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"DISAPPEARANCES" AND POLITICAL KILLINGS: HUMAN RIGHTS CRISIS OF THE 1990s

A MANUAL FOR ACTION

@Chapter 13

Deliberate and arbitrary killings by armed opposition groups

Pre-Publication Version

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This is a pre-publication version of Chapter 13 of the Amnesty International report *"Disappearances" and Political Killings: Human Rights Crisis of the 1990s - A Manual for Action*.

Chapter 13

Deliberate and arbitrary killings by armed opposition groups

"Opposing deliberate and arbitrary killings, whether by governments or armed opposition groups, is based on the moral imperative that all parties to a conflict observe basic standards of humane behaviour. These standards are to be found in fundamental provisions of human rights law, the laws of armed conflict (humanitarian law), and the dictates of public conscience..."

"Impartiality being a cardinal principle of the work of human rights organizations, it should be made clear to parties in a conflict and to public opinion that reporting abuses or patterns of abuses by armed opposition groups does not imply a condemnation of the groups as such; neither does it affect the legal status or otherwise constitute recognition of such groups; and that this is in consonance with the practice that opposing human rights violations does not imply passing judgment on the legitimacy of governments which commit them."

"Further it should be made clear that by expanding their work into this field human rights organizations in no way imply that the responsibility of states for the observance of human rights law is diminished. Therefore, the mandate and effectiveness of the human rights mechanisms of the United Nations and of other intergovernmental organizations should not be diluted by taking on abuses by armed opposition groups, and the legitimate choice of other human rights groups to continue to monitor only government violations should be respected."

- Declaration of Amnesty International's International Conference on "Disappearances" and Political Killings, 4-6 September 1992 (extracts)

The previous chapters of this report have dealt with human rights violations perpetrated by state agents, and with the measures needed to combat them. But political groups which are not governments also often commit abuses which are similar to the human rights violations committed by governments. How should organizations working for human rights react to these abuses by non-governmental agents? What can be done to stop them?

In 1991 Amnesty International decided to expand the scope of its work against abuses by opposition groups. This chapter examines Amnesty International's evolving policy and techniques of action.

Not all human rights organizations will want to follow the direction taken by Amnesty International. The discussion in this chapter may help to show some of the pitfalls and possible ways to avoid them.

1. Amnesty International's policy: the 1991 decision

Like many other human rights organizations, Amnesty International began as an organization dedicated to fighting certain specific human rights violations committed by governments. For many years it was reluctant to take a position or take action on abuses by non-governmental political groups, fearing that such a position or such action could dilute its work, drain its resources and be misused by governments for their own ends.

Over the years this policy changed as Amnesty International decided to condemn the torture or killing of prisoners by opposition groups and to express its concerns directly to those opposition groups which had some of the features of governments, exercising exclusive and effective authority over the population in territories which they controlled. Such major decisions about Amnesty International's scope of work are always taken by the organization's International Council, a body comprising representatives of all Amnesty International sections around the world.

In 1991 Amnesty International's International Council decided on a significant expansion of the organization's work on non-governmental abuses. Several elements of this decision should be noted here:

! The decision recognized "the seriousness of the human suffering caused by acts against individuals, in contravention of fundamental international standards of humane behaviour, that are perpetrated by political non-governmental entities". This phrase made it clear that - as with human rights violations perpetrated by governments - Amnesty International's concern was for the suffering inflicted on individuals through the practices which the organization opposes.

! The International Council decided "that Amnesty International should continue to regard human rights as the individual's rights in relation to governmental authority". This statement drew an important distinction - discussed below - between the obligations of a government towards individuals, which are violated when a government violates human rights, and the fundamental standards of humane behaviour which an opposition group contravenes when it commits abuses such as the torture or killing of prisoners.

! Under the new policy Amnesty International opposes the following abuses by non-governmental entities:

- ! torture;
- ! the taking of hostages;
- ! the killing of prisoners;

! "other deliberate and arbitrary killings, for example killings of people under the non-governmental entity's immediate control at the time and killings carried out solely by reason of the victims' ethnic origin, sex, colour, language, religion or political views or other beliefs".

! Amnesty International will oppose such acts with any such armed political organization which is accessible to approaches, whether or not that organization has the attributes of a government.

