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Humanitarian Law in Armed Conflict: The Role of International Nongovernmental Organizations*

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The article identifies five principal reasons for international nongovernmental organizations to use humanitarian law in seeking to protect human rights during periods of armed conflict and also notes three difficulties in using humanitarian law. International nongovernmental organizations, aside from the International Committee of the Red Cross, possess an important role in assessing whether governments and armed opposition groups are respecting their human rights and humanitarian law obligations. Americas Watch, Amnesty International, the International Commission of Jurists, and other organizations have for some time been using humanitarian law and human rights law in armed conflict situations. They need to become more consistent and careful in using humanitarian law; they can also learn from the experience of the Red Cross in how to be more effective in safeguarding human rights during periods of armed conflict.

1. *Introduction*

Governments are principally responsible for the implementation of international human rights and humanitarian law during periods of armed conflict.¹ During non-international armed conflicts, governments and armed opposition groups may each bear responsibility for their obedience to these norms.²

International organizations can only encourage the participants in armed conflicts to respect human rights and humanitarian law. The International Committee of the Red Cross (ICRC) has long pursued a leading role in working for the application of humanitarian law during periods of armed conflict; it has also begun recently to refer to human rights law in situations of internal strife or tensions not covered by international humanitarian law.³ The United Nations General Assembly,⁴ the UN Commission on Human Rights,⁵ the International Court of Justice,⁶ the Inter-American Commission on Human Rights,⁷ and several other intergovernmental organizations have occasionally attempted to use their influence to seek the protection of human rights during armed conflicts and have irregularly referred to humanitarian law in such endeavors.⁸ All these organizations have sought partially to fill the vacuum left by the failure of the

UN Security Council and other international mechanisms to deal successfully with armed conflict situations.

International nongovernmental organizations,⁹ such as Americas Watch, Amnesty International, the International Commission of Jurists, and the International League for Human Rights, have recognized that human rights violations within their respective areas of concern may occur during periods of armed conflict. Indeed, serious human rights violations, including arbitrary killings, detention, and ill-treatment, are likely to increase in times of armed conflict. For example, in its Annual Report of 1986, Amnesty International identified 21 countries where armed conflicts were occurring or had occurred, such that human rights issues were noted: Afghanistan, Angola, Botswana (South African attacks), Burma, Chad, Colombia, El Salvador, Ethiopia, Guatemala, Honduras (Nicaraguan armed opposition groups), Israeli Occupied Territories, Kampuchea, Lebanon, Lesotho (South African attacks), Mozambique, Namibia, Philippines, Somalia, Sudan, Uganda, and Vietnam.¹⁰ The 1986 Annual Report also notes Amnesty International's concern about prisoners held by the Polisario Front and thus tangentially mentions the conflict in Morocco and the Western Sahara. The report, however, fails to mention the war between Iran and Iraq.

In dealing with human rights violations,

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nongovernmental organizations have relied principally upon the Universal Declaration of Human Rights¹¹ and the International Covenant on Civil and Political Rights,¹² but these organizations have begun to refer more frequently to principles of humanitarian law applicable to armed conflict situations, for example, those norms found in the four Geneva Conventions of 12 August 1949 and the two Additional Protocols of 8 June 1977.¹³

There are five principal reasons why nongovernmental organizations have found norms of humanitarian law to provide a useful additional legal foundation for their concerns.¹⁴ First, the Geneva Conventions of 1949 have been ratified by 165 countries¹⁵ while the International Covenant on Civil and Political Rights has been ratified by about 83 nations.¹⁶ Second, some of the principles of international humanitarian law are more specific and/or more exacting than the provisions of international human rights law.¹⁷ Third, humanitarian law applies specifically to situations of armed conflict in which abuses are likely to occur; international human rights law permits significant derogations during these same periods.¹⁸ Fourth, military and law enforcement officials often do not take international human rights law seriously, but they consider international humanitarian law to be worthy of respect.¹⁹ Fifth, humanitarian law specifically covers abuses by both governments and armed opposition groups,²⁰ while international human rights law deals principally with the responsibilities of governments.²¹

