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Humanitarian principles put to the test: Challenges to humanitarian action during decolonization

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Abstract

This article examines the meaning and purpose of the Fundamental Principles of the Red Cross and Red Crescent Movement during and after decolonization. This was a period when the character of conflict experienced far-reaching changes, when the limitations of international humanitarian law were sharply exposed, and when humanitarian organizations of all kinds – the International Committee of the Red Cross included – redefined their missions and mandates. The Fundamental Principles were caught up in these processes; subject to a resurgent State sovereignty, they were both animated and constrained by the geopolitical forces of the era. The article pays particular attention to the politicization of the Principles in the contexts of colonial counter-insurgency, political detention and transfers of power.

* This article draws on research in the archives of the British Red Cross Society in London and the International Committee of the Red Cross (ICRC) in Geneva. I am grateful to Jean-Luc Blondel, Fabrizio Bensi, Paul Castella, Geoff Loane, Jacques Moreillon and Daniel Palmieri for their guidance and advice on the history of the ICRC.

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Time and again, the wars of decolonization[1] starkly exposed the weaknesses of international humanitarian law (IHL) in the face of armed conflicts of a non-international character.[2] The type of conflict experienced during the end of empire was uncharted territory for many humanitarians. Decolonization was the cumulative consequence of forces of disintegration, and those forces destroyed not only colonial relationships but an entire global order.[3] Anti-colonial insurgencies, guerrilla warfare and liberation movements required aid and relief agencies of all kinds to devise new means of crisis response and new ways of protecting the victims of armed conflict. Even though the "hottest" of these conflicts – such as Algeria – reverberated internationally, they were regarded by Europe's colonial powers as matters that fell entirely within their domestic jurisdiction. The wars of decolonization brought into sharp relief, therefore, the legal characterization of violent insurrections and revolutionary warfare and the limits of humanitarian action in situations that were poorly provided for by the 1949 Geneva Conventions.[4] Barely had the ink begun to dry on those Conventions than the International Committee of the Red Cross (ICRC) and other leading humanitarian organizations were gathering themselves to press for a fortification of Article 3 common to the four Geneva Conventions – the "mini-Convention" which sets out certain minimum rules in conflicts that occur within rather than between States, or so-called "non-international armed conflicts". Their efforts to bring a very different type of conflict more firmly within the

1 For a fuller analysis of the International Red Cross during decolonization, see my forthcoming book, *Humanitarianism on Trial: How a Global System of Aid and Development Emerged Through the End of Empire*.

2 Traditionally, armed conflicts were fought between two or more States and were therefore of an international character. Non-international armed conflicts (NIACs) are conflicts that are fought between governmental forces and non-State actors or between such non-State actors only. Wars of liberation were recognized as conflicts of an international character with the adoption of Additional Protocol I; this will be explained in more detail below. For the issue of NIACs in IHL, see François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, Macmillan, Oxford, 2003, pp. 330–44.

3 Antony G. Hopkins, "Rethinking Decolonization", *Past & Present*, No. 200, 2008, pp. 212–247; John Darwin, *Unfinished Empire: The Global Expansion of Britain*, Allen Lane, London, 2012, Chapter 11; Dieter Rothermund, *The Routledge Companion to Decolonization*, Routledge, London, 2006.

4 Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, 75 UNTS 31 (entered into force 21 October 1950) (GC I); Geneva Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea of 12 August 1949, 75 UNTS 85 (entered into force 21 October 1950); Geneva Convention (III) relative to the Treatment of Prisoners of War of 12 August 1949, 75 UNTS 135 (entered into force 21 October 1950) (GC III); Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950) (GC IV).

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realm of the laws of war were resolutely resisted by Europe's colonial powers – Britain, for example, did not even ratify the four Geneva Conventions until 1957, out of concern that they would restrict the operations of its security forces when fighting insurgents in anti-colonial struggles.[5] (Most of Europe's other colonial powers ratified earlier – France in 1951, Belgium in 1952, the Netherlands in 1954 – and only Portugal later, in 1961). In the view of the ICRC, however, common Article 3 had simply not gone far enough to account for "the demands of humanity"[6] in all of the new types of conflict that the organization was witnessing. As a world of imperial States was replaced by a world of nation States, so the laws of war had to be reconstructed for a very different age. For this to happen, a radically new balance had to be struck between protecting the rights of the individual as a person and protecting those of the State as a guarantor of public order.

What grew over the next quarter-century into a major, multifaceted campaign to solve one of the most intractable problems of international law was later to be pushed to the margins of historical memory. Yet it is a campaign that, however much overlooked in the historical literature on international institutions and global governance, has long since been hiding in plain sight. The fight for a fortified common Article 3 raised the profile of the Geneva Conventions at the United Nations (UN), bolstered the precarious position of the ICRC after the end of the Second World War,[7] and set the stage for the last of the major set-piece rhetorical battles over decolonization. It also succeeded in bridging – in an unexpected and perhaps unprecedented way – a growing divide between the humanitarian and human rights communities. A succession of expert enquiries, specialist publications, targeted lobbying and international meetings culminated in the 1974–77 Diplomatic Conference on the Reaffirmation and Development of International Law Applicable in Armed Conflicts and the two Additional Protocols to the Geneva Conventions of 1977.[8] The first Additional Protocol (AP I)[9] aimed to provide greater protection for civilians in international armed

5 Huw Bennett, *Fighting the Mau Mau: The British Army and Counterinsurgency in the Kenya Emergency*, Cambridge University Press, Cambridge, 2013, p. 66.

6 Roger Gallopin, Executive Director, ICRC, "Action du CICR en faveur des victimes des guerres civiles et des troubles intérieurs", 3 September 1958, Archives du Comité International de la Croix-Rouge (ACICR), B AG 225 000-003.01, subsequently discussed with the Executive Committee of the League of Red Cross Societies, 24 September 1958.

7 Daniel Palmieri, "An Institution Standing the Test of Time? A Review of the History of the International Committee of the Red Cross", *International Review of the Red Cross*, Vol. 94, No. 888, 2012.

8 For the 1977 Additional Protocols, see Richard Reeve Baxter, "Humanitarian Law or Humanitarian Politics? The 1974 Diplomatic Conference on Humanitarian Law", *Harvard International Law Journal*, Vol. 16, No. 1, 1975; David Forsythe, "The 1974 Diplomatic Conference on Humanitarian Law: Some Observations", *American Journal of International Law*, Vol. 69, 1975; George Aldrich, "Some Reflections on the Origins of the 1977 Geneva Protocols", and Medard R. Rwelamira, "The Significance and Contribution of the Protocols Additional to the Geneva Conventions of August 1949", in Christophe Swinarski (ed.), *Studies and Essays on International Humanitarian Law and Red Cross Principles*, Martinus Nijhoff, Leiden, 1984.

9 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978).

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conflict and went some way to doing so. The second Additional Protocol (AP II)[10] sought to strengthen the rules regarding conflicts not of an international character, yet was effectively emasculated by a fierce struggle between the developed and developing worlds over the status of liberation movements. For their part, Europe's colonial powers had not wanted these movements represented at the Conference at all. But African and Asian liberation movements insisted not only upon a seat at the conference table but a wholesale redefinition of international armed conflict to embrace all peoples fighting against "colonial domination", "alien occupation" and "racist regimes".[11] Once they had succeeded in their quest to reconstruct the laws of war, however, postcolonial States proved extremely reluctant to have their own domestic jurisdiction curtailed.[12]

As a post-war generation of humanitarians sought to expand their organizations' missions and mandates, the need for a set of basic principles to underpin and justify new forms of assistance and protection was all the greater. In this sense, debates about the laws of war and debates about humanitarian principles were inextricably linked.[13] The limitations of the former put pressure on the latter to secure State recognition of forms of humanitarian practice for which the legal basis was uncertain and insecure. This was particularly true for the ICRC; founded in 1863, the organization had not been deeply involved in any of the colonial wars of the second half of the nineteenth century or the first half of the next. After 1945, the ICRC had to learn how to navigate its way through the greatest geopolitical change of the twentieth century: the end of empire. In the newly emerging contexts of anti-colonialism, superpower rivalry and postcolonial wars, where conflict revolved as much around the control of people as territory and frequently entailed their forced movement or flight, a difficult yet

10 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978).

11 AP I, Art. 1(4). See also R. R. Baxter, above note 8, p. 12; Geoffrey Best, *Humanity in Warfare: The Modern History of the International Law in Armed Conflicts*, Weidenfeld & Nicolson, London, 1980, p. 321; Medard Rwelamira, "The Significance and Contribution of the Protocols Additional to the Geneva Conventions of August 1949", in C. Swinarski (ed.), above note 8, pp. 230–231.

12 For the latest study on the Additional Protocols, see Giovanni Fabrizio Casas, "Under (Social) Pressure: The Historical Regulation of Internal Armed Conflicts through International Law", PhD diss., University of Minnesota, 2013.

13 Throughout this article, I use the term "humanitarian principles" to refer to the way in which humanitarian actors of various types sought to justify, explain and defend their actions with reference to a set of underlying, basic or core values and beliefs, and the term "Fundamental Principles" to refer to the specific way in which the ICRC and the wider Red Cross and Red Crescent Movement agreed to abide by the principles of humanity, impartiality, neutrality, independence, voluntary service, unity and universality. While States did not necessarily have to accept the Fundamental Principles themselves, they were expected to respect that the ICRC and the Movement would adhere to them: this expectation was implicit until 1986, when it was formalized in Article 2 of the Statutes of the Movement. While the distinction between humanitarian principles generally, and the Fundamental Principles specifically, is important to maintain, it is equally necessary to recognize the overlap and exchange between them. The Fundamental Principles were never an island unto themselves; on the contrary, they were linked into a wider set of debates about humanitarian principles that rippled throughout the constellation of organizations collectively referred to as the humanitarian "system" or "sector".

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decisive dialogue opened up within the ICRC and the wider Red Cross and Red Crescent Movement (the Movement) about the meaning, value and purpose of the Movement's Fundamental Principles.[14] Concerned as much with the practicalities of humanitarian action as with the values that drove it, this dialogue developed through day-to-day decision-making as well as the framing of strategy and policy. Whether in the field or back at headquarters, the world's leading humanitarian agency wrestled with the question of how its Fundamental Principles were to be applied in a world of increasing uncertainty and instability in which Europe's colonial powers and their opponents were involved in violent struggles to re-order the human landscape. What, if any, adjustments to these principles would be required to address the concerns of nearly and newly independent African and Asian States? What authority could "humanity", "impartiality", "neutrality" and "independence" hope to command in a newly decolonizing world?