2. Armed opposition groups

Amnesty International's policy and practice since the 1991 decision is to oppose specific abuses perpetrated by armed political entities other than governments. Several points should be noted here.

! The policy addresses abuses by entities ranging from groups which are small, limited in power and devoid of authority to organizations that in practice exercise virtual governmental powers, including those with a limited degree of international recognition as governmental authorities. These include organizations controlling territory and organizations fighting in civil wars where central authority has broken down.

! The actions of armed political organizations that work in association with or with the connivance or tolerance of governments - for example, as paramilitary militias, "death squads" or vigilantes - are opposed through Amnesty International's work to halt governmental violations of human rights, not under this policy. To the extent that governmental responsibility can be determined, such acts entail Amnesty International mandate concerns relating to the obligations of governments. But through its policy on abuses by non-governmental armed groups Amnesty International monitors and acts upon abuses by armed political organizations with suspected but uncertain governmental links, pending confirmation of such links, at which point it will hold the government accountable.

! Whether large or small, the armed groups covered by Amnesty International's policy have a *political* dimension which distinguishes them from uniquely criminal organizations. This political dimension is indicated by a range of criteria including the stated or apparent purpose of the organization and the nature and motivation of its activities.

The term "political" is used here in a broad sense and is not intended to have any value connotation or to confer any particular status on the organizations in question. It is used as a working term to distinguish those organizations within the scope of Amnesty International's concerns.

! Outside Amnesty International's range of concerns are isolated, politically motivated acts by individuals, as well as acts by groups of individuals where actions cannot be attributed to a specific and clearly defined political entity, no clear focus of authority can be discerned, or there is no clear structure of political responsibility or military command.

! Also outside Amnesty International's scope of concerns are the acts of criminal groups whose activities have no overt political dimension. Criminal organizations outside Amnesty International's scope of concerns may be distinguished by such criteria as a lack of a political program or a lack of a stated ideology, combined with a dedication primarily to the illicit pursuit of profit for its members.

! Amnesty International offers no special recognition or status to the organizations it monitors or addresses. Amnesty International's appeals and contacts are purely humanitarian in nature - they carry no connotation of recognition.

In this report the term "armed opposition group" is used to refer to entities other than governments committing abuses opposed by Amnesty International. Other possible terms are "political armed opposition group" or "political armed group". The term "armed opposition group" is used to distinguish these groups from the many other opposition groups, such as political parties, which do not resort to arms and do not commit abuses opposed by Amnesty International.

3. Deliberate and arbitrary killings

Amnesty International opposes the killing of prisoners and other deliberate and arbitrary killings by armed opposition groups. These include summary executions, assassinations, and other wilful killings of civilians and of others who are or have been rendered defenceless.

The killings which Amnesty International opposes have several characteristics:

! They are **deliberate**, not accidental.

! They are **arbitrary**, in that they are not countenanced by any internationally recognized standard of law. They flout even minimum standards of humane conduct applicable to governments and armed opposition groups alike. Their arbitrary character distinguishes them from killings in self-defence or the defence of others from an immediate threat, and from a range of killings in armed conflict which may occur as a consequence of an attack on or a defence of a military objective, such as killings in the course of clashes between violent opposing forces, killings in cross-fire, or attacks in general on military and security personnel.

! They are committed **on the authority of an armed opposition group** and in accordance with its policy at some level deliberately to eliminate specific individuals, or groupings or categories of individuals, or to allow those under its authority to commit such abuses. This concept distinguishes deliberate and arbitrary killings from killings for private reasons which are shown, for example through preventive measures and disciplinary action, to have been the acts of individuals in violation of enforced higher orders. The involvement or acquiescence of the group's leadership in the killings renders the group accountable for them.

The victim of a deliberate and arbitrary killing may be targeted individually, or he or she may be the victim of an attack on a particular population group or of random attacks on members of the civilian public at large. Such arbitrary killings include killings solely by reason of the victim's ethnic origin, sex, colour, language, views or beliefs, as well as other criteria which might appear less overtly political.

