

The Lima hostage crisis

Some comments on the ICRC's role as a "neutral intermediary"

by Michel Minnig

On 17 December 1996, the delegate of the International Committee of the Red Cross was one of the 600 guests at a reception hosted by the Japanese ambassador in Lima. When the commando unit of the Túpac Amaru Revolutionary Movement (*Movimiento Revolucionario Túpac Amaru — MRTA*) carried out its spectacular hostage-taking operation and the ICRC delegate made himself known to the commando unit, wondering whether in so doing he was acting as an intermediary was hardly at the forefront of his mind: he was content to take action because the situation so demanded and because the physical integrity of hundreds of people was under threat. I was that delegate. In doing what I did at that moment, I was merely repeating the humanitarian act performed by hundreds of ICRC delegates throughout the world, that of Henry Dunant at Solferino and of many others elsewhere — that is, helping the victims of violence. This is what being a neutral intermediary is all about: placing oneself voluntarily in the midst of a confrontation and lending a helping hand. In that sense, the term "intermediary" is perfectly suited for defining the action of the ICRC *per se* and its humanitarian base. Within the organization, the term means something more specific, as distinguished from protection and assistance, and designates a function which involves serving as a messenger between conflicting parties, for humanitarian reasons

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and in the absence of any other intermediary. This is where a certain amount of confusion and a number of difficulties arise, some inherent in the very role of intermediary and others arising from the circumstances themselves.

During 126 days of the Lima hostage crisis, which lasted from 17 December 1996 to 22 April 1997, the ICRC conducted its protection and assistance activities while fulfilling its role of neutral intermediary at the same time. The crisis will serve as a background for examining various aspects of this role and the challenges that it poses for the organization.

Neutral intermediary: a source of confusion but also a clear mandate

The variety of names used to designate the role of neutral intermediary — mediator, guarantor, negotiator — is in itself indicative of the fact that, in a crisis situation, it is difficult to define the concept in practical terms.

“Mediador oficioso”

It would have been paradoxical if the ICRC, having taken action on the very night when the hostages were taken, in particular in facilitating the release of some 250 people, had the next day refused to assume the role that the government entrusted to it — a role which the government unilaterally defined as that of *mediador oficioso*, or unofficial mediator. At that time it was urgent for the ICRC, on the one hand, to take steps to provide relief and protection for the people still inside the residence, which was in the hands of the MRTA commando unit, and, on the other, to work towards the release of other hostages and continue its efforts to ensure that in the immediate future the crisis did not escalate into armed confrontation. From the government’s point of view, choosing the ICRC was to confirm the role which the organization had assumed spontaneously and successfully on 17 December, and also to secure the cooperation of an apolitical entity that would hence be unlikely to compete with it in this extremely delicate situation. If the title *mediador oficioso* given to the head of delegation went beyond the scope of competence which the ICRC wished to be given in this crisis, in effect there was no real misunderstanding between the government and the organization regarding the role which the latter intended to play and the limits that it imposed on itself from the outset as an intermediary (that is, to serve as a link between the parties but not actually seek to resolve the crisis).

