THE INTERNATIONAL PROTECTION OF POLITICAL PRISONERS

The practice of the United Nations Commission on Human Rights, the International Committee of the Red Cross and Amnesty International

BY

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1. PURPOSE OF THE PAPER

The purpose of this paper is to look at the protection of political prisoners by different organizations working at the international level. The point of view taken is that of the individual prisoner : what do the combined efforts of the relevant organizations actually achieve as far as his chances for release or improvement of the conditions of his detention are concerned? The United Nations Commission on Human Rights, the International Committee of the Red Cross and Amnesty International were selected because all three are heavily involved in actions concerning detainees at the universal level. Institutionally they have little in common, nor is their work for political prisoners necessarily central to the aims of the organization.

The United Nations Commission on Human Rights is an intergovernmental body : it is a functional commission of the Economic and Social Council, composed of State representatives ; within the U.N. the Commission is without doubt the main body dealing with human rights law. Its setting up of so-called « special procedures » (1) deserves special attention in this context.

(1) See Bossuyt, M. J., « The development of special procedures of the United Nations Commission on Human Rights », *Human Rights Law Journal*, 1985, pp. 179-210.

The International Committee of the Red Cross is a private Swiss organization focusing on the protection and assistance of victims of international and internal armed conflicts on the basis of humanitarian law : the 1949 Geneva Conventions and the two 1977 Additional Protocols. The organization has however expanded its activities to situations of « internal disturbances and tensions » and it is this aspect of its work which will be studied more closely here.

Amnesty International is an international non-governmental organization, dealing exclusively with prisoners and acting on the basis of the U.N. Universal Declaration of Human Rights and other international human rights instruments. This variety of institutional framework, their differences in standing at international fora, in attitudes towards governments, in methods adopted may in the end serve the political prisoner very well.

The organizations discussed here are not the only ones involved in the issues we are concerned with. The U.N. Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political Rights deals with individual complaints often involving arbitrary arrests, disappearences or torture during detention ; by its semi-judicial nature it however stands apart from the organizations discussed here. In the future the practice of the Committee against Torture under the U.N. Convention against torture and other cruel, inhuman or degrading treatment or punishment (December 10, 1984) will become relevant as well. At the regional level similar structures have come into existence (2).

2. AUTHORITY ACTING ON THIS TOPIC

Originally the U.N. Human Rights Commission was of the opinion that its task did not include the handling of individual communications concerning human rights : E.C.O.S.O.C. resolution 75 (V) of August 5, 1947 ratified this view when recognizing that the Commission « has no power to take any action in regard to any complaints concerning human rights ». In the 1960s a complete turnabout took place, in particular on the insistence of the newly independent countries who urged the Commission to take action concerning the South African apartheid regime. The evolution was consecrated by E.C.O.S.O.C. resolution 1235 (XLII) of June 6, 1967 authorizing the Commission and its Sub-Commission on prevention of discrimination and protection of minorities to examine information relevant to gross violations of human rights and fundamental freedoms and allowing it « in appropriate cases, and after careful consideration of the information thus made available to it, (...) (to) make a thorough study of situations which

(2) One recent development is the Council of Europe's European Convention for the prevention of torture and inhuman or degrading treatment or punishment, establishing a European Committee (June 26, 1987) and referring explicitly to the I.C.R.C. in its article 17, paragraph 3.

reveal a consistent pattern of violations of human rights ». On the basis of this resolution, a number of special procedures were initiated dealing either with human rights violations in a particular country or with a particular type of human rights violation. These procedures involved the setting up of factfinding bodies (working groups or rapporteurs) drawing up reports and presenting them to the Commission. Apart from this public procedure, a confidential procedure was established under E.C.O.S.O.C. resolution 1503 (XLVIII) of May 27, 1970 for the consideration of communications by individuals. This procedure involves a working group of the Sub-Commission which forwards the communications to that body if the information appears to reveal « a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms ». The Sub-Commission may hand over the communications to the Commission which can eventually decide to make the procedure public. The Commission deals with the entire variety of human rights violations ; there is no particular focus on detainees. Consequently the reports resulting from the special procedures discuss both civil and political as well as social, economic and cultural rights. A great deal of attention has nevertheless been attached by the fact-finding bodies to questions of politically motivated arrests, administrative detention, prison conditions, torture and the death penalty. This is not surprising since on the one hand Amnesty International and on the other hand opposition groups (often in exile) are to a considerable degree responsible for the flow of information to them, thus influencing the contents of the reports, specifically when the fact-finding bodies are not allowed entrance into the country and dispose over little first hand information.

In its work for political detainees the International Committee of the Red Cross (I.C.R.C.) departs from its traditional framework of the Geneva Conventions and Additional Protocols. It has widened its field of action from armed conflict to situations involving a lesser (or less generalized) level of violence : situations of internal disturbances and tensions. It has done so because it felt that re-occuring problems of a humanitarian nature appearing in that context justify its intervention. According to a 1986 information paper (3) the I.C.R.C. bases its activity in cases of internal disturbances and tensions on three grounds : tradition (the I.C.R.C. has been involved in this type of situations since the 19th century), the resolutions of the International Conference of the Red Cross, and the Statutes of the International Red Cross and the I.C.R.C. In other words the I.C.R.C. created this role on its own initiative, first on an *ad hoc* basis, later in a more systematic manner in order to respond to the growing number of situations falling outside the scope of the conventions but entailing grave humanitarian consequences. This expansion of its mandate has been relatively un-

(3) I.C.R.C., *The International Committee of the Red Cross and internal disturbances and tensions*, Geneva, August 1986, 36 p.

controversial : a State can always refuse the offer of services made by the I.C.R.C., since the organization never operates inside a country without the government's consent ; States are under no legal obligation to accept the offer ; the damaging effects of a refusal are on the political level. As specified in the information paper, I.C.R.C. humanitarian action in the event of internal disturbances and tensions consists of « providing, with the authorities » consent, protection and assistance to persons incarcerated in connection with the situation ».

While activities concerning political prisoners are in theory marginal to the I.C.R.C. mandate and are considered a sensitive area, they are at the very heart of Amnesty International's (A.I.) concerns. The Peter Benenson article in *The Observer* launching the organization in 1961 was entitled « Forgotten Prisoners » and dealt with people « imprisoned, tortured or executed because (their) opinions or religion are unacceptable to (their) government ». Although Amnesty International's work is not limited to political prisoners, its activities and demands on behalf of that category of prisoners are the most far-reaching, as is illustrated by the first two articles of the organization's Statute (see *infra*). A.I. too created its own mandate, but without the benefit of any institutional framework. Its authority to deal with the issues it had selected was at first questioned, mainly because of the organization's very public campaining style ; A.I. replied by stressing its independence, universality and impartiality. The organization has now become a familiar actor on the international scene : it is represented at different international organizations dealing with human rights and obtained consultative status with the U.N. Economic and Social Council, thus enabling it to make representations in certain E.C.O.S.O.C. committees. Over the years A.I. has gained considerable standing and in general its activities have obtained international respectability.

