same territory but under different mandates. He wrote: “*The ICRC knows that it can count on the United Nations and the forces it has deployed in Lebanon to facilitate freedom of movement for ICRC delegates and to guarantee, as far as possible, their safety in the regions where they have to conduct their humanitarian activities in accordance with the Geneva Conventions*”.

Members and staff of the ICRC have on numerous occasions reaffirmed, in studies and essays, the position of the institution. For example: “The obligation on the UN forces to observe the fundamental principles of the Geneva Conventions can hardly be questioned today”. Concerning the Protocols: “It would seem in any case that the UN should take account of the principles which inspired the Protocols”.<sup>6</sup> And lastly: “It is uncontested that the United Nations is bound by the customary rules of IHL when engaged in hostilities”.<sup>7</sup>

*To sum up*, the position of the ICRC on the applicability of IHL to the PKF and its observance by these forces emphasizes that:

- the fundamental principles and customary rules of IHL are applicable and must be observed;
- to ensure this, the States providing contingents are under an obligation to issue appropriate instructions to their troops and the UN is under the same obligation with respect to the unified command;
- any breaches of IHL must be repressed by the national authorities of the contingent concerned; and
- since there is a certain complementarity between the ultimate objectives of their respective mandates, the PKF should cooperate with the ICRC, but in no case hinder its activities or question its competence.

## Position of the UN

It would be useful here to recall certain important factors in the UN position regarding the applicability of IHL to the PKF.

*At the legal level*, following discussions within the UN on the possibility of the organization becoming party to the instruments of IHL, the conclusion was reached that certain provisions of the Convention could not apply to or be applied by the UN (for example, those relating to occupation [Articles 27-28 of the Fourth Convention], to the repression of grave breaches [Articles 49/50/129/146 respectively of the four Conventions, Article 85(1) of Protocol I, etc.].

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<sup>6</sup> Yves Sandoz, “The application of humanitarian law by the armed forces of the United Nations Organization”, *IRRC*, No. 206, September-October 1978, p. 283.

<sup>7</sup> Dietrich Schindler, “United Nations forces and international humanitarian law”, in *Studies and essays on international humanitarian law and Red Cross principles in honour of Jean Pictet*, Christophe Swinarski, ed., ICRC, Martinus Nijhoff, Geneva/The Hague, 1984, p. 526.

Moreover, since there is no definition (or even mention) of “peace-keeping forces” in the instruments of IHL, these forces might appear as “combatants”. It would also have to be determined whether the UN may, or may not, be considered a “Power” for purposes of acceding to the Conventions. Then there is the problem that might arise should the same force comprise troops from States party to Protocol I and States that are not party to the Protocol.

*At the political level*, a request from the UN for accession to the IHL treaties, or even an attempt to arrive at a general declaration on the applicability of IHL to the PKF (in the form of a resolution by the General Assembly, for example), would create the risk of opening a sensitive debate on the Protocols. On the other hand, a request to accede to the Conventions alone would be prejudicial to the promotion of IHL as a whole.

Finally, it should be noted that although the soldiers within the UN forces are bound by the commitments made by their States of origin, the UN has always insisted on the fact that during the exercise of their mandate these troops are under the sole authority of the organization and not that of their respective States.

*The official documents supporting the position of the UN are as follows:*

- The “Interoffice memorandum” addressed on 24 May 1978 by Mr. Guyer and Mr. Urquhart to all commanders of UN forces then operative, and a memorandum, dated 30 October 1978, from the Commander-in-Chief of the UN forces to all commanders at General Staff and contingent level. This memorandum specifies that, in cases where the forces have to use their weapons in accordance with their mandate, the principles and spirit of the rules of IHL should apply, as laid down in the Geneva Conventions of 1949, the Additional Protocols of 1977 and elsewhere.
- A letter of 23 October 1978 to the President of the ICRC (in reply to a letter from the President dated 10 April 1978), in which the UN Secretary-General stresses that “*the principles of humanitarian law ... must, should the need arise, be applied within the framework of the operations carried out by United Nations forces*”.
- Another letter, also dated 23 October 1978, addressed by the UN Secretary-General to the permanent representatives of governments sending contingents to the United Nations Interim Force in Lebanon (UNIFIL). This letter points out that in situations where members of such forces have to use their weapons in self-defence,

in conformity with guideline D, the principles and spirit of IHL “as contained, inter alia, in the Geneva (Red Cross) Conventions ... [and] the Protocols of 8 June 1977 ... shall apply”. To this end, the States providing contingents must ensure that their troops fully understand the principles of IHL and the measures to be taken to ensure their observance. The UN, for its part, “undertakes, through the chain of command, the tasks of supervising the effective compliance with the principles of humanitarian law by the contingents of its peace-keeping forces”.

