

Crossing the desert – the ICRC in Iraq: analysis of a humanitarian operation

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Abstract

For almost 60 years, the International Committee of the Red Cross (ICRC) has been doing its best to provide humanitarian assistance to those groups in Iraq that need it most. This article describes the humanitarian operations of the ICRC in Iraq from 1950 to the present day, in particular the support it has given to different minorities in the country and its humanitarian responses to the various armed conflicts. It shows that the legal framework that provides the basis for the ICRC's humanitarian activities also limits its ability to take action in situations beyond the scope of its mandate. In armed conflicts the ICRC faces the risk of being used by governments for their own ends. The challenge for the ICRC is to strike a balance between meeting its treaty-based obligations and exercising its right of humanitarian initiative, and to avoid selecting the recipients of its aid on the sole basis of opportunities made available by governments.

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Iraq has been permanently in the headlines for around thirty years, which would seem to make it the ideal testing ground for a study of armed violence and its consequences for human life. There are indeed not many states in which the

* This article reflects the views and opinions of the author and not necessarily those of the ICRC.

succession of various types of conflict paints such a broad medium-term picture of the many different facets of modern warfare.

In such circumstances it is also worthwhile trying to analyse the types of assistance given to the war victims. This becomes even more apposite when the humanitarian player through which the charitable work is channelled can also be observed over the long term, through the various stages in the history of war in a given state. That is the case of the International Committee of the Red Cross (ICRC) with regard to its involvement in Iraq.

In almost sixty years of working in Iraq, the ICRC has had to deal with a large number of distressing situations. These have engendered as many different responses by the organization, and today they form a virtually unparalleled corpus of experience.

This article therefore sets out, first, to trace the history of the ICRC's activities in that Middle Eastern country from the 1940s until the present day. It then goes on to attempt to determine the main features that shed light on that piece of humanitarian history.¹

History of a humanitarian action

Assistance for the Jewish minorities in Iraq

The first steps taken by the ICRC in Iraq were closely bound up with the Second World War. At the time, its task was to visit Italian prisoners of war held in that country, which was occupied by the Allied Forces.² In accordance with their mandate, the ICRC delegates carried out several inspections of the camps in which those people were held. In parallel, the ICRC also reviewed the living conditions of some Iraqi civilians held by the opposing forces, especially in Vichy France.

However, the activities of the ICRC in Iraq did not really take off until the 1950s, in connection with the situation within the Hashemite kingdom.³ Shortly before, there had been a radical change in the geopolitical situation in the Middle East with the proclamation of the state of Israel on 14 May 1948, followed by the war in Palestine. The Israeli victory raised, among other things, the issue of the Jewish minorities in the neighbouring Arab states, where some of them had lived for several thousand years.

- 1 For the period up to 1965 this article is based on ICRC archives that are already open to the general public. For the period following 1965 the information has been taken solely from the ICRC's public documents. The decision to use that material was driven by a concern to ensure that readers outside the ICRC who are interested in starting a critical discussion on this text should have access to the same sources as those used by the author.
- 2 The anti-British republican coup d'état by Rachid Ali el-Gaylani on 3 April 1941 (with the backing of Germany and Vichy France) led to British military intervention. The monarchy was restored on 1 June 1941 and the country was occupied by the Allied forces.
- 3 The monarchy was overthrown – and King Faycal II and his entourage were assassinated – on 14 July 1958, following the republican coup d'état by General Kassem.

After 1948 those groups saw their status deteriorate suddenly, to the point where their governments considered them second-class citizens with limited individual freedom, and subjected them to discrimination or harassment. In the case of Iraq – where in 1950 there were around 135,000 Jews – a wave of “fifth column psychosis” (as the ICRC delegate, de Cocatrix, put it)⁴ swept through the country during the war in Palestine, leading to “latent persecution” of the Jewish community. As in other neighbouring countries, the Jews were finally left with no choice other than to try to emigrate to the new state of Israel. Yielding to a request by the rabbinate in Baghdad, in March 1950 the Iraqi parliament passed a law authorizing Jews to leave the country, provided that they formally relinquished Iraqi nationality. The law also placed a restriction on the goods that the emigrants were allowed to take with them. Between spring 1950 and summer 1951 an airlift made it possible for more than 110,000 people to emigrate to Israel.

In March 1950, during a tour of the Middle East by the president of the ICRC, Paul Ruegger, the question of the situation of the Jewish minority in Iraq was taken up with the Iraqi authorities. In order to deal with this issue in greater detail, in August the ICRC carried out a special mission to Baghdad, which had been prepared well in advance. During the talks with representatives of the Iraqi government and of the Iraqi Red Crescent, the ICRC was in principle authorized to set up a system allowing Red Cross messages to be exchanged between the Jewish community in Iraq and their relatives in Israel. Despite several letter-based appeals by the ICRC, which stressed the fact that the exchange of civilian messages is a traditional ICRC activity enshrined in the Geneva Conventions,⁵ the project was not pursued as it was vetoed by both the Iraqi and the Israeli governments.