Indeed, it is a tribute to the strength of human rights and humanitarian thinking that all three organizations whatever their legal status, have been allowed to intrude, to a certain degree, upon State sovereignty.

3. TRESHOLD

The U.N. Human Rights Commission does not deal directly with individual cases of political prisoners, nor does the International Committee of the Red Cross. They both primarily deal with « situations », defined within the U.N. framework in the language of E.C.O.S.O.C. resolutions 1235 (XLII) and 1503 (XLVIII) as revealing « a consistent pattern of (gross and reliably attested) violations of human rights » and within the I.C.R.C. as situations of « internal disturbances and tensions ». Both organizations only take action if this treshold is reached ; the single political prisoner detained in an otherwise peaceful country does not benefit from their support : the interpretation of these tresholds is therefore of vital importance.

During the 1968 session of the U.N. Human Rights Commission following the adoption of E.C.O.S.O.C. resolution 1235 (XLII) discussions immediately focused on how the term « consistent pattern of violations of human rights » was to be understood. The adoption of resolution 1235 (XLII) had been facilitated by the third world's eagerness to deal with the situation in South Africa. The Sub-Commission preceeding the Commission's session had however had the insolence not to restrict itself to that particular country, but had also drawn the Commission's attention to « some other particularly glaring examples of situations which reveal consistent patterns of violations of human rights », namely the situations in Greece and Haiti (4). Both the representative of Greece and the observer of Haiti felt indignated that the situations in their countries were equated with those defined in resolution 1235 (XLII). In their support several members felt that the nature and the scale of the alleged violations should be taken into account ; that a repeated occurence of violations over a substantial period of time as a result of a deliberate government policy was required and even that the violations had to amount to a threat to international peace and security as defined in Chapter VII of the U.N. Charter. In conclusion, these members added that the Commission was to apply the « utmost circumspection » when considering alleged violations of human rights involving a member State. Other States however felt that the Commission had universal competence to deal with gross and systematic violations of human rights wherever they occured and that the mentioning of specific examples such as South Africa in resolution 1235 (XLII) was purely illustrative. In the end no action was taken ; the Sub-Commission's information was deemed insufficient.

Over the years and in particular since the 1980s the Commission has nevertheless embarked on a number of special procedures, not only dealing with South Africa and the Israeli occupied territories, but also with such diverse countries as Chile (1975), Equatorial Guinea (1979), El Salvador (1981), Bolivia (1981), Poland (1982), Iran (1982), Guatemala (1982) and Afghanistan (1984). The Commission has not attempted to define its treshold legally ; instead it has adopted a case-by-case approach. When comparing the wording of the initial resolutions setting up the different special procedures from the point of view of their description of the situations provoking the Commission's action, one notices that the threshold is described in a roughly similar, but never exactly identical way : the resolutions refer to information indicating « grave violations » (H.R.C. res. 32 [XXXVII], El Salvador), « a continuing deterioration in the situation of human rights and fundamental freedoms » (H.R.C. res. 1982/31, Guatemala), « widespread » (H.R.C. res. 1982/26, Poland), « serious » (H.R.C. res. 1984/54,

(4) See Sub-Commission res. 3 (XX) (December 1967); for background information on this resolution and the following debate in the Commission, see : SOHN, L. and BUERGENTHAL, T., *International protection of human rights*, Indianapolis, Bobbs-Merrill Co., 1973, pp. 801-823.

Iran), or « extensive » (H.R.C. res. 1984/55, Afghanistan) violations. All of these denominations are not exactly synonymous : some point at the scale, others at the nature of the violations. To a large extent these differences are due to the discussions leading up to the adoption of the resolution : considerable political haggling over terminology is one of the Commission's less inspiring features.

The role of the target government is of importance too : its standing in international relations, its ability to mobilize political support for either preventing the setting up of the special procedure or the tuning down of the initiating resolution is vital. A clear and uncontroversial example arises from the comparison of the resolutions setting up the Bolivia and El Salvador procedures, both adopted on March 11, 1981. Bolivia had been under scrutiny within the framework of the confidential procedure since 1978. In December 1980, at the U.N. General Assembly, the Bolivian authorities themselves proposed a fact-finding mission. The Commission gratefully accepted the invitation in the spring of 1981 by appointing a Special Envoy. H.R.C. Res. 34 (XXXVII) does not even refer to *violations* of human rights, but only expresses the Commission's desire « to be more fully informed about the human rights situation in Bolivia ». Whether the Commission considered the situation in Bolivia was beneath its treshold is doubtful, but the governmental initiative prevented a stronger wording being used. Initially there was no such cooperation by the Salvadoran authorities, nor were they able to prevent the special procedure ; the Commission therefore did not refrain from firmly expressing its deep concern at the grave violations of human rights and fundamental freedoms in El Salvador or from deploring the murders, abductions, disappearences and violations of fundamental freedoms reported in El Salvador (H.R.C. res. 32 [XXXVII]).

The treshold partly functions as a shield against unwelcome international interference : it is only after a political majority can be mobilized resulting from the weighing of the government's standing against the seriousness of the human rights situation, that the Commission takes action. The individual political prisoner is at the mercy of this process ; he will have to await the outcome. Again, the role of non-governmental organizations and the world press in supplying information and building pressure should not be underestimated.

At the twenty-fifth International Conference of the Red Cross, held in Geneva from 23 to 31 October 1986, the I.C.R.C. decided against submitting for the approval of the conference a declaration of principles to be applied in situations of internal disturbances and tensions. Instead, a document was circulated entitled « The I.C.R.C. and internal disturbances and tensions » « which brings I.C.R.C. doctrine on the subject to date » (5). It is

(5) See I.C.R.C., *The International Committee of the Red Cross and internal disturbances and tensions*, Geneva, August 1986. p. 3.

significant that the I.C.R.C. chose not to pin itself down publicly as far as its policy in this area is concerned. Instead of issuing a document with legal implications, the I.C.R.C. issued a mere information paper clarifying to a certain extent in what type of situations the I.C.R.C. offers humanitarian assistance. A deliberate vagueness nevertheless remains with regard to the definition of the concepts of « disturbances » and « tensions » ; again, a case-by-case approach is preferred over a legal(istic) one ; flexibility is what is gained, previsibility what is lost.