Guarantor

The term “guarantor” was used for the first time towards the middle of January 1997, when the government envisaged the possibility of entering into formal talks with the MRTA. Within the minds of the Peruvian authorities, the guarantor was not to be a mediator in the true sense, but rather an observer who would take part in the discussions between the parties and, in the event of an agreement, would ensure that any decisions taken were properly implemented. Owing to the position the ICRC had occupied since the beginning of the crisis, the organization’s status evolved almost naturally from that of *mediador* to that of guarantor — a role which the ICRC was to share with the Bishop of Ayacucho, who had become increasingly involved in the crisis since entering the residence on Christmas Day, in his words “for strictly pastoral reasons”. Here again, it would have been difficult for the ICRC to turn down the government’s invitation. Indeed, although the organization had gradually handed over its role of “messenger” to the Church and its representative, it had nevertheless been one of the entities which had initiated dialogue, and refusing to be involved in the discussions would have been counter-productive. However, at this stage, even more than when it first acted as a neutral intermediary, the ICRC was at pains to dispel any ambiguity as to what it understood its role to be. In a communiqué, it specified that it was prepared to facilitate the establishment of a structure for dialogue but that its participation would be limited exclusively to questions of a humanitarian nature. This is what it did, stipulating the practical terms according to which the dialogue would develop, providing a location marked by the protective emblem of the red cross and making logistical facilities and means of transport available. It abstained from any involvement in the actual negotiation process, however, other than to deal with humanitarian issues. After nearly two months of careful preparation, the negotiations finally began. They were conducted as a series of 10 official rounds under the auspices of a commission which comprised the guarantors and an observer, and, in addition to the Church and the ICRC, also included Canada and Japan. The precautions taken and the prudence shown by the ICRC were entirely necessary, the more so since, as time went by and the deadlock persisted, the members of this commission, and the Bishop of Ayacucho in particular, increasingly took on the role of mediators.

Negotiator

For the general public, little interested in the subtle differences between neutral intermediary, guarantor and mediator, the ICRC was often considered as the negotiator, or one of the negotiators, in this situation,

owing to the role it had played from the very beginning of the hostage crisis, and also because of its daily presence both at the residence and at the “negotiating house”, above which the colours of the ICRC flew. Furthermore, this title of “negotiator” also testified to the public’s respect and admiration for the ICRC’s work. Over time, people were better able to understand the purpose of humanitarian action and appreciate its limitations.

Finally, for the ICRC, the most difficult challenge lay not so much in defining its course of action — that is, encouraging dialogue between the parties without going into the underlying causes of their differences — as keeping strictly to this course in an environment marked by chaos, constant changes and misunderstandings.

Neutral intermediary and the political sphere

The ICRC views its role as an intermediary and link between conflicting parties as exclusively humanitarian, i.e., totally apolitical by definition. However, here even more than in the fields of protection and assistance, the ICRC finds itself in a highly politicized environment. Indeed, its delegates are not only faced with the humanitarian consequences of a situation of conflict or violence, but also with its causes, so making the demands associated with the exercise of neutrality all the greater.

Although in the hostage crisis, as in other situations, the ICRC’s neutrality was the means — “the humanitarian weapon”, as the delegates in Lima would say — which enabled the organization to step in as soon as the residence was captured and subsequently to defend its access to the hostages for 126 days, this same principle of neutrality was also a weapon which some turned against the ICRC and the action it took.

“How can you stay neutral between good and evil?” was the question posed by some members of the Peruvian Congress and the media who saw the ICRC’s stance as a lack of judgement or, worse still, cowardice. Gradually, certain people even went as far as wondering whether this lack of judgement was not, after all, some fiendish plot and whether, under the guise of neutrality, the ICRC was not quite simply seeking to excuse the inexcusable, that is, the terrorist act of the MRTA commando unit. Nothing could change their minds: neither the ICRC’s statements, which quite clearly repeated that the taking of hostages was a flagrant violation of humanitarian law, nor the massive support of the Peruvian people who remained adamant throughout the crisis, nor the pertinent arguments of those who had stood up to defend the ICRC’s action. A few days before

the violent conclusion of the crisis, this distrust was to culminate in the expulsion of the head of delegation's deputy, on the pretext that he had failed in the duties entrusted to him. Thus, by exercising and unambiguously reaffirming the neutrality that was supposed to place it above partisan struggles, the ICRC paradoxically found itself caught in the cross-fire between the people supporting the steps it took and the people who denigrated them. It had no choice but to continue to uphold its position in favour of a lack of bias.

And yet this was certainly not the only paradox facing the delegates, one of the most serious being the politicization of humanitarian action. Indeed, from the very first days of the crisis, the government suspended one of the ICRC's traditional activities in Peru, namely its visits to security detainees. Although the official reason given as a justification for restricting the ICRC's humanitarian work in this way was security, this excuse only thinly disguised the fact that the essential aim was to exert pressure on the hostage takers. This placed the ICRC *de facto* in a position in which it could not fully exercise its neutrality, in other words work in aid of all the victims. What was worse, the ICRC's repeated efforts to resume its visits to security detainees were seen by some as blatant support for the MRTA cause. Here again, it was extremely difficult to explain how the political interests of the MRTA commando unit — which was also calling for the resumption of the ICRC visits — differed from the organization's humanitarian concerns.