Despite these advantages in using international humanitarian law, there are several disadvantages: First, nongovernmental organizations have just begun to master the complex structure of humanitarian law and may experience some difficulty in using humanitarian law effectively with the media and with members who require relatively simple approaches to human rights problems. Second, armed conflict situations often inhibit the gathering and assessment of information about human rights violations. Humanitarian law may require even more difficult factfinding tasks, for example, in determining whether a particular situation

qualifies as an international armed conflict, an international armed conflict involving a national liberation struggle under Additional Protocol I, a non-international armed conflict under common Article 3 of the four Geneva Conventions, or a non-international armed conflict under the more limited ambit of Additional Protocol II. Without such an assessment, an organization cannot apply the correct principles of humanitarian law. Similarly, human rights organizations may need to develop facts as to whether armed opposition groups are functioning so much like governments that they should become the subject of appeals for respecting human rights and/or humanitarian law. Third, nongovernmental organizations have difficulty in effectively alleviating human rights abuses during armed conflicts, and humanitarian law may not significantly improve these problems of effectiveness.

This article briefly reviews the work of nongovernmental organizations in seeking the application of human rights and humanitarian law during situations of armed conflict. The article next considers the pre-eminent position of the International Committee of the Red Cross, as a private Swiss organization with international activities and with specific functions provided by international humanitarian law. The article considers what role other nongovernmental organizations can play in situations of armed conflict.

Because of the necessary brevity of this article in the present comprehensive volume, it is not possible to explore more fully the reasons why international nongovernmental organizations should cite or might be reluctant to refer to humanitarian norms in support of their human rights concerns. It is also not possible to examine the factors affecting factfinding in periods of armed conflict.

Many nongovernmental organizations focus primarily upon human rights violations and seek to persuade governments to fulfill their human rights and/or humanitarian law obligations. Persuasion can be accomplished by diplomatic contacts with the government concerned, appeals through the media, letter-writing campaigns, communications to intergovernmental organizations, and efforts

to encourage other governments to intercede. Some organizations, such as Amnesty International and the ICRC, also assist human rights victims. International Alert²² is a relatively new organization which intervenes not only about the human rights violations, but also with regard to the underlying causes or conflicts which engender the violations. It will be necessary to leave to another occasion a further assessment of the effectiveness of the work of nongovernmental organizations against human rights violations during armed conflicts.

2. Practice of International Nongovernmental Organizations in Referring to International Humanitarian Norms

There is a considerable diversity in the way nongovernmental organizations use humanitarian law in their work and how they approach armed conflict situations. The diverse approaches in reports by a single organization might be explained by different authors, by a failure to develop consistent supervision over the content of reports, and by the slow learning process in recognizing the importance of humanitarian law.

2.1 A Few Reports Issued by Americas Watch

The Americas Watch report entitled *Violations of the Laws of War by Both Sides in Nicaragua 1981–1985*²³ establishes a complete legal framework for the application of common Article 3, Additional Protocol II,²⁴ and customary international law. This 1985 report considers with precision the facts which would determine how the armed conflict in and near the frontiers of Nicaragua should be characterized under humanitarian law principles. Having initially established the framework for applying humanitarian law, the report does not carry through its analysis by applying the substantive norms to the facts developed in the latter part of the report. Instead, the facts are reported without the application of legal norms.

The Americas Watch Report on Colombia uses a different approach to humanitarian law issues.²⁵ The report sets forth the facts without any use of legal principles to assess

whether human rights violations have occurred. An appendix to the report begins with the following observation:

Americas Watch has reported on violations of the laws of war in several countries with ongoing internal armed conflicts. One reason is that, unlike international human rights law, the laws of war bind not only governments but also nongovernmental forces combatting them, such as Colombia's guerrillas. Accordingly, reference to international humanitarian law permits us to avoid partisanship in such conflicts by giving us a legal basis for assessing abuses by both sides. Also, human rights law was designed essentially for peace time situations. It contains no rules governing military operations by the contending parties; it offers no guidelines, for example, as to what constitutes a legitimate military target, or how much force can be used to attack that target.²⁶

The appendix to the 1986 Colombia report is not so thorough and scholarly in its establishment of a framework for the application of humanitarian law, as was the 1985 Nicaragua report. Instead, the Colombia report is relatively simplistic in not sufficiently analyzing the armed conflict to determine if common Article 3 applies. A relatively simplistic reliance upon common Article 3 may have been appropriate to the armed conflict in Colombia and may have been necessary to keep the attention of the nontechnical audience which Americas Watch wanted to address. But the Colombia appendix proceeds to apply the provisions of common Article 3 to the facts developed in the body of the report. Accordingly, the Colombia report is more successful than the Nicaragua report. Both reports, however, are remarkable for nearly ignoring international human rights law and preferring to use humanitarian law, apparently because of a political sense that humanitarian law will be more influential with US public opinion — the principal audience which Americas Watch strives to reach.

