

THE ICRC, NEUTRALITY AND GUATEMALA: A CASE FOR IMPROVING BEST PRACTICES

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Abstract

In evaluating the theoretic basis for ICRC neutrality and the way it played out during the Guatemalan Civil War, this briefing paper hopes to shed light both on the basis for neutrality policy and the effects of that policy in a protracted, politicized conflict. In also evaluating opposing, “neo-neutrality,” ideas, the debate as to which type of neutrality belongs among international best practice is addressed, and once more Guatemala is used as a basis for comparison on which policy would have done the most to protect the rights of civilians and ensure that all combatants complied with IHL.

(Key Words: Guatemala, ICRC, Neutrality, Neo-Neutrality, Civil War, Peace Process)

Overview:

Upon its founding in 1863, the International Committee of the Red Cross (ICRC) has been regarded as one of the most prominent, and respected, humanitarian agencies in the world. Its mission is simple: “to ensure protection and assistance for victims of armed conflict and strife” (ICRC website). While it has also developed into a leading emergency relief agency, its core mission remains to ensure compliance with International Humanitarian Law (IHL) and protect of the rights of those affected by conflict. A key weapon in this fight continues to be the ICRC’s firm commitment to neutrality. While this is still the standard for many organizations around the world, critics have complained that the reality of neutrality is both virtually impossible and a moral quandary for aid workers. The ICRC, in turn, charges that without neutrality, access to victims is shoddy at best, impossible at worst, and the danger to aid workers advocating for one side or the other may mean that victims get no help at all.

Over the last several decades, organizations have come forth on one side or the other, establishing a dual system of best practices, with traditional ICRC neutrality on one side, and newer, “neo-neutral” (termed by Peter Van Arsdale) notions on the other. This paper aims to explore both sides of the divide, and looks to the Civil War in Guatemala as an example to highlight which of these two approaches was (or would have been) more successful in bringing the conflict to a close as well as ensuring the rights of victims and a fair, just and truthful peace process.

PART ONE: THE FIGHT FOR NEUTRALITY

A Basis for Neutrality: A Case for the ICRC

The ICRC’s argument for neutrality is a simple one: without it, access to victims, safety of aid workers, trust of the international community and the respect of combatants are forfeit.

Neutrality means quite simply refusing to take sides—either explicitly or implicitly—in a conflict, and working with all parties involved to ensure compliance with international law. While the ICRC may be critical of one side or the other for failure to comply with these laws, this is never presented as a public accusation. Rather, ICRC engages in discussions with the sectors out of compliance, who, theoretically, find it in their best interest to be in good standing with the Red Cross, whether as a state in the UN system (which recognizes this “special role” of the ICRC), or as combatant groups looking for eventual international recognition. While there may appear to be a clear “victim” and “perpetrator,” it is not the role of the ICRC to determine this. Rather, their mandate is (Forsythe et al., 2007):

- Ensuring that detention conditions are humane for those imprisoned
- Providing material and moral relief in conflict
- Promoting development of the humanitarian part of the laws of war
- Improving the unity and effectiveness of the Red Cross movement

While this role can be somewhat fluid, anything beyond the purview of IHL is not the realm of the ICRC, nor is advocating directly for victims. Rather, IHL itself will protect their rights.

Over the decades, this stance has won the ICRC a very special role in mitigating conflict. The UN, individual states and non-state actors alike generally accord the ICRC the respect that comes with its neutrality: *inviting* the Committee to view or even run POW camps; involving it in everything from disarmament processes, escorting refugees and internally displaced persons back home and establishing truth commissions and peace negotiations. While not universally accepted, this is a role still unparalleled by any other institution, and one that ICRC insists is rooted in international acceptance of its neutrality. Additionally, its strict adherence to this policy means that the Red Cross can often act outside of individual state or donor interests, as it

is not tied to any ideology or agenda (Forsythe et al., 2007). As one defender put it, “the neutrality of the ICRC is critical if the organization wants to continue to relieve human suffering” (Rieffer-Flanagan, 2009).

