

# Civil Defence 1977-1997: from law to practice<sup>1</sup>

by Stéphane Jeannet

Concern has been expressed recently that the rules of international humanitarian law pertaining to civil defence<sup>2</sup> have been somewhat neglected since 1977 and that, 20 years on, the time has come to assess whether these rules are sufficiently realistic and have retained their validity. The purpose of civil defence rules is clear, i.e. "to mitigate the losses, damage and suffering inflicted on the civilian population by the dramatic developments of the means and methods of warfare".<sup>3</sup> But while the primary purpose of civil defence rules may be formulated quite simply, the means of achieving it are naturally far more complex, indeed increasingly so given the effects of the ever more destructive methods of warfare as well as the changing nature of conflicts, which is resulting in a larger proportion of civilians being killed. It has also been recognized that the rules governing civil defence would remain a dead letter if they were not made known to those for whom they are intended. The current lack of awareness has therefore made efforts to spread knowledge of these rules a matter of necessity.

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<sup>1</sup> A shorter version of this article was published in the *International Civil Defence Journal*, Vol. X, N° 4, December 1997, pp. 25-27. The full report of the meeting, S. Jeannet (ed), 1977 - 1997, *Civil Defence: From Law to Practice*, 1997, 89 pages (in English, with a French summary), can be obtained either from the ICDO or from the ICRC.

<sup>2</sup> Articles 61 to 67 of Protocol I, which grant civil protection a status comparable to that of medical units. See below, Section 1.

<sup>3</sup> See Y. Sandoz, C. Swinarski and B. Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC, Geneva, 1987, para. 2319.

The International Civil Defence Organization (ICDO) and the International Committee of the Red Cross (ICRC) therefore jointly organized a meeting of experts on the implementation of international humanitarian law relating to civil defence. Held from 30 June to 2 July 1997 in Gollion, Switzerland, the meeting was prompted by Resolution 2 (A[j]) of the 26th International Conference of the Red Cross and Red Crescent (1995), which “invites States party to Additional Protocol I to implement and disseminate the rules of the Protocol regarding civil defence and recommends that the [ICRC], in collaboration with [ICDO], encourage international cooperation in this field and the inclusion of this question in international meetings on international humanitarian law”.<sup>4</sup>

Before examining the main findings of the meeting of experts, it may be useful to briefly outline the legal framework dealing with civil defence.

### **The legal framework: Protocol I, Part IV, Section I, Chapter VI<sup>5</sup>**

Civil defence organizations are intended to protect the civilian population against the dangers presented by war and other disasters and to help it recover from their immediate effects, as well as to ensure the conditions necessary for its survival (warning, evacuation, shelters, rescue, medical services, fire-fighting, public services, etc.). These organizations and their personnel are entitled to carry out their tasks in all but cases where imperative military necessity makes this impossible. Civil defence personnel must be respected and protected. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except by the State to which they belong.<sup>6</sup> These rules also apply to occupied territory, where civil defence organizations must receive from the authorities the facilities needed to carry out their tasks. The occupying power may not requisition buildings or equipment belonging to civil defence organizations nor divert them from their proper use.<sup>7</sup> The same rules apply to the civil defence organizations of neutral States operating on the territory of a party to the conflict with the consent and under the control of that party.<sup>8</sup>

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<sup>4</sup> Reprinted in *IRRC*, No. 310, January-February 1996, p. 62.

<sup>5</sup> Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I). - Regarding Section I, see Jean de Preux, “Protection of civilian populations against the effects of hostilities”, Synopsis II, *IRRC*, No. 246, May-June 1985, pp. 153-160.

<sup>6</sup> Protocol I, Articles 61 and 62.

<sup>7</sup> Protocol I, Article 63

<sup>8</sup> Protocol I, Article 64.

This protection ceases only if civil defence organizations are used to commit, in addition to their rightful tasks, acts harmful to the enemy, and then only after an appropriate warning with a reasonable time limit has been given and disregarded. Civil defence organizations may be formed along military lines, cooperate with military personnel or placed under the direction of military authorities and incidentally benefit military victims. None of these may be considered as a harmful act. The same applies to the carrying of light individual weapons by civilian personnel for the purpose of maintaining order or for self-defence.<sup>9</sup> The distinctive emblem of civil defence organizations is an equilateral blue triangle on an orange background.<sup>10</sup>

Members of the armed forces and military units permanently and exclusively assigned to civil defence organizations must be respected and protected, provided that the conditions stated above are observed and that those individuals prominently display the international, distinctive civil defence emblem. If they fall into enemy hands, they become prisoners of war.<sup>11</sup>

### **1977-1997: the changing nature of the world**

Those taking part in the Gollion meeting expressed the view that our world, and the way it was perceived, had changed considerably since Protocol I was signed in 1977. New factors included the following:

- a much stronger United Nations presence in the field, i.e. peace-keeping and humanitarian operations;
- a proliferation of NGOs involved in humanitarian work;
- an apparent lessening of the threat of nuclear conflict and therefore less attention devoted to it by civil defence organizations;
- a shift in the type of conflicts being fought, which had resulted in problems different from those encountered at the time when the Protocol was signed;
- a change in the manner in which civil defence itself was perceived, particularly in Eastern Europe, where it was now less closely linked to military structures.

