



LAW amusements



Eccentric English Laws

All of these extracts have been taken directly from the old, dusty English Statute collection.

T for thief
In the very active 1623 session of Parliament, the men of the Commons considered a very gallant piece of legislation eventually endorsed by James I, which became known as AN ACT CONCERNING WOMAN CONVICTED OF SMALL FELONIES.

Women, like men and children, were being executed summarily for small crimes. English society was slowly evolving and a segment found the execution of woman for small crimes (such as theft of something of small value), disgraceful or barbaric.

That segment found the ear of Parliament and the rest is history:

"Whereas by the laws of this realm ... many women do suffer death for small causes;

"Be it enacted by the authority of this present Parliament, that any woman be lawfully convicted by her confession or by the verdict of 12 men, or for the felonious taking of any money, goods or chattels above the value of 12 pence and under the value of 10 shillings, or as accessory to any such offence, the said offence being no burglary nor robbery in or near the highway, shall for the first offence be branded and marked in the hand, upon the brawn of the left thumb with a hot burning iron having a Roman T upon the said iron, the said Mark to be made by the gaoler openly in the court before the judge; and also to be further punished by imprisonment, whipping, stocking or sending to the house of correction in such sort, manner and form, and for so long time (not exceeding the space of one whole year) as the judge ... before whom she shall be so convicted ... shall in their discretion think meet according to the quality of the offence...."

Bullcrap, I say. Bullcrap!

1623 would see more wild and crazy laws as James I also approved a bill put forward by his Parliament, AN ACT TO PREVENT AND REFORM PROFANE SWEARING AND CURSING.

The legislation implemented harsh justice upon foulmouthed offenders, especially the kids:

"Forasmuch as all profane swearing and cursing is forbidden by the Word of God, be it therefore enacted by the authority of this present Parliament, that no person or persons shall from henceforth profanely swear or curse. And that if any person or persons shall at any time or times hereafter offend herein... or shall therefore be convicted by the oaths of two witnesses or by confession of the party... every such offender shall for every time so offending forfeit and pay to the use of the poor of that parish where the same offence is or shall be committed, the sum of 12 pence.

"The offender, if he or she be above the age of 12 years, shall by warrant from such justice of the peace or head officer be set in the stocks by three whole hours; but if the offender be under the age of 12 years, and shall not forthwith pay the said sum of 12 pence, then he or she... shall be whipped by the Constable, or by the parents or master in his presence."

Please, no malicious maiming and wounding

Because intentional meaning and wounding was still a part of the English law of sentencing, in particular statute had to prohibit "malicious" maiming and wounding.

The context was a serious assault upon the person of John Coventry, who was a Knight and a member of the House of Commons. The old boys club quickly rounded up the members of the House of Commons and they struck a law which the King, Charles II signed into law.

The statute was unique and not just because of its name: AN ACT TO PREVENT MALICIOUS MAIMING AND WOUNDING.

Symptomatic of the charged an emotional context in which it was drafted, the statute had a long preamble which refers to the suspects as having "fled from justice, not daring to abide a legal trial".

What was particularly quaint about this statute was section VII, inserted almost as an afterthought and presumably out of an abundance of caution, and which contains a requirement that the prosecuting attorney prove that the accused intended to maim whilst cutting the victims tongue:

"For the prevention of like mischiefs for the time to come, be it further enacted by the authority aforesaid, that any person or persons... on purpose and of malice forethought, and by lying in wait, shall unlawfully cut off or disable the tongue, pull out and it, slit the nose, cut off a nose or lip, or cut off or disable any Lim or member of any subject of his Majesty, with intention in so doing to maim or disfigure in any the manners the before mentioned such his Majesty's subjects, that band and every such case the person or persons so offending... shall be and are hereby declared to be felons, and shall suffer death...."

HUMAN RIGHTS monitor

ILO report reveals shocking details on coercion

ILO has published a new study on the patterns of forced labour worldwide. The International Labour Office (ILO) says the "opportunity cost" of coercion to the workers affected reaches over USD 20 billion per year.

The new report, entitled The Cost of Coercion also details the growing number of unethical, fraudulent and criminal practices that can lead people into situations of forced labour, and calls for increased efforts to eradicate the practices. The report also charts the significant progress on the international and national levels in reducing and preventing forced labour, but warns of the possible impact of the global economic and jobs crisis.