Similarly, as the crisis took hold, members of the MRTA came to the point of viewing the ICRC's constant defence of the hostages' interests from the humanitarian standpoint with a certain degree of suspicion, given that the ICRC could not carry out the same work in behalf of security detainees.

The question might be asked whether the ICRC should not have played a more active role in resolving the issue, precisely because of this overlapping of the humanitarian and political spheres — since humanitarian action was at the centre of a political debate with hostages on one side and security detainees on the other.

These are fair questions, but a more active involvement on the part of the ICRC would doubtless have increased the confusion that so frequently arises between political and humanitarian concerns, with the risk of it being attributed responsibility for certain political decisions. The military conclusion of the crisis — with 17 people dead, i.e., one hostage, two soldiers and the 14 members of the commando unit — has demonstrated that, although humanitarian action can be helpful in matters of a political nature, ultimately it has to disassociate itself from them.

Neutral intermediary, protection and assistance

By a trick of fate, owing to its reputation and its know-how the ICRC was able to play an important role in this crisis: not only as a neutral intermediary, but also in its traditional spheres of activity, that is, protection and assistance. Of the some 600 hostages initially taken, 549 were to be released under the auspices of the ICRC, and for the remaining 72 the organization worked unstintingly to ensure that they benefited from the protection afforded by international humanitarian law. The ICRC also launched a vital operation to give the hostages both material and moral support, providing them with food, water, sanitation and laundry facilities, lighting, reading materials and means of recreation in general. Mention should also be made of the medical attention the hostages received and the arrangements made to enable them to stay in touch with their families, with more than 9,000 family messages exchanged in four months.

Although it is usual for the ICRC to carry out several humanitarian activities at once in the different areas in which it works, it is quite rare for it to carry out the majority of them — including the role of neutral intermediary — in a single operation. The ICRC welcomes this when it happens, because the victims are the ones to benefit, especially when it is considered that the role of neutral intermediary backs up protection and assistance work and vice versa.

On the other hand, such a situation clearly also leads to a certain amount of interdependence between the ICRC's different spheres of action. To be sure, the ICRC should at all times remain free to relinquish its role of neutral intermediary when the conditions required for it to intervene are no longer fulfilled. But if it decides to do so while being simultaneously involved in protection and assistance work, such a decision may have an adverse impact on the rest of its operation. Thus, in Lima, abandoning the role of intermediary would certainly have made the conduct of its other activities on behalf of the hostages more precarious, as the ICRC would then have been deprived of its voice and its audience for promoting its role and defending its work. Perhaps even more seriously, the independence of the organization would have been restricted since, in its absence as an intermediary, others might have come forward to interfere in matters of a purely humanitarian nature. Likewise, if the ICRC had been forced to suspend its material and moral support for the hostages, its credibility as a neutral intermediary would have suffered since, at a blow, it would have lost one of the reasons for its existence, that is, to serve in the direct interest of the victims. It would, of course, be presumptuous to try and apply a mathematical rule to this relation of interdepen-

dence between the ICRC's different activities, but on the other hand it would obviously be easier for the organization to relinquish its role of neutral intermediary in a context in which it was not carrying out other humanitarian activities. This was not the case with the situation in Lima.

Neutral intermediary: obtaining security guarantees and assurances not to resort to force

Obviously, ensuring the safety of ICRC staff was one of the constant concerns of the head of delegation, as indeed of the organization as a whole, especially since, on that very same day, everyone had been devastated by the tragic news from Novye Atagi in the southern Caucasus, where six ICRC delegates had just been assassinated. In Lima, numerous negotiations would have to be conducted before the ICRC could persuade the parties involved to accept its point of view regarding security matters. Its activities had to be temporarily suspended four times before it managed to define a clear space for humanitarian action and establish a number of rules that enabled its delegates to carry out their humanitarian duties with a minimum amount of risk.