For the definition of « internal disturbances » the information paper refers to the I.C.R.C.'s description of the term at the first Conference of Government Experts (1971). Internal disturbances involve « situations in which there is no non-international armed conflict as such, but there exists a confrontation within the country, which is characterized by a certain seriousness or duration and which involves acts of violence. The latter can assume various forms, all the way from the spontaneous generation of acts of revolt to the struggle between more or less organized groups and the authorities in power. In these situations, which do not necessarily degenerate into open struggle, the authorities in power call upon extensive police forces, or even armed forces to restore internal order ». In other words, these are situations which, in the I.C.R.C.'s view, do not come under the field of application of Additional Protocol II or of art. 3 common to the 1949 Geneva Conventions, because the degree of violence is not high enough, or because the opposition groups do not dispose over the required rigourous organization. But there is nevertheless a struggle, a confrontation : there is a second source of authority besides the government aspiring a standing rivalling that of the government.

Situations in which the government is still firmy in control, but has to resort to increasingly repressive practices to remain so, are covered by the term « internal tension », which, according to the 1986 information paper refers to :

a) situations of serious tension (political, religious, racial, social, economic, etc.) or

b) sequels of an armed conflict or internal disturbances.

This implies a further lowering of the treshold : the emphasis shifts from a two (or more) party conflict to repression by the authorities of possibly even non-violent opposition groups. The information paper goes on to describe the characteristics situations of internal tension might present. Any of these characteristics justifies an I.C.R.C. offer of services. They are couched in what can only be described as traditional human rights language : mass arrests, a large number of persons detained for security reasons, torture, incommunicado detention, the lack of fundamental judicial guarantees, disappearences, issues which are almost a replica of the concerns of

the U.N. Human Rights Commission. The treshold « internal tension » is therefore comparable to the « consistent pattern of violations of human rights » used by the U.N. Commission. Indeed, the treshold used by the I.C.R.C. (although it is not a human rights organization) appears to be lower. In a sense this is not surprising, since the I.C.R.C.'s initiative is limited to an offer of services and does not necessarily antagonize a government. Exactly how low the I.C.R.C. treshold is, cannot be deduced from the definitions offered above : what exactly are « a large number of persons detained for security reasons », what are the figures one has in mind? Again the overall situation within the country, but also the relationship between the I.C.R.C. and the target government, the risks perceived by the I.C.R.C. of endangering its other tasks, have a role to play in the decision.

Some light on what these policy considerations might be is shed by Jacques Moreillion who discusses I.C.R.C. intervention in internal tensions from 1958 to 1979 (6). He states that during that period the I.C.R.C. was informed of the existence of political detainees in 71 countries ; in 25 of these it refrained from offering its services. His assumptions as to the motives behind these decisions are that the I.C.R.C. was either sure that its offer would be refused or that its intervention might make the lot of those for whom it was concerned worse ; or that it was better to wait until the tensions developed into disturbances, when I.C.R.C. intervention would prove truly indispensable. These kind of considerations carry greater weight within the I.C.R.C. than within an organization strictly dealing with human rights such as Amnesty International. Within the I.C.R.C. human rights concerns are weighed against concerns following from its primary objective : the protection of humanitarian values in traditional armed conflicts. Its interventions in those cases are only made possible through the cooperation of States ; such cooperation might be less forthcoming if the I.C.R.C. gets involved too quickly in human rights issues, which are often perceived as being outside the I.C.R.C.'s traditional role. Again, the individual political prisoner may suffer from this search for compromise ; his lot depends on the wisdom of the evaluation made by the I.C.R.C. with regard to his particular country.

Amnesty International does not acknowledge any treshold in its work for political prisoners. Individual political prisoners are at the core of its activities and the level of unrest in the country is of little importance to the decision whether or not to adopt a prisoner as a person the organization works for. Each individual dossier is considered on its own merits. Nevertheless the overall human rights situation in a country does have an influence. Apart from case work, the organization is also involved in what is known as country campaigning ; these campaigns highlight « patterns of

(6) See MOREILLON, J., *The I.C.R.C. and the protection of political detainees*, I.C.R.C., Geneva, 1981, pp. 18-21.

human rights violations » (7) and mobilize a considerable amount of publicity ; as such they are also to the benefit of individual prisoners. Article 2(a) of A.I.'s statutes further requires the organization to « at all time maintain an overall balance between its activities in relation to countries adhering to the different world political ideologies and groupings ». A.I. is very concerned about its public image of impartiality and this may influence its decision on or the timing of campaigns. Techniques are also applied on a country-by-country basis : interventions in private may from time to time be preferred over public ones.

A comparative analysis of the annual reports of the International Committee of the Red Cross and Amnesty International and the reports resulting from the U.N. special procedures shows divergencies between the organizations on the evaluation of a situation in a given country and the need for action. Such an overall analysis cannot be attempted here, but even a rough comparison of the data on a given region reveals differences of appreciation. The following paragraphs attempt such a comparative analysis on a limited scale : they deal with data on Central America (Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama) for the year 1986.

None of the U.N., the I.C.R.C. or the A.I. reports contain indications of violations of human rights or humanitarian law violations in 1986 with regard to Belize, Costa Rica and Panama.

The International Committee of the Red Cross deals with the situation in El Salvador in accordance with « the provisions of article 3 common to the Geneva Conventions and with Additional Protocol II » (8). It evaluates the situation as one of internal conflict (therefore involving a higher degree of violence than during internal disturbances) and acts within its traditional, conventional role. The Annual Report highlights visits by I.C.R.C. delegates to persons detained on account of the conflict both in regular prisons and in temporary places of detention such as the armed forces' military garrisons and premises of the security corps. It also visited persons detained by the Farabundo Marti National Liberation Front (F.M.L.N.), although access to detained military personnel was only granted exceptionally. The report states that the I.C.R.C. attempted to gain access to security detainees as soon as possible after their arrest and was generally succesfull (9) ; Amnesty International's 1987 report is less optimistic : it states that although the Salvadoran Government publicly announced that it allowed access to the I.C.R.C. one week after detention, this was not always the case in practice (10). Allegations of maltreatment during this initial phase of incom-

(7) See *Amnesty International Handbook*, Nottingham, A.I. Publications/Russell Press. Ltd., 1983, p. 19.

(8) *I.C.R.C. Annual Report 1986*, Geneva, 1987, p. 36.

(9) *I.C.R.C. Annual Report 1986*, Geneva, 1987, p. 38.