The Second World War had generated intense controversy over the bombing of civilian populations.[15] The wars of decolonization further blurred the distinction between combatant and non-combatant – a cornerstone of IHL.[16] As a result, humanitarians were confronted with situations for which past experience had left them ill-prepared. Should the rules governing the treatment of prisoners of war (POWs) extend to members of anti-colonial, liberation and revolutionary movements, even if they did not wear uniforms and lived as civilians when not engaged in military operations? Should those fleeing colonial conflict be treated as refugees even if they might once have been fighters and might become fighters again? Should those detained under emergency legislation be distinguished from those convicted of ordinary criminal offences? Each of these specific questions raised a larger and more fundamental question – namely, what was the legitimate scope of humanitarian aid? In an attempt to answer this conundrum, the Movement's Fundamental Principles were to be politicized in ways they had not been before. This was not unique to the ICRC: in the wake of global conflict, many international organizations found themselves stretching humanitarian principles further than ever at precisely the moment when imperialist and Cold War ideologies were seeking to exploit the military and strategic advantages of humanitarian aid.[17] A thoroughgoing penetration of aid and relief activity by

14 The "Fundamental Principles" were adopted at the 20th International Conference of the Red Cross and Red Crescent Movement in Vienna in 1965. They provide an ethical, operational and institutional framework guiding the work of the Movement, which was developed over a century of humanitarian action in the field. For my reflections on the history of the Fundamental Principles, see: www.odihpn.org/the-humanitarian-space/news/announcements/blog-articles/the-future-of-the-past-shining-the-light-of-history-on-the-challenges-facing-principled-humanitarian-action (all internet references were accessed in May 2015).

15 Richard Overy, *The Bombing War: Europe, 1939–45*, Allen Lane, London, 2013.

16 On this point, see François Bugnion, "From the End of the Second World War to the Dawn of the Third Millennium: The Activities of the International Committee of the Red Cross during the Cold War and Its Aftermath: 1945–1995", *International Review of the Red Cross*, No. 305, 1995; D. Palmieri, above note 7; William R. Smyser, *The Humanitarian Conscience: Caring for Others in the Age of Terror*, Palgrave Macmillan, Basingstoke, 2003, Chapters 4–6.

17 Jean Pictet, "Armed Conflicts: Laws and Customs", *Review of the International Commission of Jurists*, No. 1, March 1969, p. 34.

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Europe's colonial powers underscored the necessity of humanitarian principles even as it threatened to undermine them.

The rest of this article explores what happened to humanitarian principles in general – and the Fundamental Principles of the Red Cross and Red Crescent Movement in particular – during decolonization. It explores the relationship between principled humanitarian action and humanitarian practice through the prism of Europe's largest empire: that of the British. For Britain, decolonization was nothing if not a truncated process. The speed with which the world's largest empire was liquidated – more than forty new States emerged from the late 1950s to the early 1960s – caught humanitarians by surprise as much as it did colonial administrators. This article will argue that, for the ICRC and the wider Red Cross and Red Crescent Movement, the transition between a late-colonial world and a postcolonial world provided a test of the Fundamental Principles very much the equal to late twentieth- and early twenty-first-century experiences of "liberal interventionism" and the "war on terror". Colonial States and Cold War powers were just as resistant as warring parties in Iraq, Afghanistan and Syria to placing victims on a truly equal footing. In both periods, the classification of conflict and the naming of violence shaped perceptions of the moral status of combatants and the justice of the causes they espoused. Competing – and aggressive – views among States as to who were the real victims of conflict went hand in hand with the reframing of acts of war as "acts of terror". In a polarized, binary and Manichean international order, there was little space for detached or disinterested humanitarian action. The language of warfare forced people to take sides; indeed, amidst this "crisis of names", the very idea of humanity seemed to depend on finding names for its other.[18] Whether during decolonization or the "war on terror", therefore, the turn to humanitarian principles pointed in part to the imperative of recognizing the totality of suffering and resisting the creation of hierarchies among victims.

Decolonization and international humanitarianism

For Peter Maurer, the ICRC's president at the time of writing, the wars of liberation were a "definitional event".[19] The decades of the 1960s and 1970s saw a rapid and far-reaching reorientation of the work of humanitarian organizations away from the problems of Europe and toward those of the developing world. Europe's colonial rulers reacted ambivalently.[20] They realized that colonialism was fast losing its moral and political legitimacy and that their position in the international sphere

18 Arjun Appadurai, "Tactical Humanism", *Polis*, Vol. 9, 2002, p. 1.

19 "Perspectives on the Future of Humanitarian Action", live web seminar, 11 February 2013, available at: www.icrc.org/eng/resources/documents/event/2013/03-13-future-humanitarian-action-web-seminar.htm.

20 For an insightful study of humanitarian and human rights interventions in Kenya and Algeria, based on the ICRC and UN archives, which brings out these themes, see Fabian Klose, *Human Rights in the Shadow of Colonial Violence: The Wars of Independence in Kenya and Algeria*, University of Pennsylvania Press, Philadelphia, PA, 2009.

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had to be more actively defended. As part of a "second colonial occupation", an army of welfare specialists, health professionals and agricultural experts was despatched to their colonies, some of whom later found employment in one of the UN's specialized agencies or a growing number of international NGOs.[21] By harnessing their energy and expertise, Europe's colonial powers hoped to improve the material realities of the lives of their subjects and to present a more benevolent image of their rule. At the same time, influential international organizations like the ICRC threatened to break down the seclusion of the late-colonial world and to expose Western colonial powers to greater external scrutiny.[22] Their appeals to donor publics were a formative factor in how European electorates engaged with decolonization. The advocacy and fundraising campaigns of leading NGOs propelled questions of emergency aid and relief into the public sphere.[23] In doing so, these organizations gained the capacity to direct the sympathies of their supporters in one direction or another, even to the point of determining whether different categories of victim were felt to be genuinely deserving or, conversely, to deserve their own plight.

The end of empire also pitted against each other opponents whose means were very unequal.[24] Insurrectionary movements drew on limited resources but had highly motivated fighters; colonial armies were larger and better equipped. Extending over several years, many of decolonization's wars took a heavy toll on civilian populations. Cycles of insurgency provoked reprisals and repression from beleaguered colonial powers. Forced removals, mass arrests, food denial operations, detention without trial and communal punishments were the methods to which Europe's colonial powers regularly resorted.[25] Nor did the situation necessarily improve after independence – the hopes of many post-colonial African and Asian States foundered on the gulf between their goals and their means to meet them, while the solidarity instilled by liberation struggles dissipated in the face of ethnic, linguistic and religious tensions and the lack of resources available to satisfy conflicting interests.[26] Often the violence unleashed by the end of empire not only continued but actually intensified after independence; large-scale refugee flows, inter-communal strife and secessionist movements were widespread.[27]

21 John Darwin, "What Was the Late Colonial State?", *Itinerario*, Vol. 23, No. 3–4, 1999; David A. Low and John M. Lonsdale, "Towards the New Order, 1945–63", in David A. Low and Alison Smith (eds), *The History of East Africa*, Vol. 3, Oxford University Press, Oxford, 1976.

22 This argument is developed in greater detail in my forthcoming book, above note 1.

23 Mark Duffield, *Development, Security and Unending War: Governing the World of Peoples*, Polity Press, Cambridge, 2007; Timothy Mitchell, *Rule of Experts: Egypt, Techno-Politics, Modernity*, University of California Press, Berkeley, CA, 2002.

24 For two recent studies of late-colonial warfare, see Michael Burleigh, *Small Wars, Far Away Places: The Genesis of the Modern World, 1945–65*, Macmillan, Oxford, 2013; Martin Thomas, *Fight or Flight: Britain, France and Their Roads from Empire*, Oxford University Press, Oxford, 2014.

25 For a recent analysis and overview of the violence of the end of empire, see M. Thomas, above note 24.

26 Jean-François Bayart, *L'Etat en Afrique: La politique du ventre*, Fayard, Paris, 1989; Crawford Young, *The African Colonial State in Comparative Perspective*, Yale University Press, New Haven, CT, 1994.

27 This point is eloquently made by several of the case studies in M. Burleigh, above note 24.

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In the midst of these upheavals, new threats to humanitarian principles emerged from what have been aptly described as "protracted social conflicts" in which the frequency and intensity of violence fluctuated over time.[28] This type of asymmetric warfare – or "lower threshold" armed conflict – was marked by a proliferation of non-State armed groups, the extensive involvement of civilian populations, and the expenditure of huge quantities of human as well as material resources. Late-colonial States and their postcolonial successors, moreover, were not beyond presenting their own military presence in such conflicts as essentially humanitarian – in fact, this was part of their justification for absorbing charities, NGOs and voluntary agencies into their security operations. Much effort was expended in trying to control where voluntary aid workers went and what they did. The labelling of conflict thus became an integral part of the fighting: it was by stigmatizing their opponents that Europe's colonial powers sought to legitimize their use of escalating levels of force to a domestic audience and the wider international community. Their aim was to exert pressure on all actors in conflict – including humanitarians – to take partisan views and, as a result, to reduce the scope for genuinely "neutral" or "impartial" responses. Even when humanitarians were able to resist such pressures, their donor publics often were not.[29]

Two documents published in the early 1960s – "Human Fellowship against Hatred" and "La Croix-Rouge s'élève contre la torture et l'abus des actes de violence" – reveal how the ICRC struggled to adapt to the increasing acts of violence that it was witnessing outside of "the normal course of justice".[30] These documents vividly recount how armed rebellions against the established order had led to "outbursts of hatred", "the piling up of distress by many acts of vengeance" and many practices "expressly forbidden by international law".[31] According to the ICRC, an "implacable and ruthless character" marked decolonization's wars, as they inflicted "untold suffering" upon civilian populations.[32] Among the worst features of the end of empire was a recrudescence of terrorist activity – significantly, in the view of the ICRC, this was not only from insurgent groups. "In a terrible abdication of humanity",[33] and

28 For the idea of "protracted social conflict", see Edward E. Azar, Paul Jureidini and Ronald McLaurin, "Protracted Social Conflict: Theory and Practice in the Middle East", *Journal of Palestine Studies*, Vol. 8, No. 1, 1978/9, pp. 41–60. The authors note a marked increase in conflict in the period from 1945 to 1972 (congruent with decolonization), taking place predominantly in the "Third World", as well as an increase in Western and communist interventions in conflict during these years.

29 Both Oxfam and Christian Aid were reluctant to work among the Mau Mau during the Kenyan Emergency but were willing to deliver aid to loyalist Kikuyu, and privately explained this decision in terms of the likely reaction of their donors and supporters: see my forthcoming book, above note 1. For the actions of the British Red Cross during the Kenyan and other emergencies (which were influenced more by the National Society's links to the Colonial Office in Britain than to their membership in the Red Cross), see below.

30 "The ICRC in Algeria: Human Fellowship Against Hatred", September 1960, ACICR, B AG 202 000-003.07; "La Croix-Rouge s'élève contre la torture et l'abus des actes de violence", October 1962, ACICR, B AG 202 008-001.

31 "The ICRC in Algeria", above note 30, p. 1.

32 *Ibid.*

33 "La Croix-Rouge s'élève contre la torture", above note 30, p. 3.