Failures of Neutrality: A Case for Neo-Neutrality

Despite the successes of the ICRC, real divisions exist as to the appropriateness and viability of Red Cross neutrality. These criticisms fall into two categories: First, the debate as to whether neutrality is even possible today and second, whether it is immoral to even attempt it.

The possibility of neutrality has been debated extensively, especially in the years since the start of the “War on Terror.” When the ICRC was originally founded, war was a much more straightforward endeavor—a conflict between states and along boundaries. Combatants were soldiers from one army or another and while civilians were always in danger of being victimized, this was not (officially) considered a strategy of war. Rather, all armies involved were primarily concerned with each other.

This changed drastically in the 20th century. Even before issues of terrorism, non-state actors became much more prominent, both in internal and international conflicts. Conflict has become less confined to state boundaries and more depended on levels of violence. Rebels must prove they have sovereign control over territory to qualify as combatants under IHL, and governments are loath to acknowledge them as such, preferring to designate conflicts as “internal strife.” (Clapham, 2006). This makes the role of the ICRC—and its neutrality—much more difficult, as the mere act of approaching a rebel force for access to prisoners can be constructed as an acknowledgement of the group and its legitimacy. The designation of combatants has become political, war is often never declared but is clearly engaged in, and neutrality is a thinner and thinner line to walk (Caratsch, 1993).

With the advent of the “War on Terror,” the ICRC and other Western-based agencies have found themselves accused of partiality to the West, regardless of whether their actions justify such an accusation. Among al ’Qaeda and other rebels groups, for example, the European base of the Red Cross, its ties to the UN and its roots in Christianity mean that it is not an agency with which they will cooperate. Consequently, the ICRC’s mandate of ensuring both humane treatment of prisoners and compliance with IHL by all sides is not achievable when dealing with combatants such as these.

Even where neutrality may still be possible, its morality is also under siege, led by such prominent and respected organizations as Médecines sans Frontières (MSF). Founded in 1971, in part as a reaction against ICRC neutrality, MSF also defines itself as a neutral organization but functions under a very different definition. According to MSF and other likeminded agencies, neutrality is possible in terms of refusing to take sides and providing aid on the basis of need alone. However, when one side of a conflict is maliciously victimized by the other (for example, the genocide in Rwanda), MSF reserves the right to prioritize who will receive aid while still operating on a basis of need—one side being in more need of aid than the other (MSF website).

MSF adds to this the importance of witnessing. The act of publishing, reporting and speaking out on human rights violations is an important moral obligation to MSF and other agencies. As former MSF president James Orbinski said in his 1999 acceptance of the Nobel Peace Prize: “silence has long been confused with neutrality...we are not sure that words can save lives, but we know that silence can certainly kill” (quoted in Shetty, 2007). This style of activist neutrality, or “neo-neutrality,” has become more and more prevalent in the last decades as agencies experience the desperation of offering aid while being unable to interfere or protect people they know will be slaughtered (examples of this occurred in Bosnia and Rwanda).

PART TWO: GUATEMALA

In attempting to reconcile these two well-intentioned but fundamentally opposed views on neutrality and its subsequent use as a best practice, it is important to consider the context of reality. For this paper, we will look to the thirty-six year Guatemalan Civil War and the Peace Process that followed. While international humanitarian presence (including that of the ICRC) was limited and therefore not easily evaluated, it is an interesting case study in protracted, state-sponsored violence. In this paper, we will concern ourselves with determining where and how neutrality and/or neo-neutrality *could have* made a difference, and where it may have failed to ensure the rights of people. Specifically, we will consider the role of the ICRC in this conflict, its compliance with its own neutrality policy, the effectiveness of that policy and any recommendations for best practice as it concerns neutrality today. The very absence of significant international aid in a conflict that spanned several decades, claimed nearly 200,000 civilian lives, displaced ten times that and created 40,000 refugees will form part of this analysis, as it speaks to the politicization of humanitarian priorities around the world during the Cold War, and the difficulty of maintaining a neutral stance during that time (Berry, 1997).

