

NATIONAL SOCIETIES AT INFORMATION MEETING

As it had already done in the past, and thanks to the kindness of the League, the ICRC invited on 22 September representatives from the Red Cross, Red Crescent and Red Lion and Sun National Societies, who were present in Geneva for the League Executive Committee, to its headquarters, in order to acquaint them with its present activities, both practical and general. They had thus the opportunity of listening to a number of accounts, which were then followed by a general discussion.

Mr. Marcel A. Naville welcomed the guests to the institution of which he is president, and then delivered the following address :

The ICRC and the Taking of Hostages

The International Committee is profoundly disturbed at the increase and alarming escalation of acts of violence in the world committed in flagrant disregard of humanitarian principles. One aspect is the taking of hostages, that is to say the sequestration of persons and threats to kill them to compel authorities to give up some advantage in a conflict in which the hostages are not concerned. We therefore wish to convey our anxiety to our readers.

What can the ICRC do in such a situation? Should it announce that the taking of hostages is contrary to law?

That, it has always done. For over half a century the Red Cross has raised its voice in protest against hardship inflicted upon innocent parties on the pretext of military or political necessity. For example, in its appeal of July 1943, the ICRC had enjoined governments to "respect, in spite of any military considerations,

man's natural right to fair treatment and freedom from liability for actions which he has not committed. ”

The ICRC's appeals were heeded, since the Fourth 1949 Geneva Convention forbids the taking of hostages and all reprisals upon civilians. It thus gives the force of law to the principle that none shall be held responsible for acts he has not personally committed. This prohibition is valid in internal conflicts also, and even more so in time of peace. The embodiment of this principle in law was considered to be a major victory for humanity and was applauded.

Today, however, the taking of hostages is becoming increasingly frequent and the ICRC is keenly aware of the predicament in which it finds itself: as the promoter and guardian of humanitarian law, it is its duty to denounce breaches of that law which is violated whenever hostages are taken and *a fortiori* whenever a hostage is killed; whenever a government yields to blackmail it is in breach of its own law and encourages further blackmail. In addition, the ICRC is the impartial protector of conflict victims; it can only hope that innocent hostages will be released.

We have therefore asked ourselves the question: what are the limits or conditions which the ICRC should set to its intervention in such a delicate field? I think you will be interested to know the result of our thinking today.

In the first place, the ICRC will not cease from proclaiming that the taking of hostages is a serious violation of humanitarian law and that it either causes innocent victims to suffer if the government concerned does not yield to blackmail, or it leads to an escalation of breaches of law and hence the destruction of institutions designed to protect individuals. The ICRC points out also that reprisals too are forbidden by the Fourth Convention. Even if at times it feels that such an attitude arouses no sympathy from the parties involved, the ICRC must not cease from propagating humanitarian law rules. For this it must be able to rely on National Societies.

In the second place, whenever circumstances permit, the ICRC will provide hostages with material assistance, will draw up a list of their names, enquire into the conditions of their detention and endeavour to evacuate the sick and the wounded; all that is part of its humanitarian mission under treaty law.

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In addition, in negotiations between the captors and the government or governments concerned, the ICRC acts as an intermediary under the following conditions:

- it must first be requested to intervene; the request may be made by the captors, one or several of the governments involved, or by the hostages or their families;
- the two parties to the conflict must then signify their agreement to ICRC intervention, to the exclusion of any other intermediary;
- intervention shall be impartial; the ICRC is not a party to such negotiations. It does not take the initiative and if it is involved it is only as a channel of communication to ensure that the captors and the governments understand each other and know exactly the conditions posed and the reply given.

It is thus, in any case, the political authorities of the country or countries concerned which must decide whether to accept or refuse the conditions of the captors. Moreover, the ICRC does not guarantee the fulfilment of the conditions in the event of acceptance.

Such is our thinking on the attitude we must adopt in these trying circumstances. The alarming hypothesis is that when parties taking hostages achieve their objectives they will repeat the operation after releasing their hostages. The problem therefore is to strike a balance between the release of innocent victims, sequestered in breach of the law of one or more States, and the maintenance of that law at the risk of incurring the detention or even the death of hostages. To seek such a balance is the responsibility of the governments involved. They are faced with the dilemma of reaching decisions which, whatever they may be, are liable to have far-reaching consequences.

The ICRC cannot but repeat resolutely that the taking of hostages, like reprisals, leads to the escalation of violence and the collapse of the legal structures necessary in human society. The ICRC must protect victims of conflicts and act as an intermediary between parties to a conflict, under the conditions mentioned above. By so doing, it remains faithful to its own characteristic mission.

Mr. Raymond Courvoisier, Special Assistant to the President and Operations Director, gave a full description of the practical activities at present carried out by the ICRC throughout the world and particularly in the Middle East.

Mr. Jean Pictet, Chairman of the Legal Commission, then delivered the following address :

The Development of Humanitarian Law

Exactly two years ago, on the third of September 1968, I had the honour of announcing at a meeting, similar to the one today, of Red Cross representatives that the ICRC had committed itself to a stage further, and a very necessary one, too, in the development of humanitarian law. Already at that time, we had received some encouragement from the United Nations, for the Conference on Human Rights held at Teheran in May 1968 had invited the Secretary-General of the United Nations to get in touch with the ICRC with a view to making a combined study of the matter.