The killings which Amnesty International opposes are arbitrary under international standards, but Amnesty International has not brought into its range of concerns all arbitrary killings in war. Amnesty International's opposition to deliberate and arbitrary killings by opposition groups and to extrajudicial executions by governments does not extend to all types of killings forbidden under the laws of war. Amnesty International does not, for example, apply these terms to killings which are a by-product of clashes between opposing armed forces. Nor does Amnesty International have a general position on the use of weapons of mass destruction which may inevitably lead to civilian casualties.

Both governments and opposition groups sometimes maintain that deliberate attacks on civilian populations were legitimate attacks on military objectives. When large numbers of civilians are killed in disputed circumstances, Amnesty International will assess the merits of claims that an attack was against a military objective. This could include situations where many civilians are killed merely on a presumption that some individual combatants are among them. Amnesty International is not generally in a position to assess whether the use of military force is disproportionate, but the organization would condemn acts where it concluded the intention was clearly to kill civilians.

In armed conflicts, people who take no active part in the hostilities must be distinguished from those who do. Civilians, who can be defined as those not taking part in hostilities, must be distinguished from military personnel and others who are directly involved, may influence the course of the conflict, and offer a permanent threat of violence and harm to their adversaries. The deliberate killing of people taking no active part in hostilities and offering no other immediate threat of violence is clearly arbitrary.

Similarly, the deliberate killing of anyone who has been detained, incapacitated, or - having ceased to offer resistance - seeks to surrender to the forces of a government or an opposition group is always arbitrary. Members of fighting forces in such cases are *no longer* taking part in hostilities. The *circumstances* of a killing, and in particular whether the victim had ceased to resist and sought to surrender, will be an important factor in determining whether a killing was deliberate and arbitrary. Such circumstances will be of particular importance in assessing killings of nominal civilians who play a limited security role.

In opposing deliberate and arbitrary killings by opposition groups, Amnesty International neither supports nor condemns the resort to violence by opposition groups in itself, just as Amnesty International neither supports nor condemns a governmental policy of using military force against armed opposition movements or against other states. The issue of whether insurgency or war is morally justified has no bearing on Amnesty International's central task, which is to bring relief to individual victims of abuse.

4. International standards

Just as "disappearances" and extrajudicial executions are prohibited in all circumstances, so do deliberate and arbitrary killings contravene minimum standards of humane behaviour which apply everywhere and at all times. These standards are expressed in several bodies of law.

! The universal prohibition of murder is expressed in national **criminal laws**. Like extrajudicial executions by governments, deliberate and arbitrary killings violate these laws.

! Deliberate and arbitrary killings are prohibited under the laws of armed conflict dealing with the protection of victims of war, known as **international humanitarian law** and contained principally in the four Geneva Conventions of 1949 supplemented by the two Additional Protocols of 1977. As discussed in Chapter 8, "wilful killings" of persons protected by the Geneva Conventions are prohibited under the Conventions in international armed conflicts, while Article 3 common to the four Conventions prohibits "murder of all kinds" of protected persons in non-international armed conflicts.

! International human rights instruments recognize inherent **human rights**, including the right to life and the right to security of person. Deliberate and arbitrary killings, torture and other abuses by opposition groups attack and destroy these rights.

Article 3 common to the Geneva Conventions is especially relevant to the prohibition of deliberate and arbitrary killings. **Common Article 3** has a number of important provisions:

! It applies to "armed conflict not of an international character occurring in the territory of one of the High Contracting Parties".¹ (Today virtually all states are parties to the Geneva Conventions.)

! It follows the same approach as the Geneva Conventions themselves by defining a class of protected persons and then establishing rules for the treatment of these people. Protected persons under common Article 3 are "(p)ersons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause".

! Acts against protected persons prohibited under common Article 3 include "violence to life and person, in particular murder of all kinds", the "taking of hostages" and "mutilation, cruel treatment and torture". These acts "are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons".²

! The provisions of common Article 3 are stated to be binding on "each Party" to a non-international armed conflict. This means that not only are states parties to the Geneva Conventions bound to respect the provisions of common Article 3 in an internal armed conflict, but the other parties to such a conflict, such as insurgent groups, should also be bound to respect the provisions of common Article 3.³

! The parties to non-international armed conflicts "should further endeavour to bring into force, by means of special agreements, all or part of the other provisions" of the Geneva Conventions. What this does is to set up a mechanism whereby parties to an internal armed conflict can declare that they intend to apply the provisions of the Geneva Conventions, including the ban on "wilful killings", even if they are not states and are therefore not formally parties to the Conventions.