History of the Conflict and ICRC Involvement:

The roots of the Guatemalan Civil War can be drawn back to the 1954 CIA-backed coup which ousted President Jacobo Arbenz. Elected in 1951, Arbenz began an extensive land reform campaign designed to empower the deeply impoverished working/landless class, including the Maya Indian community which, collectively, accounts for 40% of the population. In the midst of the Cold War, the U.S. considered Arbenz a communist threat in the region and his programs were viewed as a direct violation of free market principle. The military coup that resulted began several decades of dictatorial rule that did not end until the mid-1990s (Short, 2007).

During these decades, opposition groups began forming, eventually becoming guerrilla militias intent on “liberating” Guatemala from oppression. They began armed opposition against the government, which controlled the armed and police forces. The result was a thirty year bloodbath in which the vast majority of victims were indigenous Maya who were labeled early-on as potential sympathizers with the leftist guerrillas. With this excuse, entire indigenous villages were disappeared, slaughtered or otherwise victimized by government forces. Despite appeals made by indigenous communities to the Embassies of Spain and other countries, no investigation of these crimes took place while the violence continued (Short, 2007).

Officially, civilian government was restored in the late 1970s; however, it functioned within the auspices of military control, and armed conflict continued until the early 1990s. It was then that peace began to appear on the agenda. With the end of the Cold War, it was no longer a US priority to ensure right-wing leadership in the Americas, and the UN began the process of engaging all parties in peace discussions, with the ICRC functioning as a key partner in these efforts. Its role was to facilitate the following priorities (Berry, 1997):

- **Professionalize the military.** The ICRC worked to establish distinctions between “good” and “bad” army and police personnel. It also required the government to relinquish control of the police force.
- **Build up civilian society.** This included working with civilian and resistance organizations, protecting indigenous leadership rights and working with guerrilla armies to ensure a disarmament process.
- **Provide third-party mediation.** This included both the establishment of a process by which to address human rights abuses and the bringing together of all parties to discuss terms for peace.

The ICRC also played a pivotal role in ensuring the involvement of the private and religious sectors of society to help sustain peace talks.

The Guatemalan Red Cross was not a party to these policies, nor did it play any role in mitigating violence during the conflict. This is due in part to the fact that internal divisions led to the agency's temporary disbandment in 1980. Once its doors reopened in the 1990s, it did work extensively with war widows and the affected communities, as well as coordinating with the ICRC to oversee the return of refugees from Mexico (Aguilar, 1998). However, the ICRC itself played no role in facilitating relief services for, as one delegate put it: "we are not a relief agency, we are a protection agency."

The Role of Neo/Neutrality:

While the ICRC did play an important part in the peace process, it is important to evaluate its role both during and after the conflict to understand how effective its neutrality policy was, and whether a neo-neutral approach may have led to better outcomes. As there is limited information addressing this issue, this paper will take some liberties in speculating the likely outcomes of alternative approaches, but it does so with an understanding not only of the arguments on both sides, but also of the ease with which criticisms can be made after the fact.

Was the ICRC Neutral?

To fairly evaluate whether the ICRC complied with its own neutrality policy, it is important to consider the two phases of its possible involvement—during and after the conflict.

During the three decades of the Civil War, it is clear that the ICRC was not the neutral actor that it should have been. Cold War politics had created a deeply polarized global society, and during these decades the ICRC was accused by many communist nations of ignoring the illegal acts of their capitalist counterparts. These accusations stemmed from the fact that ICRC's

leadership was known to be deeply anti-communist, with one member publically supporting a “fight to the death with Marxism” (Rieffer-Flanagan, 2009). The ICRC itself has since admitted that it “was not as neutral as it might have been” in the years of the Cold War (Forsythe, 2007).