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under the cover of emergency legislation, terrorism was also widely practised by the colonial States themselves. In these new circumstances, the ICRC lamented that its work had not only become extremely "arduous" and "unpleasant" but was also "greeted with suspicion", "misunderstood" and "wilfully misinterpreted for the purposes of propaganda".[34] On a note of weary resignation, it concluded that "once the genie is let out of the bottle it is almost impossible to put it back in".[35]

Humanitarian principles and colonial counter-insurgency

The tension between the desire to remain apolitical – expressed by the principles of "impartiality", "neutrality" and "independence" – and humanitarianism's reliance on politics to achieve its aims entered a new and difficult phase during decolonization. After 1945, colonial States were far more interventionist than their "night watchman" predecessors of the interwar years. To be sure, they were security States that drastically reinforced their policing and military apparatus in the face of escalating resistance to colonial rule. However, as well as security States, they were also development States that saw concrete expressions of government power deriving not only from repression and coercion but also from the provision of basic welfare services. Herein lay the humanitarian paradox of the end of empire. Viewed from one perspective, the security measures undertaken by late-colonial States were responsible for much of the suffering that humanitarians brought to the public eye. Viewed from another, by extending bureaucratic power into new spheres of social and economic life, cash-strapped late-colonial States were compelled to draw more and more on the resources of the voluntary, charitable and humanitarian sectors.[36]

Colonial counter-insurgency and the instrumentalization of humanitarian aid

Nowhere did this humanitarian paradox present itself more starkly than in the context of late-colonial counter-insurgency campaigns. For Europe's colonial powers, defeating insurgencies meant demonstrating control of the security situation and establishing their authority over civilian populations. The distribution of relief and the giving or denying of aid were a way to achieve these ends. Hence, decolonization posed very starkly the question of whether humanitarians were able to set conditions about their presence in conflict zones when tied to interests very different to their own.

Humanitarian action during decolonization is best conceived as a series of encounters between multiple and competing interests from which compromises

34 "The ICRC in Algeria", above note 30, p. 1.
35 "La Croix-Rouge s'élève contre la torture", above note 30, p. 4.
36 This point is particularly well captured in Joanna Lewis, *Empire State-Building: War and Welfare in Kenya, 1925–52*, James Currey, Woodbridge, 2000. See also James Midgley and David Piachaud (eds), *Colonialism and Welfare: Social Policy and the British Imperial Legacy*, Edward Elgar, Cheltenham, 2011.

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were born. Constraints were a constant, a condition of the very existence of aid rather than a distortion or denial of its true self. Principles were needed to help aid agencies to navigate their way through these difficult negotiations and to protect what has recently been described as "humanitarian space".[37] In its physical dimensions, the idea of "humanitarian space" refers to the challenge of gaining access to people in need; in its operational dimensions, it refers to the type of activity humanitarians are permitted to undertake. The crafting of compromise was integral rather than antithetical to a principled approach. The real challenge for the ICRC's Fundamental Principles was not to avoid any form of compromise but rather to pinpoint when compromise morphed into complicity and when aid, even if bringing benefit, risked greater harm.[38] Here it is important to recall that, in the post-war period, State-based humanitarian action and non-State-based humanitarian action were not necessarily thought of as incompatible in the way they tend to be today. Virtually all of the NGOs, UN agencies and religious missions that delivered health and welfare programmes in Africa and Asia after the Second World War had little or no choice but to forge relationships with the colonial authorities, as a result of which they developed at least a degree of dependence upon them. To be sure, many of these organizations were protective of their independence, but "independence" was never understood to be absolute – rather, it was exercised to greater and lesser extents.[39]

In the upper echelons of the ICRC, the politicization of humanitarian aid was of as much a concern as the reluctance of colonial powers to observe the basic rules of war. During the wars of decolonization, "humanitarian nationalism" repeatedly asserted itself over "international humanitarianism" as aid agencies of all kinds felt the political pressures exerted by increasingly assertive European States – none more so, perhaps, than the colonial branches of the Red Cross National Societies of Britain, France, Belgium and Portugal. Speaking in East Africa toward the end of decolonization, Jacques Moreillon, the ICRC's delegate-general in the region, explicitly raised the difficulty of how the National Societies of colonial powers should respond when prevented by their governments from working neutrally on all sides of a conflict or impartially among different sections of colonial society.[40] Moreillon pulled no punches. National Societies, he argued, should restrict their assistance to that which was strictly required. They should then let other aid agencies undertake less urgent work, or any work that stood to jeopardize future Red Cross and Red Crescent activity. In making these decisions, National Societies should be mindful of

37 Cynthia Brassard-Boudreau and Don Hubert, "Shrinking Humanitarian Space? Trends and Prospects on Security and Access", *Journal of Humanitarian Assistance*, 24 November 2010, available at: http://sites.tufts.edu/jha/archives/863.

38 Jean-Luc Blondel kindly shared with me a transcript of a workshop he had organized on this very question.

39 I am grateful to Geoff Loane, Jacques Moreillon and Jean-Luc Blondel for sharing their views regarding the implications of the "auxiliary status" of National Societies for the scope of independent humanitarian action.

40 Address by Jacques Moreillon, Delegate-General for Africa, 23 July 1974, ACICR, B AG 122 231-008.

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preserving the image and principles of the Red Cross and Red Crescent Movement. "Just put out the fires"[41] was the advice Moreillon gave.

The British Red Cross Society and colonial counter-insurgency

The British Red Cross Society was one of the most influential in the wider Red Cross and Red Crescent Movement and showed itself determined to play a major role in the four colonial emergencies that witnessed the largest infusions of British manpower and weaponry: Malaya, Kenya, Cyprus and Aden. After 1945, two individuals were responsible for creating a rapidly expanding network of overseas colonial branches: Joan Whittington, the director of overseas branches, a highly influential yet long-forgotten figure in the post-war history of humanitarianism; and Lady Angela Limerick, vice-chairman of the British Red Cross as well as vice-chairman of the League of Red Cross Societies from 1957 to 1973. The scale of Whittington's and Limerick's ambitions for the British Red Cross – and the speed with which they were realized – had established the National Society as a major global humanitarian player by the end of the 1950s.[42] It is important to remember that the operational role of the ICRC was much smaller during this decade than it was to become in the context of the postcolonial conflicts of the 1960s. Hence it fell to National Societies to undertake many of the tasks that would later be supported and directed from Geneva; indeed, National Societies, like those of Britain and France, could be very critical of the ICRC when they considered it to be intruding on what they regarded as their humanitarian domain. At the same time, the territorial expansion of the British Red Cross – which, intriguingly, occurred toward the end rather than at the height of empire – raised the vexed question of whether there could ever be a natural community of interest between a National Society and its own government.

Just as decolonization followed different paths in different colonies, so too did humanitarian action.[43] During the emergency in Malaya, Whittington and Limerick were approached by the colonial authorities to supply teams for resettlement work.[44] In Kenya, by contrast, their offer of help was at first declined, as it was in Cyprus,[45] whose governor relented only on the understanding that Red Cross workers target the villages rather than the more politically active towns.[46] In Malaya and Kenya, the security forces inflicted far

41 *Ibid*., p. 6.

42 My research in the British Red Cross Society archive in London and interviews with former Red Cross workers in Britain's colonies reveal the extraordinary speed with which the National Society expanded into the colonies following the Second World War: see, for example, the typescript of the *Desert Island Discs* interview with Joan Whittington, interviewed by Roy Plomley, 16 September 1970, Archives of the British Red Cross Society (ABRCS), Acc 0287/43-45.

43 For a clear explanation of the former, and a sense of the latter, see David French, *The British Way in Counterinsurgency, 1945–1967*, Oxford University Press, Oxford, 2011.

44 Deputy-Chairman of British Red Cross Society to Major-General E. S. Lindsay, Chief of Staff to High Commissioner of Malaya, 18 January 1953, ABRCS, 1983/51.

45 "Notes on BRCS Work in Connection with the Emergency", ABRCS, 0287/43-45.

46 "Cyprus. May 1949. Miss Ainley", and "Report of visit by Phylis Ferris, 19/2/1950 to 26/4/1950", ABRCS, 76/16/1.

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more casualties on insurgents than they themselves suffered; this was not true of either Cyprus or Aden.[47] Red Cross activity in Malaya centred on the relocation of upwards of half a million "Chinese squatters" into "new villages" in an attempt to cut off Communist insurgents from civilian support. In Kenya, branch activity was far more diverse: Red Cross workers were present in several of the transit and detention camps, the so-called "pipeline" into which captured Mau Mau insurgents were channelled, but they also distributed food and promoted health services in the African reserves, established a training centre for African women, and ran a home for abandoned and orphaned Kikuyu children. In Cyprus, the British Red Cross's efforts centred on launching an island-wide rural health scheme. In Aden, where infant mortality was very high, the Red Cross prioritized maternity care, child welfare and the training of local women as health visitors.

From the outset, the defence of humanitarian principles in the midst of counter-insurgency proved a decidedly delicate task. During a "considerable rumpus" about the appalling state of Kenya's prisons in 1954, the Red Cross sent a very adverse report to officials which demanded that something "radical" be done "on the health side".[48] Michael Wood, an East African surgeon who later pioneered a flying doctor service, seized on this episode to argue that Red Cross workers had to be kept distinct "if they were to keep Government up to the mark".[49] Wood feared being "swallowed up" by one or more of the departments that the Red Cross was working alongside. He was right to be worried. There was a fine line between cooperating with the colonial authorities and coming under their control.

To stay on the right side of that line was never easy, and depended on several factors. One of these factors was the ability of humanitarians to manage the media – or, more accurately, to prevent themselves from being managed by the media. Media coverage generated vital public support for aid agencies, but equally, emotive and sensational reporting could impose unwelcome constraints. To keep themselves out of politics, many colonial branches of the British Red Cross eschewed press publicity, even at the expense of fundraising. In Cyprus, for example, Red Cross nurses and welfare officers worked slowly and quietly among Greek and Turkish communities to gain their acceptance. To this end, the Cyprus branch deliberately kept clear of the prisons and detention camps where Turkish guards and British soldiers watched over EOKA (Greek-Cypriot nationalist) prisoners.[50] This strategy was largely successful until 1959, when a visit by an ICRC delegate, David de Traz, produced a media storm in Britain. An indignant right-wing press ran stories about "Red Cross funds" (distributed by de Traz) being squandered on EOKA detainees to pay for recreational pursuits.[51] The

47 D. French, above note 43, pp. 122–123.
48 Michael Wood to Joan Whittington, 26 May 1954, ABRCS, 1983/54.
49 *Ibid.*
50 EOKA stood for Ethniki Organosis Kyprion Agoniston (National Organization of Cypriot Fighters).
51 Evelyn Bark to Dr Stuart Stanbury, 4 February 1959, and Joan Whittington to Léopold Boissier, 21 January 1959, ABRCS, 775/105.

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British Red Cross complained bitterly of having to accept responsibility for the ICRC's actions just as if they had been its own. Invoking the Fundamental Principles, the National Society insisted that its reputation for "neutrality" and "impartiality", painstakingly cultivated over the previous decade, had been badly damaged.[52] What this episode reveals is how, by the end of the 1950s, the Fundamental Principles had become ensnared in debates between the ICRC and the National Societies. Although designed to provide cohesion and unity amongst the wider Red Cross and Red Crescent Movement, the Principles could be used for quite contrary purposes by the National Societies of Europe's colonial powers, which were determined to assert their interests (or those of their governments) over those of the ICRC (or, as we shall see in the case of Aden, the National Societies of the Muslim world).

