

On January 1, 1959, having received an appeal from the new Red Cross Society constituted in Havana, the ICRC immediately sent a delegate, Mr. P. Jequier, who left Geneva on January 3 for Havana, with instructions to lend his services to the Cuban Red Cross now under the direction of Dr. Rodolfo Enriquez Lauranson, and to carry out the traditional activity of the ICRC in behalf of all victims of the events. Mr. Jequier was cordially received by the Cuban Red Cross, of which the directorate, as well as the Cuban authorities, showed a most co-operative spirit. Thus the ICRC is finally able to perform its duty in accordance with its humanitarian principles and the provisions of Article 3 common to the four Geneva Conventions. It is this article, and several resolutions of the International Conference of the Red Cross, that the ICRC takes as a basis for its action in armed conflicts not of an international character. The ICRC is acting in Cuba as it has already acted on many occasions during internal disturbances in other countries.

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TOPICAL RED CROSS NEWS

INFORMATION NOTES

GENEVA - Switzerland

Geneva, January 8, 1964

A DELEGATE OF THE ICRC AT NICOSIA

By reason of the events in Cyprus, the International Committee of the Red Cross has offered its services, according to its traditional role, to the Cyprus Government. This offer having been enthusiastically received, the ICRC delegated Mr. Jacques Ruff, who left Geneva for Nicosia, where he arrived on January 1.

Mr. Ruff is charged with a mission of protection and assistance on behalf of the victims of the conflict. He immediately set to work in co-operation with the local Red Cross and the Cyprus authorities.

The following is an excerpt from the White Paper on the Application of the Geneva Conventions of 1949 to the French-Algerian Conflict, published in May 1960 by the Provisional Government of Algeria. It is evident that the Provisional Government of Algeria understood the political value in the international community of espousing the humanitarian principles protected by these Conventions.

CHAPTER III

THE POSITION OF THE PROVISIONAL GOVERNMENT OF THE ALGERIAN REPUBLIC FOR APPLICATION OF THE GENEVA CONVENTIONS

Moved by the desire to humanize the war in Algeria to the maximum possible and concerned with respecting both the political and juridical realities, the Provisional Government of the Algerian Republic considers that the situation in Algeria requires the application of all the laws of war. Thus, the Algerian leaders have incessantly called for the application of the basic humanitarian principles to the conflict by many demarches and declarations since 1955. And, in the first "Policy Declaration" of the Algerian Provisional Government made by Premier Ferhat Abbas, on September 26, 1958, it was announced:

"...the Provisional Government of the Algerian Republic will welcome with the greatest favor any international initiative aimed at achieving the application to the Algerian war of the humanitarian arrangements of the Geneva Conventions."

On April 11, 1960, the Algerian Provisional Government announced its decision to ratify the Conventions.

Moreover, the Provisional Government has already proceeded to the unconditional release of French prisoners (both civilian and military) through the International Committee of the Red Cross.* In press interviews following the releases, and upon their return to France, the persons released commented on the satisfactory treatment they received while in captivity. Following are a few typical statements:

* See ICRC and the Algerian Conflict, March 1955 - June 1959: Berne, Switzerland. The International Committee of the Red Cross.

Statements of two French soldiers, Michel Risse and M. Villette, liberated by the A. L. N. (Army of National Liberation) in December, 1956: (Interview published in France Soir, December 27, 1956)

"Sleeping by day, marching at night, we moved continuously in the mountains with the fellaghas. We were lodged in small villages of the mountains, and shared the meals of the peasants: couscous, bread, tea and coffee."

France Soir noted: "The young soldiers insist upon the fact that the fellaghas inflicted absolutely no harsh treatment upon them and insist equally upon the iron discipline which exists among the rebels. Nobody smoked, nobody drank. The officers ate together with their men. Michel Risse, wounded in the eye, was treated by Moslem nurses."

Statements of four French soldiers, liberated by the A. L. N. in October, 1958: (Interview published in France Soir, October 21, 1958)

"I then turned to Vincent Morales (from Istres, Bouches-du-Rhone).

He was smiling. He said: 'I was wounded during the engagement of January 11 in the djebel Koucha. I was taken to the rear, cared for by nurses of the A. L. N. and even operated on by an Algerian surgeon. I had been wounded in the leg. Now I am completely cured and walk normally.'

... What was your customary menu?

'That of the Algerian combatants with whom we lived. We ate as they did. We slept where they slept and we followed them when they moved. We were guarded, of course, but not excessively. From time to time there was fighting in the sectors we were in, but we were never caught.'"

Statements of six French soldiers liberated by the A. L. N. in February, 1959: (Interview published in Le Monde, February 22-23, 1959)

"The six soldiers liberated by the F. L. N. at Oudja, Friday morning, arrived in Paris that night...

'We never went out', they explained, 'we were not obliged to do any work, we could spend our days playing cards. We were never brutalized or indoctrinated.

'You will tell the truth when you return to your homes--that was all that our guards asked of us' "... During their captivity, some of them, thanks to the International Red Cross, had been able to let their parents know they were alive. The soldier Jean Coulos, of Frieres-Faillouel (Aisne) had even been able to send a tape recording to his parents, reassuring them of his condition."