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<sup>9</sup> Protocol I, Article 65.

<sup>10</sup> Protocol I, Article 66 and Annex I.

<sup>11</sup> Protocol I, Article 67.

The participants felt that civil defence organizations had in the past sometimes had an important role to play in the event of armed conflict. But that role — in particular as set out in international humanitarian law — was relatively unknown, even within the ICRC. Not enough had been done to promote knowledge of that role.

The Gollion meeting went on to draw the following conclusions.

### **Tasks assigned to civil defence**

A distinction had to be drawn between the civil defence tasks set out in Protocol I — and performed by a number of different organizations — and the civil defence organizations themselves. The list of tasks laid down by the Protocol was fairly comprehensive, though this view was not shared by all. Activities such as protecting the environment and cultural objects were not covered by Protocol I, Art. 61, but nor were they precluded. The list of tasks enumerated in that provision therefore remained valid. It must moreover be understood that tasks and priorities would vary according to different conditions in different regions and at different levels of economic development, and thus be interpreted and carried out in different ways as a result. While civil defence organizations could engage in all kinds of work in peacetime, it was necessary that their tasks in times of conflict — those protected by international law — be clearly defined. Any work that could be viewed as having military implications could not be expected to enjoy protection in wartime. In long-lasting conflicts, repairs to damaged housing — as opposed to the building of temporary shelters (the usual method) — was an approach requiring further discussion but did not appear incompatible with the function of civil defence.

### **Action by outside organizations**

In many situations, there was international support for national civil defence activities but this rarely functioned as intended by Protocol I, i.e. that foreign organizations should take action under the direction of the national civil defence body. The reality was that international support tended to take the form of relief work or peace-keeping. The United Nations humanitarian organizations (in particular the UNHCR), the ICRC and various NGOs often worked in support of local civil defence organizations, with the international bodies essentially retaining their separate identities. This seemed preferable since if they allowed themselves to be identified with a civil defence organization when carrying out certain

tasks, confusion might result. A shared identity would then present more disadvantages than advantages.

Such cooperation should be developed and encouraged in wartime. In peacetime, there was often cooperation with National Red Cross and Red Crescent Societies on such matters as first-aid training. It was important that the various organizations recognize each other's existence and act in complementary fashion, not as rivals.

### **Role of the military**

Consideration must also be given to the possible use of military personnel for civil defence activities. The placing of civil defence organizations under the direction of — or even merging them with — the military (which is tolerated by Protocol I) would seem to entail a number of disadvantages since it would then be more difficult to discern a separate role for civil defence, and there would be a greater temptation to use civil defence organizations for military purposes. In addition, the impression given to the outside world would make it more difficult for them to obtain protection. There was therefore a broad view that emphasis should be laid on the civilian nature of civil defence organizations. The trend in Russia and other Eastern European countries — to switch from military to civilian control over civil defence — was noted with approval at Gollion.

Nevertheless, placing civil defence under military command, which was increasingly the case in Africa in particular, might also present some advantages because of the facilities and means available to the armed forces. The Gollion meeting felt that this matter required further investigation, especially as it was not clear in such cases who would replace the military for conventional civil defence tasks in the event of armed conflict.

### **Security issues**

There was debate in Gollion about whether civil defence organizations should be armed. While their members were entitled under Protocol I to carry light weapons, it was felt that this might give them a false sense of security, especially as they could easily forfeit their protection under humanitarian law by using their weapons inappropriately. Moreover, the bearers of those weapons might be viewed as a threat and become targets for military attack. It was therefore recommended that the arming of civil defence personnel should, as far as possible, not be considered.

The safety of the personnel of both civil defence and humanitarian organizations remained a delicate problem, in particular in situations where State structures had collapsed. No ideal or simple solutions were available; each present-day conflict had its specific nature and must be considered separately in an attempt to find a solution.

### **Non-international armed conflicts**

Non-international armed conflicts were today the most widespread type of conflict. However the international rules applying to them did not specifically include protection for civil defence work, though they did not prohibit those activities either. Clearly, certain provisions applicable to international conflicts (such as those regarding occupied territories) were not, strictly speaking, applicable to internal conflicts, but the general trend was to apply these *mutatis mutandis* and confer similar protection in the case of internal conflict. This trend should obviously also be encouraged with regard to provisions on civil defence, in keeping with Article 18 of Additional Protocol II, which deals with relief societies and relief operations in non-international armed conflicts.

In most cases, civil defence organizations were State entities and it was therefore difficult for them to continue performing their duties on territory controlled by a dissident party engaged in an internal conflict. They should nevertheless do their utmost to do so. If this was not possible, civil defence services should be provided by the dissident party.