! Common Article 3 also says that the application of the preceding provisions "shall not affect the legal status of the Parties to the conflict." States are usually reluctant to have any official "recognition" conferred on opposition movements fighting against them, as they fear it could bolster claims of legitimacy of the opposition movement's cause. This provision of common Article 3 allows for the protection of victims of conflicts to be extended without being held up by arguments over "recognition".⁴

The coincidence between basic rules of international humanitarian law and fundamental human rights which may never be derogated from, including the right to life and the right not to be subjected to torture, makes it possible to speak of **minimum standards of humane behaviour** which must be observed in all circumstances.⁵ To put the point in another way: the prohibition of torture and deliberate and arbitrary killings, as expressed in various bodies of law, rests on an international consensus that these acts must never be committed.⁶ When an armed opposition group tortures its prisoners or commits deliberate and arbitrary killings, it is flying in the face of the principles of humanity and the dictates of the public conscience, just as a government is when it commits torture, "disappearances" or extrajudicial executions.

Although the scope of international humanitarian law and human rights law converges on these important points, the historical origins and general approach of these two bodies of law are very different.⁷ International humanitarian law comprises rules imposing, in the interest of humanity, restraints on the behaviour of combatants. In the formulation of these rules, balances are struck between humanity on the

one hand and what is often called "military necessity" on the other. Human rights doctrine, in contrast, starts from the notion that human rights are inalienable attributes of every human being: the Preamble of the Universal Declaration of Human Rights refers to "the inherent dignity" and "the equal and inalienable rights of all members of the human family". In spelling out these rights, international human rights instruments constrain governmental behaviour so that these rights will not be infringed on, and they set forth measures which governments should take to ensure that everyone can enjoy these rights.

International humanitarian law imposes restraints on the behaviour of combatants. The Geneva Conventions and other instruments of international humanitarian law are binding on the states parties to them, but other combatants which are not parties or are not states can also declare their intention to respect the provisions of these instruments. Moreover, insofar as the provisions of international humanitarian law reflect a universal consensus of the obligation in armed conflict to respect the principles of humanity and the dictates of the public conscience, any opposition group or other organization which engages in armed conflict should be considered bound to respect those provisions. It is in this sense that the prohibition of torture, murder and other acts set forth in common Article 3 is stated to be binding on all parties to an armed conflict, including those that are not states.⁸

International human rights treaties, in contrast, constitute undertakings among the states parties to them to respect and ensure human rights. Legally, when a state engages in torture or extrajudicial executions or permits its officials to do so, that state has violated its obligation to respect and ensure the corresponding rights under international and regional human rights treaties as well as any applicable national constitutions or other instruments.

The term *human rights violation* carries the connotation of a violation of a legal obligation. Amnesty International uses the term to refer to acts of torture, "disappearance", extrajudicial execution and other violations of the internationally established human rights obligations of states. It uses the term **abuses** to refer to torture, deliberate and arbitrary killings and other acts committed by armed opposition groups. These acts, too, contravene the minimum standards of humane behaviour reflected in national laws, international humanitarian law and international human rights instruments.

The difference between the terms "violation" and "abuse" does not imply any judgment about the suffering caused or the moral reprehensibility whether these acts are committed by the state or by an armed opposition group. The difference in terminology is intended rather to reflect the difference in legal status between states and other kinds of organizations.

5. The scope of the killings

In recent years Amnesty International has received many reports of deliberate and arbitrary killings by armed opposition groups in different countries.

! In the **Indonesian** province of Aceh, for example, an armed group called *Aceh Merdeka* has been fighting for independence since the mid-1970s. Since the re-emergence of armed conflict in 1989, its members have committed human rights abuses, including arbitrarily killing civilians they alleged were informers.

! In **Mozambique**, armed units of the *Resistência Nacional Moçambicana* (RENAMO), Mozambique National Resistance, have murdered and mutilated prisoners and attacked and killed

thousands of civilians for nearly two decades. The leadership of RENAMO has consistently refused to acknowledge these abuses or to take action to halt them.