2.2 A Sample of Reports Issued by Amnesty International

Amnesty International (AI) has sporadically made use of humanitarian law for many years in dealing with torture, the imprisonment of prisoners of conscience, executions, and unfair trials in political cases, arising during periods of armed conflict. The limited man-

date of AI, for example, to work for the release of prisoners of conscience and for fair trials in 'political' cases does not fit easily within the legal structure of humanitarian law. Nevertheless, during the last few years there has been an improvement in the sophistication of Amnesty International's efforts during periods of armed conflict, although its practice is still not entirely consistent.²⁷

In Amnesty International's open letter of 1981 to the US Secretary of State in relation to military assistance to the Government of El Salvador there is a brief reference to the Salvadoran Constitution, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the American Convention on Human Rights. The letter states further,

Amnesty International is aware that these human rights violations in El Salvador are occurring at a time of civil conflict between guerilla groups and the Salvadoran government. . . . We note that all of the human rights instruments referred to above also stipulate that even in time of war governments may not derogate from their commitment not to subject anyone to arbitrary deprivation of life or torture or other cruel, inhuman or degrading treatment.

Indeed, to the extent that the present state of hostilities in El Salvador might be considered to be an armed conflict not of an international character, such actions by any party are in direct violation of Article 3 of the four Geneva Conventions on the Protection of Victims of War of 12 August 1949.

The letter proceeds to quote from common Article 3 at some length.²⁸

2.3 A Sample of Reports Issued by the International Commission of Jurists

The International Commission of Jurists (ICJ) has used humanitarian law in a sophisticated fashion on some occasions and has almost ignored humanitarian law on others. For example, in 1972 the International Commission of Jurists published a study of events in East Pakistan during 1971, which led to the creation of Bangladesh.²⁹ The study assessed the facts presented under the provisions of the International Bill of Human Rights, the Convention on the Elimination of Racial Discrimination, the Geneva Conventions, the Genocide Convention, and the customary international law forbidding crimes

against humanity. With respect to the non-international armed conflict within East Pakistan, the ICJ report relied principally and properly upon common Article 3, but also referred to other provisions of the Geneva Conventions in assessing the conduct of the brief international armed conflict between India and Pakistan.

A contrasting example may be found in the report which the International Commission of Jurists published in 1979 entitled *Human Rights in Guatemala*³⁰ which discussed the historical and contemporary violence in that country and the human rights abuses which had occurred. The report mentioned the American Convention on Human Rights only in passing and would have been strengthened by more specific references to provisions of both human rights and humanitarian law.

3. Relating to ICRC Work in Periods of Armed Conflict

Since the International Committee of the Red Cross has long held the leading role in protecting certain basic human rights in armed conflict situations, it is useful for other nongovernmental organizations to study the work of the ICRC for any lessons to be learned from their experience and to consider how the work of the ICRC can be supplemented by the efforts of other organizations. The other contributions to this volume render it necessary to describe the ICRC and its activities at this juncture.³¹

3.1 What Can Other Organizations Learn from the ICRC Experience?

Other organizations can learn from the ICRC's experience at least insofar as the effectiveness of techniques might be concerned. As to all matters in which the ICRC may believe that a violation of humanitarian law has occurred or may be prevented, the ICRC may make approaches to the relevant authorities. In principle, such representations are made without any publicity. The primary task of the ICRC is aiding the victims of armed conflicts. The ICRC communicates its concerns in confidence to the authorities because it does not wish to become engaged in public controversies

which might jeopardize its assistance and protection work for victims.

While the ICRC's efforts to put an end to violations of international humanitarian law or to prevent such violations are in principle confidential, the ICRC has reserved 'the right to make public statements concerning violations of international humanitarian law'³² under limited conditions.³³

If a human rights organization intends to comment upon the human rights violations committed by the government on one side of an armed conflict, the organization may be expected to include some statements in its reporting about the abuses perpetrated by the other party in the conflict whose misdeeds may be the cause or at least the excuse for the repression. Such efforts to balance human rights reporting may help one party to the conflict to find justification for their previous human rights violations or for their future reprisals. This paradox demonstrates the difficulty of any effort to balance reporting and, indeed, the extremely hazardous character of any increased activity in periods of armed conflict.

