

Volume 92 Number 880 December 2010

# INTERNATIONAL REVIEW

of the Red Cross

Humanitarian debate: Law, policy, action

# Conflict in Afghanistan I



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	Yves Sandoz
Paolo Bernasconi	Rolf Soiron
François Bugnion	Jenö C. A. Staehelin
Bernard G. R. Daniel	Bruno Staffelbach
Jacques Forster	Daniel Thürer
Paola Ghillani	André von Moos
Claude Le Coultre	

### 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 92 Number 880 December 2010

INTERNATIONAL  
**REVIEW**  
of the Red Cross

Humanitarian debate: Law, policy, action

**Conflict in  
Afghanistan I**

**Part 1: Socio-political and humanitarian  
environment**

## CONTENTS

### 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*
- 877 **Dynamic interplay between religion and armed conflict in Afghanistan**  
*Ken Guest*
- 899 **Transnational Islamic networks**  
*Imtiaz Gul*
- 931 **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*

838

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.

---

## Books and articles

---

### 1003 Recent acquisitions of the Library and Research Service, ICRC

#### TO FOLLOW IN Vol. 93 No. 881 (Conflict in Afghanistan II):

- 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*

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.

### ***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*

---

### **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**