By contrast, the ICRC won a minor victory concerning Jewish political detainees in Iraq. In July 1950 the Iraqi authorities had reported uncovering a “Zionist plot” and arrested several suspects. They were imprisoned with other Iraqi Jews who had been accused of being “communists” or of having committed “terrorist” acts. Following a request by the Israeli representative at the United Nations in October 1952, the ICRC succeeded – with the assistance of the Iraqi Red Crescent – first in getting family messages through to the political detainees (whose names it had obtained from the Iraqi authorities), and then relief parcels. It also informed the Israeli government regularly of the releases that took place once the prison sentences had been served; however, the ICRC was never authorized to visit those people. That kind of activity came to an end in the early 1960s, when a conflict of quite different dimensions that was to keep the ICRC busy for two decades began to loom on the Iraqi horizon.

4 The information on this matter has been taken from file B AG 233-098-001 in the ICRC Archives (hereafter AICRC).

5 Reference was made to Article 25 of the Fourth Geneva Convention of 12 August 1949, according to which all persons in the territory of a party to a conflict, or in a territory occupied by it, shall be enabled to give news to members of their family and to receive news from them. A state of war still existed between Israel and Iraq, as no armistice had been signed by the two countries at the end of the 1948–9 war in Palestine.

The Kurdish minority

At the time of his republican coup d'état in 1958 General Kassem was given the support of the Kurdish minority in return for a promise to safeguard the specific linguistic and regional features of Iraqi Kurdistan. That tacit agreement was not upheld and the tension between the Arab and Kurdish communities grew in the following years, finally degenerating in September 1961 into an open armed revolt in northern Iraq. Civil war then raged, claiming a large number of victims. On 28 September the ICRC was contacted by representatives of Kurdish associations, which wanted it to make representations to the Iraqi authorities to get them, on the one hand, to respect the law of war and, on the other, to authorize the ICRC to visit Kurdish detainees and, more generally, to come to the aid of civilians. They also indicated their willingness to make it easier for the delegates to have access to Iraqi soldiers in rebel hands.⁶

As the conflict escalated and on the basis of Article 3 common to the four Geneva Conventions, in June 1962 the ICRC suggested to the Iraqi Red Crescent that it send medical and relief teams to provide assistance for the Kurdish civilian population. The offer of services was immediately turned down on the grounds that the national authorities were already providing the aid needed by the victims of the events. A mission to Baghdad in December 1962 did nothing to change the situation, as the government officially denied that there were any Iraqi soldiers in Kurdish hands⁷ and gave no indication of being open to possible intervention by the ICRC in Iraq. The National Society openly said that, despite the obvious needs, there was nothing that it could do without risking reprisals from the regime.

The downfall and assassination of General Kassem on 9 February 1963 and the accession to power of the Baath party provided the opportunity for talks with the Kurdish rebels. A truce lasted a few months. However, on 10 June the fighting began again in Kurdistan with such intensity that the ICRC even spoke of a “war of extermination”.⁸ In view of the situation, a new offer of services was addressed to the Iraqi government on 3 July. In order to stave off another refusal by the authorities in Baghdad, the International Committee simultaneously made an official appeal to the heads of the Red Lion and Sun Society in Iran and the Turkish Red Crescent asking them to obtain authorization from their respective governments to provide relief for Kurdistan via their territory. These three initiatives all met with a point-blank refusal.⁹ However, that did not prevent the

6 The ICRC sent capture cards from the Kurds and, during the conflict, was given in return more than a hundred names of prisoners and Red Cross messages. These messages were transferred to the Iraqi authorities but were apparently never sent to the people to whom they were addressed. Moreover, the ICRC also took successful action to obtain the release of foreign nationals taken captive by the Kurds.

7 Following this denial, in January 1963 the ICRC president, Léopold Boissier, approached General Kassem directly and asked him to give the families in question a selection of a dozen capture cards from among those given to the ICRC by the Kurdish rebels.

8 Meeting of the Presidential Council on 27 June 1963, AICRC, A PV.

9 The Iraqi government stated that its national services were able to meet the needs. As for the two national societies, they pointed out that nothing could be done without previously having obtained the backing of the authorities in Baghdad.

ICRC from making further formal representations to the Iraqi government by sending a memorandum on 14 July 1965 proposing joint relief action with the National Society and visits to detainees by one organization or the other. No reply was ever received.