We would like to take this opportunity, while you are in Geneva, to let you know what we have achieved so far in this important undertaking.

But first of all, let me recall to you briefly the main subjects, at present at least, which are under examination, and which include the following headings.

In the first place, there is the question of the protection of civilian populations against indiscriminate warfare, a subject which is not covered by the Fourth Geneva Convention. In this respect, it was found that the lack of legal provisions had led to grave consequences, not only during the Second World War, but also in the course of more recent conflicts.

Another field is that of the protection of the victims of internal conflicts. The need on the humanitarian plane is urgent, as conflicts increasingly take on the form of civil wars, which cause proportionately more suffering than international wars, as could be observed in Nigeria. Although Article 3, common to all four Geneva Conventions, has already proved to be of great value,

experience has shown points where it should be more explicitly worded or supplemented.

There is, too, the guerrilla problem. This method of waging war, which today has become very serious, raises a great number of delicate questions that will require a solution on the humanitarian plane. It leads to the question of belligerence and irregular armed forces: who is it who may lawfully carry out hostile acts and who may be the target of such acts?

Next, I would like to mention the subject of a better protection for the wounded and sick. Several organizations, including the Red Cross, have studied this problem, at times under the term "medical law". The principal subjects are the protection of civilian medical personnel, which until now has been quite inadequate, the wide application of these provisions to internal conflicts and the marking of hospital ships and aircraft.

Finally, there is the section on the control of sanctions and the prohibition of reprisals.

There should not be any misunderstanding about one thing especially: there is no intention of starting to reshape the Geneva Conventions nor even to carry out their general revision. The Conventions retain all their value and are the fruit of a unanimous decision of all nations, which was reached in 1949 and must not be brought up again. There are only a number of points in the Conventions, which I have pointed out, that may have to be supplemented or clarified, by the addition of Protocols, a procedure which has become established in international practice.

Soon after our meeting in September 1968, the United Nations General Assembly in December adopted an important resolution (No. 2444), which confirmed the all-important principles adopted by the International Conference of the Red Cross at Vienna for the protection of civilian populations, recognized the necessity of better securing the safety of victims of armed conflicts through the application of legal rules and invited the Secretary-General to continue his studies "in consultation with the ICRC".

This recommendation was confirmed and developed by a further United Nations resolution, adopted in December 1969, which subscribed to the wishes expressed by the XXIst International Conference of the Red Cross.

In this respect, I would remind you that the Istanbul Conference where we were gathered last year, after having examined a very lengthy report submitted by the ICRC, had underlined the pressing need for re-affirming and developing humanitarian rules applicable in all kinds of armed conflicts and had requested the ICRC to continue its efforts, in particular by working out, with the co-operation of experts, concrete proposals to be submitted to Governments with the aim of transforming them into diplomatic instruments.

As they had both received parallel mandates, the United Nations (actually, its Human Rights Division) and the ICRC had to get in touch to co-ordinate their efforts and avoid overlapping. This having been effected, the notion of collaboration between the two institutions is now established, an exchange of documents has been initiated and their efforts will be related to each other, for they have only one end in view: the ultimate success of a cause the paramount utility of which is undisputed. Through its experience for more than a century in the development of humanitarian law, the ICRC, backed by the whole of the Red Cross, is well qualified to be the linch-pin of this enterprise.

Since the Istanbul Conference, the ICRC has continued to compile the fullest documentary material possible, bringing out the points where the law should be improved and developed. With this objective in view, it has consulted, either personally or in writing, highly qualified experts from all over the world, who, I am happy to state here, have shown great interest in the whole undertaking and whose opinions are most valuable. Several National Societies have helped to organize these consultations, and I would like to extend to them my deepest thanks for all they have done.

Moreover, as we have always done in matters of this kind, we very much wished to associate the entire Red Cross in this effort. We therefore addressed on 15 April 1970 to all National Societies our Circular No. 478, giving particulars of our projects and in particular of the forthcoming Conference of governmental experts. We also indicated in it our plans to convene experts of National Societies which are specially interested in these problems. It gives me pleasure to announce that, considering the favourable

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reaction produced by the idea, the ICRC has taken the firm decision to convene next February a Conference of experts of National Red Cross Societies to discuss the problems enumerated at the beginning of my statement.

I am also happy to add that the Netherlands Red Cross, which, as you know, is the trustee of the Hague Conventions just as Switzerland is the trustee of the Geneva Conventions, has kindly suggested, in view of the ever lively interest it takes in our work, that this meeting should take place in the Peace Palace at The Hague. Therefore, in close co-operation with this Society, we shall have the honour of addressing to you in the near future the invitations to this conference.

The results of the conference will be communicated to the Conference of governmental experts, which will be held three or four months later, probably in May, and which will be attended by experts from 30 or 40 Governments. If necessary, they might meet again at a second session in October. It should be possible, as a result of these meetings, to hammer out sufficiently satisfactorily a number of draft rules.

It is too early to forecast in what way these rules will find their way into positive law. It will be up to Governments concerned to decide on this matter, at the proper time. For the present, we are all busy at the preliminary stage. It is better to wait for the opinion of the governmental experts on the subject before seeking to look further. But it may be said already now that the efforts of the Red Cross in this field have aroused considerable interest throughout the world and that our common undertaking has moved forward and is making good progress in favourable circumstances.
