

The Ethical Witness: The International Committee of the Red Cross

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How are we to understand the ethics of humanitarian organizations as they act as witnesses to situations of armed conflict? How do the ethics of a humanitarian organization influence its silence or speech with regard to particular situations of armed conflict? How is this silence or speech interpreted as a moral failure or a moral success of a humanitarian organization? These questions are central to my concern with the ethics and politics of humanitarianism. These questions have relevance to undertakings of humanitarian organizations in a historical sense during the period of the Second World War to the present day conflicts in Iraq and Afghanistan.

I am interested in exploring these questions by presenting a close study of ethics as articulated by Giorgio Agamben in his book *Remnants of Auschwitz: The Witness and the Archive*.¹ I am particularly interested in his concept of the witness as an ethical entity charting the topography of political violence. By positing the International Committee of the Red Cross (ICRC) as a witness to the holocaust, I am interested in observing how Agamben's perspective on ethics provides new insights into understanding the ethics of a humanitarian organization and how it is important for a thinker's engagement with ethics to be grounded in an empirical reality experienced by humanitarian actors.

The International Committee of the Red Cross has been severely critiqued for its silence in public with regard to the violence of the holocaust. The absence of a public condemnation by the ICRC of the Nazi regime has been castigated as a "moral error".² It has been considered a failure of moral authority in the exercise of judgment by a humanitarian organization committed to the protection of human beings in situations of armed conflict.³ This failure has been considered as the darkest chapter in the history of the ICRC. It has raised questions about the moral integrity of an organization championing the principles of universality, independence, impartiality, and neutrality.⁴ Jean Claude Favez, a noted historian, in his seminal work on *The Red Cross and the Holocaust* observes that the ICRC failed morally because, "it did not take the supreme risk of throwing the full weight of its moral authority into the scales on behalf of these particular victims... We have no choice but to recognize that it should have spoken out."⁵ This criticism has posed a severe challenge to the ICRC's ability to undertake humanitarian action in the field of protection. The ICRC is now faced with a recurrent moral dilemma of speaking out or remaining silent in situations of armed conflict. The question is how do we understand the ethics behind the ICRC's decision to remain silent in the face of the holocaust?

¹ Giorgio Agamben, *Remnants of Auschwitz: The Witness and the Archive*, (New York: Zone Books, 2002).

² Daniel Warner, (2005). "Naming and Shaming: The ICRC and the Public/Private Divide," *Millennium: Journal of International Studies*, 34(2): 459.

³ Ibid.

⁴ David P. Forsythe, (2005). "Naming and Shaming: The Ethics of ICRC Discretion," *Millennium: Journal of International Studies*, 34(1): 462.

⁵ Jean Claude Favez, *The Red Cross and the Holocaust*, edited and translated by John and Beryl Fletcher, (Cambridge: Cambridge University Press, 1999), 282.

It is possible that we can understand the ethics of silence as practiced by the ICRC if we conceive of it as a witness to the holocaust. What kind of witness? A witness that has experienced the event from the beginning to the end. A witness that possesses a memory of “things seen at close hand.”⁶ A “superstes witness” capable of bearing testimony to the events as experienced.⁷ Agamben classifies the superstes witnesses under several rubrics. On the one hand, there is Primo Levi, the “perfect example of the witness... the ‘proxy witness,’ a superstite who has survived and recounts his experiences in Auschwitz.”⁸ On the other hand is the Muselmann, the “complete witness” or the “true witness,” the one who could not survive, and is unable to recount his experience?⁹

The superstite witnesses can be considered as moving in a continuum of speech and silence as they experience the violence of a situation. On the one hand, the proxy witness represents the pole of speech and on the other hand, the complete witness, the Muselmann, represents the pole of silence. It is within this continuum of speech and silence that I seek to identify the ICRC as a superstes witness to the holocaust. I consider the ICRC delegates and committee members as those superstes witnesses, who are able to speak as individual voices to narrate their experiences. Further, the ICRC is the superstes witness embodying a collective of all these individual experiences of witnesses which is finally completely mute and totally silent.