(10) See *Amnesty International Report 1987*, London, 1987, p. 161.

municado detention were the most frequent. The A.I. 1987 Report further notes a downfall in the number of extrajudicial executions and disappearances, but a growth in the number of political prisoners. In August 1986 Amnesty International requested permission from the government to send a mission ; the mission finally went ahead in March 1987. The U.N. Commission's Special Representative on El Salvador, José Antonio Pastor Ridruejo generally confirms A.I.'s conclusions in his up to now last report (11), while at the same time noting the Government's concern for improving the human rights situation (12). The Commission extended his mandate for another year (13).

The organizations are less unanimous with regard to the situation in Guatemala. The I.C.R.C. offered its services to the country's new authorities in 1986 in order to deal with the protection of persons detained for reasons of security and with the dissemination of international humanitarian law. The I.C.R.C. therefore analyzes the situation as one fulfilling the conditions of the « internal tensions »-treshold. Negotiations with the government took place, but no formal reply had been received by the end of the year and the I.C.R.C. was unable to carry out any activities in the country (14). When a government refuses access to the I.C.R.C., it takes the risk of appearing not to be overly concerned about humanitarian or human rights values. The U.N. Commission's Special Representative Lord Colville of Culross mentions the refusal in his report, but does not draw any such conclusions from it (15). In 1986 the Commission had changed the denomination of his function from Special Rapporteur to Special Representative (16), thus indicating satisfaction with the Government's declared intention of promoting respect for human rights. The Special Representative's report is in general favourable to the Guatemalan government. Although he recognizes that the government is faced with enormous political, practical and economic problems, the Representative is impressed with the government's good will to deal with them (17). The Commission subsequently terminated the mandate of the Special Representative (18) and suggested the designation of an expert in the framework of its advisory services procedure (19). The Special Representative and the Commission were thus of the opinion that the situation in Guatemala no longer required its intervention and had fallen below the treshold of « consistent pattern of violations of human rights ». That image is corrected to a certain extent by

(11) E/CN.4/1987/21 (February 2, 1987).
(12) See E/CN.4/1987/21, para. 130.
(13) HRC res. 1987/51 (March 11, 1987), 36 vs. 0, 7 abstentions.
(14) *I.C.R.C. Annual Report 1986*, Geneva, 1987, p. 41.
(15) E/CN.4/1987/24, para. 6D1.
(16) See HRC resolution 1986/62 (March 13, 1986), adopted without a vote.
(17) See E/CN.4/1987/24, para. 7-9.
(18) HRC resolution 1987/53 (March 11, 1987), adopted without a vote.
(19) See Commission on Human Rights, *Report on the Forty-Second Session*, E/1987/18, p. 8.

the featuring of Guatemala in the reports of both the Special Rapporteur on summary and arbitrary executions (20) and the Working Group on enforced or involuntary disappearances (21). The Commission's thematic approach (dealing with a type of human rights violation) thus allows a follow-up on the situation in a given country, even when that situation has fallen below the treshold. The U.N.'s Commission relative satisfaction with the situation in Guatemala contrasts with Amnesty International's stepping up of its activities in the same period. Although A.I. too acknowledges that the situation has improved (it applauds legal reforms), it remains concerned over a number of disappearances and political killings reported since President Cerezo took office (22). The organization urges the government to look into past abuses of former governments and requests that the perpetrators be brought to justice. In May 1987, A.I. published a 230 page book entitled « Guatemala : the Human Rights Record », thus again drawing international attention to the situation. The approaches taken by the U.N. Commission and Amnesty International clearly diverge on the delicate issue of dealing with a newly established government. There is little doubt that the return of a military government in Guatemala would not improve the human rights situation. Lending support to the civilian government, even if its human rights record is not impeccable, is the alternative chosen by the U.N. Commission (be it under considerable political pressure of the Latin American countries) ; Amnesty International opts for the continued denunciation of violations of human rights.

The I.C.R.C. 1986 Annual Report does not explicitly qualify the situation in Nicaragua. It does however refer to « armed clashes between government forces and counter-revolutionary organizations », thus perhaps indicating a situation of internal disturbances. The I.C.R.C.'s protection and assistance activities in Nicaragua are considerable, including prison visits to over 4000 detainees detained by the Nicaraguan authorities for political reasons (collaboration with the previous government, counter-revolutionary activities ...). The I.C.R.C. did not receive permission to see persons imprisoned in places of detention under the responsibility of the State security services, where most of the detainees are held for questioning (23). The report makes no mention of similar activities with regard to the counter-revolutionary organizations (contra's), presumably because of lack of cooperation. It only states that the I.C.R.C. « maintained contact (...) reminding them of their humanitarian responsibilities towards the civilian populations and the persons detained by them (24). Amnesty International published a research paper entitled « Nicaragua : the Human Rights Record »

(20) E/CN.4/1987/20 (January 22, 1987), para. 102-106, pp. 209-213.
(21) E/CN.4/1987/15 (December 24, 1986), para. 36-45.
(22) See *Amnesty International Report 1987*, London, 1987, pp. 167-171.
(23) See *I.C.R.C. Annual Report 1986*, Geneva, 1987, pp. 39-40.
(24) *L.c.*

in February 1986, which was basically concerned with short term arrests of supporters of opposition parties and trade unions, the conditions of pre-trial incommunicado detention and the lack of fair trial guarantees. The Nicaraguan government did not react to the report, although it does sporadically reply to letters sent to it by A.I. Amnesty International also addressed the U.S. government on the issues of human rights violations by the contra's. No reply was received. Nicaragua has never been the object of a country oriented special procedure within the U.N. It does appear briefly in both the recent reports of the Special Rapporteur on summary and arbitrary executions (25) and of the Working Group on enforced and involuntary disappearances (26).

In Honduras, the I.C.R.C. only offered its services in relation to a specific incident : the capture of seven Nicaraguan soldiers by the Honduran army in March 1986 (27). It did not deal with the situation in Honduras as such, although Amnesty International reported on arbitrary arrests and torture in the pre-detention phase even after the coming into office of the new President José Azcona Hoyo. Amnesty also reported on the abduction from refugee camps in Honduras and the enforced enlistment of Nicaraguan refugees by contra forces operating in the region. The I.C.R.C. report remains silent on the subject (again because of communication problems with the contra's?), but the same incident is described at some length by the Working Group on enforced or involuntary disappearances (28). The Working Group did not receive any reply from the Government on the cases transmitted to it during 1986.

In 1986 Amnesty International organized an extensive campaign on Mexico. In May 1986 it published a report « Mexico : Human rights in the rural areas », dealing primarily with human rights violations in two south-eastern rural states over a period of fifteen years. Information was received on a number of disappearances and transmitted to the Working Group on enforced or involuntary disappearances, who reproduced them in their report (29). Later on during the same year A.I. continued to report murders, detentions and torture in the same region, mostly on account of disputes concerning property rights (30). The I.C.R.C. however did not offer its services, according to its 1986 Annual Report (31) ; one can only presume because it did not feel the situation amounted to one of internal tension, or because it thought its intervention inappropriate ; its evaluation of the seriousness of the situation in any case seems to differ from the one put forward by Amnesty International.