Nonetheless, and since it was unable to use “legal” channels, in spring 1963 the ICRC undertook to send relief (medicines, clothing, blankets, tents, etc.) supplied by private or Red Cross associations to the representatives of the Kurdish associations which had contacted it. Those associations took sole charge of distributing the goods, which were conveyed to Kurdistan by private carriers via Iranian territory. This was the only concrete activity that the ICRC was able to carry out until summer 1966, when an agreement was reached between Baghdad and the Kurdish leader Barzani that opened up prospects of the provision of autonomy for the Kurds in the new constitution of Iraq.

It was too good to last. Although the Kurds were given the right to participate in the government (their language even became the second in the country), in March 1974 they again rebelled against the central government. The resumption of hostilities prompted the ICRC to offer its services to the parties once again (but it received no reply from the Iraqis) and to provide the victims with medical aid (which was still being sent via Iran). However, following the 1975 Algiers Agreement between Iraq and Iran, the ICRC had to reconcile itself to the need to put an end to that activity at the request of the Tehran government. At the same time the ICRC also had to give up supervising the repatriation to Iraq of Kurdish refugees in Iran, a role that the authorities in Baghdad had conferred on it one month previously. The only consolation was that in January 1975 the ICRC had been able to visit around 160 Iraqi soldiers who were held captive by the Kurds. Those people were then directly placed in the hands of the Iraqi authorities by the Kurdish guerrilla forces and repatriated by the National Society. It was not until the second Gulf war that the ICRC again played an active humanitarian role on behalf of Iraqi Kurdistan.¹⁰

The Iranian minority

Long before the signature of the 1975 Algiers Agreement, which provisionally settled the territorial disputes between the two states, in spring 1969 there had been friction on the border between Iran and Iraq. The dispute was over the Shatt Al-Arab river, and a number of Iranian nationals who had settled in Iraq had been sent back to their country of origin. Families were thus divided by the border.

Following a mission to Tehran in June 1969 and another to Baghdad in August, the ICRC was allowed to implement a programme aimed at reuniting separated families in Iraq. Following an agreement concluded with the Iraqi authorities, in the autumn a delegation was set up in Baghdad and in October the delegates were able to transfer the first group of Iranian nationals to Iraq. In all,

10 During the first Gulf war (the conflict between Iraq and Iran), the ICRC carried out some evaluation missions in Iraqi Kurdistan, but was unable to provide any kind of humanitarian assistance.

around 150 people were able to return home thanks to the ICRC. As the situation seemed to have returned to normal, the ICRC closed its delegation in March 1970. However, one year later, the Iranian government and the Iranian National Society asked the ICRC again to come to the aid of some 50,000 Iranian nationals who had been forced to leave Iraq. Following a mission to Iran to visit the camps in which the deportees were accommodated, in February 1972 the ICRC visited Baghdad; its task was to suggest to its government contacts and the Red Crescent Society that the National Societies of the two countries meet to find an agreeable solution to the humanitarian problem. A first meeting was held at ICRC headquarters in Geneva in May, followed by another in Baghdad in July. In the course of 1973, the ICRC continued discussions with the authorities of the two countries on the subject of the Iranians deported from Iraq. However, the following year it looked as if its services would no longer be needed.

The Iran–Iraq war

Far from having been resolved, the border problem on the Shatt Al-Arab river grew worse and on 22 September 1980 Iraq attacked Iran. The next day the ICRC reminded the belligerents of their obligations under the Geneva Conventions. Then, on 26 September, the ICRC was authorized to send delegates to Iraq.¹¹

During the eight years of that exceptionally bloodthirsty international conflict and in accordance with the mandate conferred upon it directly by the Geneva Conventions, the Baghdad delegation recorded and visited tens of thousands of Iranian prisoners of war (without ever being given access to all of them, particularly if they had been taken captive right at the start or right at the end of the war), gave them medical assistance if necessary (and supervised the repatriation of the prisoners who were seriously wounded or ill), and allowed them to communicate with their families by means of Red Cross messages. In that initiative alone, the ICRC had to handle more than 11 million messages written or received by prisoners of war. The ICRC delegates also visited Kurdish civilians or civilians from Khouzestan (Arabistan) with Iranian nationality who had taken refuge in Iraqi territory and were interned in camps.¹² Books and educational materials were distributed to these people and efforts to restore family ties were made on their behalf.

As far as the Iraqi civilian population was concerned, the ICRC's main task during those war years was to record tracing requests for members of the Iraqi army or Iraqi civilians who had been reported missing, and to transmit the requests to the relevant authorities via an ad hoc committee which dealt with war victims. All in all, more than 65,000 requests were forwarded before that activity was broken off in March 1985 because of the unwillingness of the belligerents to fulfil their obligations in that respect.

11 The ICRC already had an office in Tehran, which was opened in April 1978.

12 At the request of the Iraqi authorities, the ICRC undertook to look for countries willing to take a number of Iranian citizens who had taken refuge in Iraq.