The ICRC’s proximity to the victims of the holocaust is an established fact.¹⁰ The ICRC delegates visited the Nazi camps at Dachau, Esterwegen, and Oranienburg prior to the war in 1935, 1936, and 1938. From 1942 onwards ICRC delegates met concentration camp commanders at Auschwitz, Ravensbruck, Buchenwald, Theresienstadt, and Mauthausen. In Slovakia and in Hungary, ICRC delegates walked parallel to the victims of the death marches offering them food and drink. In 1945 as the Allies began to gain victory the ICRC was the first humanitarian actor to enter these camps. It was the first among the international actors to witness the brutalities of the Nazi regime inside the camps.

In 1939, the ICRC appointed delegates, Dr. Marcel Junod to Germany, Edouard Frick to France, Rodolphe Haccicus to Great Britain, and Robert Brunel to Poland, to list a few.¹¹ These delegates in their testimonies recounted their experiences whereas the ICRC observed a total silence. For example, Dr. Marcel Junod in his autobiography, *Warrior Without Weapons*, notes,

But there were other camps which were always in our minds: the camps where the Russians were held, certain Polish camps which had been withdrawn from our list on the pretext that

⁶ Agamben, 34.

⁷ Ibid., 17.

⁸ Ibid., 16, 34.

⁹ Ibid., 47.

¹⁰ Hugo Slim, (2001). “Humanitarianism and the Holocaust: Lessons from ICRC’s Policy towards the Jews,” *The International Journal of Human Rights*, 5(1): 130.

¹¹ Andre Durand, *From Sarajevo to Hiroshima: History of the International Committee of the Red Cross*, (Geneva: Henry Dunant Institute, 1984), 404.

they were now voluntary labor camps, and above all, those cursed places surrounded in mystery and secrecy where we knew that human beings were suffering anguish of mind and body: the concentration camps.¹²

The ICRC did not issue any public statement to this effect. It observed total silence.

Agamben has designated the continuum between the two poles of speech and silence as the gray zone.¹³ The gray zone is an area of indistinction in which one observes the complicit relationship between a normal situation and an exceptional situation. The complicity makes it possible for one to illuminate the other but it is possible that in the extreme situation, a state of exception can lead to a state of “absolute immanence” of “everything being in everything.”¹⁴ The relationship of violence in the extreme situation is such that it, “acts upon a body or upon things; it forces, it bends, it breaks, it destroys, or it closes off all possibilities. Its opposite pole can only be passivity, and if it comes up against any resistance it has no other option but to try to break it down.”¹⁵ In this situation the relations of violence are such that “victims become executioners and executioners become victims,” rendering judgment impossible.¹⁶

Agamben observes that for the witness it is not judgment per se that is of any importance, rather it is the “impossibility of judgment” that is considered to be of ethical import.¹⁷ In making this distinction between judgment and impossibility of judgment, Agamben classifies the former in the domain of law and the latter in the domain of ethics. He insists that for the witness this separation is important because the superstes witness is not interested in “a deposition in the juridical sense, but something that is at once a lament, a curse, an expiation, an attempt to justify and rehabilitate oneself.”¹⁸

Yet when confronted with the holocaust, one finds the superstes witness, the ICRC, working in conformity to international law. It seeks to extend its protection to the victims according to the Geneva Conventions of 1929 and the Tokyo Draft of 1934. The Geneva Conventions of 1929 provide for humane treatment of the armed forces prisoners of war and the Tokyo Draft was a draft initiated by the ICRC for the protection of civilians before the outbreak of the war. These legal instruments were deemed to be important to attenuate the evils of war in a society, which “acknowledged no higher reality – in judicial terms – than that of the nation state.”¹⁹ But the Conventions seemed powerless at a time when nations were annexed and occupied people could no longer be protected by their own government but were persecuted because of their ideology,

¹² Marcel Junod, *Warrior Without Weapons*, (London: Jonathan Cape, 1951), 221.

¹³ Agamben, 21.

¹⁴ *Ibid.*, 50.

¹⁵ Vivienne Jabri, (2005). “Critical Thought and Political Agency in Time of War,” *International Relations*, 12(1): 75.

¹⁶ Agamben, 21.

¹⁷ *Ibid.*, 17.

¹⁸ Primo Levi, *The Drowned and the Saved*, trans. Raymond Rosenthal, (New York: Random House, 1989), 52-53, cited by Agamben, 24.

¹⁹ Favez, 274.

opinions, religion, and race.²⁰ This makes one pause and reflect whether Agamben has adequately taken note of the witness' experience of relating law to ethics or whether the witness itself has acted in judicial interest violating the demands of ethics?

