

## **ICRC position on hostage-taking**

### **Guidelines**

#### **Scope and definition**

1. These guidelines set out the ICRC's position with regard to hostage-taking in situations in connection with which it is conducting operations. The guidelines (including those for hostage-taking committed in another country but linked to violence occurring where the ICRC is operating) apply regardless of whether or not the situation is covered by international humanitarian law.

2. For the purposes of these guidelines, "hostage-taking" has occurred when both of the following conditions are fulfilled:

- A person has been captured and detained illegally.
- A third party is being pressured, explicitly or implicitly, to do or refrain from doing something as a condition for releasing the hostage or for not taking his life or otherwise harming him physically.

3. This document does not cover the kidnapping of ICRC personnel.

#### **The ICRC's view of hostage-taking**

1. The taking of hostages is prohibited by international humanitarian law (Article 34, Fourth Convention; Article 3 common to the Geneva Conventions; Article 75(2c), Additional Protocol I; and Article 4(2c), Additional Protocol II).

2. The ICRC condemns violations of international humanitarian law and of the principles of humanity and relevant law, especially those that affect or threaten people's lives or well-being, as is the case with hostage-taking. In this area, as in all others, the ICRC is guided solely by the interests of the victims and the desire to relieve their suffering. Where hostage-taking has occurred, the organization's involvement as a result may in no way be considered to sanction the practice, nor does it attenuate the seriousness of that act.

3. If it becomes involved in such a situation, the ICRC will remind the parties that hostage-taking is prohibited (by international humanitarian law and the principles of humanity and of relevant

law), and will request that the hostages be released. Where appropriate, the ICRC will ask that priority be given to vulnerable categories of hostage, such as the injured, the sick and children.

### **Conditions under which the ICRC can act**

1. The ICRC can act either at the request of one party and with the explicit consent of the other, or following acceptance by all parties of its offer of services.

2. In situations where international humanitarian law does not apply, the ICRC will offer its services only if it is the sole body capable of taking action or believes itself to be particularly well placed so to do.

3. The ICRC will act only if it has adequate knowledge of the parties and is well enough accepted by them that it believes they will honour the undertakings that they will be required to give the ICRC (particularly those regarding the safety of its delegates) and only if the hostages have needs that the ICRC is in a position to meet.

### **Possible role of the ICRC in the event of hostage-taking**

1. The ICRC can:

- in its capacity as a neutral intermediary, provide the hostages with medical, psychological and moral support;
- propose its good offices to the parties.

2. In all cases:

- The ICRC will inform the parties that it will regularly review its role, in consultation with them. The ICRC will reserve the right to cease its activities, in which case it will notify both parties but is under no obligation to give any explanation.
- The ICRC will also inform all concerned of its inability to guarantee that any material assistance it may supply is not being used to carry surveillance or communications devices concealed without its knowledge.
- The ICRC remains mindful of the fact that the authorities retain the right to maintain or restore order, using whatever means they deem appropriate as long as humanitarian law and human rights are

respected. To protect its delegates and maximize its chances of success, the ICRC will therefore endeavour to obtain a number of undertakings from both parties (especially the authorities) in order to facilitate its work:

— The parties must undertake not to do anything that could harm a delegate, not to attempt to take advantage of ICRC activities to deceive the other party or parties and not to use force while the organization is assisting the hostages, nor while its personnel are proceeding to or from the scene.

— The parties must undertake to facilitate the delegates' task of assisting the victims. In particular, the parties must provide the delegates with guarantees that they will be able to communicate with each other and with their delegation or ICRC headquarters.

— If one of the parties withdraws its consent for ICRC action, it must permit the ICRC to inform the other party of this fact.

• When providing its good offices:

— The ICRC will not participate in negotiations between the parties but may establish contact between the parties or act as an intermediary for this purpose.

— The parties themselves retain sole responsibility for all proposals forwarded and decisions taken, and ICRC delegates will not act as guarantors for the implementation of decisions or conditions set by the parties. The parties will be informed of these conditions.

— Subject to prior authorization from headquarters, and following a thorough study of the situation, delegates may help implement certain aspects of agreements between the parties, such as returning freed hostages to their homes.

### **Hostage-taking committed by the political authorities**

1. In situations covered by international humanitarian law in which hostages are being held by the authorities (e.g. in places that are part of the official prison system), the ICRC will request authorization to carry out visits that conform to its usual procedures for visits to persons deprived of their freedom. In addition to making the recommendations that it normally makes in connection with the

conditions of the people it visits in detention, the ICRC will generally request that the hostages be released.

2. In situations covered by international law and in which the hostage-takers appear not to be acting on the orders of the authorities, but where the hostages are nationals or sympathizers of the adversary:

- The ICRC will endeavour to visit the hostages in accordance with its customary procedures. It will request that the hostages be released and handed over to the authorities if the authorities do not intervene themselves.
- However, the ICRC will not request that the hostages be handed over to the authorities if that would pose a risk to their lives or health or if there is a high risk that in the event of their being handed over to the authorities the hostages will be held for a prolonged period under conditions less favourable than those in which they are being held.

Even under the circumstances set out above, the ICRC will emphasize that the authorities remain responsible for the hostages' welfare.

### **Hostage-taking not related to international armed conflict or internal violence**

In general, the ICRC will not offer its services in the event of hostage-taking unrelated to an international armed conflict or internal violence.

**INTERNATIONAL COMMITTEE OF THE RED CROSS**