(25) E/CN.4/1987/20, para. 124-126.
(26) E/CN.4/1987/15, para. 69-70.
(27) *I.C.R.C. Annual Report 1986*, Geneva, 1987, p. 42.
(28) E/CN.4/1987/15, para 49.
(29) E/CN.4/1987/15, para 64-68.
(30) *Amnesty International Report 1987*, London, 1987, p. 184.
(31) *I.C.R.C. Annual Report 1986*, Geneva, 1987, p. 42.

4. DEFINITION OF POLITICAL PRISONERS

As has been shown, the three organizations under review have an established policy of working for political prisoners. But how do they distinguish this category from criminal law prisoners and what are the consequences of this distinction?

Because its work for political prisoners is so central to the organization, Amnesty International's guidelines on this matter are relatively clear. A.I. works for the immediate and unconditional release of what it calls « prisoners of conscience » : these are persons detained because of their beliefs, colour, sex, origin, language or religion who have not used or advocated violence (32). It further demands fair and prompt trials for all political prisoners, irrespective of whether they have used violence or not (33). Finally, A.I. opposes the death penalty and torture or cruel, inhuman or degrading treatment or punishment in the case of all (and not just political) prisoners (34). The Research Staff of the organization determines whether particular detainees come under A.I.'s definition of either « prisoners of conscience » or « political prisoners ». The organization does not propose a strict definition of the notion of « political prisoner » : the term is said to apply « to anyone who is imprisoned where there is a political element in the case » (35). That statement certainly leaves a wide margin of appreciation to the research department. A number of reasons are put forward to justify the distinction based on the use of violence by the political prisoner (36). Whereas the Universal Declaration on Human Rights in its third preambular paragraph does suggest that recourse to rebellion as a last resort, when human rights are not protected by the rule of law, may be justified, the organization fears that working for the release of prisoners convicted of violence would compromise its image of impartiality ; it does not want to be accused by governments of supporting terrorism.

As far as working methods are concerned, A.I.'s adoption technique (37) is limited to « prisoners of conscience ». But local groups also deal with individual cases concerning fair and prompt trials, torture or the death penalty. Prison conditions are not the organization's primary concern, although it does report on them in its publications. Due to its more antagonistic approach to governments, Amnesty International is seldom authorized

(32) Art. 1(a) Statute of Amnesty International, as amended and adopted by the 18th International Council Meeting held in Aguas de Lindoia, Brazil, 30 November-6 December 1987.

(33) Art. 1(b) A.I. Statute.

(34) Art. 1(c) A.I. Statute.

(35) *Amnesty International Handbook*, Nottingham, A.I. Publications/Russell Press. Ltd., 1983, p. 9.

(36) *O.c.*, pp. 70-72.

(37) A prisoner dossier is taken up by a local group in a country other than the one where the detention took place; the group members appeal to the government concerned for the prisoner's unconditional and immediate release.

to inspect prisons. Another reason is the amount of publicity involved in A.I.'s country campaigning. Results of research or missions are always made public ; the aim is to build up international pressure in order to persuade governments to reassess their policies.

In situations of internal disturbances and tensions, the I.C.R.C.'s work is in principle limited to political detainees. Again no attempt is made to define the concept. The I.C.R.C. information paper rather vaguely states that « (a)ll these individuals have one thing in common : what they have done, said or written is considered by the authorities to constitute opposition of such magnitude to the existing political system that it must be punished by the deprivation of their freedom » (38). The I.C.R.C. never asks for the release of these prisoners ; it is essentially concerned with the material and psychological well-being of the detainees ; its actions are aimed at the improvement of conditions of detention and treatment of prisoners. Since it does not ask for the release of political prisoners, it does not make a distinction between those having used violence and those who have not ; it carries out its humanitarian task « on behalf of all those who are left defenceless, even if some among them have violated the most elementary humanitarian norms » (39).

Still, in principle the I.C.R.C. only works for prisoners detained in connection with the internal disturbances or tensions. Although the organization « does not get involved in the political problem at the root of the disturbances and tensions » (40), in the sense that it does not in any way mediate between the parties in order to find a peaceful solution, it is because of a lack of peace that the I.C.R.C. is present and it is because of the political motivation of the prisoners that the I.C.R.C. works for them. The distinction between political and ordinary prisoners is nevertheless not as rigid as has been indicated here : in the Third World conditions of detention for all prisoners may be of such a deplorable nature owing to the inadequate financial resources of the prison services, that outside aid is needed. In such cases the I.C.R.C., inspired by its humanitarian ideals may visit and work for all prisoners (41).

The I.C.R.C.'s methods differ fundamentally from those adopted by Amnesty International. It focusses on periodical and thorough visits of places of detention (42), including interviews in private with detainees and discussions with those in charge of detention (43). The I.C.R.C. is far more

(38) I.C.R.C., *The International Committee of the Red Cross and internal disturbances and tensions*, Geneva, August 1986, p. 11.

(39) *O.c.*, p. 15.

(40) *O.c.*, p. 11.

(41) See the statement in MOREILLON, J., *The I.C.R.C. and the protection of political detainees*, I.C.R.C., Geneva, 1981, pp. 23-24.

(42) See *The International Committee of the Red Cross and internal disturbances and tensions*, Geneva, August 1986, pp. 11-12.

(43) For more detailed information on how visits to places of detention are conducted by I.C.R.C. delegates, see SIEGRIST, R., *The I.C.R.C. in Greece, 1967-1971. The protection of political detainees*, Montreux, Ed. Corbaz, 1985, pp. 59-61.

successfull in obtaining authorization to visit prisons because its reports are confidential ; they are transmitted only to the authorities in question. The I.C.R.C. does inform the public of its visiting prisons, but its conclusions and recommendations remain unknown, unless the target government itself breaches the understanding on confidentiality.

One discouraging feature of the U.N. Commission on Human Rights' work for political prisoners is its lack of guidelines as to what political prisoners are and as to what actions fall within the Commission's mandate. These issues are left to the discretion of the different fact-finding bodies. One way to remedy the reigning confusion might be the setting up of a thematic special procedure on detention, including both the scrutiny of arrests and detentions of persons for political motives and the conditions of detention (43*bis*). But in the absence of such a special procedure, the only way to obtain some clarification is a comparative analysis of the different procedures. The sheer use of the term « political prisoner » leads to different approaches. In their most recent reports, some rapporteurs avoid using the term (44), except when quoting information received from sources and only between quotation marks. Others use the term on their own account : the 1987 report on El Salvador for instance contains an entire chapter entitled « The treatment of political prisoners ». Rapporteurs tend to refer to domestic legislation to qualify the status of the prisoner. They ask and are regularly granted permission to visit prisons during on the spot missions, as evidenced by the recent reports on El Salvador and Chile.