"Forced labour is the antithesis of decent work", said ILO Director-General Juan Somavia. "It causes untold human suffering and steals from its victims. Modern forced labour can be eradicated, providing there is a sustained commitment by the international community, working together with government, employers, workers and civil society." This presents a powerful economic argument, as well as a moral imperative, as to why governments must now accord higher priority to these concerns.

Noting that it was being issued amid the worst economic and financial crisis for many decades, the ILO report added that "in such a crisis situation, it is the vulnerable who suffer the most. At such times it is all the more necessary to ensure that adjustments are not made at the expense of the safeguards that have been painstakingly put in place to prevent forced labour and trafficking abuse in supply chains".

The study paints a mixed picture of global efforts to combat forced labour. While most countries have introduced legislation that deals with forced labour as a criminal offence and the issue itself is no longer hidden or taboo, others are finding it difficult to identify cases of abuse, let alone define the adequate policy responses.

The report points out that among the intensified international and national efforts to reduce and prevent forced labour, are new laws and policies at national and regional level as well as a growing provision of social protection for those most at risk of forced labour and trafficking.

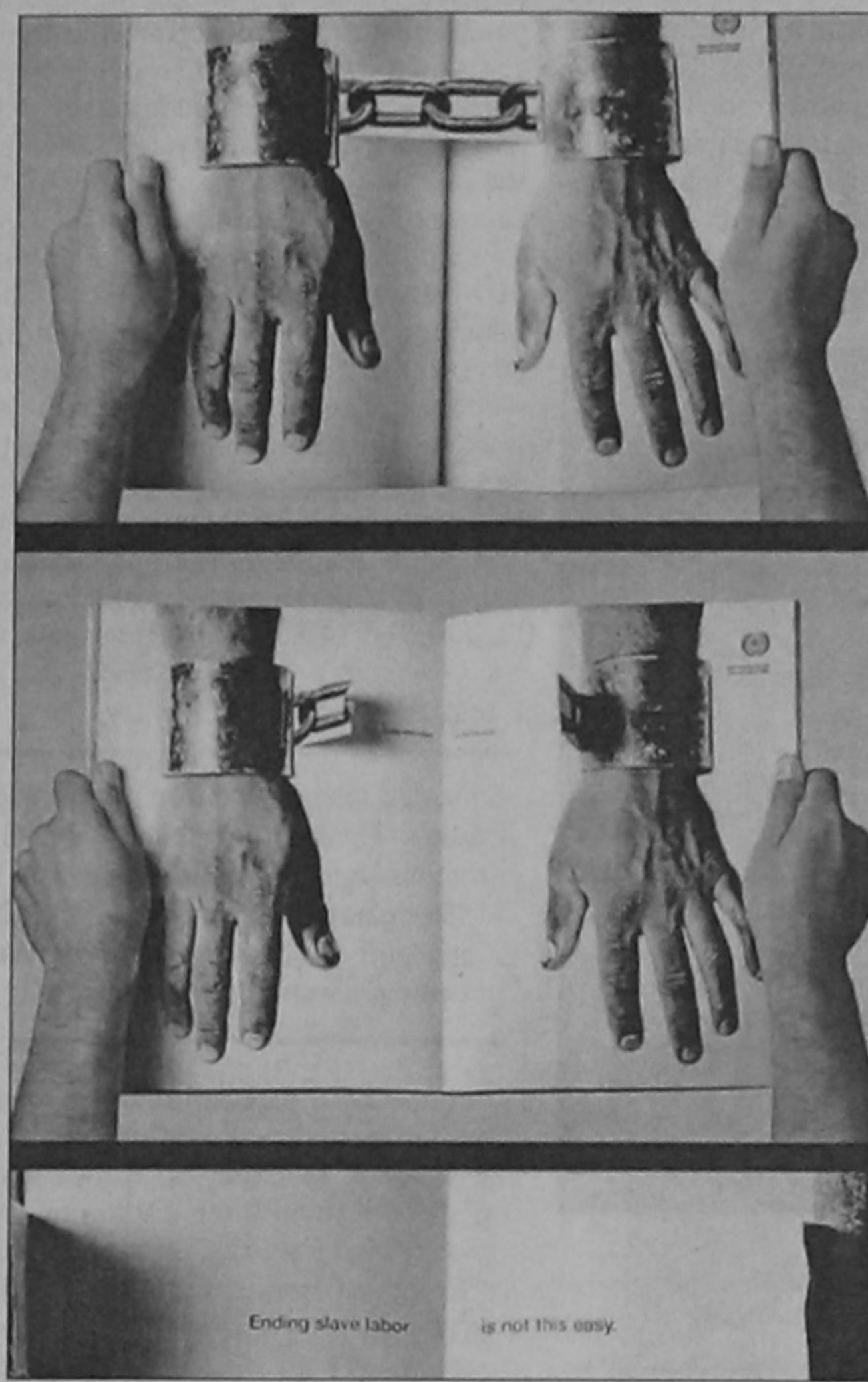
"Most forced labour is still found in developing countries, often in the informal economy and in isolated regions with poor infrastructure, labour inspection and law enforcement", the report says. "This can only be tackled through integrated policies and programmes, mixing law enforcement with proactive measures of prevention and protection, and empowering those at risk of forced labour to defend their own rights." "We must never forget that forced labour is a serious criminal offence that requires criminal punishment" said Roger Plant, head of the ILO's Special Action Programme to combat Forced Labour. "But we must also remember that forced labour is often poorly defined in national legislation, making it difficult to address the multiple subtle ways in which workers can be denied their freedom. The challenge is to address these problems in an integrated way, through prevention and law enforcement, using both labour and criminal justice".