The ceasefire which came into effect on 20 August 1988 did not, however, put an end to the ICRC's involvement, since, apart from continuing the traditional activities referred to above, the task was then also to prepare the repatriation of all prisoners of war. However, that operation progressed slowly in the face of the ill will of the parties concerned – also as far as the priority repatriation of badly wounded or sick people was concerned.¹³ It was not until 15 August 1990 that Iraq announced its decision to release all prisoners of war taken captive during the conflict with Iran. From that date onwards mass returns took place on both sides of the border.¹⁴ In parallel, as well as those who were still alive, dead soldiers were also returned home, with the ICRC also playing the role of intermediary in the repatriation of the dead bodies. It is worth noting that that type of operation carried on long after the collapse of the regime of Saddam Hussein, which had meanwhile once again become the focus of the world's attention.

The invasion of Kuwait and the second Gulf war (1990–1991)

Iraqi troops invaded Kuwait on 2 August 1990. That same day, the ICRC responded by reminding the belligerents of their obligation to comply with the Geneva Conventions. On 23 August the ICRC then formally requested the Iraqi authorities to allow it to carry out its mandate in Iraq and Kuwait. In view of the international embargo, the aim was also to obtain authorization to send food and emergency medicines into Kuwait and Iraq and to participate in transferring foreign nationals who wished to leave the two countries or to facilitate communication between them and their families abroad.

Despite persistent efforts throughout the rest of the year – including at the level of the ICRC president – the ICRC obtained nothing from the government in Baghdad, which claimed that the events did not constitute an international conflict but were merely a political crisis in which the ICRC had no authority to intervene.¹⁵

Finally, on 31 January 1991, after the start of the conflict with the Coalition forces, the ICRC finally managed to send a first convoy (soon followed by others) of massive aid to Iraq.¹⁶ The aim was to make up for the serious shortages of food and medicines affecting the Iraqi civilian population, particularly in the capital. Particular attention was also paid to drinking water. In February mobile water treatment units were set up in Baghdad, while ICRC medical engineers also endeavoured to get the existing plants back into working order. The outbreak of the Shiite rebellion in the south of the country and then that of the Kurds in the north prompted the ICRC to broaden its field of activity to include

13 This was despite an agreement signed by the belligerents at ICRC headquarters in November 1988.

14 The returns continued in fluctuating numbers until May 2003! All in all, more than 95,000 prisoners of war from both sides were repatriated.

15 Christophe Girod, *Tempête sur le désert. Le Comité international de la Croix-Rouge et la Guerre du Golfe 1990–1991*, Bruylant, LGDJ, Brussels and Paris, 1995, pp. 32–3.

16 The Baghdad delegation had nonetheless previously given emergency assistance to the people and the hospitals in the town.

hundreds of thousands of victims in those two areas. Food, first aid materials and medicines were distributed and ICRC medical teams were deployed from March onwards.¹⁷

The armed conflicts in Kurdistan also led to visits to Iraqi soldiers taken prisoner by the Kurdish *peshmerga*, or combatants. The ICRC made it possible for those detainees to return to their families; however, it was unable to intervene on behalf of the *peshmerga* taken captive by the Iraqi army.

In parallel, as soon as the international hostilities were halted on 28 February 1991, the ICRC began to record the identity of the Iraqi prisoners of war or those who were members of the Coalition forces and to make sure that each of them wanted to be repatriated. Visits were made to some 85,000 Iraqi soldiers. During the following weeks, the ICRC organized the repatriation of those tens of thousands of men. As in every conflict, the issue that then arose was that of the missing persons and tracing them. Meetings on that matter between former warring parties are still being held today under the auspices of the ICRC.

From one war to another

In the years that followed the second Gulf war, the ICRC continued its humanitarian work in Iraq. It was mainly concerned with providing medical assistance – with a major health component – in connection with the international embargo imposed on the country, as well as protection work and work to restore family ties. From 1993 to 2002, between 77 per cent and 91 per cent of ICRC expenditure in Iraq was channelled to those two areas.

The inter-Kurdish tensions which emerged in May 1994¹⁸ and were soon to turn into an open conflict, especially between the two main political parties (the Kurdistan Democratic Party – KDP – and the Patriotic Union of Kurdistan – PUK), led to the ICRC intervening and co-ordinating the activities of the Red Cross Movement in northern Iraq. The task was to provide relief (by distributing goods in conjunction with the Iraqi Red Crescent) and to protect the civilian population, which was the first to suffer as a result of the hostilities.¹⁹ The ICRC delegates also visited enemy combatants who had fallen into the hands of the various Kurdish factions.