Agamben in separating the domain of law from the domain of ethics is not suggesting that the legal consequences are unimportant or irrelevant. On the contrary, he asserts that one cannot assume moral responsibility without at the same time accepting the legal consequences of one's actions with regard to oneself and others.²¹ This does not necessarily have to be in the form of a 'testis' witness, one that provides testimony as a third party in a trial but rather as one that can take responsibility for one's own actions and inactions with regard to oneself and others.²² The ICRC has not faced any legal consequences for its action. The ICRC does not take part in judicial proceedings as this might impede its operational activities during armed conflict.²³ Nevertheless its exercise of judgment is law driven. While Agamben makes no distinction between natural law and positive law, the ICRC emphasizes that its actions governed by international humanitarian law find resonance in natural law and morality. To quote Jean Pictet, "We would therefore define natural law, the source of humanitarian law, as all the rights which every man demands for himself and which he is at the same time prepared to accord to others."²⁴ The ICRC's understanding of natural law is not immanent or eternal but rather something that is to be interpreted in a particular time and place. During the period of the holocaust, the ICRC insists that it acted in accordance with its legal mandate. It did not issue a public appeal condemning the Nazi regime or issue a special call for protection of the Jews as this could jeopardize its work of protection to the prisoners of war and could also be considered a violation of its principles of impartiality and neutrality.

It is important to note here that claims of the ICRC that it was acting only according to the law did not prevent the ICRC delegates in the field from subverting the law. These delegates issued forged documents to the victims in an attempt to secure their safe passage from the zone of conflict to Switzerland. This shows that among the delegates acting in the field there was awareness that ethical action while supportive of the need to act according to the law demands that in extreme situations these laws be questioned. It is this knowledge that empowers the ICRC's prerogative to exercise the Right of Initiative. The failure of the ICRC to exercise this right during the holocaust has subjected the ICRC's ethics to severe critique. The ICRC has sought to deflect this criticism by stating that, "the entire western world failed to respond adequately to the

²⁰ Durand, 574.

²¹ Agamben, 22-23.

²² Ibid., 17.

²³ "The ICRC Privilege Not to Testify: Confidentiality in Action," (2002) *International Review of the Red Cross*, 845: 207-219

<<http://www.icrc.org/web/eng/siteeng0.nsf/iwpList498/C944B40CB4B5EA71C1256BA700...7/15/2005>>.

²⁴ Jean Pictet, (1966). "The Principles of International Humanitarian Law," *International Review of the Red Cross*, 6(66): 462.

holocaust and the ICRC was part of that failure.”²⁵ This statement only goes to show that the ICRC inhabited the gray zone, the zone of indistinction where it failed to adequately distinguish between ethical and legal responsibility. In trying to make a judgment in terms of law the ICRC failed to realize that ethics demands recognition of impossibility of judgment and an unassumable responsibility.

What is unassumable responsibility? Agamben suggests that unassumable responsibility is to be borne by a witness. It is a simple, faithful acknowledgement of a possibility that an extreme situation sometimes demands a responsibility “that is infinitely greater than we could ever assume.”²⁶ This does not mean inaction but rather a compulsion to resist one’s own sense of fear of looking at the Gorgon and to respond to that, which “calls and addresses the human.”²⁷ That which calls out to the human might be a neomort, or just bare life. Acknowledging this bare life makes it necessary to look at the Gorgon and carries with it the risk of a possibility of getting transformed into a complete, mute witness oneself. Unassumable responsibility also requires one not to pass “summary judgments” concerning the human.²⁸ It recognizes the “common necessity of degradation,” the loss of “humanity and responsibility” that accompanies life in a state of exception.²⁹ It recognizes that degradation and the loss of dignity does not erase the possibility of bare life and “to speak of dignity and decency” when confronted with bare life would not be decent.³⁰ It necessitates that the witness consider it impossible “to exclude a part of humanity, no matter how unpleasant or difficult that humanity is to see.”³¹