If a human rights organization were to publish information about torturing or killing prisoners of war or civilians by only one side of a conflict, the organization will probably be criticized for taking sides in the war or for having purveyed enemy propaganda. For the ICRC such an accusation would be very damaging, because the ICRC attempts in many respects to serve as a neutral intermediary between belligerent parties. (The ICRC helps to exchange prisoners, assist wounded soldiers, transmit POW correspondence, etc.) Other human rights organizations do not attempt to serve in any such intermediary role and are thus more capable of making public comments about human rights violations. If human rights organizations wish impartially to pursue their concern for human rights in criticizing violations by governments even in times of armed conflict, these organizations must at least proceed with the awareness that governments will be particularly quarrelsome and sensitive at such times. While humanitarian legal obligations are applicable to each government regardless of abuses committed by any

opposing party, organizations may attempt to encourage governments to provide greater protections on a reciprocal basis.

In considering those lessons, one must be aware of the important differences between the ICRC and other organizations in structure, principles, and techniques.³⁴ Despite the considerable area of potential overlap between the work of the ICRC and other organizations, there are, however, significant differences in the techniques ordinarily employed by the ICRC and other human rights organizations. The ICRC makes most of its approaches to governments in confidence. Most other human rights organizations use a range of approaches to governments including direct contacts, membership appeals, publicity campaigns, etc.

One major difference between the approaches available to the ICRC and those available to other human rights organizations is that the ICRC has been given specific tasks under international humanitarian treaties, while other organizations have not. Another difference is noted in a report of an AI mission to Viet Nam:

Amnesty International is not professionally equipped to carry out prison visits in the manner that the International Committee of the Red Cross (ICRC) can. Thorough camp inspections necessitate lengthier visits to more camps and would require medical expertise among the inspection team.³⁵

Such efforts also require repeated visits to the same prison.

As to structure: the ICRC has both a large central staff and regional offices which regularly visit places of detention, provide relief, work with National Red Cross and Red Crescent Societies, etc. Amnesty International is based upon a very diverse membership with sections and active groups in 60 countries, which provides financial support for the organization and assists with appeals to governments; AI's research and factfinding work is centralized in London. Americas Watch and most of the other human rights organizations identified in this article have central offices, but have no effective membership or grass-roots campaigning capacity.

3.2 How should Other Human Rights Organizations and the ICRC Relate to Each Other in Working for the Protection of Human Rights During Periods of Armed Conflict?

Bearing in mind the important differences between the ICRC and other human rights organizations, there remains the question as to how such organizations might continue to work without undue interference with each other. One possible approach would be to recognize the ICRC's long-standing and very successful efforts in periods of armed conflict. It might be argued that other organizations should generally leave this field to the ICRC.

Other human rights organizations have, however, increasingly found that human rights violations have occurred at the time of armed conflict. These human rights organizations cannot ignore the human rights violations. The fact-gathering capacity and diverse methods of action available to other human rights organizations may complement the ICRC's work. Indeed, the ICRC has indicated its acceptance of and appreciation for the role of other human rights organizations in bringing human rights violations to the attention of the ICRC and the public, where the ICRC must only receive information and not disseminate it. In this regard, it is interesting to note a statement made in 1983 by Hans-Peter Gasser, Legal Adviser of the International Committee of the Red Cross:³⁶

The aim of a number of non-governmental organizations is to promote respect for human rights. Some of these organizations have also undertaken to exercise their activity in situations covered by the Geneva Conventions (for example the International Commission of Jurists and Amnesty International). The reports published by these two organizations, exposing violations committed in armed conflict may help influence public opinion. The activity of non-governmental organizations may be able to promote respect for humanitarian law by the belligerents. Their independence of any State power guarantees them considerable freedom of action and at the same time creates the conditions necessary for judgments free of any political influence — advantages which have to go hand in hand with impartiality and a keen sense of responsibility.

The discreet approach of the ICRC is complementary to the activity of other human

rights organizations in that the ICRC generally avoids publicity and thus preserves its access to prisoners. Most other human rights organizations publicize violations but such publicity may prevent these organizations from having much access to prisoners.