From 2003 until today

On 20 March 2003 a military coalition led by the United States invaded and, having toppled the regime of Saddam Hussein, occupied Iraq. As in 1991, the ICRC was the only international humanitarian organization to continue to operate

17 P. E. Michel (ed.), *The Gulf 1990–1991: From Crisis to Conflict. The ICRC at Work*, ICRC, Geneva, 1991.

18 It was not until 1998 that the two groups reached an agreement on the formation of a government and an interim parliament in Kurdistan. The peace treaty between the KDP and the PUK was not signed, however, until April 2002.

19 Besides the inter-Kurdish conflicts, the Turkish army also made sporadic incursions into Iraqi territory in its fight against the Kurdistan Workers' Party (PKK).

throughout Iraqi territory when the fighting was at its worst. In that new international war its delegates' priority was to provide medical assistance for the hospitals on behalf of the war wounded and to keep the basic health services running (particularly the water supply). Emergency aid was also given to displaced persons or social institutions. Finally, the ICRC visited hundreds of prisoners of war and civilian detainees who had fallen into the hands of the occupation troops.

Although the hostilities officially ended on 1 May 2003, and a new Iraqi government was formally established in June 2004 after a period of military occupation, the international conflict gave way to internal unrest which gradually began to look like a latent civil war. In those conditions the ICRC continued its humanitarian mandate on behalf of the victims of the events in Iraq, first from a location in that country and then, following a vicious car-bomb attack on its delegation in Baghdad on 27 October 2003, by "remote control" from the neighbouring Jordan.²⁰

Analysis of a particular operation

That brief historical review of ICRC activities in Iraq over a period of nearly 60 years gives rise to several questions which have to do with the very nature of humanitarian work in a situation of latent or open violence.

The first question relates to the scope that an organization such as the ICRC has to see its humanitarian work through, while taking account from the outset of the intrinsic limits to that room for manoeuvre. Those limits are determined by the "legal" framework in which the organization evolves and which comprises two distinct lines of force. One is linked to a right and the other to a duty. In the former case, the main aspects of the ICRC's mandate are derived, as everyone knows, from a body of international humanitarian law comprising the four Geneva Conventions of 1949 and their two Additional Protocols of 1977. It is on the basis of those legal texts that the ICRC justifies its work on behalf of victims of war and is legitimized in the eyes of the members of the international community which have signed those conventions governing that kind of work. These are clearly two weighty advantages for any organization wishing to work in the context of armed violence. Nonetheless, some of those advantages are counterbalanced by the constraint often imposed on the ICRC by the belligerent states not to go beyond their treaty-based mandate; in other words it is not to make use of the second option open to it, namely its right of humanitarian initiative, which is based merely on an awareness of the duty to help victims.

In the case of Iraq, and particularly during the conflict with Iran, the authorities in Baghdad constantly reminded the ICRC that they agreed to its presence on their territory only within the framework of its activity directly

20 The ICRC keeps a permanent presence in Iraqi Kurdistan, however, and its delegates regularly make the trip from Jordan to support the hundreds of Iraqi nationals ICRC employees who worked directly in Iraq.

connected with the Geneva Conventions and its immediate beneficiaries (Iranian prisoners of war first and foremost). As a result, any request which went beyond that treaty-based legal framework came face to face with a point-blank refusal from a government which remained very intransigent with regard to any interference in its internal affairs.²¹

In that example, which can, moreover, be applied generally to all contexts in which it operates, the ICRC had to adapt its policy in such a way as to strike a balance between what it is authorized to do and what it might be prohibited from doing, between what is lawful and what is taboo. In that extremely difficult balancing act, the ICRC has always also had to bear in mind the need to fulfil its treaty-based mandate and therefore to maintain its presence among the primary beneficiaries of its services. It has to weigh up the interests, asking itself each time if it runs the risk of jeopardizing assistance to victims covered by the Geneva Conventions and their Additional Protocols by asking to be given access to others who are certainly victims but outside the ICRC's official sphere of competence. In this case, the tension between its right and its duty went right to the heart of the matter. And it was all the more painful because it meant that a selection had to be made among the victims in need of humanitarian aid.

That leads us to ask what types of victims the ICRC worked for in the sixty or so years that it was present in Iraq.

It appears first of all that the people who benefited from the attention and/or the support of the ICRC (at least until 1991) could be categorized as ethnic minorities. Regardless of whether they were Jews, Kurds or Iranians (in that case also during the Iran–Iraq war) or whether they extolled their difference (Kurds) or not (Jews), those categories of people were considered to be and treated by the central government as aliens, regardless of their nationality. Whether it actually existed *de facto* or was connected to a particular occurrence (Palestine war), it is also a distinction common to every type of regime in the country and is not without repercussions for the possible ways open to the ICRC to assist those minorities.