The possibility of a bare life arises because of the human ability to undergo a series of biological caesuras.³² These caesuras mark a process of regressive division and isolation to a degree that human life transcends all possible claims to any biopolitical identity except that of the mute witness. The mute witness is the complete witness, a Muselmann, to be treated as a new biopolitical substance, incapable of experiencing anymore caesuras so much so that the death of a neomort is a mere epiphenomenon. In taking note of bare life, Agamben suggests that the proxy witness experiences feelings of guilt and shame. The witness questions its own survival. Agamben explains the possibility of a witness experiencing these feelings in terms of processes of subjectification and desubjectification. To quote Agamben, “It is as if our own consciousness collapsed and, seeking to flee in all directions, were simultaneously summoned by an irrefutable order to be present at its own defacement, at the expropriation of what is most its own.... This double movement which is both subjectification and desubjectification is shame.”³³

²⁵ David P. Forsythe, *The Humanitarians: The International Committee of the Red Cross*, (Cambridge: Cambridge University Press, 2005), 50.

²⁶ Agamben, 21.

²⁷ *Ibid.*, 54.

²⁸ *Ibid.*, 46.

²⁹ *Ibid.*, 60.

³⁰ *Ibid.*

³¹ *Ibid.*, 64.

³² *Ibid.*, 80-85.

³³ *Ibid.*, 106.

How did the ICRC address the problem of responsibility? How and when did the ICRC recognize the unassumable nature of responsibility? How did the ICRC face the Gorgon? How did the ICRC resist the Gorgon? How did the ICRC acknowledge bare life? How did the ICRC address its feelings of shame and guilt? Andre Durand in his *History of the International Committee of the Red Cross: From Sarajevo to Hiroshima* provides a time line to ICRC's response to the holocaust.³⁴ Durand suggests that in the first phase, from the start of the war to the spring of 1940, the ICRC's efforts were devoted to making the belligerents accept the Tokyo draft. During this period, the ICRC had no information about concentration camps other than what it possessed before the war. Its delegates Dr. Descouedres and Dr. Marti made a "technical visit" to the camp Buchenwald where they observed "the striking contrast between the camp installations – up-to-date and spotlessly clean – and the automatism, the dazed and apathetic behavior of the inmates, and the rigidity and the apparent terror with which the least order was obeyed."³⁵ Dr. Descouedres in his report to the ICRC commented, "As we left the camp and the comfort of the officers' mess and quarters, built entirely by this unpaid labor force, we were mulling over some very strange thoughts in our minds."³⁶

In the second phase, from 1940 to 1943, when the Axis powers occupied most of Europe, the ICRC was refused any assistance by the German Red Cross. The ICRC's attempts to approach the German Ministry of Foreign Affairs were ineffective as all matters concerning concentration camp detainees were now controlled by the German Ministry of Interior, the Gestapo. The ICRC was repeatedly denied access to the concentration camps "for imperative reasons of national security, visits to camps and other places where detainees are held are unfortunately not possible."³⁷

The third phase, from February 1943 to January 1945, saw the ICRC undertake practical and local activities to bring aid to the deportees. The ICRC started a Concentration Camp Parcel Service. The delegates of the ICRC without authorization established contacts with concentration camp commanders and discussed matters pertaining to dispatch of parcels and the signature of the receipts by the deportees but could not go any further. The ICRC possessed information about systematic methods of extermination in the concentration camps, "ill treatment to the point of torture, under-nourishment, gas chambers, cremation ovens, pseudo-medical experiments on deportees."³⁸

During the fourth phase, from February 1945 to the end of the war, the ICRC President negotiated directly with the German authorities to give it access to the camps.³⁹ It was agreed that the ICRC would assume the responsibility for all concentration camp internees. However, when the ICRC delegates sought to assume control of the camps they met with resistance from the camp commanders. The late arrival of the ICRC

³⁴ Durand, 575-608.

³⁵ Ibid., 577.

³⁶ Ibid.

³⁷ Ibid., 589.

³⁸ Ibid., 588.

³⁹ Favez, 8.

delegates and their limited resources did not do much to ameliorate the conditions of the camp inmates or bring order to the mayhem. The access to the camps in the last three months of the war made it possible for the ICRC to verify the extermination methods deployed by the Nazis in the camps.

It can be observed that until 1942, the International Committee of the Red Cross was preparing itself to assume responsibility for the victims of the war. It was trying to face the Gorgon. Nevertheless as it came closer to the Gorgon and received reports leading it to conclude that the Nazi regime was pursuing a policy of systematic extermination especially against the Jews, the ICRC resisted the truth. It decided not to come face to face with the Gorgon. On 14 October 1942, the ICRC decided not to issue a statement condemning the Nazi regime. The processes of subjectification and desubjectification had come full circle. The ICRC succumbed to the fear of the Gorgon. It feared for its own survival. Its resistance to face the Gorgon can only be interpreted as the witness' awareness of the possibility of its own transformation, its own desubjectification.