This lack of true neutrality played out in Guatemala through the sheer *absence* of the Committee during what many refer to as genocide of the Maya community. While national politics are also to blame (even today, governments resist acknowledging internal combatants by bringing in the ICRC), the ICRC must fulfill its obligation to address the violations of *all* parties not only after the end of a conflict but, where possible, during the violence itself, if it is to claim true neutrality. In Guatemala, this role was not fulfilled.

However, its role during the peace process was a very successful one. The respect granted the ICRC during this process allowed it to make demands of all sides and be successful in establishing peace accords that formed the basis of the Truth Commission that followed. It is arguable that this role could not have been performed so successfully by any other organization.

Would Neo-Neutrality have been More Successful?

Despite this latter success, the question to ask is whether newer embodiments of neutrality would have been more successful in protecting civilian rights and restoring peace. The fact that the ICRC failed to remain neutral in the conflict itself makes this a difficult comparison; however, in dealing with atrocities of this magnitude, the argument for witnessing becomes extremely important. How many lives might have been saved if neo-neutral agencies had been present and able to report what they saw? Would international pressure to intervene have trumped political polarization? Would civilian have been better protected?

These are questions that we can never answer with absolute confidence, but it is important that human rights not become an afterthought only addressed in Truth Commissions.

The argument that organizations can still remain neutral in regards to a conflict itself while protecting the rights of civilians *and* combatants is not illogical. In Guatemala, the international community and its respective NGOs failed to act as guardians of human rights. Today's neo-neutral approach may well have been more successful at circumventing the politics involved, delivering aid and offering protection while reporting on atrocities as they occurred.

In the peace process itself, neo-neutrality again could have contributed by ensuring that human rights abuses were addressed. While ICRC has a pivotal role to play here, neo-neutral agencies may have proved a valuable partner through making their witnessing work a part of the process itself and the resulting Truth Commission.

An additional component that may have been better addressed was the issue of amnesty. This controversial process can only be truly successful if it is granted in the spirit of resolution and not to protect the guilty, as was done in Guatemala (Sooka, 2006). It is important that these considerations be weighed with the experiences of the victims on *both* sides and their right to justice. Neo-neutral organizations could have found a niche here, where their reports and testimonies could have helped keep those experiences at the forefront of the conversation and ensure some room for justice in the aftermath.

This would have given greater authority to the resulting Truth Commission, which has been criticized in Guatemala for not leading to any real action pertaining to human rights abuses (Salmón, 2006). Again, this is a perfect role of neo-neutral organizations that are not constrained, unlike the ICRC, in addressing the crimes of one side or the other.

Recommendations for Best Practices:

As can be seen, both in theory and practice, the issue of neutrality is deeply complex and divided. However, in the case of Guatemala, and similar conflicts that are ongoing today and may arise in the future, there is a clear place for both kinds of neutrality.

The ICRC does have unique access to conflicts that in many ways is tied to its perceived neutrality. The important thing is that it be as truly neutral as possible. While it is becoming more and more difficult to achieve this aim—in both action *and* perception—it is one that can be an effective tool in bringing all sides to the table and mediating a meaningful peace process.

However, it is not enough to ensure access and attempt to address issues of compliance with IHL. Blatant human rights abuses must be addressed and organizations have a moral obligation to do something with the information they have, even if it is just to report that knowledge. During conflict, organizations must have the right to offer protection and witness regarding abuses. This is not an act of partiality. Witnessing must be done on all sides and reported as such. If one side is victimizing another, it is not a violation of neo-neutrality to report that, so long as the same report would have resulted had the roles been switched.

This policy can save lives in the field and play an extremely important role in the aftermath of conflict by helping ensure that truth is known and victims are empowered to seek justice. However, there is also a need for the mediating role played by the ICRC in attempting to ensure the laws of war are respected and all parties come to the table to bring violence to a close. While a complicated and difficult process, these two neutrality policies must work hand in hand to establish a complimentary best practice system, whereby the ICRC is the legal guardian, and other agencies can be human rights ones.

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