Whereas, as we have seen, the ICRC was able to act without too many difficulties on behalf of people protected by the Geneva Conventions in international armed conflicts (in particular the Third and the Fourth Conventions) – that is, the Iranian nationals – that was not true for those people who come to light solely because of the ICRC's right of initiative, particularly within the context of the non-international armed conflicts in Iraq and even less outside the treaty-based framework. The results are therefore not really positive if one considers the first thirty years of ICRC activities in former Mesopotamia. The

21 Moreover, the lack of reciprocity by Iran must be considered an aggravating factor, causing the government in Baghdad to take an even tougher stance with regard to the ICRC requests. Having been prevented for years from carrying out its work protecting Iraqi prisoners of war, the ICRC was actually dependent on that difficult situation, which inevitably had a bearing on the discussions that it was able to have with the regime of Saddam Hussein. The latter had every opportunity to counter any new humanitarian initiative by the ICRC in Iraq, even by drawing attention to its lack of action among the enemy.

ICRC continually found itself confronted by the unwillingness of the authorities regarding intervention on behalf of Jews and Kurds (additional evidence of the inferior position attributed to those communities). In the case of the Jews, despite a certain pugnacity the ICRC only obtained authorization to restore family ties (with the bonus of sending a small amount of material assistance) between the Jewish “political”²² detainees and their relatives. As far as the Kurds were concerned, the failure was even more striking as, faced with the stubborn refusal of the government to recognize a situation of war – thus putting a stop to any legal intervention by the ICRC – the organization was forced to “act” outside the legal framework by virtually smuggling medicines into Iraqi Kurdistan.

The lack of tangible results can thus largely be attributed to the attitude of the Iraqi governments to ICRC requests, which was intransigent to say the least. However, was there not also a certain self-censorship by the ICRC itself, preventing it from asking more of the government in Baghdad? The answer is surely positive in the case of the Jewish minority. The delegates in Iraq promptly informed headquarters that any request to intervene on behalf of the Jews in Iraq inevitably raised the problematic question of what the ICRC was doing for the Arab communities which were also in a difficult position. The delegate de Cocatrix summed it up in the following words: “Whenever we mentioned the Jewish minority, the Iraqi authorities never failed to tell us that it was strange for us to want to take such great care of the Jews who were willing to leave the country for Israel while apparently not being greatly concerned about the fate of the 800,000 Arabs who had lost everything and who were being prevented from returning home.”²³ Since the ICRC was not able to help the latter (who were also completely outside the scope of its mandate at the time), did it “tone down” its efforts to assist the former?

In the case of the Kurds, it looks as if it was the over-cautious approach of the ICRC that crushed the hope of developing an initiative to assist them. Despite the explicit acknowledgement that the events constituted a civil war (a situation in which the ICRC’s right to intervene has been recognized since 1921, in certain circumstances), the ICRC entrenched itself in a wait-and-see position which entailed obtaining the approval of the central government before it did anything. However, the ICRC later pointed out that in other situations – such as in the Algerian war – it had dared to face the possible resistance of the legitimate government by limiting itself to informing it that it had sent delegates to the opposing party. The fact nonetheless remains that that precedent and others were not used to advantage in the case of Iraq. Was this because the ICRC had been

22 We have placed the term “political” in quotation marks because the ICRC may only assist people who have been officially accused of “Zionist” or “communist” activities. However, it might well be asked whether the reasons why Jews were in prison in Iraq at the time were not all political in nature, irrespective of the charges made against them.

23 Note to the ICRC No. 1589, 25 April 1951, AICRC B AG 233 098-001. The Iraqi authorities went as far as to ask questions that were deemed to be “improper”, such as the “Jewish” influence on the ICRC or the number of Jews on the Committee, Report on the mission to Iraq from 2 to 6 and from 19 to 21 September 1954, 16 November 1954, *ibid.*

somehow “constrained” to take an interest in the matter, at the instance of Kurdish associations supported by hundreds of petitioners (many of whom came from Eastern Bloc countries) who had appealed directly to it?²⁴

The situation regarding the Iranian minorities deported from Iraq in the early 1970s is more difficult to analyse. The ICRC was clearly given the opportunity to act directly on their behalf, as it was allowed – for the first time – to establish a physical presence in the country.

However, the outcome of that action raises a number of questions. The ICRC actually helped no more than a hundred or so individuals to return to Iraq. Although that is commendable in itself, it was later revealed that tens of thousands of others also needed its services. In those conditions, why was it so quick to close its delegation in Baghdad? Did it do so voluntarily? Was it under pressure from the Iraqi government? Since the ICRC’s public documents do not mention the matter, it will perhaps not be possible to find an answer to that question until the archives for that period are opened.

Finally, the minorities in Iraq were not all in the same situation. For some of them, the ICRC did nothing – despite calls for help. That is particularly true of the Assyrians or Assyro-Chaldeans. Having been contacted by the representatives of the Assyrian community abroad with regard to the imprisonment of some of their people in Iraq, the ICRC did no more than ask for additional information about the living conditions of that minority. Moreover, no official mention was made of that Christian group during the various discussions with the Iraqi authorities.