*In short*, the position of the UN with regard to the applicability of IHL to the PKF is not entirely satisfactory. Admittedly, there have been some declarations in the past, but these were selective and contained no more than a commitment to respect the principles and spirit of IHL. The UN could therefore also examine the most appropriate means of ensuring the application of the pertinent rules of IHL to its forces, including those relative to the methods and means of warfare, to different categories of protected persons, to respect for the distinctive emblems (in this case the Red Cross and the Red Crescent), and to medical personnel and transports.

## **Current problems**

In the light of the foregoing observations, we can examine the present situation with reference to the UN’s decision to send PKF into the former Yugoslavia and Cambodia. This involves identifying the shortcomings and problems (existing or foreseeable), both at the general level (ICRC – UN – States providing contingents), and at the operational level, i.e. the implementation of and respect for IHL by the PKF themselves, the role of these forces in ensuring respect for IHL among the different entities on the spot, cooperation between the PKF and the ICRC, and envisaging the steps to be taken.

At the general level, it should be noted that the dispatch of PKF to the former Yugoslavia and Cambodia was not preceded, as on previous occasions, by official measures on the part of the UN to draw attention to the role of IHL.

This is an oversight that should be rectified, especially as other operations have been set up (Somalia, Mozambique).

At the time of writing,<sup>8</sup> there has been no formal statement by the UN on the applicability of the pertinent rules of IHL to its forces.

There has not even been a letter from the UN Secretary-General to the States providing the contingents, such as that of 23 October 1978, reminding them of their obligation to ensure that their soldiers are fully informed about IHL and to repress any violations of the law.

## **Measures to improve dissemination of IHL**

It should be stressed here that primary responsibility at the operational level for ensuring implementation of and respect for IHL by PKF devolves upon the UN. The UN Secretariat has been reminded of this by the ICRC, which also declared its readiness to help, as far as it was able, in disseminating IHL among the PKF, in particular by issuing a model plan of instruction in IHL adaptable to the specific needs of each PKF.

In addition, various programmes designed to spread knowledge of IHL could be undertaken by the ICRC in cooperation with the States concerned and the UN.

One important measure would be the dissemination of IHL among the contingents before their departure, especially by the relevant ICRC regional delegation. The ICRC delegation in New York could also brief contingent commanders when they pass through UN headquarters.

Lastly, it would be of vital importance to ensure that dissemination activities are carried out in the country of operations, by delegates working on the spot or by ICRC specialists in dissemination to the armed forces. Here, as on other occasions, it could be stressed that the application of and respect for IHL are in the interest of the members of the PKF themselves, for in certain situations they could find themselves caught up in an armed conflict or even be detained by one of the parties. It would then be easier for them to have recourse to the whole system of protection and responsibilities provided for in the IHL treaties.

One could even go further and envisage the dissemination of the principles and fundamental rules of IHL by the PKF themselves among the armed units of the parties to the conflict with which they come into contact. This would be part of these forces' responsibility

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<sup>8</sup> April 1993.

under IHL to promote respect for the law. The practical steps to be taken would be the selection or proposed selection of a person to be responsible for humanitarian affairs within the PKF; this person would then set up a group of officers capable of teaching the rules of IHL to members of both the PKF and the armed forces in the region concerned.

## **Implementation of and respect for IHL by the PKF**

It would be appropriate to mention very briefly the basic elements of the mandate of the PKF in the former Yugoslavia (UNPROFOR) and in Cambodia (UNTAC) which touch on, or could touch on, the applicability of IHL on the one hand, and ICRC activities conducted by the ICRC in these regions on the other.<sup>9</sup>

In both cases the PKF have military, administrative and police components. The military component has the task of stabilizing the security situation and creating a climate of trust conducive to a negotiated settlement in the former Yugoslavia, and to the holding of elections in Cambodia. With this in view, the PKF will supervise the ceasefire and withdrawal of all foreign forces in Cambodia, and the withdrawal of armed forces from the demilitarized zones in the former Yugoslavia, in particular by disarming and demobilizing the combatants and protecting the population living in the demilitarized zones from any armed attack by setting up crossing points at strategic positions. The members of the PKF carry light weapons to be used solely in self-defence, but are also provided with armoured vehicles for transporting troops and with air support.

There is enormous scope here for the application of the provisions of IHL covering the conduct of hostilities, should the case arise, and especially the whole body of principles and rules of IHL relating to different categories of protected persons.

The other component of the PKF, the civilian police, although unarmed, will have the task of closely supervising the work of the local police to ensure the impartial and effective maintenance of public order and full respect for human rights and basic freedoms. For this purpose, the civilian police forces will accompany the local police on

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<sup>9</sup> For details of these mandates, see: Report of the Secretary-General pursuant to Security Council Resolution 721 (1991), S/23280, 11 December 1991, Annex III (for UNPROFOR); and Report of the Secretary-General (S/23613 and Add.1) reproduced in Press release, United Nations, SC/272, 28 February 1992 (for UNTAC).

their patrols and have free and immediate access to all premises belonging to the local police or under their control.