A further critical factor influencing the Red Cross's relations with European colonial powers was the level of protection required by Red Cross workers. Recognition and respect for the Red Cross emblem could never be taken for granted during decolonization. In a recent interview with the author, the British Red Cross worker Pegeen Hill recalled her experience as a welfare officer in Cyprus as being "a bit hairy". In order to protect Red Cross neutrality, Hill and her female colleagues were not supposed to be accompanied by the army, yet army officers often insisted on them travelling with military protection because of the frequency of EOKA ambushes.[53] Meanwhile, Penelope Tremayne, who spoke fluent Greek and later recorded her experiences of the Cyprus emergency in a vivid memoir, *Below the Tide*, battled with the British authorities on the island to be allowed to work alone, unhampered and unprotected, in the villages of the EOKA-controlled Troodos mountain range.[54]

The Malayan and Kenyan emergencies

From a humanitarian perspective, it is instructive to compare the security situation in Malaya with that in Kenya. In Malaya, Red Cross personnel had no protection whatsoever despite the fact that Communist insurgents made a speciality of ambushing Europeans. A letter was delivered by the Malayan National Liberal Army to the British Red Cross undertaking not to attack any of its Land Rovers and requesting that a large Red Cross sign be painted on their roofs and sides so snipers could avoid firing upon them.[55] Because the Red Cross could travel unarmed and unescorted throughout the whole area of military operations in Malaya, the young Teresa Spens and Janet Grant were able to treat any wounded insurgents they encountered while refusing to pass on information about their

52 *Ibid.*
53 Telephone interview with Pegeen Hill, May 2012.
54 For her own account, see Penelope Tremayne, *Below the Tide: War and Peace in Cyprus*, Hutchinson & Co, London, 1958.
55 Anthea Hall, "Emblem that Even Bandits Respect", ABRCS, 76/39/2; Bran Hodgson, "The Winds of Change", in Pauline Samuelson (ed.), *I Owe My Life to You (Red Cross)*, Bloomsbury, London, 1995, p. 101.

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whereabouts to the police.[56] In Kenya, the position could not have been more different. Acute concern for the security of the six Red Cross teams stationed in the colony meant that every reasonable safety precaution was taken. Red Cross workers were not permitted to travel without an armed escort; each escort had its own jeep for greater safety in case of breakdown; teams did not travel after dark; and escorts remained with the teams while working.[57] The need for police protection was a major obstacle to the expansion of the Red Cross presence in Kenya; compared to Malaya, Red Cross workers in Kenya were under far greater official control.

Kenya and Malaya are stark reminders that no two counter-insurgencies are ever quite the same. They also point to two other factors that shaped the experiences of the British Red Cross in counter-insurgency operations: namely, the internal dynamics of – and balance of power within – colonial bureaucracies, and the degree to which, in their pursuit of the "hearts and minds" of civilian populations, those bureaucracies were themselves dependent upon Red Cross support.

The risks of what has become known as "embedded humanitarianism" are thrown into sharp relief by the experiences of the colonial branches of the British Red Cross as they strove to retain a distinct identity. These branches operated within government health, welfare and community development departments, yet alongside the security forces. When General Templer, Malaya's high commissioner, raised with Lady Limerick the "propriety of Red Cross girls treating bandits for gunshot wounds",[58] he was quickly and roundly rebuffed. Templer was told by Limerick in no uncertain terms that the Red Cross would remain firm in its principle of treating everyone alike. As she wrote in her diary at the time, "we had the fireworks which I expected".[59] Similarly, in Kenya it is clear that the issue of Red Cross neutrality was a source of constant tension with local colonial officials. On one occasion a district officer had to be reprimanded by his superiors when he withdrew relief from a village suspected of harbouring a gang of suspected Mau Mau Kikuyu insurgents. Two indignant Red Cross personnel were assured that this would not happen again.[60]

Humanitarian responses to forced resettlement in Malaya and Kenya

Nowhere are the moral hazards of humanitarianism during decolonization more apparent than in relation to the forced resettlement of civilians – a recurrent feature of military operations in counter-insurgencies that remains poorly regulated by international law to this day.[61] The compulsory relocation of rural

56 Noel Barber, *The War of the Running Dogs*, Collins, London, 1971, pp. 106–107.
57 Joan Whittington to Angela Limerick, 17 March 1954 and 26 March 1954, ABRCS, 0287/43-45.
58 Diary of Lady Limerick's Tour of the Far East, January–March 1953, ABRCS, 1594/18, p. 8.
59 *Ibid.*
60 Oswald Hughes, Office of District Commissioner, Nyeri, to Joan Whittington, 26 May 1954 and 5 July 1954, ABRCS, 0297/43-45.
61 David Cantor, "Does IHL Prohibit the Forced Displacement of Civilians During War?", *International Journal of Refugee Law*, Vol. 24, No. 4, 2012. For studies of forced resettlement (or "villagization") policies during decolonization, see Caroline Elkins, *Britain's Gulag: The Brutal End of Empire in*

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populations into "new", "protected" or "consolidated" villages was driven by security considerations.[62] Resettlement and control of food supplies went hand in hand. By preventing food from leaving these villages, insurgents were forced to leave their hideouts in order to secure supplies or new recruits. The policy was, however, frequently justified on humanitarian grounds. Security forces claimed to be providing greater protection for civilians who, rather than being preyed upon by insurgents in open countryside, would live in closely guarded settlements in which they were less vulnerable to attack.[63]

The reality of these resettlement areas – especially in their initial phases – was quite different. The sheer speed with which people were moved meant planning was rudimentary: immovable property and livestock had to be left behind, and there was little time to select and inspect suitable areas for relocation. Once relocated, people's lives were highly restricted and curfews were common. People had to walk long distances from their compounds to their places of work, if they were able to leave the former at all. Often it was the weaker troops who were assigned to protect them. From a humanitarian perspective, work in these "new villages" presented huge challenges: sanitation was poor, there were few medical clinics or schools, and basic amenities were largely or entirely lacking.

This is where the Red Cross stepped in. In Kenya's "new villages", to which over a million people were moved, humanitarian action was subject to intense political pressures.[64] Some of these pressures could be resisted, but money talked. Generous funding from Kenya's commissioner of police to support welfare work among African police and their families contrasted with the colony's notoriously parsimonious white settlers, many of whom refused to support any welfare work among the African population at large.[65] Thomas Askwith, the colony's commissioner of community development, was unable to persuade its governor, Evelyn Baring, to provide either the budget or the manpower to tackle what the Red Cross described as the "huge problems brewing in the African Reserves".[66] A dozen or so Red Cross personnel found themselves working alongside a mere six full-time community development officers; by the branch's own calculations, at least four times as many were required. Baring also insisted that priority was given by the Red Cross to the Kikuyu loyalists (who were demanding greater

Kenya, Pimlico, London, 2005; Richard Stubbs, *Hearts and Minds in Guerrilla Warfare: The Malayan Emergency, 1948–60*, Oxford University Press, Oxford, 1989; Heike Schmidt, *Colonialism and Violence in Zimbabwe: A History of Suffering*, James Currey, Oxford, 2013. For forced resettlement and humanitarianism, see Nicholas Van Hear and Christopher McDowell (eds), *Catching Fire: Containing Forced Migration in a Volatile World*, Lexington, Oxford, 2006.

62 See, for example, Jimmy Patrick, Officer in Charge of Resettlement, "Reasons and Objects of Resettlement", 22 October 1951, ABRCS, 76/31.

63 For the defence of the policy, see, for example, N. Van Hear and C. McDowell (eds), above note 61.

64 For the latest studies of the Mau Mau and Kenya's counter-insurgency, see David Anderson, *Histories of the Hanged: Britain's Dirty War in Kenya and the End of Empire*, Weidenfield & Nicolson, London, 2005; H. Bennett, above note 5; Daniel Branch, *Defeating Mau Mau, Creating Kenya: Counterinsurgency, Civil War, and Decolonization*, Cambridge University Press, Cambridge, 2009; C. Elkins, above note 61.

65 "Kenya Branch of BRCS Report, 1953", ABRCS, 0297/43-45; Joan Whittington to Eileen Timms, 8 June 1954, ABRCS, 1983/54.

66 Joan Whittington's Diary, 1954–55, ABRCS, 1983/54.

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government support) rather than to areas of greatest need. The rhetoric of the "relief of suffering wherever it may be found" rang very hollow in Kenya. Forced relocation was a policy aimed at promoting and expanding those factions within Kikuyu society which, for largely pragmatic reasons, opposed Mau Mau. Confronted by overcrowding, malnutrition and high infant mortality, as well as the need for "staggering amounts of urgent clinical work",[67] the Red Cross in Kenya struggled to maintain the necessary independence from the colonial authorities to act with impartiality and neutrality. It was largely if never quite entirely subsumed by the colonial State's renewed drive for legitimacy.[68]

In Malaya, the forced resettlement of Chinese "squatters" – to whom the Malayan National Liberation Army turned for food, information and recruits – moved into high gear in the early 1950s. As 385,000 people were resettled in one year alone, concern grew over the spread of epidemic disease.[69] Determined to drive the resettlement process forward, yet aware that civilian cooperation required people's new lives to be more attractive than their old ones, General Templer pushed hard to expand basic services. Sixty teams of social workers, nurses and doctors were in daily contact with a cadre of 500 European resettlement officers and Chinese assistant resettlement officers – a striking humanitarian deployment for this period. To a far greater extent than was the case in Kenya, the Malayan administration relied on the Red Cross – in this case, British and Australian.[70] Funding for welfare – boosted by the Korean War boom in tin and rubber and by a donation from the Malayan Chinese Association – enabled a rapid expansion of Red Cross dispensaries and infant welfare centres.[71] By the end of 1953, the Malayan branch of the British Red Cross claimed to have reached 400,000 people.[72] Although many villages still had to receive medical help, Red Cross workers were by then a familiar sight. The UN's International Bank for Reconstruction and Development praised their contribution to public health.[73] The problem, as far as the Fundamental Principles were concerned, was exactly the opposite to that of Kenya. Among the largely loyal Malay population,

67 "Vice-Chairman's Visit to East Africa", 1957, ABRCS, 1594/27.

68 For conditions in the villages, see *ibid.*; and "Report on Red Cross Work in Kenya after visiting Reserves, by Lady Grey", ABRCS, 0297/43-35.

69 For the policy of forced resettlement in Malaya, see John Coates, *Suppressing Insurgency: An Analysis of the Malayan Emergency, 1948–54*, Westview Press, Boulder, CO, 1992; Karl Hack, "'Iron Claws on Malaya': The Historiography of the Malayan Emergency", *Journal of Southeast Asian Studies*, Vol. 30, No. 1, 1999; Kumar Ramakrishna, *Emergency Propaganda: The Winning of Malayan Hearts and Minds, 1948–58*, Curzon, Richmond, 2002; Anthony Short, *The Communist Insurrection in Malaya, 1948–60*, Crane, Russak & Co, New York, 1975; R. Stubbs, above note 21.

70 A smaller number of St John's relief teams were also involved in the resettlement programmes in Malaya. St. John Ambulance is a British Charity that was set up in 1877. It is particularly well known in the UK but also has an international presence.