! In **South Africa**, the opposition African National Congress (ANC) was found responsible for torture, ill-treatment and executions in its detention camps over a 12-year period in the late 1970s and 1980s. Many of the victims were members of the ANC's military wing who had opposed aspects of ANC policy. The abuses took place in several African countries, notably Angola, Zambia, Tanzania and Uganda - sometimes with the active collaboration of the government concerned. Following an ANC inquiry, ANC President Nelson Mandela accepted the organization's full responsibility for the abuses.

! In **Peru** the armed opposition *Partido Comunista del Perú (Sendero Luminoso)* (PCP), Communist Party of Peru (Shining Path), has summarily killed hundreds of municipal election candidates, mayors and other local and regional state officials and administrators. The PCP has also deliberately killed members of non-governmental human rights organizations; journalists; priests, nuns and other attached to the Roman Catholic and evangelical churches; political activists from across the political spectrum; and leaders of popular organizations not in sympathy with the PCP's aims and methods. In addition, the organization has summarily killed thousands of peasants accused of collaborating with the counter-insurgency forces or who refused to support the PCP.

! In **Colombia**, guerrilla organizations such as the *Fuerzas Armadas Revolucionarias de Colombia* (FARC), Revolutionary Armed Forces of Colombia, and the *Ejército de Liberación Nacional* (ELN), National Liberation Army, have carried out numerous attacks in which civilians have been deliberately killed. Scores of people have been kidnapped and held to ransom: some have been killed in captivity.

! In **India**, armed opposition groups have committed numerous human rights abuses in many states. In the state of Punjab, armed separatists have deliberately killed thousands of civilians. In Jammu and Kashmir, armed separatist groups have captured and killed civilians, taken hostages, tortured prisoners and raped women in their custody. In Andhra Pradesh, they have killed or mutilated alleged "informers".

! In **Sri Lanka**, Tamil militants of the Liberation Tigers of Tamil Eelam, seeking independence for the northeast of Sri Lanka, have committed numerous gross abuses of human rights including the massacre of hundreds of non-combatant Muslim and Sinhalese civilians in attacks on their communities and in attacks on buses and trains. They have tortured and killed prisoners, and abducted people for ransom. They have also executed prisoners whom they accused of being traitors.

! In the **United Kingdom**, members of the Irish Republican Army (IRA) have killed civilians in Northern Ireland and Britain, and have killed captive suspected informants. Other abuses have been committed in Northern Ireland by Protestant groups such as the Ulster Volunteer Force and the Ulster Defence Association. They have killed members of the minority Catholic community in random attacks they said were "reprisals" for IRA violence, as well as suspected informants.

! In **Spain**, members of the Basque separatist organization *Euskadi Ta Askatasuna* (ETA), Basque Homeland and Liberty, have deliberately killed civilians as well as members of the security forces in attacks.

! In **Turkey**, during 1993 alone, the Kurdish Workers' Party (PKK) carried out more than 200 "executions" of prisoners - including teachers, members of the government-organized village guard corps, and people suspected of being police informers. Members of the organization *Devrimci Sol*,

Revolutionary Left, have also killed several of their own members who were suspected of being informers.

! In **Algeria** and in **Egypt**, killings of police and civilians by militant Islamic groups have coincided with drastic clampdowns by the government and a sharp deterioration in respect for human rights. Some victims have been targeted by opposition groups solely on account of their views. In Egypt, for example, Farag Foda, a writer and vocal opponent of Islamic militant groups, was shot dead by two men in June 1992: responsibility for the killing was claimed by the opposition group *Al-Gama'a al-Islamiya*.

! In **Lebanon**, various militias have for years committed deliberate and arbitrary killings, especially during the civil war of 1975 to 1990.

! In the **Israeli-Occupied Territories**, Palestinians - including members of armed political groups - have killed hundreds of people in recent years. From January to May 1993, Palestinians killed up to 14 Israeli civilians and about 50 Palestinians, many of them suspected of "collaborating" with the Israeli authorities. Some of the victims were interrogated and tortured before being put to death.