Forced Labour: Facts and Figures -Asia

Asia accounts for by far the biggest share of the world's forced labourers. Many are migrants, either from elsewhere in Asia or their home country. The ILO currently views three issues with particular concern: Persistence of bonded labour systems, particularly in South Asia, despite longstanding legislation to ban and punish such practices as well as efforts to identify, release and rehabilitate bonded labourers.

Widespread trafficking of children and adults, for both sexual and labour exploitation. Continued use of forced labour by the State and official institutions, notably in Myanmar. Research has also shown the existence of forced labour in sectors that had escaped previous attention, including Thailand's shrimp, fishing and seafood processing industries and shrimp production in Bangladesh.

The challenge of bonded labour: Bonded labour exists in a range of sectors, including both those facing extreme competitive pressures, such as handloom weaving and rice mills, and those expanding rapidly, such as brick kilns and stone quarrying. Bonded labourers, and sometimes their families, lose their freedom to choose employment through a system of loans or advance payments for work. In Tamil Nadu, India, for example, labour agents (maistries) pay substantial wage advances to brick kiln workers at the start of a season, often equivalent to three to seven months of a family's earnings. Work days can last up to 16 hours and there is a six-day week. At the end of the season, when piece rate wages are calculated, these often do not cover the advance, obliging workers to return to the same kiln the following season. Meanwhile, labour agents receive a commission from kiln owners on every thousand bricks produced. Bonded labour is also found in Nepal, including in the Haliya or "tiller" system affecting an estimated 20,000 people in far western Nepal. It also persists in Pakistan, especially in the agricultural and brick-kiln sectors. Recent years have seen some progress in improving the situation of bonded labourers. Unionisation of brick kiln workers has



increased wages in some cases, with unionised workers in Punjab, India earning up to onequarter more than official wages and receiving benefits including health care.

Moreover, the ILO is working with Indian government and state authorities along with worker and employer organizations on a programme in Tamil Nadu. Among the objectives are to make the advance payment system more transparent and to improve social protection and working conditions. The government of Punjab province in Pakistan is also, with ILO support, embarking on an integrated programme to combat bonded labour in brick kilns.

Exploitative Practices: Abusive recruitment systems exist throughout Asia, affecting both internal migrants and those moving greater distances from their home country or region to places such as the Gulf States and the U.S. Much recruitment, whether through private agencies or informal networks, is inadequately regulated, with unlawful activities such as human trafficking all too frequent. Also of concern, however, are coercive practices that may not be explicitly against the law. These include payments to recruiters that can result in severe indebtedness over long periods.

Some of the highest recruitment payments in the world are found in China, with research showing that workers can pay as much as 2.5 times their expected annual income in recruitment fees to obtain jobs in the U.S. In Indonesia, meanwhile, domestic workers in holding centres sign documents before departure indicating their willingness to have salary deductions paid directly by the employer to the recruitment agency. In some cases these payments account for as much as 90 per cent of the worker's salary during the first five months of overseas employment.