71 By April 1953, $26,248,000 had been spent on resettlement, including $3,917,000 on "aftercare" services. The Malayan Chinese Association raised $4 million for new village projects and supported the work of the British Red Cross.

72 British Red Cross Society Annual Report on the Federation of Malaya Branch, 1953, ABRCS, 1983/51.

73 Rosemary Wall and Anne Marie Rafferty, "Nursing and the 'Hearts and Minds' Campaign, 1948–58: The Malayan Emergency", in Patricia D'Antonio, Julie Fairman and Jean Whelan (eds), *Routledge Handbook on the Global History of Nursing*, Routledge, Abingdon, 2013, p. 230.

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feelings ran high that while fighting to save the country they had hardly benefited from any of the additional investment in infrastructure or amenities. When the British Red Cross reduced its activity in the Chinese "new villages" to take greater account of the rural Malay *kampongs*, it is telling that the National Society was greeted with much suspicion.[74] Clinics were not well attended by Malays, and the Society's concern about not having worked more even-handedly across the colony's different communities proved well-founded.

During periods of colonial emergency, the Fundamental Principles were first and foremost a strategy for managing the tension between humanitarian action and State authority. Ever fearful of insurgent groups siphoning off relief supplies for themselves and their supporters, Europe's colonial powers sought to control where, when and to whom aid was provided. They could not always exercise as much control as they desired, however. Those very same colonial powers were, to varying degrees, dependent on international humanitarian organizations for the expansion of basic welfare and social services. Moreover, in extending their activities beyond Europe and into Africa, Asia and Latin America, humanitarians subjected Europe's colonial powers to greater and often unwelcome external scrutiny. The ICRC and National Societies were not the only agencies to do so. The various organs of the UN were likewise a part of a process whereby colonial questions were thrust into a new and more volatile international arena. By the 1960s, the UN had in fact made decolonization a central concern – but its specialized agencies were of a very different character. After the passing of Resolution 1514 (XV) in 1960, which proclaimed "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations",[75] the General Assembly requested that the UN's specialized agencies participate in the application of the "Decolonization Declaration", including the provision of moral and material assistance to national liberation movements. The fora of the UN thus became increasingly and at times intensely politicized.[76] Had the ICRC openly followed the UN's more overtly political path, it is questionable whether it could have survived. The tensions within the wider Movement resulting from such a course of action would have been acute. For the ICRC, the Fundamental Principles provided more than the basis for broadening the scope of humanitarian assistance and protection into new realms: they were a means to resolve disputes within the Movement that arose from this very process of expansion. The force of this point is brought home when we examine an aspect

74 Whittington to Chairman of Branch, 10 November 1951, and Report of Trengganu Branch, 8 September 1951, and Report of Perak Branch, 31 December 1953, ABRCS, 1983/51.

75 Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by UNGA Res. 1514 (XV), 14 December 1960, available at: www.un.org/en/decolonization/declaration.shtml.

76 On the UN and decolonization, including the 1960 Declaration, see David Kay, *The New Nations in the United Nations, 1960–67*, Columbia University Press, New York, 1970; John Sankey, "Decolonisation: Cooperation and Confrontation at the United Nations", in Erik Jensen and Thomas Fisher (eds), *The United Kingdom – The United Nations*, Palgrave Macmillan, Basingstoke, 1990, pp. 90–119; William Roger Louis, "Public Enemy Number One: The British Empire in the Dock at the United Nations, 1957–71", in Martin Lynn (ed.), *The British Empire in the 1950s: Retreat or Revival?*, Palgrave Macmillan, Basingstoke, 2005, pp. 186–213.

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of activity that is now regarded as core to the organization's mission, but which only half a century ago the ICRC and wider Movement debated whether to be engaged in at all: the visiting of "political detainees" in non-international armed conflicts.[77]

Humanitarian principles and political detention

The humanitarian challenge of containing the violence of the end of empire was compounded by the introduction of sweeping security laws and the resort to political detention. The aim of detention was physical isolation. It was the method of choice for colonial powers confronted by nationalist opposition, creating opportunities to extract intelligence from insurgents which could not be gathered from other sources. After interrogation, detainees were transferred to prisons, often without being charged or indeed having committed any prosecutable crime. Detention regimes were harsh, intimidating and disorientating experiences, taking place in inherently controlled and constrained environments. That said, in many colonies detainees were also symbols and vanguards of liberation struggles. Detention camps were turned into places where colonial authority was vigorously challenged and contested, and prison populations were in several respects a microcosm of the new societies that detainees wished to build.[78]

The ICRC and political detention in a post-war world

The ICRC led the way in holding late-colonial and postcolonial States to account for their treatment of political detainees. From the early 1960s to the mid-1970s, something in the order of 100,000 detainees were visited, in 400 prisons across seventy countries, the majority being in Africa, Asia and Latin America.[79] This was nothing short of an unannounced revolution in detention visiting. Unable to gain access to prisoners on both sides of the conflicts in the first Indochina, Korean and Vietnam wars, ICRC delegates exercised their "right of initiative" in order to establish themselves as neutral intermediaries in the wars of decolonization.[80] As Jacques Moreillon wrote to Edward Ndlovu, the national secretary of Zimbabwe's African People's Union: "A fireman must be close to the

77 "Security detainees" is the term now widely used, but in the period in question this was not the case, and "political detainees" was the preferred description.

78 For this point, see, especially, Fran Lisa Buntman, *Robben Island and Prisoner Resistance to Apartheid*, Cambridge University Press, Cambridge, 2003; Munyaradzi Munochiveyi, "The Political Lives of Rhodesian Detainees during Zimbabwe's Liberation Struggle", *International Journal of African Historical Studies*, Vol. 46, No. 2, 2013, pp. 283–304; Derek Peterson, "The Intellectual Lives of Mau Mau Detainees", *Journal of African History*, Vol. 49, 2008, pp. 73–91.

79 Address by Jacques Moreillon, Delegate-General for Africa, 23 May 1975, ACICR, B AG 225 231-004. See also Georges Willemin and Roger Heacock under the direction of Jacques Freymond, *The International Committee of the Red Cross*, Martinus Nijhoff, Boston, MA, 1984, p. 13.

80 For the legal basis of this "right of initiative", see common Art. 3(2); AP I, Art. 81(1); GC I–III, Art. 9; GC IV, Art. 10.

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fire and those people who are the main concern of the ICRC, political detainees, must be within easy reach of our Delegate."[81] Although the ICRC championed the widest possible interpretation of common Article 3 – any collective armed action not suppressed by ordinary means – Europe's colonial powers firmly resisted its application to situations of large-scale internment. Detention visits were from time to time permitted, yet very tightly regulated. The intention of Britain, France and other colonial powers was to counter international criticism while minimizing any hindrance to their military operations.[82]

Political detention laid bare the weaknesses of the Geneva Conventions regarding internal armed conflict. As Jacques Moreillon went on to argue, "This is one of the crazy situations of today's international law. The alien is better protected than your own national."[83] Not everyone shared this perspective, however. The decision whether to accord POW status to political activists organizing against, or insurgents taking up arms against, Europe's colonial powers was a flashpoint between the ICRC and several of Europe's Red Cross National Societies. The ICRC saw these National Societies as liable to be pro-government, while the National Societies saw the ICRC as venturing into territory that was fraught with political implications and strong emotions and likely to antagonize their host governments.[84]

The ICRC's Commissions of Experts (1953, 1955 and 1962)

Declaring the difficulty of gaining access to political detainees "a growing worry" for all those "who have humanitarian principles at heart",[85] the ICRC convened three Commissions of Experts, in 1953, 1955 and 1962, to examine the problem.[86] Each of these Commissions declared the foundation of detention visits to be the ICRC's doctrine of impartiality and reputation for independence.[87] From the outset, concern was expressed over the National Societies' ability to fulfil their duties in situations arising from internal conflict which ranged from internal disturbances to full-blown civil wars.[88] For almost a decade the Commissions wrestled with the question of whether National Societies possessed the necessary independence to

81 Jacques Moreillon to Edward Ndlovu, 16 August 1974, ACICR, B AG 252, 231-002.
82 See H. Bennett, above note 5; David French, *Fighting EOKA: The British Counter-Insurgency Campaign on Cyprus, 1955–1959*, Oxford University Press, Oxford, 2015; "ICRC in Kenya", ABRCS, Acc 1337/1; "ICRC in Cyprus", ABRCS, 76/16/1, 30 December 1959; and for Aden, Ian D. M. Reid, Assistant Secretary-General, to Director of International Affairs Department, British Red Cross Society, 13 January 1965, and Sir Patrick Renison, Vice-Chairman, to R. F. A. Shegog, Colonial Office, 26 January 1965, ABRCS, Acc 0287/14.
83 Address by Jacques Moreillon, Delegate-General for Africa, 23 May 1975, ACICR, B AG 225 231-004.
84 Lady Limerick to Paul Ruegger, 24 August 1953, ACICR, B AG 225 000-007.
85 "Memorandum on the Application of Humanitarian Principles in Internal Conflict", 1995, ACICR, B AG 225 000-001; Léopold Boissier, Vice-President, ICRC, to Mr Nansen, 20 April 1955, ACICR, B AG225 000-007.
86 ACICR, BAG 225 000-001/002/003/007/013/016.
87 "Mémoire documentaire sur l'assistance aux détenus politiques", 1953, ACICR, B AG 225 000-001.
88 "Memoire sur l'application des principes humanitaires en cas de troubles intérieurs", 1955, ACICR, B AG 225 000-001.

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act in conformity with the Movement's Fundamental Principles. Their "limited" independence – as "auxiliaries" of their respective States – was contrasted with the "absolute" independence of the ICRC. Yet the reality was more complex. The fact that the ICRC was a private organization, mono-national and Swiss in character, by no means prevented it from being sucked into the fierce ideological battles waged after 1945 between capitalist and communist powers and between the developed and developing worlds.[89]

So acute was the concern that the last of these Commissions, in 1962, laid down three conditions for National Societies to be able to function amidst internal armed conflict.[90] First, they had to adopt a structure capable of withstanding serious upheaval, including leaders who did not take an active part in political struggles and could therefore serve as a link between opposing parties. Second, they had to be sufficiently decentralized for local and regional sections not to be paralyzed if contacts with headquarters were disrupted. Third, any attempt by governments to prevent National Societies from playing their humanitarian role on behalf of all victims had to be resisted. If these conditions were not fulfilled, the Commission added a further proviso: in the event that a National Society found itself "under the strict domination of a government whose extortions it merely hides"[91] and could not act impartially, the ICRC was to take over its responsibilities.

A few years later, the British Red Cross Society offered its own perspective on the role of National Societies vis-à-vis the protection of detainees. The Society's leaders debated at length whether they could act as neutral intermediaries by visiting political prisoners in situations where the ICRC did not feel justified in offering its services. In view of the fact that the representatives of National Societies were nationals of – and hence subject to – the government they would be investigating, after some discussion the British Red Cross finally decided that it did not possess the ICRC's *neutrality* in order to be able to visit detainees, yet could nevertheless act *impartially* by providing welfare to them.[92]

The experience of protecting political detainees in Kenya, Nyasaland, Aden and South Africa

This was the theory. To understand what actually happened in practice, however, it is necessary to drill down into the experiences of particular ICRC delegates. Just as the nature of detention regimes varied from one colonial emergency to another, so the different personalities and personal ambitions of ICRC delegates led to

89 This was particularly true of the ICRC's stance during the Cold War, when its anti-communist sympathies were evident with regard to the conflict in Korea: see Barbara Ann Riffer-Flanagan, "Is Neutral Humanitarianism Dead? Red Cross Neutrality: Walking the Tightrope of Neutral Humanitarianism", *Human Rights Quarterly*, Vol. 31, No. 4, 2009, pp. 888–915.