The ICRC feared that a public condemnation might result in quick reprisal from the Nazi regime. This might adversely affect its activities to protect the prisoners of war. The Allies too were more interested in their own prisoners of war than the Jewish question. The ICRC also had to consider the possibility of an estranged relationship between the ICRC and the Government of Switzerland as the latter was committed to a policy of neutrality and feared a Nazi invasion. Moreover, with its policy of impartiality, it was difficult for the ICRC to speak in favor of one group, the Jews. Consequently, the ICRC did not mention the Jews specifically in any discussion of its strategies and operations and “bought into the Nazi taboo on discussing the Jews.”⁴⁰ The ICRC failed to accept individual responsibility as an international actor which is more significant than the collective responsibility of all international actors. Although one can understand the difficulty in assuming such responsibility as there was according to Agamben “a widening of the abyss between subjective innocence and objective guilt, between what he did do and what he could feel responsible for, that he cannot assume responsibility for any of his actions.”⁴¹

The fact that the ICRC was only too conscious of its inability to assume responsibility becomes clear in the sense of shame felt by its committee members and the ICRC delegates. While in 1935, the ICRC wanted to assume responsibility, it noted that its “prestige is not compromised when, having done all it can to defend a humanitarian cause, it suffers a setback. What damages its authority is doing nothing or acting with excessive prudence.”⁴² Yet from 1942 onwards, the ICRC seems to be overwhelmed by its own inability to shoulder “its responsibilities toward Switzerland and a deeply distressed world.”⁴³ The total sense of shame and helplessness comes across in a letter by Mme. Frick, to the ICRC in 1944, “If nothing can be done, the

⁴⁰ Hugo Slim, “Humanitarianism and the Holocaust: Lessons from ICRC’s Policy towards the Jews,” 135.

⁴¹ Agamben, 97.

⁴² Neville Wylie, (2002). “The Sound of Silence: The History of the International Committee of the Red Cross as Past and Present,” *Diplomacy & Statecraft*, 13(4): 194.

⁴³ *Ibid.*, 196.

wretched victims should be sent the means of committing suicide; this would perhaps be more humane than giving them food.”⁴⁴

One has to understand these statements of shame and helplessness issued by members of the ICRC in the context of Primo Levi’s statement interpreted by Agamben as an injunction: “Consider if this is a man.”⁴⁵ What is the ICRC’s understanding of the human? How does the ICRC as a witness interpret the problem of survival? Is the ICRC’s interpretation of the human in keeping or contrary to Agamben’s idea of the human or bare life? Agamben’s understanding of the human is not confined to possession of an inner awareness, a psychological barrier against debasement of the human or the obligation to communicate due to possession of language. For Agamben, “human power borders on the inhuman, the human also endures the non-human...humans bear within themselves the mark of the inhuman, that their spirit contains at its very center the wound of the non-spirit, non-human chaos atrociously consigned to its own being capable of everything.”⁴⁶ In other words, to be human is to be capable of everything. The survival of a human is a question of a possibility of a “double survival” whereby that which is human can survive the inhuman and the inhuman can survive the human.⁴⁷ To quote Agamben, “What can be infinitely destroyed is what can infinitely survive.”⁴⁸ Survival is to be understood as an activity to reach an “essentially mobile threshold” between the “living being and the speaking being, *Zoë* and *bios*, the inhuman and the human.”⁴⁹

What is the ICRC’s understanding of the human? How did the ICRC survive the holocaust? An insight into the ICRC’s understanding of the human can be gained from its approach to questions of war and peace, human rights, and humanitarian law during the period of the holocaust. To begin with, during this period the ICRC made no ethical or juridical distinction between human rights and humanitarian law. This distinction is a post Second World War phenomenon. During the period of the holocaust, the ICRC conceived of the human in simple terms of war and peace. The ability of man to wage war and suffer brutalities persuaded the ICRC that war was inevitable and one could only seek to humanize war. The effort to humanize war was an endeavor of man in times of peace to reaffirm that which is good in man. To quote the ICRC:

Right before our eyes, there are so many examples of violence, arbitrary exercise of power, injustice and contempt for the most basic principles of humanity that we are compelled to recognize that the spirit of war predominates the spirit of peace. The more or less veiled refusal to concede to large communities of people the right to their national identity, discrimination against certain minorities, obstacles to the essential freedoms of the individual—all these testify to the spirit of war. The will to destroy an adversary, whether physically or morally; the killing of innocent people; the systematic practice of torture and terror; the deliberate teaching of hatred: all are diametrically opposed to true peace—and

⁴⁴ Ibid., 194.

