## **INTERNATIONAL REVIEW** of the Red Cross

Humanitarian debate: Law, policy, action





https://doi.org/10.1017/S1816383112000641 Published online by Cambridge University Press



#### Aim and scope

Established in 1869 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: Mariya Nikolova Consultant: Michael Siegrist Special advisor on occupation: Tristan Ferraro Publication assistant: Claire Franc Abbas

International Review of the Red Cross 19, Avenue de la Paix CH - 1202 Geneva 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

Rashid Hamad Al Anezi Kuwait University, Kuwait

Annette Becker Université de Paris-Ouest Nanterre La Défense, France

Françoise Bouchet-Saulnier Médecins sans Frontières, Paris, France

Alain Délétroz International Crisis Group, Brussels, Belgium

Helen Durham Australian Red Cross, Melbourne, Australia

Mykola M. Gnatovskyy Kyiv National Taras Shevchenko University, Ukraine

Bing Bing Jia Tsinghua University, Beijing, China

Abdul Aziz Kébé Cheikh Anta Diop University, Dakar, Senegal

Elizabeth Salmón Pontificia Universidad Católica del Perú, Lima, Peru

Marco Sassòli, University of Geneva, Switzerland

Yuval Shany Hebrew University, Jerusalem, Israel

Hugo Slim University of Oxford, UK

Gary D. Solis Georgetown University, Washington DC, USA

Nandini Sundar Delhi University, New Delhi, India

Fiona Terry Independent researcher on humanitarian action, Australia

Peter Walker Feinstein International Center, Tufts University, Boston, USA Volume 94 Number 885 Spring 2012

### INTERNATIONAL REVIEW of the Red Cross

Humanitarian debate: Law, policy, action

# **Occupation**



### **CONTENTS**

### **Occupation**

- 5 Editorial Vincent Bernard, Editor-in-Chief
- 13 Interview with Raja Shehadeh Palestinian lawyer and writer, Ramallah

### **Debate**

29 Is the law of occupation applicable to the invasion phase? Marten Zwanenburg, Michael Bothe and Marco Sassòli

### **Articles**

- 51 Preoccupied with occupation: critical examinations of the historical development of the law of occupation Yutaka Arai-Takahashi
- 81 A different sense of humanity: occupation in Francis Lieber's Code Rotem Giladi
- 117 The dilemmas of protecting civilians in occupied territory: the precursory example of World War I Annette Becker
- 133 Determining the beginning and end of an occupation under international humanitarian law *Tristan Ferraro*

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.

- 165 The application of international humanitarian law and international human rights law in situations of prolonged occupation: only a matter of time? Vaios Koutroulis
- 207 The law of belligerent occupation in the Supreme Court of Israel David Kretzmer
- 237 Transformative occupation and the unilateralist impulse Gregory H. Fox
- 267 Use of force during occupation: law enforcement and conduct of hostilities Kenneth Watkin
- 317 Human rights obligations in military occupation Noam Lubell

**Comments and opinions** 

**339** The occupation of Iraq: a military perspective on lessons learned *Matthew R. Hover* 

### **Reports and documents**

- 347 Interview about the 31st International Conference of the Red Cross and Red Crescent with Philip Spoerri, Director for International Law and Cooperation, ICRC
- 355 Resolutions of the 2011 Council of Delegates and of the 31<sup>st</sup> International Conference of the Red Cross and Red Crescent, *Geneva, 26 November – 1 December 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.

**417 What's new in law and case law across the world** Biannual update on national legislation and case law, July – December 2011

**Books and articles** 

437 Recent acquisitions of the Library and Public Archives, ICRC