90 "Commission D'Experts chargée d'examiner la question de l'aide aux victims des conflicts internes", 1962, ACICR, B AG 225 000-016; "Role of the ICRC and the National Societies in the Case of Internal Conflicts", 1963, ACICR, B AG 225 000-013.

91 *Ibid.*, p. 5.

92 Secretary-General to Vice-Chairman, 3 December 1962, and Secretary-General to Roger Gallopin, 21 January 1964, ABRCS, 287/14.

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variations in detention visiting. This is not to deny that these delegates shared experiences – in fact, the basic framework for visiting detainees was to a large extent constructed and consolidated during this period.[93] It was during decolonization that ICRC delegates began to insist on what would later be recognized as the preconditions for effective visits: access to all detainees and to all detention facilities, the authorization of repeat visits, the possibility of speaking freely and in private with detainees, the right to distribute aid to them and their families, and inspection by medically qualified delegates to verify the health of prisoners and, where applicable, allegations of mistreatment. Yet the specificities of different detention sites, combined with the wide discretion exercised by ICRC delegates at this time – many critical of Geneva's conservative and centralized diplomacy – exposed the organization to criticism from within as much as without. Nowhere was this more the case than with respect to charges of practising a "selective humanitarianism", whereby the ICRC was more attentive to the existence of human suffering in some places of detention than others and more willing to challenge the actions of some Detaining Powers than others.[94] Comparing the actions of Henri Philippe Junod in Kenya, Godfrey Senn in Nyasaland and South Africa, and André Rochat in Aden – three of Britain's major colonial emergencies in which the practice of detention was widespread and attracted a lot of attention in the British parliament and press, alongside a former British colony (apartheid South Africa) that incarcerated thousands of black political opponents and generated more international criticism than anywhere else – can provide a good basis for assessing how far these charges were justified.

Unlike the Malayan Emergency, where many Chinese people were deported, a large and complex network of detention camps became the first line of Britain's defence against the Mau Mau insurgency in Kenya. In Kenya, moreover, Mau Mau detainees faced a notoriously coercive "rehabilitation" process. The British likened adherence to Mau Mau to a pathological illness. Those suspected of membership of the insurgency were forced to confess their crimes and repudiate their allegiance to the cause. Rehabilitation, it should be noted, found supporters beyond as well as within the colonial bureaucracy. For example, many missionaries saw the suppression of the Mau Mau's anti-Christian message as an opportunity for conversion.[95] Nor does rehabilitation appear to have been much disputed by the British Red Cross. Joan Whittington was critical of the squalid and overcrowded conditions in the detention camps – the situation in Nakuru was described by one Red Cross worker as "quite horrifying", and its accommodation as "unfit to house animals".[96] Nevertheless,

93 For an overview of the ICRC and detention, see David Forsyth, *The Humanitarians: The International Committee of the Red Cross*, Cambridge University Press, Cambridge, 2005, pp. 297–304.

94 See, especially, Richard Ashby Wilson and Richard Brown (eds), *Humanitarianism and Suffering: The Mobilization of Empathy*, Cambridge University Press, Cambridge, 2011.

95 C. Elkins, above note 61, pp. 299–300.

96 "Extracts from Minutes of a Meeting of the Executive Committee of the Kenya Branch of the British Red Cross Society", 28 July 1955, ABRCS, Acc 0287/43-45.

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when Lady Limerick witnessed the coercive screening process presided over by the brutal Katherine Warren Gash at the all-female Kamiti detention camp, she did not question it, even when applied to girls under the age of 17.[97]

The ICRC's delegate in Kenya was the independent-minded H. P. Junod; the son of a famous Swiss missionary, he was a paternalistic liberal who believed in the gradual emancipation of Africans. Junod twice visited the camps in Kenya, in 1957 and 1959.[98] Never afraid to clash with the authorities, or for that matter his superiors, Junod is however accused of failing to condemn torture in Kenya's detention camps. This is not strictly true. Reports of Junod's second visit to Kenya did highlight "cruel and brutal treatment" by the prison authorities as well as several reprisals against detainees who had previously complained. What is sadly true is that Junod saw what are now known as "advanced" or "enhanced" interrogation techniques as a justifiable price to pay for overcoming resistance to rehabilitation from Mau Mau's "hard-core" elements.[99]

The energetic, fiery Godfrey Senn, the ICRC delegate in South-East Africa, was quick to point out the likely consequences of Junod's stance. Senn insisted that the Red Cross would "quite rightly" be seen as "siding with the rulers and assisting them against the ruled"; by undermining the principles of neutrality and impartiality – "the decisive factor" in how Africans viewed the Red Cross – he felt Junod had badly damaged the ICRC's relations with Kenya's political detainees.[100] Interestingly, Senn – no friend of European settlers or for that matter the British Red Cross, yet perfectly capable of patronizing language towards Africans – was himself confronted by a "show-down over rehabilitation" in the notorious Kanjedza camp in Nyasaland in 1959. Relations with the authorities in Kanjedza had broken down completely when detainees refused to have any dealings with the camp's welfare officers and shunned all attempts to "re-educate" them. As a result, they were locked up for three days on half-rations, put into stress positions and denied all privileges for a further week.[101] In contrast to Junod, Senn saw "prolonged detention" and "intensive indoctrination" as totally at odds with the detainees' rehabilitation into the "existing social order".[102]

André Rochat, Middle East delegate in civil-war-torn Yemen and Britain's troubled Aden protectorate, faced a rather different set of problems to Junod and Senn in Africa. Rochat's lavishly illustrated *Fonds d'archives privé* is testimony to how he saw himself as a sort of freelancing humanitarian Lawrence of Arabia and a pioneer of ICRC operations in the Middle East.[103] However egotistical, Rochat

97 Diary of Visit of Vice-Chairman to East Africa, 13 January 1957 to 9 February 1957, ABRCS, 1594/27.
98 Eric Morier-Genoud, "Missions and Institutions: Henri-Philippe Junod, Anthropology, Human Rights and Academia between Africa and Switzerland, 1921–1966", *Schweizerische Zeitschrift für Religions- und Kulturgeschichte*, Vol. 105, 2011.
99 *Ibid.*
100 Godfrey Senn to Pierre Gaillard, 24 October 1955, ACICR, D AF RHODE 2 01-001.
101 G. Senn to P. Gaillard, 1 February 1960, ACICR, B AG 225 231-001; Report on Detainees in D Compound at Kanjedza Camp, 25 October 59, ACICR, B AG 225 231-004.
102 G. Senn to Minister of Law, 22 December 1959, ACICR, B AG 225 231-005.
103 André Rochat, *Fonds d'archives privé André Rochat: Les missions du CICR au Moyen-Orient de 1963 à 1971*, Geneva, 2008.

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was nevertheless a highly skilled and self-confident negotiator and a man of great personal courage. Yemeni claims to sovereignty over Britain's colony and protectorate in Aden grew louder and stronger during the late 1950s, when British power was seen to be in decline.[104] From the outset, the British authorities resolutely opposed any inspection of British military operations in the mountainous Radfan region (where local tribesman backed by the Yemenis, who were in turn backed by the Egyptians, had the British under daily attack) and any visits to detainees in Aden's prisons (who were mostly supporters or fighters for the Egyptian-backed National Liberation Front), fearing what the ICRC would find. Even the British Red Cross, acknowledging the "explosive" situation in Aden, was frustrated by this stance.[105] Rochat found himself caught in the Yemen between the opposing forces of the Western colonial and Arab worlds. In 1966, the UN asked the ICRC to consult with its specialized agencies with a view to assisting refugees in the Aden colony and protectorate. It went on to note with "deep concern" the military operations of the Administering Power and called for an immediate end to "repressive actions against its people", including the release of all political detainees.[106] The Suez crisis had earlier provided a regional focus for the mobilization of Arab humanitarianism. In advance of the UN's intervention in Aden, the secretary-general of the Red Crescent Society of the United Arab Republic and the permanent delegate of the Arab League in Geneva had both pressed the ICRC to provide aid to the Arab tribes bombed by the Royal Air Force in Radfan and to investigate allegations of torture of Aden detainees.[107] The British authorities responded by accusing the ICRC of turning itself into a propaganda instrument of the Arab League.[108] Rochat persisted, however, determined to secure his position in the Yemen, where the ICRC had mounted one of its largest operations of the decade. Yemeni republicans – invoking Red Cross principles – threatened to eject the ICRC if it did not prove its "impartiality" by looking into the "horrors of the south". Rochat was eventually granted access to the detention centre at Al-Mansura, where he learned first-hand of detainees' experiences of torture. Indeed, such were the restrictions imposed by Al-Mansura's governor that, by 1967, Rochat declared the prison to be "L'empire de la peur". Only two inspections were granted of Fort Morbut Prison, the interrogation centre – to go further, calculated Britain's high commissioner, was likely to halt interrogations entirely.[109]

104 Robin Neillands, *A Fighting Retreat: The British Empire, 1947–97*, Hodder Headline, London, 1996, p. 330.
105 Memorandum of I. D. M. Reid, Assistant Secretary-General, 14 November 1962, ABRCS, 0287/14.
106 N. Rafai, Acting UN Officer in Charge of Trusteeship and Non-Self Governing Territories, to Samuel Gonard, 26 July 1966, ACICR, B AG 200 001-002. See also UN Resolution of the Special Committee Granting Independence to Colonial Countries and Peoples, UN Doc. A/AC 109/179, June 1966.
107 Enquiry from Secretary-General of Red Crescent Society of the United Arab Republic regarding Aden Detainees to Pierre Gaillard, 19 January 1965, ACICR, B AG 225 001-002. See also Jean Pictet to André Rochat, 4 March 1965, ACICR, B AG 200 226-001.
108 Vice-Chair to Chair, 6 November 1964, and "Information Notes, Federation of South Arabia", 9 October 1964, ABRCS.
109 For Rochat's reports, see ACICR, B AG 202 001-001, 225 001-002, 225 001-004. Quotation from F. Rais to Pierre Gaillard, 11 September 1967, ACICR, B AG 225 001-005.