! In **Iraq**, deliberate and arbitrary killings have been committed by opponents of the Iraqi government, notably in northern Iraq in areas under the control of the Iraqi Kurdistan Front (IKF) and, since July 1992, the Council of Ministers for the Kurdistan Region. In October 1991, for example, armed Kurdish units (*Pesh Merga*) summarily executed about 60 unarmed Iraqi soldiers in Sulaimaniya. An IKF investigation into the killings identified 14 Kurds as the suspected perpetrators, most of whom were affiliated to Kurdish political organizations. However, the suspects were released in 1992 after the IKF decided not to pursue the investigation.⁹

6. The attitude of governments

The clashes between governments and armed opposition groups involve not only force but also a battle of ideas. Just as an opposition group attempts to obtain legitimacy in the eyes of the public by decrying the policies and actions of the government, so will a government depict the aims and practices of an armed opposition group as "criminal" and "subversive".

The propaganda war extends to the atrocities perpetrated by the two sides. Opposition groups committing deliberate and arbitrary killings may present these as heroic deeds, the just actions of an "oppressed people". Governments, condemning the same actions as morally reprehensible, may use the threat as a pretext for their own harsh and unlawful practices - arbitrary arrest, torture, "disappearance", extrajudicial execution. Opposition groups likewise may use governmental human rights violations as an excuse for committing similar atrocities.

An organization attempting to combat human rights abuses is likely to find itself caught up in the propaganda war. Even though it tries to be impartial and objective, either side may say it is not. If it draws attention to human rights violations by government forces, the government may call on it to condemn the aims of the other side and accuse it of hypocrisy if it does not.

This governmental attack is intended to serve several purposes. If human rights organizations can be discredited, the government will find it easier to violate human rights without fear of exposure. The notion that human rights violations are justifiable reactions to non-governmental abuses, if accepted, will obscure the international obligation of governments to respect fundamental human rights in all

circumstances. The notion that governmental human rights violations and opposition group abuses somehow cancel each other out can obscure the many situations where the former are far more numerous than the latter. It may also obscure situations in which most of the victims from both sides are from among the same people, their "crime" having been to remain neutral or simply to be caught, defenceless, between implacable enemies.

Organizations working for human rights in different countries do so from a variety of perspectives. Some of those working to expose and combat extrajudicial executions have decided also to oppose deliberate and arbitrary killings by opposition groups. Others have chosen to focus their limited resources exclusively on the human rights obligation of governments, recognizing that governments are the authors and the addressees of the instruments setting forth international human rights standards.

Either decision should be respected. The valuable efforts of organizations and individuals around the world to document and combat "disappearances" and extrajudicial executions in their countries must be acknowledged and supported, not attacked and suppressed.

7. Action against deliberate and arbitrary killings

Armed opposition groups should take steps to ensure that their forces comply with minimum standards of humane behaviour. This should be reflected in the training of their forces and in the instructions issued to them. Armed opposition groups should:

! order their fighters to treat humanely prisoners, the wounded and those seeking to surrender, whether such people are civilians or members of the armed forces, and never to kill them;

! prohibit deliberate and arbitrary killings of non-combatants under any circumstances;

! conduct proper investigations into alleged abuses by their combatants in order to determine responsibility;

! ensure that individuals suspected of committing or ordering deliberate and arbitrary killings are removed from any position of authority or duties which bring them into contact with prisoners or others at risk of abuse.

Various means of action are open to non-governmental organizations working to end deliberate and arbitrary killings and other abuses by opposition groups:

! gathering objective information on these abuses and making it known;

! publicizing minimum standards of humane behaviour and the importance of adhering to them;

! appealing directly to leaders of armed opposition groups through such means as exchanges of correspondence, direct contacts and public appeals.

With armed groups which are well established and have achieved some degree of external recognition, contacts may be possible with their representatives in different countries or at the UN. With groups which are clandestine and have no office or postal address, indirect means of appeal must be sought, such as appeals through the news media.

Governments and others who provide support to opposition movements from abroad should convey to them the need to respect minimum standards of humane behaviour and not commit deliberate and arbitrary killings.