Another even more acute problem was that of conflicts in which basic humanitarian rules were themselves called into question and civil defence activities (as well as humanitarian action generally) ran counter to military objectives. This arose in cases involving forced displacement of entire populations and genocide. The problem was obviously a very broad one and went beyond the realm of civil defence. It would require further analysis, in particular regarding its root causes. Under international humanitarian law, the only possible way to deal with this was through action of a preventive nature: promoting respect for and compliance with the basic rules and principles of that law. Such programmes should also aim at raising the awareness of members of civil defence organizations regarding the meaning of their mission in such conflicts. Though civil defence workers were often employees of the State, they had a humanitarian role, i.e. one with a moral content. This fact should be greatly stressed.

## **Promoting compliance**

Civil defence rules must be known and complied with and the international emblem for that activity must be widely recognized. Public awareness of the rules regarding civil defence work should therefore be raised.

It was important that national legislation clearly set out the steps to be taken to protect civil defence organizations in wartime and that measures to repress violations of international humanitarian law include the field of protection for civil defence work.

Cooperation between civil defence organizations from different countries was also desirable and there should be an exchange of ideas regarding promotional activities. The ICDO could serve as a link for this.

Regarding compliance with the rules by armed forces, stress was laid on promoting knowledge of those rules and the meaning of the emblem as part of general dissemination by the States. Emphasis was also laid on ensuring adequate knowledge of the rules and the emblem among the members of United Nations forces. The United Nations Department for Peace-keeping Operations had a role to play in this respect by reminding States providing peace-keeping contingents of their responsibilities in this area.

In order to reassure their potential enemies, the States should be invited to declare clearly and publicly (possibly through a notification circulated by the depositary among the States party to Protocol I) that their civil defence organizations would carry out the tasks laid down in Art. 61 of that treaty and comply with the rules of international humanitarian law. This could be done even by States not yet party to Protocol I.

Regarding the role of the organizations that had convened the Gollion meeting, the ICRC should place greater emphasis on civil defence and its emblem in the ICRC's work to promote knowledge of the law. It could also share its expertise in such matters. As the umbrella body for the various civil defence organizations around the world, the ICDO had an important role to play in promoting the sharing of experience between its members and promoting knowledge of the international emblem.

## **Civil defence emblem**

No additions should be made to the emblem, referred to in Protocol I as "the international distinctive sign". Governments that had made additions should be asked not to do so and to amend their legislation.

If States not party to the Protocol wished to use the emblem, they should be allowed and encouraged to do so provided that they accepted the entire civil defence chapter of Protocol I. The importance was strongly emphasized of adopting appropriate national legislation to regulate use of the emblem and impose penalties for misuse. It was agreed that the States party to Protocol I should be reminded of that obligation. National legislation might be modelled on the law regarding the red cross and red crescent emblem.

There was lengthy discussion of the use by civil defence personnel of other emblems in addition to the international civil defence emblem. It was clear that medical services operated by civil defence organizations should indicate that they were protected by displaying either the red cross or red crescent emblem or the international civil defence emblem. Other emblems would not afford protection under international humanitarian law.

On the question of whether the international civil defence emblem should be the only one used in peacetime, it was stated that existing symbols and identification marks aroused strong feelings of identity among the members of certain organizations. Private organizations working officially in the civil defence field should therefore not be forbidden to use their own signs or symbols — which were often a long-standing means of identification and recognized nationally — in addition to the international emblem. It was noted in passing that the logo of the ICDO was different from the international emblem.

It should be made clear, however, that only the international civil defence emblem provided protection. The civil defence authorities should therefore ensure that the international emblem was used only when justified by the activities undertaken.

The peacetime range of civil defence activities actually carried out was broader than that entitled to protection. It was noted that care must be taken to ensure that, in wartime, the emblem was displayed only in connection with activities entitled to protection under Protocol I.

Regarding the need to improve the visibility and recognition of the protective emblem, it was agreed that States should be invited to adopt relevant measures and conclude agreements as specified in Protocol I and that the ICRC, which had done considerable work on the subject in connection with the red cross emblem, should be asked to exchange information with the ICDO on the subject.

## **General conclusions**

An item on the Gollion agenda asked whether the rules on civil defence were sufficiently realistic and had retained their validity in modern wars. The experts' conclusion was that the rules remained valid and that efforts must be made to implement them. Those rules should therefore be reaffirmed in order to dispel any doubt and ensure that they remained the basis for future action.

There was agreement that, in contrast with the provisions regarding Red Cross and Red Crescent activities, the rules laid down in Articles 61 to 67 of Protocol I were not well enough known, even in civil defence circles. There was therefore a need for broader and more determined work to spread knowledge of them. The Red Cross and Red Crescent Movement's dissemination work was well known but other specialized institutions in this field (such as the International Institute of Humanitarian Law, which held courses for military personnel in particular, and the ICDO) should be encouraged to give greater attention to the rules regarding civil defence activities for the protection of conflict victims.

Finally, some States not party to Protocol I had agreed, for humanitarian reasons, to implement and include in national legislation the rules set out in that Protocol. Other States in a similar position should be encouraged to do likewise.