⁴⁵ Primo Levi, *Survival in Auschwitz and the Reawakening: Two Memoirs*, trans. Stuart Woolf, (New York: Summit Books, 1986), 9-11, cited by Agamben, 58.

⁴⁶ Agamben, 76.

⁴⁷ Ibid., 151.

⁴⁸ Ibid.

⁴⁹ Ibid., 156.

thus to the principles of the Red Cross. And we, who are here, all representatives of the Red Cross, should not be afraid to say so.⁵⁰

The ICRC's views on man's engagement with war and peace can be considered as equivalent to Agamben's idea of that which is non-human and human in man respectively.

The ICRC considers man as one with inalienable rights. The most basic of this right is the right to life. The recognition of this right is dependent on the individual's relationship with the state. The possibility of a violation or threat to this right becomes most acute when states wage war against each other. By regulating relations among states during war, the ICRC seeks to protect the human. J. Patrnoic observes,

The Geneva Conventions should be considered as a specific kind of protest against war. The Conventions regulate the protection of some basic human rights. War is a negation of the rights of a human being, so fixing of obligations contained in the Conventions, the detailed regulation of the protection of elementary human rights for such large categories of people, as it is done in the Conventions, represents something that stands against the conception of the annihilation of humans.⁵¹

The ICRC conceived of the human as entitled to the protection of law. At the time of the holocaust, the ICRC sought to advance this protection of law to the human through international humanitarian law which is a matter of public international law but refrained from intruding into the domain of domestic institutional law or what is now conceived as human rights law as this could threaten its relationship with states and their identity based on sovereignty. The ICRC's attempt to protect the human through law at the time of the holocaust resulted in the survival of a remnant, a humanitarian witness and its testimony to that which is human.

To be human is to possess an identity. The ICRC's understanding of the human is a premise for its humanitarian identity. For Agamben, the constitution of an identity depends on a subjectivity that constitutes the subject through a division of that which is possible from that which is not possible, not just to live or die but also to survive. The subject is constituted with the help of ontological operators such as 'contingency' and 'possibility' and a subject is diminished and destroyed by ontological operators such as 'necessity' and 'impossibility'.⁵² The subject itself does not choose the ontological operators but is "a field of forces always already traversed by the incandescent and historically determined currents of potentiality and impotentiality, of being able not to be and not being able not to be."⁵³ It is important to note that Agamben is not interested in a "realized identity" but in the possibility of a new identity and its testimony.⁵⁴

⁵⁰ "The Red Cross and Peace: The Alleviation of War Victims' Suffering- A Red Cross Contribution to the Promotion of Peace," (1975). *International Review of the Red Cross*, 173: 381.

⁵¹ J. Patrnoic, (1968). "The Red Cross as a Factor of Peace," *International Review of the Red Cross*, 8(87): 285.

⁵² Agamben, 146-147.

⁵³ *Ibid.*, 147.

⁵⁴ *Ibid.*, 159-160.

How do these ontological operators come into play in constituting the ICRC's humanitarian identity during the holocaust? How is the ICRC's identity transformed as a result of its experience of the holocaust? Throughout the period of the holocaust, one comes across terms like necessity, impossibility, contingency, and possibility in the discourse of the ICRC. The ICRC constantly insists that it was necessary for it to act according to its legal mandate. It was impossible for it to possess any inside information about activities inside the concentration camps as its delegates were repeatedly denied access to these camps. Under these circumstances it was only possible for it to make 11,000 detention visits, provide 445,702 tons of relief, and register and assist 30 million persons in one way or another.⁵⁵ Any appraisal of the success or failure of these activities is contingent to the prevailing political climate of violence. It was this prevailing political climate of violence that induced the ICRC to a state of silence.