Notes

1. Noting that the Geneva Conventions do not contain a clear definition of the conflicts covered by common Article 3, the Commentary on the Third Convention published by the International Committee of the Red Cross (ICRC) states the opinion that "the scope of application of the Article must be as wide as possible." (*The Geneva Conventions of 12 August 1949; Commentary published under the general editorship of Jean S. Pictet...; III Geneva Convention...*, International Committee of the Red Cross, Geneva, 1960) The Commentaries have been published by the ICRC in four volumes - one volume on each Convention. The statement quoted above appears also in the Commentary on the Fourth Geneva Convention, and a similar statement appears in the Commentary on the First Convention.

2. Murder, hostage-taking and torture are prohibited also under Article 4 of Additional Protocol II to the Geneva Conventions. Additional Protocol II applies to armed conflicts between the armed forces of a state party to the Protocol and "dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operation and to implement this Protocol" (Article 1 (1)).

3. The ICRC Commentary on the First Geneva Convention stresses the advantages of an insurgent party to an armed conflict, "in revolt against the established authority", respecting the provisions of common Article 3, even though such an organization does not "represent a legal entity capable of undertaking international obligations". One such advantage would be the improvement of their image as an organization which respects minimum standards of humane behaviour. Furthermore, as the Commentary points out with reference to insurgents in revolt against a state party to the Geneva Conventions, "if the responsible authority at their head exercises effective sovereignty, it is bound by the very fact that it claims to represent the country, or part of the country." The same statement appears in the Commentaries on the Third and Fourth Geneva Conventions, and a similar statement appears in the Commentary on the Second Convention.

4. According to the ICRC Commentaries on the First and Fourth Geneva Conventions, this provision of common Article 3 "makes it absolutely clear that the object of the Convention is a purely humanitarian one, that it is in no way concerned with the internal affairs of States, and that it merely ensures respect for the few essential rules of humanity which all civilized nations consider as valid everywhere and under all circumstances and as being above and outside war itself." A similar statement appears in the Commentary on the Third Convention.

5. Recently several attempts have been made to draw up minimum standards of humane behaviour. For example, the participants in an expert meeting convened by the Institute for Human Rights at Åbo Akademi University in Turku/Åbo, Finland from 30 November to 2 December 1990 adopted a "Declaration of Minimum Humanitarian Standards". The text was forwarded to the UN in a *Working paper submitted by Mr. Theo van Boven and Mr. Asbjorn Eide* to the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (UN document No. E/CN.4/Sub.2/1991/55, 12 August 1991) and was reprinted in the *International Review of the Red Cross*, No. 282, May-June 1991, pages 328-336. Two earlier sets of proposed minimum standards of humane behaviour are the "Code of Conduct in the Event of Internal Disturbances and Tensions" and the "Draft model Declaration on internal strife", contained in: Hans-Peter Gasser, "A Measure of Humanity in Internal Disturbances and Tensions: Proposal for a Code of Conduct", and Theodor Meron, "Draft Model Declaration on Internal Strife", published in the *International Review of the Red Cross*, No. 262, January-February 1988, pages 38-58 and 59-76 respectively. Like common Article 3, all three of these draft instruments

prohibit "murder", and all three also explicitly prohibit "disappearances".

6. As stated in the ICRC Commentaries on the First, Third and Fourth Geneva Conventions, common Article 3 "merely demands respect for certain rules, which were already recognized as essential in all civilized countries, and enacted in the municipal law of the States in question, long before the Convention was signed."

7. See Louise Doswald-Beck and Sylvain Vité, "International Humanitarian Law and Human Rights Law", *International Review of the Red Cross*, No. 293, March-April 1993, pages 94-119.

8. As one expert has written, certain norms stated in common Article 3, including the prohibition of torture and murder, are "of such an elementary, ethical character, and echo so many provisions in other humanitarian and human rights treaties, that they must be regarded as embodying minimum standards of customary law also applicable to non-international armed conflicts" (Theodor Meron, *Human Rights and Humanitarian Norms as Customary Law*, Clarendon Press, Oxford, 1989, page 34). The importance of a norm's *customary* character is that such a norm is binding on states that are not parties to the instrument in which that norm is restated (*op. cit.*, page 3).

9. For more examples of deliberate and arbitrary killings by armed opposition groups, see Chapter 7, section 7 and *Getting Away with Murder; Political Killings and 'Disappearances' in the 1990s*, Amnesty International Publications, London, 1993, pages 38-48.