Such situations point to a need for better official oversight of recruitment agencies and their practices. Moreover, the establishment of more legally regulated agencies could make informal systems that are outside the law less attractive to workers and employers.

ILO research in China has found other coercive practices that constitute different forms of forced labour. These include confinement of workers, employees forced into hazardous working conditions (especially in mining), some cases of compulsory overtime that amount to forced labour and unlawful deductions or withholding of wages by employers and recruiting agents. A new labour contract law was recently adopted, prohibiting these forms of forced labour. Moreover, penal laws have been progressively amended to punish the exaction of different forms of forced labour. With ILO assistance, Chinese employers' organizations have addressed forced labour through self-regulation and the adoption of a new Code of Practice Preventing Forced Labour and Trafficking in Persons. Capacity building has also been provided to Chinese workers' organizations to identify and provide protection for victims of forced labour.

Source: International Labour Office.

LAW week



Mutiny followed failure in getting political response

Failing to get expected response from political leaders regarding their demands, a group of BDR personnel planned to hold their director general and other army officers hostage at the Darbar on February 25, says the national probe report on the carnage at BDR headquarters. "Only a few hardcore mutineers knew about the plan of killing army officers, including the DG, and other heinous activities while others only knew that a tough stance would be taken at the Darbar to realise their demands, but they did not have clear knowledge about the real nature of the stance," the report says. -The Daily Star, May 28, 2009.

Rahim tells of ARY meeting, a foreign embassy link

Detained former director general (DG) of National Security Intelligence (NSI) Brig Gen (ret) Abdur Rahim made a confessional statement denying his involvement in the smuggling of 10 truckloads of illegal arms and ammunition in Chittagong. The Ex-chief of NSI made the statement under section 164 of Criminal Procedure Code on completion of his six-day remand on Tuesday. In the statement, Rahim mentioned the names of a foreign embassy and Dubai-based business firm ARY admitting that he along with his wife visited Dubai and held a meeting with ARY officials. -The Daily Star, May 28, 2009.

Bashundhara chief, family surrender

A Dhaka court issued an order saying Bashundhara Group Chairman Ahmed Akbar Sobhan Shah Alam, his wife, and their two sons will remain free till June 25 in connection with a tax evasion case in which they had been convicted and sentenced to imprisonment in absentia. Attorney General (AG) Mahubey Alam however noted that Shah Alam and his family members must go to jail in connection with the case as they had been convicted and sentenced. Judge Mozammel Hossain of the Special Judge's Court-3 issued the order after Shah Alam, his wife Afroza Begum, and their sons Sadat Sobhan and Sayem Sobhan surrendered before it and sought bail in the case in which they had earlier been convicted and sentenced to eight years of imprisonment each. -The Daily Star, May 26, 2009.

Compensation up, but families in dark

The government has increased the compensation money to Tk 2 lakh from Tk 1 lakh for the families of the expatriate Bangladeshi workers who die aboard. The decision came at a time when the number of deaths of migrant workers abroad has been increasing in recent days. "We raised the compensation money around two months ago considering the fact that prices of essentials have gone up," Expatriates' Welfare and Overseas Employment Minister Khandker Mosharruf Hossain said. Families of the deceased migrant workers, who do not get any compensation from the employers of the labour receiving countries, are being provided with the compensation money. -The Daily Star, May 26, 2009.

Tk 12,600cr of railway stuck in audit objection

The Public Accounts Committee (PAC) of the Jatiya Sangsad formed four sub-committees in an effort to expedite actions regarding 1,742 unresolved audit objections involving Tk 14, 848 crore since FY 2000-2001. Of the huge amount, audit objections against Bangladesh Railway (BR) alone involve Tk 12,600 crore, said the office of Comptroller and Auditor General (CAG) in a report placed before the PAC. Officials at the office of CAG told The Daily Star that the objections were raised against the BR due to its failure in collecting Tk 12, 535 as transport fares from various public and private organisations for the last few decades. -The Daily Star, May 26, 2009.

Turag inherited!