Nonetheless, the question is not so much about the ICRC’s concern or lack of concern for the Iraqi minorities as about its lack of interest in the rest of the Iraqi population. That can be seen particularly with regard to political detention.²⁵ It was already aware in the late 1950s of the situation of the Iraqi nationals held as political detainees, particularly after the coup d’état by General Kassem, the ill-treatment to which they were subjected and the complete absence of legal guarantees;²⁶ its assistance had even been called for by members of the Iraqi Red Crescent. Yet the ICRC entrenched itself behind a range of arguments that was simultaneously legal and political. On the one hand, there was no legal framework for an intervention because there was no real conflict; on the other hand, the risk of “putting the government’s back up” or “turning it against the ICRC” (these terms were actually used) by presenting an initiative that might be perceived as inappropriate was far too great. In those conditions the ICRC took no official steps in that respect. And if the possibility of being able to take action in Iraq one day

24 It might also be asked whether the ICRC’s wait-and-see approach to Iraq did not mirror that of Swiss federal diplomacy. In 1958, for instance, the head of the Department of Foreign Affairs, Max Petitpierre, did not wish to intervene – contrary to the wishes of the Swiss legation in Baghdad – in a request against politicians being sentenced to death by the Kassem government, as he did not wish to interfere in internal Iraqi affairs. It should be noted that in 1961 Max Petitpierre became a member of the ICRC Committee.

25 See file AICRC B AG 225 098-001.

26 A delegate was to go so far as to compare the trials in Iraq with those held during the French Revolution!

was envisaged, it would be on behalf of the members of the Baath party taken prisoner after Abdul Salam Arif seized power in November 1963.

On war and humanitarian action

The Iran–Iraq war and then the two other Gulf wars also raise questions about another aspect of humanitarian action – its possible instrumentalization by a government. Again, the problem is not limited to Iraq alone and can be applied to other contexts in which the ICRC operates.

As we have seen, in 1980 the ICRC established a permanent presence in Iraq. With government backing, the ICRC was to concern itself once again with a minority, but this time a minority that was protected by international humanitarian law – Iranian prisoners of war and Iranian civilian detainees. In that respect, the physical presence of the ICRC in Iraq did not lead to an increase in the number of categories of victims possibly in need of ICRC protection. In other words, no formal action on behalf of Iraqi beneficiaries and, first and foremost, the political detainees was reported during the 1980s (at least that is what the ICRC’s public documents reveal). The explanation for that “silence” has been given above – the systematic opposition by Baghdad to any possible ICRC action that went beyond its treaty-based mandate.

A two-part question might be asked: in what way was the ICRC’s attitude (and particularly its reticence with regard to the internal situation in Iraq) useful to the Iraqi authorities, and in what way did the Baghdad government take advantage of the presence of the ICRC for its own propaganda or even perhaps for its own preservation?

Although it is difficult to answer the first part of that question, it is nonetheless apparent that the account of the ICRC’s activities during the Iran–Iraq war, as published in the ICRC’s public annual reports, stigmatizes one of the adversaries far more than the other.²⁷ Obviously, the ICRC’s “criticism” is based on actual facts. However, on the issue of the use of chemical weapons, for example, one may rightly wonder why the various appeals by the ICRC place the two belligerents on an equal footing while only one of them was making extensive *manifest* use of combat gas.²⁸ In that context, not raising the internal problems that might be encountered by one of the parties to the conflict could ultimately do nothing other than operate in that party’s favour.

27 It is worth noting the use of the terms “difficulties” (Annual Report, 1981, p. 48), “serious difficulties” (Annual Report, 1982, p. 65), “repeated violations of the Conventions” (Annual Report, 1983, p. 57) in descriptions of the activities in Iran. The equivalent terms are not found with regard to Iraq, where more neutral wording is used (“the matter was not always settled” – Annual Report, 1981, p. 48).

28 In 1983 Iraq used chemical weapons against the Iranian army as well as against civilians, particularly Kurds. That did not trigger any reaction by the international community worth noting, despite the fact that Iraq had signed the 1925 Geneva Protocol in 1931. The pretext put forward by Baghdad, and taken up for a time by the US Reagan government, was that chemical weapons had been used by the Iranian army. A number of specialists, including the International Crisis Group, showed that allegation, which was never substantiated, to be unsound.

As to the instrumentalization of the ICRC by the Iraqi regime, similarly the absence of archived documents does not make it very easy to understand. In authorizing the ICRC to set up a base in the country after years of closure following the start of the conflict with Iran, was not the Iraqi regime using this as a pretext to show the world how willing it was to behave in a thoroughly humane fashion, and hence making an attempt to win back some sympathy? Likewise, Iraq had everything to gain from listening to the ICRC and from showing greater respect for the Geneva Conventions – particularly in the strategic media issue of prisoners of war – something its neighbour did not do, thus coming in for severe criticism by the ICRC and, as a result, by a section of the international community.