The Commission's position on whether it expects governments to release political prisoners and whether its position is influenced by their use of violence, is unclear. The 1987 resolution dealing with the situation in South Africa (45) demands the unconditional and immediate release of Mr Nelson Mandela, Mr Zephania Mothopeng and all political prisoners in South Africa ; this is a position more radical than Amnesty International is prepared to take. But whether the resolution is evidence of the Commission's position on the issue in general, is doubtful : in the Commission's analysis, the situation in South Africa is exceptional. Other resolutions dealing with political prisoners are more reserved : the 1987 resolution on Iran (46) takes note of the release of a number of prisoners detained because

(43*bis*) When this article was in press, the U.N. Human Rights Commission during its 1988 session for the first time adopted a resolution entitled « political prisoners ». In this resolution (HRC resolution 1988/39) political prisoners are defined as those detained « for seeking peacefully to exercice their human rights and fundamental freedoms, in particular the rights to freedom of expression, of assembly and of association ». The resolution calls for the release of all such persons. The matter will be maintained on the agenda at the Commission's next session. The resolution might be the first step towards the establishment of a Special Rapporteur on political prisoners.

(44) E.g. see the Iran Report, E/CN.4/1987/23, para 45 and the recent Chile report to the General Assembly, A/42/556 (September 16, 1987), para 22.

(45) HRC resolution 1987/14 (March 3, 1987), para 8. The resolution was adopted by 36 votes to none, with 3 abstentions.

(46) HRC resolution 1987/55 (March 11, 1987), preamble.

of exercising their freedom of expression and opinion and expresses the Commission's hope that such positive facts might occur more frequently. The 1987 Afghanistan resolution (47) expresses the Commission's concern over the number of persons detained because of exercising their human rights and fundamental freedoms, and their detention in conditions contrary to internationally recognized standards.

5. SUBSTANTIVE LAW APPLICABLE

This part of the text deals with the substantive law applied by the organizations under review. Both the U.N. Human Rights Commission and Amnesty International primarily deal with human rights law, but how willing are they, when confronted with situations of internal strife, to apply humanitarian law? And on the other hand, what is the position of the I.C.R.C. when it moves outside the framework of the Geneva Conventions and Additional Protocols on invoking human rights law?

Amnesty International's Handbook states that its work is based on the principle of international responsibility for the protection of human rights (48). Art. 1 of the organization's Statute declares that its task is « to secure throughout the world the observance of the Universal Declaration of Human Rights ». When listing the international legal standards which are of particular relevance to A.I.'s work, the Handbook first highlights the Universal Declaration and the subsequent U.N. Human Rights Covenants. It then mentions a number of more detailed instruments such as the U.N. standard minimum rules for the treatment of prisoners, the U.N. Convention against torture, the U.N. Convention relating to the status of refugees and its Protocol (49). Notable absentees from this list are the Geneva Conventions and Additional Protocols on international humanitarian law.

This is somewhat surprising, as in many countries described in A.I.'s Annual Report situations coming either under art. 3 common to the Geneva Conventions or under Additional Protocol II or under situations of internal disturbances and tensions occur and a number of humanitarian law provisions offer more extensive guarantees than their counterparts in human rights law, which allow considerable limitations in emergency situations. Amnesty's 1987 Annual Report hardly ever refers to violations of humanitarian law. On the contrary, in the section dealing with Sudan for instance, when reporting on the shooting down by guerilla forces of a civil airplane or on the killing of captured guerilla soldiers by government forces, this information is qualified as being relevant to violations of human rights. This may well be true, but the more traditional and appropriate qualification

(47) HRC resolution 1987/58 (March 1987), para 7.

(48) *Amnesty International Handbook*, Nottingham, Amnesty International Publications/ Russell Press Ltd., 1983, p. 83.

(49) *O.c.*, pp. 84-85.

would be one of possible violations of humanitarian law. Thus there appears to be a certain restraint in invoking these norms. The Annual Report does mention whether the I.C.R.C. is active in a given country and whether the government is willing to cooperate (e.g. see the sections on El Salvador, Afghanistan, Sri Lanka and Lebanon) and appears, be it very cautiously, to suggest that the government's acceptance of an I.C.R.C. offer of services can be seen as an indicator of its concern for human rights. A recent country report on Syria takes this approach one step further (50) : the government is recommended « to invite the inspection of places of detention by an international humanitarian body with appropriate expertise ». In general however Amnesty International is very cautious in promoting I.C.R.C. activities and rightly so : pressurizing governments will not be helped by apparent conspiracies between both organizations.

But why this reticence with regard to invoking human rights standards included in humanitarian law? The issue is very much alive within the organization : in 1982 A.I.'s International Council Meeting, the organization's supreme governing body consisting of representatives of all sections, requested an internal study into the problem of A.I.'s function in situations of armed conflicts and internal strife, with reference to the provisions of humanitarian law and work already done by other international organizations. Prof. David Weissbrodt prepared the paper and recently published an article on a similar subject (51), suggesting that organizations like A.I. « become more consistent and careful in using humanitarian law ». He also points at difficulties the organization might have in applying humanitarian law, due to its limited mandate. It is true that many of the victims of humanitarian law violations in these situations are not adoptable as prisoners of conscience, since they are members of the armed forces or of guerilla movements and, as such, apply violence. But on the other hand, the organization would certainly benefit from referring to humanitarian law norms in its work on torture, the death penalty and fair trial guarantees, due to the growing convergence of human rights and humanitarian law, especially in the field dealt with here, the protection of political prisoners. To select human rights norms on the basis of their source (a human rights or a humanitarian law instrument), regardless of their contents, appears to be a too legalistic approach. There is little reason why A.I. could for instance not support the ratification of the Geneva Conventions and Additional Protocols, since the norms contained in these documents obviously serve the organization's goals.

The U.N. Human Rights Commission and its fact-finding bodies do not hesitate to discuss and invoke humanitarian law, when dealing with situa-

(50) *Syria : Torture by the security forces*, London, A.I. Publications, October 1987, p. 33.

(51) WEISSBRODT, D., « The role of non-governmental organizations » in a special issue of the Journal of Peace Research on humanitarian law of armed conflict, *Journal of Peace Research*, September 1987, pp. 297-306.

tions of internal strife. Their mandate is of course much wider and covers the entire field of human rights law, but even humanitarian law provisions not dealing directly with human rights as such are brought to the forefront (52).

