

Volume 93 Number 881 March 2011

INTERNATIONAL REVIEW of the Red Cross

Humanitarian debate: Law, policy, action

Conflict in Afghanistan II



ICRC

Aim and scope

The International Review of the Red Cross is a periodical published by the ICRC. Its aim is to promote reflection on humanitarian law, policy and action in armed conflict and other situations of collective armed violence. A specialized journal in humanitarian law, it endeavours to promote knowledge, critical analysis and development of the law and contribute to the prevention of violations of rules protecting fundamental rights and values. The Review offers a forum for discussion about contemporary humanitarian action as well as analysis of the causes and characteristics of conflicts so as to give a clearer insight into the humanitarian problems they generate. Finally, the Review informs its readership on questions pertaining to the International Red Cross and Red Crescent Movement and in particular on the activities and policies of the ICRC.

International Committee of the Red Cross

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It directs and coordinates the international relief activities conducted by the Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening international humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the International Red Cross and Red Crescent Movement.

Members of the Committee

President: Jakob Kellenberger

Vice-President: Olivier Vodoz

Permanent Vice-President: Christine Beerli

Christiane Augsburger

Paolo Bernasconi

François Bugnion

Bernard G. R. Daniel

Paola Ghillani

Jürg Kesselring

Claude Le Coultre

Yves Sandoz

Rolf Soiron

Bruno Staffelbach

Daniel Thürer

André von Moos

Editorial Team

Editor-in-Chief: Vincent Bernard

Editorial assistant: Michael Siegrist

Publication assistant:

Claire Franc Abbas

International Review of the Red Cross

19, Avenue de la Paix

CH - 1202 Geneva, Switzerland

t +41 22 734 60 01

f +41 22 733 20 57

e-mail: review@icrc.org

Editor-in-Chief

Vincent Bernard

ICRC

Editorial Board

Ahmed Abou El-Wafa
Cairo University, Egypt

Daniel Bar-Tal
Tel Aviv University, Israel

Annette Becker
Université Paris X, France

Antônio Cançado Trindade
University of Brasilia, Brazil

Marika Fahlen
Ministry for Foreign Affairs, Stockholm, Sweden

Bernard Haykel
Princeton University, USA

Venkateswara S. Mani
Jaipur National University, Jaipur, Rajasthan, India

Herfried Münkler
Humboldt University, Berlin, Germany

Mona Rishmawi
Office of the United Nations High Commissioner for Human Rights, Geneva

Elizabeth Salmón Gárate
Pontificia Universidad Católica del Perú, Lima, Perú

Marco Sassöli
University of Geneva, Switzerland

Michael N. Schmitt
Marshall Center (CISS-Dean), Garmisch-Partenkirchen, Germany

Terence Taylor
International Council for the Life Sciences, Washington DC, USA

Bakhtiyar R. Tuzmukhamedov
Diplomatic Academy, Moscow, Russian Federation

Peter Walker
Feinstein International Center, Friedman School of Nutrition Science and Policy, Tufts University, USA

Wenqi Zhu
Law School, Renmin University of China, Beijing, People's Republic of China

Volume 93 Number 881 March 2011

INTERNATIONAL
REVIEW
of the Red Cross

Humanitarian debate: Law, policy, action

**Conflict in
Afghanistan II**

Part 2: Law and humanitarian action

CONTENTS

- 5 Interview with Ms Fatima Gailani, *President of the Afghan Red Crescent Society*

Articles

The law

- 11 **Has the armed conflict in Afghanistan affected the rules on the conduct of hostilities?**
Robin Geiss and Michael Siegrist
- 47 **International law and armed non-state actors in Afghanistan**
Annyssa Bellal, Gilles Giacca and Stuart Casey-Maslen
- 81 **The *Layha* for the Mujahideen: an analysis of the code of conduct for the Taliban fighters under Islamic law**
Muhammad Munir
- 103 **Annex: The Islamic Emirate of Afghanistan. The Layha [Code of Conduct] For Mujahids**
- 121 **Combatants, not bandits: the status of rebels in Islamic law**
Sadia Tabassum

Humanitarian action

- 141 **Between a rock and a hard place: integration or independence of humanitarian action?**
Antonio Donini
- 159 **30 years in Afghanistan. ICRC photo archives account by Alberto Cairo**
- 173 **The International Committee of the Red Cross in Afghanistan: reasserting the neutrality of humanitarian action**
Fiona Terry

Volume 93, Number 881 March 2011

Articles published by the Review reflect the views of the author alone and not necessarily those of the ICRC or of the Review. Only texts bearing an ICRC signature may be ascribed to the institution.

Selected articles on international humanitarian law

- 189 The protective scope of Common Article 3: more than meets the eye**
Jelena Pejic

Reports and documents

- 227 National implementation of international humanitarian law**
Biannual update on national legislation and case law:
July – December 2010

Books and articles

- 239 Recent acquisitions of the Library and Research Service, ICRC**

THE FOLLOWING PAPERS APPEARED IN Vol. 92 No. 880 (Conflict in Afghanistan I):

- 841 Editorial**

Conflict in Afghanistan I

- 847 Interview with Dr Sima Samar**
Chairperson of the Afghan Independent Human Rights Commission.

Articles

Socio-political and humanitarian environment

- 859 Afghanistan: an historical and geographical appraisal**
William Maley

Volume 93, Number 881 March 2011

Articles published by the Review reflect the views of the author alone and not necessarily those of the ICRC or of the Review. Only texts bearing an ICRC signature may be ascribed to the institution.

- 877 Dynamic interplay between religion and armed conflict in Afghanistan**
Ken Guest
- 899 Transnational Islamic networks**
Imtiaz Gul
- 925 Impunity and insurgency: a deadly combination in Afghanistan**
Norah Niland
- 951 The right to counsel as a safeguard of justice in Afghanistan: the contribution of the International Legal Foundation**
Jennifer Smith, Natalie Rea, and Shabir Ahmad Kamawal
- 967 State-building in Afghanistan: a case showing the limits?**
Lucy Morgan Edwards
- 993 The future of Afghanistan: an Afghan responsibility**
Taiba Rahim

Books and articles

- 1003 Recent acquisitions of the Library and Research Service, ICRC**