At the time of the holocaust, the ICRC was perceived as an international actor with a humanitarian identity in international politics complementing and not challenging state activities at the time of war. The ICRC's efforts to act as a champion of international humanitarian law were based on the premise "that the birth of humanitarian law was due to the opposition between humanity, which calls for man's benefit, and necessity, according to which the maintenance of public order justifies the use of force and the state of war justifies recourse to violence."⁵⁶ As such, the ICRC believed in securing respect for the human being and his development to "the fullest extent compatible with public order and, in time of war, with military necessity."⁵⁷ The constant refrain in the ICRC's discourse on necessity and impossibility during the period of the holocaust had a debilitating impact on its humanitarian identity. The ICRC came to be considered as an actor subservient to the state.

The silent testimony of the ICRC to the holocaust did not ameliorate the ethical value of its identity as a witness. To quote Agamben, a testimony "is a potentiality that becomes actual through an impotentiality of speech; it is moreover, an impossibility that gives itself existence through a possibility of speaking. These two movements cannot be identified either with a subject or with a consciousness; yet they cannot be divided into two incommunicable substances. Their inseparable intimacy is testimony."⁵⁸ For Agamben, the ethical value of a witness' testimony cannot be denied, if it "bears witness not to the gas chambers or to Auschwitz but to the Muselmann, if he speaks only on the basis of an impossibility of speaking."⁵⁹

⁵⁵ Report of the International Committee of the Red Cross on its Activities during the Second World War, (Geneva: ICRC 1948), 3 volumes and annexes cited by David P. Forsythe in his book, *The Humanitarians: The International Committee of the Red Cross*, (Cambridge: Cambridge University Press, 2005), 42.

⁵⁶ F. Siordet, (1968). "The Red Cross and Human Rights," *International Review of the Red Cross*, 8(84): 118.

⁵⁷ Ibid.

⁵⁸ Agamben, 146, 164.

⁵⁹ Ibid., 164.

The ICRC maintains that it did not possess any “inside information” on the camps and its inmates.⁶⁰ Andre Durand notes, “The particulars it obtained came from released or escaped deportees and from reports and newspaper articles sent by bodies which gathered such testimony.”⁶¹ The ICRC seeks to focus attention on the factor of time that played into the ICRC’s ability to take a decision on the basis of the information received from its delegates.⁶² The ICRC seeks to make the problem of political violence a technical issue by emphasizing the legal mandate within which a victim has to be classified in order to be provided protection. These impossibilities defined that which was possible. The possibility expressed itself in the silent testimony of the ICRC. This silent testimony makes one pause and reflect on questions of time and history.

The silent testimony of the ICRC to the holocaust has with time raised questions about the “rule of silence” practiced by the ICRC.⁶³ These concerns are now being voiced in the context of the ongoing “war on terror.”⁶⁴ The ICRC is a witness to the wars in Afghanistan and Iraq. The victims of these wars are now being detained and deported to places like Guantanamo Bay. How has the ICRC as a superstes witness established its presence in these extreme situations of violence? How has it traversed the gray zone as an actor confronted with the problem of impossibility of judgment? How has it addressed the question of unassumable responsibility with regard to these conflicts? How has it sought to protect the human? How have the ontological operators such as possibility, impossibility, contingency, and necessity shaped the identity of the witness and its ability to address these situations? How has this influenced the ability of the witness to provide a testimony? How ethical is the witness and its testimony? These extreme situations are still unfolding. The ICRC as an actor is engaged in witnessing these events. Its testimony is still beyond the subject of writing, speech, or silence. My purpose here is to provide a historical perspective within which to address these questions. My paper is a pause at a moment in history and an enquiry into the ethics of an agency. My purpose is to delineate a historical framework within which the changes in the ICRC’s testimony to contemporary wars can be interpreted. This historical perspective is necessary before we invest too much moral authority and legitimacy in humanitarian international non-governmental organizations as witnesses to situations of armed conflict.

⁶⁰ Durand, 606.

⁶¹ Ibid.

⁶² Favez, 9.

⁶³ J. D. Armstrong, (1985). “The International Committee of the Red Cross and Political Prisoners,” *International Organization*, 39(4): 633.

⁶⁴ US National Security Strategy Document, (2006). <<http://www.whitehouse.gov/nsc/nss/2006/sectionIII.html>>.

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