In his most recent report on El Salvador, the Special Representative discusses at some length the distinction between non-combatants and guerilla fighters (53). In his recommendations he urges the parties to the conflict « most emphatically » to « take the necessary steps to put a complete end to attempts on the lives, physical integrity and freedom of non-combatants, both in non-combat situations as in or as a result of combat. This should be done in complete conformity with the Geneva Conventions of 1949, the Additional Protocols of 1977 and international human rights instruments in force in the republic of El Salvador » (54). In its subsequent resolution the U.N. Human Rights Commission reiterates the latter statement (55). Likewise, in its resolution on Afghanistan, the Commission expresses its concern on the methods of warfare used by the parties which are said to be contrary to international humanitarian standards (56), and the resolution on the situation in Sri Lanka, for which as yet no special procedure has been established, deals almost exclusively with humanitarian law (57). The latter resolution was only adopted (without a vote) after fierce political discussions, and is evidence of the fact that States (in this case the Sri Lankan government) are often more willing to accept references to humanitarian law than to human rights law.

The Commission's fact-finding bodies clearly evaluate a target government's acceptance of I.C.R.C. intervention as a factor in its attitude towards human rights. The risk of identification of these fact-finding bodies with the I.C.R.C. is far smaller. The Special Rapporteur on Chile notes that agreements have recently been concluded between the I.C.R.C. and Chilean authorities, enabling the I.C.R.C. to visit detention centres. In his view, the agreements are « a sign of a political readiness to prevent the inhuman and degrading treatment of detainees » (58) and « an important measure for the observance of human rights » (59). Further on, he states that « the agreements and the way they are implemented should also serve as a model for further types of humanitarian participation by the I.C.R.C. in the protection of fundamental freedoms » (60), thus clearly establishing

(52) See RAMCHARAN, B. G., « Substantive law applicable », in RAMCHARAN, B. G., (ed.), *International law and fact-finding in the field of human rights*, The Hague, M. Nijhoff Publ., 1982, pp. 35-38.

(53) E/CN.4/1987/21, para 88-97.

(54) E/CN.4/1987/21, para 130.

(55) HRC resolution 1987/51, para 3.

(56) HRC resolution 1987/58, para 3.

(57) HRC resolution 1987/61.

(58) E/CN.4/1987/7, para 35.

(59) E/CN.4/1987/7, para 34.

(60) E/CN.4/1987/7, para 54-55.

the links between both sets of norms and overtly promoting I.C.R.C. activity. When there is no cooperation between the I.C.R.C. and at least one of the parties to the conflict, two rapporteurs recommend a change : in the report on Afghanistan, the Special Rapporteur is of the opinion that the opposition movements should contribute to the fulfilment of its humanitarian tasks by the I.C.R.C. (61), and the Special Representative on Iran suggests that « the Commission may wish to recommend that the I.C.R.C. also be authorized to visit members of opposition groups detained in the Islamic Republic of Iran and persons detained on account of their opinions, beliefs or religion » (62). The Commission subsequently refrains from recommending such a move (63), possibly because the I.C.R.C. had only just managed to resume its activities for Iraqi prisoners of war in Iran, and might not have been altogether happy with the suggestion. Then again, the political majority supporting the continuation of the special procedure on Iran is slim ; the resolution was only adopted by 18 votes to 5, with no less than 16 abstentions. The Commission's hesitation in taking up the suggestion of the representative is all the more remarkable because in its resolution on Sri Lanka (64), it does urge the government to authorize the I.C.R.C. to intervene, while at the same time deciding not to initiate a procedure of its own. In this case however there had been a clear offer of services by the I.C.R.C., which had been turned down.

When the I.C.R.C. deals with situations of internal disturbances or tensions, it cannot apply the Geneva Conventions and their Additional Protocols directly. What then are the substantive law provisions the I.C.R.C. looks at for guidance when practising its protection and assistance activities? The 1986 I.C.R.C. information paper refers to « general norms of humanity which it is up to each person (...) to respect at all times » (65) or to « fundamental humanitarian laws » (66), applying to all. The paper attempts to specify what these norms of rules of behaviour are and includes the following statements :

1. each person must be treated with humanity ;
2. his life, his moral and physical integrity and honour must be respected in all circumstances ;
3. nothing can justify murder, torture or any other cruel, inhuman or degrading treatment ;
4. terrorism is unjustifiable ;
5. all prisoners must be afforded proper conditions of detention ;
6. the sick and wounded deserve treatment without discrimination.

(61) E/CN.4/1987/22, para 50.
(62) E/CN.4/1987/23, para 88b.
(63) HRC resolution 1987/55.
(64) HRC resolution 1987/61.
(65) I.C.R.C., *The International Committee of the Red Cross and internal disturbances and tensions*, Geneva, August 1986, p. 18.
(66) *O.c.*, p. 19.

The paper goes on to state that « there are other such norms which do not directly concern I.C.R.C. activities, those, for example, deriving from judicial procedure (fundamental judicial guarantees) ».

Quite clearly most of these « fundamental humanitarian laws » are human rights in disguise. Nevertheless all direct references to human rights instruments are purposefully absent, although these instruments are the main legal support for the claim that the norms are truly fundamental and universal. There is a parallel here to Amnesty International's practice of avoiding to refer to humanitarian law. Does the desire to keep the distinctions between both organizations clear justify this approach? From the point of view of contents, the distinction between both sets of norms is artificial. An additional drawback from scrupuously sticking to a vague concept like « fundamental humanitarian laws », even when there is a much sounder legal basis available in human rights law, is that they are relatively ineffective, as Meron (67) correctly suggests. In his opinion, the absence of a normative framework (or, as is argued here, the I.C.R.C.'s refusal to integrate human rights law in its work) may also account for the reluctance of the I.C.R.C. to question the reasons for and the process of detention.

This remark raises another problem : the list of « general norms of humanity » which the I.C.R.C. esteems relevant to its work does not cover the entire human rights field. Obviously absent are political rights and the rights to freedom of thought or to hold an opinion. If the I.C.R.C. were to include these rights in its mandate, it would no longer be able to hold on to its present position of not questioning the motives behind the detention. If the I.C.R.C. were to refer more often to human rights law, one might argue that this position will become less clear, and that the traditional basis of I.C.R.C. authority might be called in question. Siegrist (68) asserts that the clear distinction between the struggle for the release of political detainees and the concern for their conditions of detention must be maintained by the I.C.R.C., because international agreement only exists with regard to the treatment of detainees, not with regard to the reasons which might justify the detention of certain categories of persons. It is an arguable point (69). But even if this position is accepted, the political motivation of the detainee still remains relevant to the I.C.R.C. : as explained above, it determines in principle whether the I.C.R.C. works for him or not. Only on the more fundamental question of whether a person detained because of

(67) MERON, T., *Human rights in internal strife : their international protection*, Cambridge, Grotius Publ., 1987, p. 117.