It is important, however, for all human rights organizations to protect their separate identities. The ICRC would not want to appear to be a collaborator with more outspoken human rights organizations, because the ICRC would not want to be denied access to prisoners as a result of statements by unrelated organizations. Similarly, the International Commission of Jurists may have easy access to the authorities of a particular country and may be able to influence those officials towards the protection of human rights, while Amnesty International has publicly criticized the same country and lacks access. For the effectiveness of each organization and for the overall effectiveness of human rights efforts, it is critical that each organization preserve its independence and separate identity.

4. Conclusion

International nongovernmental organizations, aside from the International Committee of the Red Cross, possess an important role in assessing whether governments and armed opposition groups are respecting their human rights and humanitarian law obligations. Americas Watch, Amnesty International, the International Commission of Jurists, and other organizations have for some time been using humanitarian law and human rights law in armed conflict situations. They need to become more consistent and careful in using humanitarian law; they can also learn from the experience of the ICRC in how to be more effective in safeguarding human rights during periods of armed conflict.

NOTES

1. See International Covenant on Civil and Political Rights, Art. 2, *entered into force* March 23, 1976, G.A. res. 2200A; 21 UN GAOR, Suppl. (no. 16) 49, UN Doc. A/6316 (1967); common Article 1 of the Geneva Conventions of 12 August 1949: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed

Forces in the Field, 6 UST 3114, TIAS no. 3362, 75 UNTS 31 [hereinafter cited as First Geneva Convention]; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, 6 UST 3217, TIAS no. 3363, 75 UNTS 85 [Second Geneva Convention]; Geneva Convention Relative to the Treatment of Prisoners of War, 6 UST 3316, TIAS no. 3364, 75 UNTS 135 [Third Geneva Convention]; Geneva Convention for the Protection of Civilian Persons in Time of War, 6 UST 3516, TIAS no. 3365, 75 UNTS 287 [Fourth Geneva Convention; hereinafter collectively cited as the Geneva Conventions].