Every piece of papers of the land is "original" and the buyer need not worry or face any problems at all, assures Hazrat Mukhter. There are reasons to trust in him as he works as the assistant of a lawyer. He knows the business. "Only if the government extends boundary of the river, then they will acquire the land. Otherwise everything is clean," he says. Around 74 decimals of land was developed a couple of years ago beside the land of Uttara University near Kamarpara and Dhaur. The wife of a serving brigadier is the owner of the land just beside the Turag. Asked about the Wetland and Open Space Preservation Act, 2000, he said he is not aware of the law. -The Daily Star, May 25, 2009.

Proshika axes Faruque

The governing body of Proshika, one of the largest NGOs, replaced its chairman Qazi Faruque Ahmed with advocate Abdul Wadud in the face of an ongoing employees' agitation against Qazi Faruque. Eight of the nine members of the governing body, highest policy making body of Proshika, made the decision during a meeting and held a press conference at Dhaka Reporters Unity later on. The board also removed Chief Executive Officer (CEO) Syed Giasuddin Ahmed and appointed Vice-chairman Mahbub-ul-Karim in his place. Karim gave up his membership of the governing body. -The Daily Star, May 25, 2009.

Haji Selim grapples with legal blitz

Former Awami League lawmaker Haji Mohammad Selim, who is facing a staggering 120 cases on various charges, has filed petitions for withdrawal of 65 of them, the highest number of appeals filed by an individual. Selim's counsel Pran Nath told The Daily Star that on Selim's directive he is preparing to file petitions for withdrawal of the remaining cases. "In a couple of days, I will file petitions for withdrawal of another 20 cases," he said. He said the AL leader faces 120 cases while another 17 cases were disposed of through "mutual understanding" between the plaintiffs and the defendant. -The Daily Star, May 24, 2009.

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RIGHTS investigation

Armed conflict makes people more vulnerable

ICRC record expenditure reflects increasing vulnerability of and improved access to people affected by armed conflicts

"Much of this suffering could have been avoided if conflict parties had improved their compliance with international humanitarian law."

MILLIONS of people affected by armed conflict have become more vulnerable because of the combined effects of war, natural disasters and continued high food prices, the International Committee of the Red Cross (ICRC) said today. Presenting the ICRC's annual report for 2008, the organization's president, Jakob Kellenberger, said: "Afghanistan, Somalia and Pakistan are three examples of countries where natural disasters and high food prices have made life even harder for poor people already struggling to cope with the effects of war." The report shows that ICRC spending hit an all-time high in 2008, rising to over 1 billion Swiss francs. Africa accounted for 47% of field expenditure, while 20% went to the

Middle East. The increase in expenditure is due to the deteriorating humanitarian situation in many countries, such as Sri Lanka, the Democratic Republic of the Congo and Pakistan, but it also reflects improved ICRC access to people affected by wars. "2008 clearly showed that the ICRC's neutral and independent humanitarian action does bring significant benefits for victims of armed conflicts," said Mr Kellenberger. "It allows the ICRC to have access to and help people in places others often can't reach. Notable examples include Iraq, the Sahel region, Somalia and Georgia."

The ICRC president deplored the fact that in 2008 untold numbers of civilians continued to suffer either because they were deliberately targeted or because conflict parties



failed to distinguish sufficiently between civilians and civilian objects on the one hand, and combatants and military objectives on the other: "Much of this suffering could have been avoided if conflict parties had improved their compliance with international humanitarian law." Looking ahead, the ICRC presi-

dent said it was hard to predict the exact impact of the global economic crisis on people already made vulnerable by war. However, he expressed concern that the increase in the number of people living in extreme poverty, rising unemployment worldwide and a significant drop in remittances from migrant

workers to their families in conflict areas could have a particularly severe effect on the poorest victims of armed conflicts. Mr Kellenberger said the organization had the capacity to step up its humanitarian activities if required.

Last year, the ICRC distributed over 121,000 tonnes of food, more than twice as much as in 2007, with the number of people receiving food aid rising from 2.52 million in 2007 to 2.79 million. Seventy-two per cent of these were internally displaced persons (IDPs), a six per cent increase over 2007. The ICRC's water, sanitation and construction projects benefited more than 15 million people, while health facilities supported by the organization treated nearly 3.5 million patients. The ICRC visited almost half a million detainees in 83 countries and handled over 667,000 Red Cross messages, including 218,000 exchanged between detainees and their families.

Source: Human Rights Education Associates (HREA).