Statements of five civilians liberated by the A. L. N.
(Interview published in France Soir, November 6, 1958)

"We were decently treated", Mr. Burot and Mr. Quintana affirmed. "We received the same nourishment as the rebels, usually couscous and flat bread, and meat three times a week."

The Provisional Government of the Algerian Republic is prepared to release additional French prisoners in the future in its effort to create the most favorable climate possible for having the Geneva Conventions applied to the Algerian conflict.**

** On March 6, 1958, 127 soldiers of the A. L. N. and members of the F. L. N. underground had been executed by the French forces. At the same date, there were 201 prisoners condemned to death in the various prisons in Algeria (Le Monde, March 7, 1958).

The May, 1958 "clemency" measures announced by General de Gaulle resulted in the commutation of about 140 death penalties into life imprisonment. However, on August 25, 1959, two death sentences were carried out (Le Monde, January 7, 1960), and, following the events of January 24, 1960, 6 Algerians were executed (Cont'd)

It is to be recalled that the last line of Article 3 of the Conventions clearly lays down the fact that the legal status of the Parties to the conflict is in no way affected by the application of this Article. Thus, in urging its applications, the Provisional Government of the Algerian Republic is not compromising its claim for recognition of its belligerent status or of the fact that the conflict in Algeria constitutes a war.

We may note also that the French Government, despite its official thesis that the Algerian conflict is a "domestic matter", has taken upon itself the prerogatives of belligerence, e. g., by derouting the Moroccan plane whose passengers included five Algerian leaders,*** and by searching foreign vessels on the high seas and seizing their cargoes.

Moreover, Article 28 of the Constitution of the Fourth French Republic and Article 55 of the Fifth Republic confer upon international conventions duly ratified by the Parliament, pre-eminence over French laws and regulations. Thus, the present disregard by France of the Geneva Conventions, and, in particular, of Article 3 common to all Conventions and Article 4 of the Third Convention, violates both international law and French internal law.

We see then, that although we can expect some inhumane conduct to occur during an insurgency, we can also expect that either the loyalists or the rebels, or both, will be motivated to adhere to the principles of humanity as a matter of policy. This policy is dictated by enlightened self-interest if nothing more. Where rebels have been sophisticated enough to appreciate the importance of world opinion they have made every effort to espouse civilized principles.

** (Cont'd) by military squads, while 7 other death sentences were handed down by French military tribunals (The New York Times, February 20, 1960). All the victims had affirmed that they were members of the F. L. N., carrying out their orders, in time of war.

*** The New York Times, October 23, 1956.

The United States has a heritage and tradition of civilized and humanitarian discipline. We intend to maintain this discipline. To this end we have domestic legislation which regulates the conduct of our armed forces personnel whether they are engaged in international conflict or internal defense/internal development operations. We intend, as a prominent State, to keep our domestic standards high, thereby influencing the further development of international standards.

APPENDIX

Sample of Diplomatic

Correspondence Regarding International Law

On June 9, 1938 the American Ambassador in Berlin delivered the following note to the German Foreign Office:

In pursuance to instructions received from my Government, I have the honor to bring to your Excellency's attention that according to advices received from the Foreign Bondholders Protective Council, the June 1, 1938, monthly service installment on the Austrian Government international loan of 1930 has not been paid. In this connection I have the honor to refer to my note of April 6 notifying your Excellency that the Government of the United States will look to the German Government for the discharge of the relief indebtedness of the Government of Austria to the Government of the United States and pointing out that the lien of this relief indebtedness upon the assets and revenues of Austria has been subordinated by the United States to the lien of the Austrian international loan of 1930 upon the same assets and revenues.

While no reply to this note has been received, indications were given on the occasion of the presentation of the Embassy's aide memoire of May 16 that your Excellency's Government was taking the position that having regard to former precedents of international law and to the principles applied therein, it was not under a legal obligation to take over the external debts of the Austrian Federal Government.

The Government of the United States does not wish to omit, on the occasion of the failure of the German Government to make the contractual monthly payment due June 1 on the Austrian Loan of 1930, in spite of the express charge which it enjoys on the assets and revenues of Austria taken over by the German Government, to state its dissent from the indicated position of the German Government as to its legal responsibilities in the premises, and to express the hope that Germany may yet undertake the payments incumbent on it both under international law and under equity.

It is believed that the weight of authority clearly supports the general doctrine of international law founded upon obvious principles of justice that in case of absorption of a state, the substituted sovereignty assumes the debts and obligations of the absorbed state, and takes the burdens with the benefits. A few exceptions to this general proposition have sometimes been asserted, but these exceptions appear to find no application to the circumstances of the instant case. Both the 1930 loan and the relief loans were made in time of peace, for constructive works and the relief of human suffering.

There appears no reason why American creditors of Austria should be placed in any worse position by reason of the absorption of Austria by Germany than they would have been if had such absorption not taken place. The United States Government therefore, while recognizing that the German Government is at present engaged in negotiations with numerous governments covering this and related questions, regrets that the service of the loan, affecting many American holders, should have been interrupted, reasserts its own position, and requests that as early reply as possible may be made to the note of April 6, 1938.

Department of State, XVIII Press Releases, weekly issue 455, pp. 694-695 (June 17, 1938).

[I Hackworth, Digest of Int'l Law 544-45 (1940)].