(68) SIEGRIST, R., *The I.C.R.C. in Greece, 1967-1971. The protection of political detainees*, Montreux, Ed. Corbaz, 1985, p. 49.

(69) See RODLEY, N., « Monitoring human rights violations in the 1980s », in *Enhancing global human rights*, New York, McGraw-Hill Book Co., 1980, p. 132. The author forcefully argues that there is a universally accepted minimum standard in the sphere of freedom of thought/conscience or freedom of opinion/expression.

his opinions (and only on that ground) does not deserve release, does the I.C.R.C. remain silent. That, to the innocent bystander, may seem paradoxical (70).

We do not however have to enter into that discussion here any further, since it is not essential to the argument. There is no reason why the I.C.R.C. should not select certain human rights norms which it deems relevant for its work without implying that these norms are more fundamental than others : Amnesty International does exactly the same. The use of be it a limited list of standards originating in human rights documents may strengthen the I.C.R.C.'s legal basis in situations of internal disturbances and tensions, in much the same way as a more intensified use of humanitarian law norms might assist Amnesty International.

A. Eide (71) suggests an alternative approach : he attempts to apply art. 3 common to the Geneva Conventions and Protocol II, even if the level of violence in the country does not reach the treshold required, by arguing that it is illogical to assume that governments are allowed more restrictive practices when the level of violence is lower : in his view, the protection offered by Protocol II must be interpreted as a general minimum protection to be offered to all persons whose liberty is restricted.

It is not easy to determine how the I.C.R.C. evaluates the work of the U.N. Human Rights Commission and Amnesty International when these organizations are dealing with situations it is itself involved in. Weissbrodt (72) states that in general the I.C.R.C. accepts and appreciates the role of other human rights organizations in bringing human rights violations to its attention. Moreillon (73) however is more cautious with regard to other organizations urging governments to grant the I.C.R.C. access to political detainees without prior consultation, « for on each occasion the I.C.R.C. itself was already making overtures and wished, above all else, to convince the Detaining Powers not only of its complete neutrality but also of its total independence ».

6. CONCLUSION

Both the International Committee of the Red Cross and Amnesty International are faced with a conflict between two concerns. One is the need

(70) See also Van Boven, who discusses the legal and moral issue of whether an attitude of ideological neutrality is maintainable with regard to governments practising gross and systematic violations of human rights in VAN BOVEN, T., « Some reflections on the principle of neutrality », in SWINARSKI, C. (ed.), *Studies and essays in international humanitarian law and Red Cross principles in honour of Jean Pictet*, Geneva/The Hague, I.C.R.C./M. Nijhoff Publ., 1984, pp. 643-652.

(71) EIDE, A., « Troubles et tensions intérieurs » in *Les dimensions internationales du droit humanitaire*, Paris, Unesco, 1986, pp. 279-295.

(72) WEISSBRODT, D., « The role of non-governmental organizations » in *Journal of Peace Research*, September 1987, p. 302.

(73) MOREILLON, J., *The I.C.R.C. and the protection of political detainees*, I.C.R.C., Geneva, 1981, p. 18.

for discretion, the need not to publicize the criteria on which the organizations' intervention is based in order not to play into the hands of the government under scrutiny ; this leads to the labelling of policy documents as « internal » and the shying away from public statements. The other is the need for publicity and clarity of action : victims of human rights violations are to be conscious of the circumstances in which they can avail themselves of the organizations' assistance ; the organizations must be able to effectively mobilize public opinion in support of their goals. The different actors both organizations have to deal with, — governments, individuals and public opinion — thus require contrary approaches.

The same tension exists within the U.N. Commission on Human Rights, but here the issue cannot be settled by deliberate policy decisions : the Commission lacks coherence as an organization ; it is, after all, an assembly of government representatives. Nevertheless the lack of agreement on the criteria applied by the Commission and its fact-finding bodies conflicts in an analogue way with the need felt by the majority of the Commission's members to be as publicity-minded as possible. Publicity makes the Commission's work effective, but on the other hand requires clarity and consistence, which it is almost unable to offer.

The four topics discussed above exemplify the point.

Each of the organizations started out with a simple but limited mandate, a pre-condition to the recognition of their authority by the State community. The I.C.R.C. dealt with armed conflicts, the U.N. Commission on Human Rights with gross violations of human rights in politically ostricized countries, and Amnesty International with prisoners of conscience. But the dynamics of the organizations took them beyond this mandate : the concern for individual victims motivated the I.C.R.C. to get involved with situations of internal disturbances and tensions ; the U.N. Commission on Human Rights intervened in countries enjoying considerable international support and Amnesty International broadened its actions to political prisoners and general campaigns against torture and the death penalty.

At the same time the contours of the mandate became more blurred ; increasing categories of victims and lobbying groups turned to the organizations for assistance and were often turned down ; mandate questions became more intricate and procedural techniques more varied. States tried to fight off what they saw as growing interference in their internal affairs. In response both the I.C.R.C. and Amnesty International attempted to stress the organizations' particularity, e.g. by not invoking sets of norms at first glance falling outside their sphere of work. They need to legitimate their actions, to be clear about their mandate ... and thus face a dilemma.

In order to avoid confusion and the accusation of bad faith the links between the two organizations are not institutionalized. On the other hand, there are ample off the record contacts : delegates attend eachother's

meetings in their official capacity, but more important, there are many contacts at the personal level. Unofficial consultation, not between organizations, but between persons, undoubtedly strengthens the organizations' effectiveness ; official consultation almost certainly harms it.

The necessity of information campaigns directed at the general public, aimed at explaining the organizations' aims and methods is not controversial. In this type of campaign intricate mandate questions need not come to the forefront . U.N. agencies have not been spared of criticism in this area (74), although they spend considerable amounts of money on information. Cooperation here should definitely be encouraged : initiatives like the joint organization, for the first time, of a symposium for journalists by the U.N. Commission on Human Rights, the I.C.R.C. and A.I. on their respective tasks at the Henry Dunant Institute in 1988 can only be applauded.

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(74) E.g. see an article by Ian GUEST, « The Human Rights Information Business », *Mennesker og Rettigheter*, 1986, no. 4, pp. 4-9, where he describes the mindboggling experiences of « a working journalist in Geneva »,