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Focus

Article 126 GCIII:

“The delegates of the International Committee of the Red Cross] shall have permission to go to all places where prisoners of war may be [...]; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, [...] without witnesses, either personally or through an interpreter.

[The] delegates [...] shall have full liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure. [...]”

Article 143 GCIV:

“[The delegates of the International Committee of the Red Cross] shall have permission to go to all places where protected persons are [...]. They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure. Their duration and frequency shall not be restricted. [...]”

Press reports regarding the mistreatment suffered by prisoners refer to visits undertaken by the ICRC in Iraq

According to the International Committee of the Red Cross (ICRC) the press reports regarding the mistreatment of persons interned by the occupying powers in Iraq refer to a report which results from ICRC's visits to prisoners.

International humanitarian law mandates the ICRC to visit prisoners of war (article 126 GCIII) and civilian internees (article 143 GCIV) in times of international armed conflicts. In this regard, the aim pursued by the ICRC is to prevent and, if necessary, stop disappearances and extra-judicial killings of prisoners, to inhibit and, if necessary, end acts of torture and mistreatment, to improve imprisonment conditions as well as to re-establish the contact between detainees and their families. Before visiting detainees, the ICRC ensures that the following basic requirements are fulfilled: the detaining power agrees that the ICRC meets any detainee who falls within its mandate, and visits any place where such persons are detained; likewise the ICRC must be allowed to interview any detainee individually and without the presence of a third person; the detainees are registered and their data included in a list; finally, the visits are repeated in a frequency as deemed necessary by the ICRC.

Notably, the ICRC visits include discussions with the prison authorities, the inspection of the entire prison premises and other relevant areas, private conversations with the individual detainees. The ICRC also provides detainees with the possibility to send to their families short messages on standardised forms. Reports are written on the basis of the information and insights obtained during these visits. These reports are generally strictly confidential and are communicated exclusively to the responsible authorities. Strict confidentiality is needed for the sake of the protection of the particular detainees as well as for ensuring that the ICRC is always granted access to detainees all around the world. In 2003 the ICRC visited 469,648 detainees held in 1,923 places of detention in about 80 countries. Furthermore, the release of information concerning violations of international humanitarian law does not automatically lead to a positive change in the treatment of detainees. In the majority of cases improvements are the product of confidential negotiations with the detaining powers.

From 31 March 2003 to 24 November 2003 ICRC undertook 29 visits in 14 places of detention in Iraq. The published excerpts of the ICRC report are based on the insights provided during these visits. As for the report itself, it was submitted to the armed forces of the coalition in February 2004. As of now, the excerpts have been published without the consent of the ICRC.

On numerous occasions the ICRC expressed to the armed forces of the coalition its concerns regarding the grievances observed during its visits and requested them to remedy the situation. Concerning the state of and the methods used in places of detention, the ICRC, orally and in writing, reminded the members of the coalition of their duties under international humanitarian law. International humanitarian law obliges States to safeguard the individual's right to life, physical integrity and human dignity. In addition, the 1949 Geneva Conventions provide that prisoners of war and civilian internees must at all times be humanely treated (article 13(1) GCIII and article 27(1) GCIV). Prisoners of war and civilian internees must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity (article 13(2) GCIII and article 27(1) GCIV). They are entitled in all circumstances to respect for their persons and their honour (article 14(1) GCIII and article 27(1) GCIV). Acts or omissions that violate these obligations not only contravene norms of international humanitarian law but also incur international criminal liability for the individual perpetrator.

In the final declaration of the 28th International Conference of the International Federation of the Red Cross and Red Crescent in December 2003, the State Parties to the Geneva Conventions reaffirmed that all detainees must be treated with humanity and with respect for their inherent dignity, which can be best promoted and safeguarded through, in particular, the application of international humanitarian law and that international humanitarian law is not an obstacle to justice. They further affirmed that no State, no group or individual is above the law and no one should be considered or treated as beyond its reach.

Responsibility

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