Finally, still from the same perspective, it may be asked if the work carried out by the ICRC in Iraq after 1991 – and the publicity given to that country – did not also ultimately (and involuntary) serve as a propaganda tool for the regime of Saddam Hussein, enabling it to denounce, in unison with the ICRC but for other motives, the disastrous consequences for human life of the UN embargo. The Iraqi government was thus easily able to pass itself off as a victim. And it was perhaps thanks to that orchestrated victimization that the regime managed to hold on to power for around ten more years.

Conclusion

During the last sixty years of its history, Iraq has encapsulated all the different types of modern warfare. From civil war to international conflict via internal unrest or the struggle against “terrorism”, the macabre list nonetheless constitutes a remarkable basis for the observation of the humanitarian response that an organization such as the ICRC is able to offer over a lengthy period.

The first thing that needs to be said is that, irrespective of the conflict context, for legal and/or political reasons the action taken by the ICRC focused for a long time on a single group of victims at a time. In other words, it was not until the early 1990s that it was able to carry out a global action for a majority of Iraqi citizens. While that situation is largely due to the attitude of the Iraqi authorities, which were opposed to any humanitarian initiative that went beyond the strict framework of the international conventions that it had signed, the ICRC nonetheless bears some of the responsibility in that it subjected itself to a degree of “self-censorship” with regard to its potential scope for action,²⁹ by not choosing to be more insistent and firmer in its demands (particularly in the case of the Kurds) for fear of upsetting the Baghdad government. The stance taken by the ICRC was the result of a choice which tended to minimize the risks and maximize the chances of actually being able to do something for the victims of violence. It was

29 That self-censorship did not necessarily have only negative consequences for the ICRC. For example, the hypothesis could be put forward that its limited commitment to the Jewish minority in Iraq – which it attempted to justify as an act of impartiality – allowed the ICRC in return to maintain a certain image and position in the Middle East, which was at the time largely hostile to Israel.

thus constantly torn between the right to act and the duty to do so. Moreover, that calculation was made in a hostile environment, in the face of governments that were ready to seize on the slightest wrong move by the ICRC and turn it to their advantage, especially if it ventured to tackle issues relating to internal policy. In those conditions it is not surprising that when the Iraqi authorities demonstrated greater open-mindedness and addressed the wishes of the ICRC, those gestures concerned only members of minority groups (as in the case of the Iraqi Jews, in particular) – in other words, with regard to people wrongly or rightly considered to be “aliens” or on the fringe of “true” Iraqi society. Moreover, the conciliatory attitude of Baghdad at the time was not without an ulterior motive, as was the case during the Iran–Iraq war, when the aim of the regime of Saddam Hussein was to clean up its image by showing the international community that it was willing to work together with a humanitarian organization based in its country and consequently to respect in advance that organization’s precepts and recommendations. Ultimately, it was therefore a mixture of weighing up ICRC interests and striking a balance between treaty-based obligation and humanitarian initiative, along with the real opportunities for intervention made available by the Iraqi government which determined the selection of the victims, and, as an immediate corollary, caused certain categories of victim to be neglected.

It was only because of external circumstances – in this case the invasion of Iraq by the Coalition troops during the second Gulf war, followed by the disturbances in the north and south of the country – that the ICRC finally managed to provide actual relief to a wider group of Iraqi citizens. Whereas relief for the Kurds and the Shiites was carried out without any real consent by Baghdad, because protected areas had been set up the Iraqi government came to terms with the ICRC’s presence in the territories still under its control – but again essentially for propaganda purposes and for reasons relating to internal stability.

To conclude are a few words on the situation after March 2003, when one of those mysterious reversals in history was observed. After more than fifty years of friction with the Iraqi government, regardless of whether it was monarchist or “republican”, at the very moment when a more “democratic” state – one that was therefore in a better position to really work with the ICRC – gradually began to be established, the ICRC considered itself obliged to leave Baghdad because of the armed violence directed against it and to move its delegation so that it could operate partly out of neighbouring Jordan.

Was this a return to the starting point? The answer would be “yes” if humanitarian activities were perceived as always developing in a continuous straight line. However, the history of the ICRC in Iraq shows that, over the long term, humanitarian action does not work like that. Rather, it proceeds in stages, with ups and downs depending the internal and external circumstances. In particular, the circumstances must be understood as including the very evolution of the violence; in the case of Iraq, the violence gradually took on the most extreme forms. However, that must not be allowed to exonerate the ICRC,

particularly with regard to its decisions to help or not to help one group of victims or another. The relevant question in that case is whether, throughout the many years of its experience in Iraq, it always chose the victims that needed it the most.