An even more complex issue was that of the guarantees which the ICRC demanded from the parties that they would not resort to force, as a condition for its agreeing to act as a neutral intermediary. The situation during the first few hours of the crisis provides a telling example: in this context of potential confrontation, it was extremely difficult for the ICRC to obtain, before it decided to take action, a commitment from the parties that they would not resort to force. And to secure that commitment was the very reason why it stepped in in the first place — apart from obtaining the release of a number of hostages. It was a matter of moving from a confrontational situation to an environment in which dialogue could take place and hence to a context in which force would not be used. The reverse would simply have been putting the cart before the horse.

It is certainly not in the nature of an ICRC delegate's job to take ill-considered risks and, as soon as the uncertainty of those first hours had passed and the different parties had made contact, one of the ICRC's first requests was that a cease-fire should be established as a prerequisite for it to take action on humanitarian grounds. However, it would have been naive to assume that in deciding on such a cease-fire the parties would be committing themselves not to use force and to seek a peaceful settlement to the crisis. Only much later, at the summit meeting between the heads of State of Peru and Japan in Toronto on 1 February 1997, was the

principle of negotiation — and hence of not resorting to force — clearly expressed for the first time, provided that the hostages' safety would not be endangered. Before this position was adopted, and even though the ICRC had received assurances concerning the safety of its staff while they were actually inside the residence, the search for a peaceful solution was but one of the options envisaged.

The principle of not resorting to force was officially endorsed with the setting up of a structure for dialogue, which led to ten series of negotiations and one series of informal meetings. Paradoxically, it was at this point that the military option was applied, to the surprise of everyone concerned, not least that of the guarantors.

It was understood that military action would be taken only once the dialogue commission had relinquished its task, or after one of the parties had renounced its undertaking to seek a peaceful outcome. But here again, although that conclusion appeared fairly obvious in theory, the situation was far less simple in practice: on the one hand, because the commission was not in possession of all the elements which would have justified its withdrawal and, on the other, because such a withdrawal would have been interpreted as the signal for military action, with the attendant dangers for the hostages' lives. The government's decision to remain silent was based on one simple principle: surprise was of capital importance for the success of the operation.

Although, in the first phase of the crisis, it was virtually impossible to obtain a commitment that force would not be used, the solemn affirmation of this principle subsequently had no absolute value.

Neutral intermediary: taking the initiative, sole mediator on the scene

Generally speaking, the ICRC will intervene as a neutral intermediary only at the request of the parties involved in a crisis situation. In Lima, however, the dramatic turn of events when the hostages were taken and the presence of the ICRC head of delegation on the embassy premises prompted the organization to act on its own initiative and to offer its services, in keeping with Article 3 common to the four Geneva Conventions of 1949.

The ICRC usually relinquishes the role of neutral intermediary when other people or organizations can take its place. But in the Lima crisis it continued to assume this task in cooperation with the other "guarantors",

while maintaining its independence and within the limits of its humanitarian mandate, because it considered that it was its duty to do so in the interests of the hostages.

Neutral intermediary and policy

The crisis in Lima was not the first time the ICRC intervened in a hostage-taking situation. The organization had already been faced with other crises of this nature, for example in Colombia in 1980, in circumstances very similar to those in Peru. A number of guiding principles, subsequently incorporated in what is known as ICRC "policy", were born of these events experienced in the field and the analyses made of them afterwards. If the policy regarding the taking of hostages is compared with the practical steps taken by the ICRC in Lima, particularly within the context of its role as neutral intermediary, it is striking to see how closely the policy line converged with the measures actually implemented in the field.

The Lima experience gave proof of the relevance of that policy and of how fittingly it applied to the reality of the situation. However, although it is right to talk of convergence between policy and action, it would be wrong to equate one with the other. So much the better, since this would divest action of its dynamic character, on which policy has to draw if it is not to lose its relevance to reality.