Here, as with the activities of the PKF listed at the beginning of this section, the whole question of detention and the ICRC's mandate arises.

The mandate of the military component of the PKF makes no mention of the force's competence to take prisoners. On the other hand, the extent of that mandate as outlined above suggests that in particularly tense situations the PKF could make arrests should the situation so require. This happened once in the past, during the UN operation in the Congo, and the role of the ICRC in such circumstances emerges clearly in the description of these events by a specialist.<sup>10</sup>

The civilian police force of the UN, on the other hand, has the specific mandate to supervise all the activities of the local police and enjoys freedom of access to all their premises. This means that all detainees held by the local police come under the supervision of the UN civil police.

As for the competence of the ICRC operating in the same area as the PKF, the situation is fairly clear in situations of international armed conflict, where the legal rules contained in the relevant provisions of the Third and Fourth Geneva Conventions can be invoked to justify visits to prisoners of war and civilian internees or supervision of their release. The situation is more sensitive in non-international armed conflicts. It would be preferable in such cases for the ICRC's mandate to be set out in a general agreement (e.g.: The Paris accord on the political settlement of the conflict in Cambodia). Failing this, the ICRC should negotiate an agreement with the UN.

The position of the ICRC is quite clear as regards the communication of reports on visits. As a general rule, reports on visits to prisoners captured by the UN forces are delivered to the prisoners' Powers of Origin, the UN and the governments of the States whose contingents have captured or are holding the prisoners visited.

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<sup>10</sup> "Circumstances developed in a way that it became necessary for the UN peace-keeping force to arrest and detain some of the foreign mercenaries who took up arms against the UN. A contingent of the mercenaries was actually captured in a field operation and detained under UN custody at the Kamina military base in Central Congo. The detainees were treated according to the rules laid down in the 1949 Geneva Conventions, Part III on Prisoners of War. The UN handling of the detainees was supervised by ICRC representatives". Bjørn Egge, "Coordinating UN peace-keeping operations and relief and refugee programmes", paper submitted to the Nordic UN Seminar, Oslo, 29 June 1988, p. 13.

Another area of applicability of IHL to PKF is obviously the respect and protection which these forces owe to the emblem and to medical personnel, transports and establishments. In practice, this does not appear to cause any problems and never has done. On the other hand, referring again to dissemination of IHL in the countries in which the PKF operate, the forces could make a special effort to promote respect for the emblem and for ICRC medical activities among the armed units of the parties in conflict.

## **Possible role for the PKF in promoting respect for IHL**

We are concerned here with determining how the PKF could ensure respect for IHL by the armed forces of the parties to the conflict, police forces and the population.

One way would be to draw up reports on violations of IHL in the sectors where the PKF are deployed. In fact, the mandates of both UNPROFOR and UNTAC<sup>11</sup> foresee that certain of their components (the civilian police in the former Yugoslavia, the human rights component in Cambodia) will have the task of investigating alleged violations of human rights, and the military component (in the case of the former Yugoslavia) of alleged violations in the demilitarized zones. The Secretary-General might ensure that the PKF do the same in respect of violations of IHL, which in some cases also amount to violations of human rights. These reports could be sent to the parties concerned and/or the Security Council to put a stop to such violations and to ensure that appropriate sanctions are applied to those responsible. In this context, both the State concerned and the UN could promote the application of Article 89 of Protocol I (cooperation)<sup>12</sup>

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<sup>11</sup> *Supra*, note 9.

<sup>12</sup> "In situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties undertake to act, jointly or individually, in co-operation with the United Nations and in conformity with the United Nations Charter" (Article 89, Protocol I).

"Acting for the protection of man, also in time of armed conflict, accords with the aims of the United Nations no less than does the maintenance of international peace and security. The Organization showed its concern in two main ways: first, by its participation in the process of reaffirming and developing international humanitarian law; secondly, by its resolutions on the applicability of humanitarian law and requiring its application to given situations or categories of persons, and also by issuing reports evaluating the application and respect of that law.

The United Nations actions to which Article 89 refers may therefore consist of issuing an appeal to respect humanitarian law, just as well as, for example, setting up enquiries on compliance with the Conventions and the Protocol". Commentary on

and, in addition, the role of the International Fact-Finding Commission (IFFC).

Let us recall here that requests for the services of the IFFC are not automatically confined to international conflicts. At its constituent meeting on 12 and 13 March 1992 in Bern, the IFFC declared itself ready to take action even in situations of civil war if asked to do so by the parties.

In conclusion, the PKF could also play a preventive role, particularly by monitoring the activities of military or paramilitary forces operating in sectors in which UN forces are deployed.