- The Geneva Conventions of 1949 also recognize a role for governments which are not parties to the conflict to serve as Protecting Powers, but such a status is rarely, if ever, granted in practice. See Rosenblad (1979, pp. 15–17); Levie (1986, vol. 2, pp. 577–605). Article 90, Additional Protocol I also envisages the appointment of an International Fact-Finding Commission consisting of 15 impartial persons of high moral standing, but this provision has not yet been used. See Rosenblad (1979, p. 18).
2. See, e.g., Geneva Conventions, common Article 3.
 3. Common Article 9 of the First, Second, and Third Geneva Conventions; Fourth Geneva Convention, Article 10; Geneva Conventions, common Article 3; International Committee of the Red Cross (1983, pp. 38–39); Schindler (1979).
 4. See General Assembly res. 2675 (XXV), 25 GAOR, Supp. (no. 28), p. 77; UN Doc. A/8028 (1970); United Nations (1973, pp. 110–116).
 5. The UN Special Rapporteur on the situation of human rights in Afghanistan devoted significant attention to the armed conflict in that nation and the applicable humanitarian norms. UN Doc. E/CN.4/1985/21, pp. 28–32, 42–45, 47–48 (1985). The UN Special Rapporteur on the situation of human rights in El Salvador identified the applicable international humanitarian standards in common Article 3 and Additional Protocol II, but did not use these standards in assessing the facts collected. UN Doc. E/Cn.4/1985/18, pp. 37–45 (1985); UN Doc. A/39/636, pp. 28–34 (1984). In contrast, the UN Special Rapporteur on the situation of human rights in Guatemala not only experienced difficulty in establishing relevant facts, but also failed to make use of humanitarian law or any other specific human rights provisions. UN Doc. E/CN.4/1985/19 (1985). See generally written statement submitted by Human Rights Advocates, 'Inc., a nongovernmental organization in consultative status, UN Doc. E/CN.4/1986/46 (1986).
 6. See Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States) 1986 International Court of Justice, pp. 14, 113–115, 129–130; reprinted in *International Legal Materials*, vol. 15, pp. 1023, 1073–74, 1081.
 7. The Inter-American Commission on Human Rights generally relies upon the provisions of the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights for its operative human rights standards, but the Commission has found violations of common Article 3 of the Geneva Conventions. See, e.g., Inter-American Commission on Human Rights, Report on the Situation of Human Rights in the Republic of Guatemala, OAS Doc. OEA/Ser.L/V/II.61, Doc. 47 rev. 1, pp. 69–70 (1983). See also Decision of the Inter-American Commission on Human Rights on Application no. 9213 (Disabled Peoples International v. United States); OAS Doc. OEA/Ser.L/V/II.67, Doc. 6 (1986) (declaring admissible a complaint on behalf of the 16 persons who were killed and six who were injured when military aircraft of the United States mistakenly bombed the Richmond Hill Insane Asylum in Grenada, West Indies).
 8. See generally Ramcharan (1983); Wolf (1984); Gross (1982).
 9. See Weissbrodt (1984, pp. 436–438); Shestack (1978).
 10. Amnesty International 1986c.
 11. General Assembly res. 217A, UN Doc. A/810, p. 71 (1948).
 12. See note 1, *supra*.
 13. Protocol Additional to the Geneva Conventions of 12 August 1949 Relating to the Protection of Victims of International Armed Conflicts (Protocol I), December 12, 1977, UN Doc. A/32/144, Annex I reprinted in *International Legal Materials*, vol. 16, p. 1391 (1977); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), December 12, 1977, UN Doc. A/32/144, Annex II reprinted in *International Legal Materials*, vol. 16, p. 1442 (1977).
 14. Scholars have begun to comment on the convergence of humanitarian and human rights law. See, e.g., Calogeropoulos-Stratis (1980, pp. 21–52); Cassese (1979); Dinstein (1984); Draper (1972); Marks (1982, pp. 193–194); Meron (1984a); Meron (1984b); Paust & Blaustein (1978, pp. 15–18); Robertson (1984); Schindler (1982); Sohn (1982). At the same time many scholars and significant actors in the field of human rights have ignored humanitarian law. See, e.g., Henkin (1978); Tuttle (1978).
 15. International Committee of the Red Cross (1986), as updated to 31 December 1986 by the International Committee of the Red Cross.
 16. Amnesty International (1986e).
 17. For example, common Article 3 of the Geneva Conventions and Article 32 of the Fourth Geneva Convention explicitly forbid mutilation, while the international human rights prohibition against torture, cruel, inhuman or degrading punishment is just beginning to be interpreted as rejecting mutilation. See UN Doc. E/CN.4/1985/3, p. 95 (1986).
 18. See Hartman (1981). Although war was the scenario which figured most prominently in the minds of the drafters of the derogation clauses, derogations have mostly been invoked because of internal disturbances. *Id.* p. 13. The American Convention on Human Rights is more protective of human rights