This leads us to raise a few basic questions and offer a few thoughts on the implications of the ICRC's current policy for the future.

As concerns the initiative it took and its decision to act, the ICRC in Lima doubtless went beyond the policy line, as it did in its determination to continue performing its role as an intermediary despite the intervention of other parties. This no doubt helped to save human lives, facilitated the release of many of the hostages and contributed to creating the conditions necessary for initiating dialogue. It was unquestionably a success from the humanitarian point of view even though, eventually, it was the military solution that actually ended the crisis.

As regards the parties' undertaking not to resort to force during the entire period in which the ICRC was serving as an intermediary, the situation did not fulfil all the requirements of ICRC policy. However, the question arises whether strict application of the policy line in that regard would have been entirely realistic, in view of the contradictions thrown up by the situation. On the other hand, an absolutely crucial requirement

is that parties to a crisis undertake fully to respect the physical integrity of ICRC delegates as they go about their work.

It would also be desirable for ICRC policy to take greater account of the interdependence between assistance/protection activities and tasks associated with the role of neutral intermediary, as was the case in Lima. The danger in analysing the two separately is to arrive at conclusions that are too cut-and-dry and selective, and would therefore be detrimental to ICRC action as a whole.

Aside from the practical aspects associated with the role of intermediary, a number of questions arise regarding the function itself, the first being that of its definition. It was observed in Lima, as elsewhere, that few people outside those directly involved can clearly define the term "intermediary". At best, it is equated with the ICRC's activities as a whole. Starting from the axiom that what is clearly understood can also be clearly expressed, should this task not be taken for what it is, namely a service of "good offices", as is meant under international law? That is to say, friendly action on the part of an intermediary who, either spontaneously or at the request of the parties involved, seeks to bring them together so that they can enter into negotiations or adopt any other means of peaceful settlement that can lead to a normalization of their relations. This should in no way exempt the ICRC from specifying what such a service is — and, above all, what it is not — for the term "good offices" is not devoid of ambiguity. But it does at least have the advantage of providing an initial linguistic clarification of the function itself.

Once the instrument has been properly defined, an even more fundamental question arises, and that is how it should be used. Here again, we should look at the matter objectively in the hope of dispelling other ambiguities or uncertainties. As difficult and sensitive as they are, should good offices not become another of the hallmarks of the ICRC, in the same way as protection and assistance, when the situation so demands or at the request of the parties involved? Do the ICRC's credibility, its knowledge of crisis situations and its expertise not mark it out for such a role, equally well as — and perhaps better than — others?

As a final comment, surely friendly action taken by an intermediary seeking to bring the parties involved closer together (according to the definition of good offices), irrespective of the results it may achieve, is the ultimate act one can perform on behalf of the victims. The ultimate act in which the humanitarian endeavour goes as far as it possibly can, to the point where it borders on the political sphere, while affirming more strongly than ever how different it is from the latter.

In Colombia a forgotten conflict rages on. Largely ignored by the international media, the armed struggle in this South American country will soon be entering its fifth decade. The ICRC has greatly strengthened its presence in Colombia in recent years, and now the delegation in Bogotá is its largest in Latin America.

This article seeks to outline the current challenges facing the ICRC in Colombia. What are the possibilities offered by its mandate and the limits to what it can do? Has the organization achieved any tangible results? Specific cases are used to illustrate where, how and under what conditions the ICRC can act as a mediator to help alleviate or solve problems of a humanitarian nature. This is a personal contribution and a critical analysis by an ICRC delegate who has been working on Colombia's Atlantic coast since February 1996.

The ICRC as a humanitarian mediator in the Colombian conflict

Possibilities and limits

by **Thomas Jenatsch**

*Lo más grave de todo es que hemos aprendido
a vivir con la violencia.*

Gabriel García Márquez

The dramatic episode of the 70 soldiers: their capture and release

Cartagena de Chairá, 15 June 1997: the five Russian helicopters churned up clouds of dust as they deposited their precious cargo —

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