

The Balkan conflict and respect for international humanitarian law

Nato intervention in Yugoslavia: ICRC reminds States of their obligations

IN view of the announcement by Javier Solana, Secretary-General of the North Atlantic Treaty Organization (NATO), authorizing military action against the Federal Republic of Yugoslavia, the International Committee of the Red Cross (ICRC) on 24 March 1999 sent a diplomatic note to NATO and the respective member States, as well as to the Yugoslav authorities, reminding them of their obligations under international humanitarian law, in particular the four Geneva Conventions of 1949.

Under this body of law, those conducting hostilities must take all necessary precautions to spare civilians, to treat captured persons humanely, to ensure that the wounded and sick have access to medical care, to protect medical facilities and their staff and to respect the Red Cross and its emblem.

The ICRC intends to remain in the Federal Republic of Yugoslavia with delegates based in Belgrade, Podgorica and Pristina in order to continue to provide assistance and protection to all victims in accordance with the mandate entrusted to it by the international community. Teams have been active in Kosovo this week delivering relief supplies, evacuating people to safety and providing treatment for the wounded.

ICRC

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Statement by the International Committee of the Red Cross of 26 April 1999

SINCE NATO operations began against the Federal Republic of Yugoslavia there have been two concurrent and overlapping conflicts taking place in the country: that between Yugoslavia and the NATO member States which began on 24 March 1999 and that between Yugoslav forces and the Kosovo Liberation Army (KLA) which predates the latest events.

The International Committee of the Red Cross has consistently reminded all those taking part in the hostilities of their obligation to respect international humanitarian law. However, the organization has become increasingly concerned about compliance with the rules and principles of that law, in particular the impact that this dual conflict is having on the civilian population. Over the past four weeks, the ICRC has been in constant touch with all the warring parties to make known its concerns. The present statement specifies those concerns and calls for every effort to be made to ensure full compliance with the Geneva Conventions and their Additional Protocols as well as with all other treaty-based and customary rules and principles of applicable law.

Civilian population driven from their homes

Hundreds of thousands of Kosovo Albanian civilians have arrived in neighbouring countries and in the republic of Montenegro. They have stated that they had been forced to leave their homes, assaulted, robbed and in many cases threatened with death. There are also widespread reports of civilians being killed. The condition of these refugees and displaced people — their destitution and their terror — strongly support their claims of forced departure.

All of this leaves the ICRC in no doubt about the plight of those civilians still remaining in Kosovo. It therefore regards its return to the province as increasingly imperative.

The misery of those who have fled has been compounded by the conditions at the arrival points, where they have sometimes been forced to wait for days before receiving shelter and other assistance, and by the fact that they do not know what future awaits them. While the ICRC supports the principle that borders must be kept open to provide temporary sanctuary for refugees, this must be done in a humane manner that takes into account individual wishes and respects personal dignity.

Thousands of Serb and Romany families also face an uncertain future, having fled their homes in Kosovo out of fear of airstrikes or retaliation.

Among the essential principles of international humanitarian law are the requirements that civilians must be spared violence, that they must be treated humanely in all circumstances, that they may not be forcibly displaced and that their property must be respected. In particular, Article 3 common to the four Geneva Conventions stipulates that those persons who do not take part directly in the hostilities be treated with humanity in all circumstances. It also prohibits threats to their lives, their physical integrity and their dignity. In addition, international humanitarian law prohibits the forced displacement of civilians.

Civilian victims of airstrikes

It is an obligation under international humanitarian law to avoid civilian casualties as far as possible.

During the first week or so of airstrikes, the number of civilian casualties did in fact appear to be low. As the air campaign has intensified, however, and the ICRC together with the Yugoslav Red Cross has conducted on-the-spot assessments of the need for humanitarian aid, both a corresponding rise in the number of Serbian civilian victims and increased damage to civilian objects have been observed. The destruction of industrial installations has deprived hundreds of thousands of civilians of their livelihood.

Major incidents involving civilians have been the destruction of a passenger train on a bridge and the attack on civilian vehicles in Kosovo. Both resulted in deaths and injuries.

An impartial and independent body must be allowed to survey requirements and provide assistance to the victims, whoever and wherever they may be.

According to international humanitarian law, the parties to the conflict must take every feasible precaution when carrying out attacks. This includes aborting missions if it becomes clear that the objective is not military in nature or that the attack may be expected to cause incidental loss of civilian life that would be excessive in relation to the military advantage anticipated.

Persons deprived of their freedom or unaccounted for

Since the beginning of the Kosovo crisis the ICRC has been actively addressing the issue of people detained by the Yugoslav authorities, held by the KLA, or whose whereabouts are simply unknown. The organization's staff has been able to visit 720 of some 1,000 prisoners of whom it has been officially notified by the Yugoslav authorities and has been seeking clarification regarding people reportedly in the hands of the KLA.

The ICRC will continue to gather information on persons reportedly arrested and to seek official notification of detention, and access to, persons — civilian or military — who have been captured and are thus protected by international humanitarian law.

For over three weeks now, three United States servicemen have been held by the Yugoslav authorities, who have neither notified the ICRC of their capture nor granted it permission to visit them and enable them to write to their families. The ICRC regrets this lack of access and calls on the Yugoslav authorities to comply with their obligations under the Third Geneva Convention by allowing the ICRC immediate access to the prisoners of war.

Prisoners of war and civilian foreign nationals who are either interned or detained are protected by the Third and Fourth Geneva Conventions respectively. They are thus entitled to be visited by representatives of a duly designated protecting power and by the ICRC.

The ICRC therefore urgently calls on all those involved in the hostilities being waged in the Federal Republic of Yugoslavia to respect international humanitarian law, to investigate incidents in which that law might have been violated and to take every step to put an end to such violations and prevent them from recurring.

It further reminds all 188 States party to the Geneva Conventions that they share the obligation to ensure that those Conventions, and more generally all customary humanitarian rules, are respected.

The ICRC will continue to assist those who fled Kosovo by providing food and medical aid and re-establishing family links. It is determined to return to the province as soon as it receives the guarantees of security and of respect for its principles and working procedures in order to assist and protect those urgently in need of help. Visits to those held on all sides is also an urgent priority.

International Committee of the Red Cross