## Cooperation between the PKF and the ICRC

There can (and should) also be cooperation and coordination between the humanitarian activities of the PKF and those of the ICRC. This is evident if one looks at practice to date, which shows that operational cooperation has involved tracing missing persons, prison visits, relief work, investigations, release and repatriation of prisoners of war (POWs), evacuations, transport and medical services.

Some examples are cited below:

Concerning the operations of the United Nations Peace-keeping Forces in Cyprus (UNFICYP, since March 1964), one of the reports of the UN Secretary-General mentioned that: *“With regard to humanitarian activities, a meeting was held ... with representatives of the International Committee of the Red Cross (ICRC) and it was agreed that the Red Cross would assume primary responsibility for providing relief and taking care of refugees, prisoners, missing persons, allegations of atrocities and similar problems that are traditionally within the terms of reference of the ICRC. The force will continue to play an active role, including investigations and local negotiations, and will fully assist and cooperate in carrying out humanitarian relief operations”*.<sup>13</sup>

With reference to the above-mentioned investigations, a resolution of the General Assembly had requested the Secretary-General *“to provide his good offices, through his Special Representative in Cyprus,*

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Article 89 of Protocol I, in *Commentary on the Additional Protocols of 1977 to the Geneva Conventions of 1949*, Yves Sandoz, Christophe Swinarski, Bruno Zimmerman, eds., ICRC, Martinus Nijhoff Publishers, Geneva/The Hague 1985, paras. 3596, 3597, pp. 1034-1035.

<sup>13</sup> Additional report by the Secretary-General on the situation in Cyprus, S/11353/Add. 12, 31 July 1974, para. 5.

to support the establishment of an investigatory body with the participation of the International Committee of the Red Cross which would be in a position to function impartially, effectively and speedily so as to resolve the problem without undue delay".<sup>14</sup>

Similarly, in Cyprus, "[b]ecause of the blockading of certain areas inhabited by Turkish Cypriots, the ICRC has been trying, together with the United Nations, to obtain relaxations enabling these localities to receive food supplies".<sup>15</sup>

Within the context of the UN operations in the Congo (UNCO), a note from the special representative of the Secretary-General stresses that: "The Secretary General ... repeats his request that the United Nations be permitted again to visit the persons detained and to ascertain their treatment through representatives of the Red Cross".<sup>16</sup> Apart from these visits, the ICRC even organized the exchange of prisoners.<sup>17</sup>

At present in Cambodia, although primary responsibility for the repatriation process rests with UNHCR, all the ICRC's surgical and medical facilities in the country are obviously available to the returnees. Moreover, the ICRC's Central Tracing Agency is especially active in the zones controlled by the factions. In addition, the institution may have to become involved in the protection of minorities.

In the former Yugoslavia, UNPROFOR arranged a meeting between Generals Mladić and Halilović in Sarajevo on 17 and 18 April 1993. The agreement signed at the conclusion of these discussions, which provided for a ceasefire and the demilitarization of Srebrenica, mentioned a role for the ICRC in evacuating the sick and seriously wounded and in supervising the exchange of prisoners and casualties.

With a view to pursuing this humanitarian cooperation with the PKF, the ICRC is trying to identify suitable areas and to negotiate *ad hoc* arrangements with the PKF command, insofar as the present situation permits.

**In conclusion**, it can be said that:

— IHL is indeed applicable to the PKF.

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<sup>14</sup> Resolution 32/128, 16 December 1977 (Missing persons in Cyprus), para. 1.

<sup>15</sup> *IRRC*, No. 43, October 1964, p. 515.

<sup>16</sup> S/4590, 9 December 1960, Annex: Text of a protest note addressed by the Special Representative to the principal authorities in Stanleyville, para. (f).

<sup>17</sup> Michael Bothe, *op. cit.*, p.223.

- The UN has in the past recognized the applicability of at least the principles and spirit of the rules of IHL.
- An undertaking by the UN aimed at consolidating the applicability of IHL to its forces would be an excellent means of promoting the applicability of and respect for the law by States providing the contingents, by the State on whose territory the operation is being conducted, and by all parties to the conflict. Such promotion of IHL is in fact an objective of the international community, as expressed in the resolutions which the UN General Assembly has adopted every two years since 1977 on the status of the Protocols additional to the Geneva Conventions.<sup>18</sup>
- Much remains to be done, however, to reinforce implementation of and respect for IHL by the PKF, not only at the formal but also at the operational level, bearing in mind both present and future operations. At the moment, the ICRC is examining the most appropriate means, and is counting on the cooperation of the States and the United Nations.

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<sup>18</sup> Two paragraphs may be cited from the preamble to the resolution adopted by the General Assembly at its forty-seventh session, 1992 (RES/47/30), in which the Assembly declared itself:

*"Convinced* of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances ...;

(...)

*Stressing* the need ... for universal acceptance of such law ...".