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In Aden, friction had arisen over an alleged breach of the ICRC's policy of confidentiality[110] – the organization's basis for reporting to detaining authorities. In order to build trust and gain access to places that were off-limits to other international organizations, any concerns arising from visits were taken up directly in private and discrete dialogue. Amnesty International, whose own controversial report on Aden had to be based on affidavits from former prisoners rather than interviews with detainees, had indicated familiarity with Rochat's reports, even claiming that they largely corroborated Amnesty's own findings. In the face of criticism from the British colonial authorities, the ICRC publicly rejected Amnesty's statement.[111] In theory, the policy of confidentiality and the Fundamental Principles were distinct: confidentiality, the ICRC argued, allowed for public denunciation in cases of repeated and egregious violations of humanitarian law. In the highly charged atmosphere of decolonization, however, critiques in which "neutrality" was conflated with "passivity", and "confidentiality" with "collusion", were easily constructed. This was particularly true of South Africa during the 1960s and 1970s, where the ICRC's logic of "remaining confidential to remain effective" was tested to its limits, and criticisms of the ICRC for not speaking out more vociferously momentarily deflected media attention from the actions of the apartheid regime.

The ICRC, apartheid and Robben Island

The ICRC insisted that the policy of confidentiality protected its freedom to privately criticize the Detaining Power. Yet the force of this argument was undermined by the highly selective citation of the ICRC's reports by the South African authorities. On its own admission, detainee confidence in the ICRC's neutrality and impartiality was seriously damaged. In 1978, Alexandre Hay, the ICRC's then president, wrote to James Kruger, South Africa's minister of justice, police and prisons, to say as much.[112] At the time of writing, many detainees were even refusing to talk to the ICRC's delegates on the grounds that their visits "served no useful purpose" and simply "whitewashed" the South African authorities.[113] In fact, allegations of the ICRC "defending and sheltering white supremacy"[114] had surfaced with great fanfare a decade earlier at the UN. In November 1966, the South African government had, to its advantage, published the report of the first ever visit of an ICRC delegate, Georg Hoffmann, in April 1964. In correspondence with the UN Secretary-General, South Africa's ambassador to the UN rejected the proposal for the UN's Special Committee on

110 For the principle of confidentiality, see Memorandum, "The ICRC's Privilege of Non-Disclosure of Confidential Information", in this issue of the *Review*.

111 T. Mathez to Dr Selahaddin Rastgeldi, 7 November 1966, and Pierre Gaillard to Robert Swann, 22 July 1966, ACICR, B AG 225 001-002.

112 Alexander Hay to James T. Kruger, 10 November 1978, ACICR, D AF RHODE 02-006.

113 *Ibid.* A source of great tension was the fact that ICRC visits were restricted to those held under Section 10 of the Security Act, and access to those held under Section 6 of the Terrorism Act was denied.

114 Godfrey Senn to Jacques de Heller, 3 March 1968, ACICR, D AF RHODE 2 01-001.

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Apartheid to visit the country. The ambassador's assertion that the South African government had nothing to hide in respect of the administration of its prison system and the treatment of prisoners relied largely on the (erroneous) claim that his government had allowed "unrestricted inspection" by representatives of the ICRC, which, "by reason of its long tradition of objectivity", was regarded as the proper body to establish the truth of the situation.[115]

Hoffman's visit occurred at precisely the moment when a special group of the UN Human Rights Commission, charged with investigating allegations of torture, was interviewing former detainees and their representative organizations outside of the country.[116] Because the tone of the Hoffmann report was so subdued – most likely out of fear that the South Africans would otherwise have forbidden further visits – it failed to convey the seriousness of the problems. While a more nuanced and measured response to the ICRC's predicament came from the influential International Defence and Aid Fund, led by the Reverend John Collins, that Fund nevertheless concluded that the South African government had successfully exploited the ICRC's prestige in order to deflect criticism of its actions.[117]

Godfrey Senn, the first delegate to interview Nelson Mandela on Robben Island in April 1967, was again adamant that the ICRC had not been sufficiently outspoken.[118] He was no doubt swayed by the furore – and embarrassment – caused by the coruscating critique of the Hoffman report at the UN. The ICRC and its president were stung into action by comparisons drawn by Nigeria and the Soviet Union between the Red Cross's investigations in South Africa and its earlier ineffectual investigations of the Nazi concentration camps. Faced by dismissals of the ICRC as an "innocuous organisation without either power or authority", its president, Samuel Gonard, wrote to the UN Secretary-General, U Thant, and to Marc Schreiber, the director of the UN's Division of Human Rights, to say that he had been "deeply perturbed" by these allegations, which were "so obviously contrary to the truth". Taking an unusual step, Gonard even pressed for his letter of rebuttal to be circulated among the members of ECOSOC, the UN's Economic and Social Committee.[119]

Unlike Algeria – where, in January 1960, a summary of leaked ICRC reports published in *Le Monde* exposing prison conditions and cases of torture had not, as was feared, damaged the ICRC's reputation, but rather forced the

115 Access was not in fact unrestricted at this time. M. I. Botha, South African Ambassador to the UN, to U Thant, UN Secretary-General, 13 April 1967 and 17 April 1967, Archives of the UN Human Rights Commission (AUNHRC), SO 234 (13-1), 03.1967-12.1969. Botha's very carefully worded letters referred to the fact that "reports have been issued and statements made by these independent persons" without saying anything about their actual contents.

116 Godfrey Senn to Claude Pilloud, 21 February 1968, ACICR, D AF RHODE 2 02-002. See also Jacques Moreillon, *Internal Study: Moments with Madiba*, May 2005, pp. 22–29. I am grateful to Dr Moreillon for supplying me with a copy of this document prior to publication.

117 Rev. John Collins to Jean Pictet, 13 April 1967, ACICR, D AF RHODE 2 02-002.

118 Godfrey Senn, "Note for the ICRC", 8 October 1969, ACICR, D AF RHODE 2 01-009.

119 See Marc Schreiber to Curtis Roosevelt, Chief NGO Section, ECOSOC, 17 November 1967, AUNHRC, SO 234 (13-3), 07-1967-12.1967; and Samuel Gonard to U Thant, 27 June 1967, copy in Claire Howe to Charles Hogan, 11 July 1967, AUNHRC, SO 234 (13-3), 04.1967-07.1967.

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French government to confront its responsibilities in North Africa – the situation in South Africa several years later produced a change to the policy of confidentiality.[120] The South African government was warned that, if it would not publish *in extenso* reports of all visits, either the ICRC would feel free to do so or those reports would be made available to other organizations on request. In South Africa, the leaking of confidential reports was perceived to have compromised the ICRC's reputation both for independence and for neutrality and to have made the organization look a lot less critical of the apartheid regime than it actually was. The need to protect the Fundamental Principles therefore took precedence over the policy of confidentiality; the latter had to give way to the former.

The ICRC's growing preoccupation with the problems of political detainees during the decades of decolonization was reflected in the rapidly rising number of detention visits, as well as the extensive coverage of those visits in the organization's Annual Reports. Without any firm basis in international law, the ICRC intervened in many of Europe's colonies and former colonies, at first cautiously but later with less reserve.[121] More than that, there was an argument to win *within* the Red Cross and Red Crescent Movement that visiting *all* categories of detainees was a necessary, sustainable and legitimate pursuit, to which the ICRC was right to devote more time and more resources. Without the Fundamental Principles, it is far from clear that the ICRC could have pursued the protection of detainees as decisively and determinedly as it did.

That said, the tragic circumstances of political detention also cast doubt over whether the Fundamental Principles could be safeguarded in the new types of conflict that emerged after the Second World War. The ICRC invoked its status as an independent private Swiss body, whose role was not to dispute whether a person should have been incarcerated, but only to concern itself with the conditions of their incarceration.[122] Yet in a very loose-knit federated movement, comprised of the ICRC, the League and an expanding and diversifying number of National Societies, the principle of independence was far from uncomplicated – especially for the National Societies of Europe's colonial powers.[123] There were concerns in Geneva that expanding detention visits might "momentarily paralyse" the National Societies, as calls were heard for a new declaration of their independence.[124] To be sure, this inherent tension between the universalist ethos of an internationally active humanitarian organization, the component parts of which were nevertheless closely integrated into national

120 The ICRC did suffer the temporary setback of having to spend a year renegotiating access to detention sites in Algeria. For a fuller account of this episode and its consequences, see Francoise Perret and Francois Bugnion, "Between Insurgents and Government: The International Committee of the Red Cross's Action in the Algerian War (1954–62)", *International Review of the Red Cross*, Vol. 93, No. 883, 2011, pp. 730–732.

121 G. Willemin and R. Heacock, above note 79, pp. 70–76, 112–16.

122 "Memorandum on the Assistance of Political Detainees", 1953, ACICR, B AG 225 000-001.

123 "Réunion d'une commission d'experts prevue pour 1959 et finalment renvoyée", ACICR, B AG 225 000-001.04.

124 "Role of the ICRC and the National Societies in the Case of Internal Conflicts", ACICR, B AG 225 000-013.

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frameworks of supporting States, was by no means unique to the ICRC. It was, however, a tension that underlay many of the challenges to the Fundamental Principles that emerged at the end of empire. Furthermore, it was a tension that manifested itself with regard to what was arguably the greatest challenge of all for a post-war generation of humanitarians: that of charting a path for non-European branches of international organizations from colony to independent nation State.

Humanitarian principles on the eve of colonial independence

The end of empire involved nothing less than the dismantling of an entire international system – an old imperial order was swept away by a new world order of sovereign nation States, and the deadening certainties of the past were replaced by the disconcerting uncertainties of the future.[125] During this period, humanitarians lived through a time of profound change as well as having that change thrust upon them. The facts of armed conflict suddenly shifted after 1945. The wars of decolonization formed part of a new era of African and Asian societies fighting for their independence and right to self-determination, in the midst of capitalist and communist blocs vying for global supremacy. Faced by a variety of armed struggles – classic liberation movements, proxy conflicts, internationalized civil wars, and UN peacekeeping interventions – a post-war generation of humanitarians frequently had to improvise as events unfolded rapidly in the run-up to transfers of power whose prospects had often seemed more distant than they actually were.

Just as Britain and other European colonial powers were scaling down their imperial commitments, so too were they simultaneously scaling up their humanitarian commitments. As we have seen, after 1945, the very term "humanitarianism" came to be used in a much more inflationary way. Aid agencies pushed the limits of international law to address aspects of armed conflict that they had hitherto dealt with far less frequently, if at all. Precisely because of the lacunae of international law, the wars of decolonization threatened to become what one leading international lawyer called a "no-man's land in humanitarian action".[126] This, in turn, stoked up the pressure on humanitarian principles to justify new types of activity regarded with suspicion, if not hostility, by Europe's colonial powers.

For an organization like the ICRC, which prided itself on proximity to victims, the Fundamental Principles performed a vital role in securing access to conflicts which Europe's colonial powers saw as falling exclusively within their domestic jurisdiction. While those powers were trying to control the decolonization process in ways that advanced their own interests, by the 1970s

125 Bernard Waites, *Europe and the Third World: From Colonisation to Decolonisation, c.1500–1998*, Macmillan, Basingstoke, 1999, Chapter 8.

126 The phrase is taken from Jean Pictet, "The Need to Restore the Laws and Customs relating to Armed Conflicts", *Review of the International Commission of Jurists*, No. 1, March 1969, p. 34.