- than is the International Covenant on Civil and Political Rights during periods of public emergency. Article 27 of the American Convention on Human Rights makes nonderogable rights to juridical personality, to life, to humane treatment, to nationality, to a name, and to participate in government; rights of the family and of the child; freedom of conscience and religion, as well as freedom from slavery and *ex post facto* laws. In addition, the American Convention protects the right to judicial guarantees essential to the protection of these rights, from which a government cannot derogate during periods of war, public danger, or other emergency. Common Article 3 of the Geneva Conventions and Article 6 of Additional Protocol II provide guarantees for fair procedure in periods of non-international armed conflict. See International Commission of Jurists (1983, pp. 426–429). Article 75 of Additional Protocol I provides extensive procedural protections of the accused during periods of international armed conflict.
19. Amnesty International (1986a, pp. 34, 37).
 20. Geneva Conventions, common Article 3; Additional Protocol I, Article 1; Additional Protocol II, Article 1; Bothe, Partsch & Solf (1982, pp. 627–628); Cassese (1981); Pictet (1952, pp. 49–50); Veuthey (1983a); Veuthey (1983b).
 21. International Covenant on Civil and Political Rights, Art. 2; but see Commission on Human Rights res. 23 (XXXVI), UN Doc. E/CN.4/1408, p. 184 (1980); Commission on Human Rights res. 28 (XXXVII), UN Doc. E/CN.4/1475, p. 229 (1981); Commission on Human Rights res. 1982/30, UN Doc. E/CN.4/1982/30, p. 148 (1982).
 22. International Alert (1986, pp. 4–5).
 23. Americas Watch (1985b, pp. 11–34, 96–98).
 24. The report notes that Nicaragua has signed, but not ratified the Additional Protocol II. Americas Watch also expresses doubt whether the conflict meets the high threshold of applicability established by Additional Protocol II. Nevertheless, the report notes the applicable standards which might be derived from Additional Protocol II. *Id.* pp. 21–34.
 25. Americas Watch (1986a).
 26. *Id.* p. 57. This paragraph overstates the case in that human rights law does contain nonderogable rights which apply even in periods of armed conflict. See, e.g., International Covenant on Civil and Political Rights, Article 4. Although the paragraph is correct in stating that human rights law is directed principally at governments, human rights law does contain norms applicable to “every individual and every organ of society”. See, e.g., Universal Declaration of Human Rights, preambular para. 8; International Covenant on Civil and Political Rights, preambular para. 5; Daes (1983, p. 50). The paragraph also overstates the previous practice of Americas Watch in using humanitarian law. See Americas Watch Committee & American Civil Liberties Union (1984); Americas Watch (1984). Nevertheless, this 1986 pronouncement by Americas Watch represents a considerable development in the thinking process of that organization concerning the application of humanitarian law. See, e.g., Americas Watch & Lawyers Committee for International Human Rights (1984, pp. 42–46); Americas Watch Committee & American Civil Liberties Union (1983); Americas Watch (1985a, pp. 62–63); Americas Watch (1986b, pp. 28–29, 76) (limited use of humanitarian law for a few issues). See also Americas Watch (1982, pp. 70–100, 89–92) (stating the facts without much analysis of applicable legal norms, except a chapter on the constitution relying principally upon the American Convention on Human Rights, but with some consideration of common Article 3).
 27. See, e.g., Amnesty International (1984a, p. 45) (citing common Article 3); Amnesty International (1977, p. 26); Amnesty International (1978, pp. 15–16); Amnesty International (1986b, pp. 2, 18); Amnesty International (1982); Amnesty International USA (1986, p. 10); Amnesty International (1985, p. 2).
 28. Amnesty International (1981, p. 17).
 29. International Commission of Jurists (1972, pp. 49–64).
 30. Fox (1979). See International Commission of Jurists & Law in the Service of Man (1988, p. 77) (brief citation to the Fourth Geneva Convention); Israel National Section of the International Commission of Jurists (1981, pp. 1–2, 71–72) (a few more citations to humanitarian law without adequate analysis). A somewhat better analysis of these questions appear in Playfair (1986) and Amnesty International (1984b, pp. 5–8). Cf. International Commission of Jurists (1961) (thorough use of humanitarian law). The International Commission of Jurists also commented thoughtfully about the application of humanitarian law to the Biafran Conflict. International Commission of Jurists (1969); but cf. International Commission of Jurists (1960) (using only the Universal Declaration of Human Rights and not mentioning the Fourth Geneva Convention).
 31. See International Committee of the Red Cross, The Red Cross and Human Rights (1983); see also Dominicé (1982, pp. 427, 439–443); Forsythe (1975); Moreillon (1973); Pictet (1956).
 32. International Committee of the Red Cross (1981).
 33. These conditions include situations in which:
 - the violations are major and repeated;
 - the steps taken confidentially have not succeeded in putting an end to the violations;
 - such publicity is in the interest of the persons or populations affected or threatened;
 - the ICRC delegates have witnessed the violations with their own eyes, or the existence and extent of those breaches were established by reliable and verifiable sources. *Id.*
- If the situation becomes particularly grave, the ICRC may very rarely issue detailed expressions of its concerns, as exemplified by the ICRC’s public statements on Iran and Iraq of May 1983 and February 1984. The ICRC has previously issued such public appeals as to the killings in the refugee camps in Lebanon (18 September 1982) and with respect

to the conflict which occurred in Southern Rhodesia (1977, 1979). The ICRC has also on a few occasions in the context of civil war called upon the parties to refrain from attacking civilian populations, for example, as to the conflicts in the Congo (1964), Nigeria (1967), and Vietnam (1967, 1968).

In addition the ICRC will publish a report on any prison visit, if a Government has published the report with distortions or only in part. Such reports were published with respect to visits to prisons in Greece (1968) and Iran (1977). The ICRC would not otherwise publish a report of a visit.

34. Such a full comparison between the ICRC and other organizations is, unfortunately, beyond the scope of the present article.
35. Amnesty International (1980, p. 13).
36. Gasser (1983).

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