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the ICRC and other leading humanitarian agencies were in regular and direct contact with liberation movements. In this situation the significance of the Fundamental Principles was, if anything, magnified: they were a way of framing a debate about what kinds of protection humanitarians could legitimately provide, in which situations they could provide it, and to whom.[127]

Because humanitarian principles were part of a power play between the developed and developing worlds, they were increasingly and inevitably politicized. This was as true for other aid agencies and human rights groups – such as Oxfam, Christian Aid and Amnesty – as it was for the ICRC. Yet by publicly codifying its Fundamental Principles at Vienna in 1965, the ICRC turned the Principles into something more: not only a statement of its values and purpose, but even perhaps an article of faith. In the midst of decolonization, there was therefore an uncomfortable yet inescapable question for the world's leading humanitarian agency. Did there exist in human beings universal values and dispositions that would allow international aid agencies to expect their members to respond to human suffering in the same or similar ways regardless of the particular circumstances and conditions in which they were located, and if so, who would ensure that the Fundamental Principles were respected across the Movement? The transition from the late-colonial to the postcolonial era was a watershed in twentieth-century history – a moment of considerable flux. It had, after all, taken not much more than twenty years to do away with the formal institutions of colonialism. Yet the question remained as to just what had come to an end with decolonization. How would the formerly colonized powers that had mobilized so successfully at the UN during the 1960s make their presence felt in the international humanitarian arena before and after independence?

If the sovereign States which grew out of decolonization were profoundly unsettled by the process, so too was a post-war generation of humanitarians. Nowhere was this more so than with respect to the unprecedented growth of humanitarian action in today's Global South. The process of "re-globalization" that occurred after the Second World War expanded the range of voices that humanitarians had to listen to, whilst radically differentiating them. International organizations like the Red Cross were among the first to experience and to have to respond to this far-reaching change. When, in 1962, Samuel Gonard was despatched on a mission to Equatorial and Central Africa (covering British, French and Belgian colonies and ex-colonies) to gather information on what activities the ICRC might usefully undertake, it was far from clear that what had hitherto been "an essentially European organisation" would be perceived as sufficiently independent, or sufficiently free from prejudices derived from decades of colonial domination, to establish itself on the continent.[128] The question of universality hung ominously over the Fundamental Principles. Were they

127 For the post-war expansion humanitarian activity, and the role of international law and humanitarian principles in justifying this expansion, see, especially, Elizabeth Ferris, *The Politics of Protection: The Limits of Humanitarian Action*, Brookings Institution Press, Washington, DC, 2011, pp. 2–3, 6, 59–61; William R. Smyser, above note 16, Chapters 5 and 6.

128 G. Willemin and R. Heacock, above note 79, pp. 46–48 (quotation from p. 47).

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inherently Western or European constructs, or could they underpin the unity and self-conception not only of the ICRC but of a rapidly expanding and diversifying Red Cross and Red Crescent Movement?

There is today a growing recognition of the need to recognize and better comprehend the various non-Western manifestations of humanitarianism. There is, however, insufficient appreciation of how the post-war growth of non-Western forms of humanitarian aid revolved around the formation of new African, Asian and Latin American branches of international organizations. From 1950 to 1979, a slew of new Red Cross and Red Crescent National Societies were established in newly created States around the world – in fact, no less than sixty-three new National Societies emerged, many carved out of former European colonies. In 1950, sixty-seven National Societies were members of the League; by 1963, this number had reached 102.[129] Decolonization had produced a sudden burst of growth within the Movement, and together these new National Societies shifted its centre of gravity away from Europe. The marked increase of Arab membership in countries with majority Muslim populations constituted a particularly striking development for an organization previously dominated by Europeans.[130]

The post-war history of the International Red Cross and Red Crescent Movement provides a vital if neglected regional perspective to the globalization of humanitarian aid. To varying degrees, the journey from being a branch of a colonial society to becoming a newly independent National Society reproduced the pattern of decolonization in the territory concerned. More than that, however, this was a journey that bore the hallmarks of how British, French, Belgian and Portuguese National Societies responded to the challenge of indigenization. The challenge of indigenization in turn reflected the commitment (or lack thereof) toward principled humanitarian action. When white settlers were indifferent toward humanitarian work among African and Asian populations, when expatriate European field officers refused to cede control to local leaders, and when a large-scale exodus of Europeans (including doctors and nurses) occurred in the run-up to independence, the establishment of new National Societies was decidedly difficult.

In some cases – most dramatically in Portuguese Angola and Mozambique – those National Societies collapsed under the weight of their internal conflicts and contradictions. In Nyasaland and Rhodesia, the experience of the British Red Cross was very similar. In Nyasaland, where the Red Cross was judged to be "still very far away from the principles of 'above race, colour, creed and class'",[131] Africans complained bitterly that, during the emergency, the branch had willingly supported government troops and the police yet had refused help to African political

129 Figures from Hans Haug, *Humanity for All: The International Red Cross and Red Crescent Movement*, Paul Haupt Publishers, Berne, 1993, pp. 70, 355–356.

130 Jonathan Benthall and Jerome Bellion-Jourdan, *The Charitable Crescent: Politics of Aid in the Muslim World*, I. B. Tauris, London, 2003.

131 "Development of the Federation of Rhodesia and Nyasaland since 1950", 15 March 1957, and Godfrey Senn to Roger Gallopin, "Note for the ICRC", 6 March 1959, ACICR, B AG 209 231-002.

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detainees.[132] Red Cross clinics were widely boycotted in the run-up to Malawi's independence, with rumours circulating that the future prime minister and president, Dr Hastings Banda, required an official apology from the Red Cross as the price of future cooperation.[133] In Rhodesia, where white settlers had usurped independence with the accession of Ian Smith's regime in 1965, the Red Cross had, if anything, an even worse record. To their great frustration, Africans were consigned to a secondary and subordinate role in a branch in which the process of Africanization was as piecemeal as it was protracted.[134] In a highly unusual move, which sprang from the recognition that the Rhodesian branch was incapable of transforming itself, two ICRC delegates stepped in to accelerate the process. A further ICRC representative was then sent to train Zimbabweans in Red Cross principles in the hope of persuading them that the organization was not only for white men and women.[135]

The reluctance of many colonial branches to embrace the Fundamental Principles cast a long shadow over the next half-century of humanitarian aid. In situations of entrenched racial discrimination, the impossibility of seriously entertaining any of the Principles was all too apparent. The end of empire had destabilized unqualified claims to universalism, be they secular or religious. Were there fundamental standards of humanity that applied at all times and to all actors involved in armed conflict? The very use of the term "humanity" in societies where hierarchical racial principles were a cornerstone of the political order suggested otherwise. Europe's colonial powers had long linked "humanity" to their belief in the idea of "civilization". In the decades after the Second World War, they continued to regard some societies as less "human" than others – and some, perhaps, as not "human" at all. Concern over the division of opinion and resulting disarray within the Movement surfaced at the International Red Cross Conference in Mexico City in 1971, and lay behind a major study reappraising the role of the Red Cross, the Tansley Report, published the following year.[136]

Conclusion

If there is talk today of an international humanitarian system on the verge of decolonizing itself, either in terms of expunging its colonialist features or opening up to new actors from the Global South, it is only by returning to the post-war

132 Godfrey Senn to R. Moffat, 17 November 1961, ACICR, D AF RHODE 2 01-004; Philippe Zuegger to Nicolas de Rougemont, 27 March 1976, ACICR, B AG 122 231-007.
133 Lady Limerick to Léopold Boissier, 8 February 1962, ACICR, B AG 209 231-002.
134 Brian W. S. O'Connell, Chairman, Rhodesian Red Cross, to Frank Schmidt, 9 October 1976, ACICR, B AG 122 231-008; F. C. Maurer, "Note No. 1958", 6 August 1979, ACICR, B AG 122 231-004.
135 Meeting of representatives of ICRC, BRCS and Rhodesian Red Cross on Future Organisation and Activities of Rhodesian Red Cross in relation to the ICRC's Emergency Operations in Rhodesia, London, 4 July 1978, ACICR, B AG 122 231-003.
136 Jacques Meurant, "The 125th Anniversary of the International Review of the Red Cross – A Faithful Record. III. The International Red Cross and Red Crescent Movement: Solidarity and Unity", *International Review of the Red Cross*, Vol. 35, No. 307, 1995.

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era that we can truly grasp why this is so.[137] This was a period when there was a "significant expansion in humanitarian action as a form of international relations and as an increasingly ordered part of a nascent global governance".[138] It was also a period when humanitarianism sought to change the face of a decolonizing world; meanwhile, that decolonizing world profoundly affected what humanitarianism was able to do and what it eventually became. The ICRC and the wider Movement were situated at the very heart of these developments. During the 1960s and the 1970s, many National Societies in newly independent colonies struggled to find their feet. Some of these National Societies were absorbed into the apparatus of postcolonial States, others caught up in major humanitarian crises such as those in the Congo (1960–65) and Nigeria-Biafra (1967–70). The call for a reaffirmation of humanitarian principles after 1945 was not simply, therefore, a response to the more confined and challenging environment in which the ICRC had to operate, nor can it be explained solely by the hyper-politicization of aid, though both factors are important. Rather, the Movement's Fundamental Principles were the terrain upon which colonizer and colonized encountered each other to address the most basic questions of all. Who were the humanitarians? What matters were to be defined as humanitarian? And who and what would determine the recipients of aid?

That the Fundamental Principles did not yield clear-cut answers to these questions was a verdict not so much upon the Principles *per se* as it was upon the strength of the geopolitical forces with which they had to contend. At a time when the proper boundaries of humanitarian action were very much up for grabs, the Fundamental Principles provided a way of talking across different cultures and societies about the best means of protecting people during times of war. This explains why other aid agencies were from time to time drawn to the language of "neutral", "independent" and "impartial" humanitarian action to describe and legitimize what they did. Yet ultimately only one of those principles, the one that stated an *objective* – a shared humanity – had the capacity to counter the violent expression of opposing interests that lay behind decolonization, or to mobilize the empathy and solidarity necessary to prevent certain people from being placed beyond humanity's pale. Then – as now – the emotive power of humanitarian narratives designed to affirm the inherent worth and dignity of human beings ran up against the emotive power of narratives of terror designed to direct public sympathy toward certain categories of victim while denying that sympathy to others. In the past as much as the present, the underlying objective of framing acts of non-State violence in the context of a "global war on terror", aptly described as "an extreme kind of othering",[139] has been to render some actors in conflict less human or even perhaps sub-human. Those who provoke their own torment are said to deserve their fate.[140] To be sure, the Fundamental

137 For the neo-colonial characteristics of contemporary humanitarianism, see Hugo Slim, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*, Hurst & Company, London, 2015, pp. 10–11.
138 *Ibid.*, pp. 3–4.
139 Alexander Spencer, *Lessons Learnt: Terrorism and the Media*, AHRC Public Policy Series No. 4, Swindon, 2012, p. 19.
140 R. A. Wilson and R. Brown (eds), above note 94, pp. 19, 23–25.

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Principles are integrally linked; they either stand together, or arguably not at all. But the ultimate purpose of the Fundamental Principles is to produce predominantly or exclusively humanitarian action. For that purpose to be fulfilled, it is necessary for each generation to pay renewed attention to the essential and inspirational principle of a shared humanity. For it is the principle of humanity that provides the strongest foundation for compassionate responses to forms of suffering arising from organized violence that might otherwise remain overlooked.

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