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**REVIEW CONFERENCE OF THE
1980 UNITED NATIONS CONVENTION
ON PROHIBITIONS OR RESTRICTIONS
ON THE USE OF CERTAIN
CONVENTIONAL WEAPONS**

(Vienna, 25 September-13 October 1995)

*THE ISSUES
THE ICRC'S POSITION*

The Review Conference of the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects will be held in Vienna from 25 September to 13 October 1995.

This Conference offers a unique opportunity for a thorough analysis of the problems caused by the use of certain weapons, with landmines heading the list. It should also specify measures to be taken to prevent the manufacture and use of new weapons from creating serious problems in future.

Finally, the Conference will examine the means necessary to prevent the excessive damage resulting from present-day armed conflicts, most of which are internal.

1. The issues

To lay the groundwork for this Conference, a Group of Governmental Experts set up by the United Nations Secretary-General has met four times in Geneva between February 1994 and January 1995. The participants gave special attention to the Convention's Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices, and

a large majority stressed the need to amend Protocol II by incorporating mechanisms for its implementation and especially by extending it to cover internal conflicts.

Other subjects considered by the Group of Experts were self-destructing and self-neutralizing mines, mine detection and the production and export of prohibited weapons.

At its last meeting the Group of Experts agreed to submit the following proposals to the Review Conference:

1. all anti-personnel mines must be detectable;
2. remotely delivered mines must contain a self-destruct mechanism; and
3. all hand or vehicle-emplaced anti-personnel mines used outside of marked, guarded and fenced minefields should have a self-destruct mechanism.

There is still considerable disagreement, however, over the export of landmines and measures for implementation of the Protocol.

The experts also examined the issue of new weapons. They agreed to submit for consideration by the Review Conference the text of a new Protocol which would prohibit the use of laser weapons to blind persons as a method of warfare. The text is based on previous proposals by Sweden and the ICRC and reflects the opinions expressed during consultations of a wide range of States favourable to a ban on laser blinding. Growing support for the prohibition of blinding laser weapons has now come from 26 major European, Asian, Latin American and Pacific countries.

The United Nations held an International Meeting on Mine Clearance in Geneva from 5 to 7 July 1995, during which the United Nations Secretary-General, addressing representatives of 97 countries, called for a ban on the production, stockpiling and use of landmines, and ICRC President Cornelio Sommaruga reiterated his appeal to the forthcoming Conference in Vienna, to outlaw anti-personnel mines.

2. The ICRC's role

The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons is indisputably part of international humanitarian law and the specific prohibitions and restrictions it contains are in fact an implementation of principles and rules laid down by 1977 Protocol I additional to the 1949 Geneva Conventions. When the 1980 Convention was introduced, the ICRC, for which the question of weapons

of mass destruction had always been of considerable concern, "realized it could best render service to the international community in this domain by bringing together experts from all specialized fields to examine every feature of weapons whose use could be prohibited or restricted".¹

Indeed, the ICRC has been required to act as a catalyst in this area with growing frequency. In 1993, for instance, it hosted a Symposium on anti-personnel mines (Montreux, Switzerland, April 1993) whose objectives were to gain as accurate a picture as possible of the current use and consequences of mines, and to analyse the mechanisms and means available to limit this use and to alleviate the suffering of victims.²

The Montreux Symposium was followed by a Symposium of Military Experts (Geneva, January 1994) which examined in depth the military use of, and possible alternatives to, anti-personnel mines.³

On the subject of blinding weapons, the ICRC has also hosted four meetings of experts on laser weapons that cause permanent and irreversible blindness.

A report based on the results of these meetings was drafted by the ICRC for the Review Conference of the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons and was officially submitted in February 1994 to the first meeting of the Group of Governmental Experts.⁴

The United Nations Secretary-General invited the ICRC to attend preparations by the Group of Experts for the Review Conference, and allowed it to speak, to submit proposals and to distribute documentation. In addition, the ICRC was asked to prepare two working papers, one presenting ways and means of amending Protocol II on mines and the humanitarian and military considerations involved in such amendments, and one containing observations on other proposals concerning the 1980 Convention itself and its present and future protocols.

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¹ Yves Sandoz, "Prohibitions and restrictions on the use of certain weapons: three key questions", *International Review of the Red Cross (IRRC)*, No. 299, March-April 1994, p. 96.

² The results of the Symposium were published in the *IRRC* (No. 299, March-April 1994, pp. 159-169).

³ See the *IRRC*, No. 299, March-April 1994, pp. 170-182.

⁴ The Report was published in full in the *IRRC* (No. 299, March-April 1994, pp. 123-182).

As an open forum for reflection on the matters to be discussed by the forthcoming Review Conference, and to supplement its special March-April 1994 issue on the subject of prohibitions or restrictions of the use of certain weapons, the *Review* gives particular coverage below, in two correlated articles, to the legal, political and technical aspects of the problem of landmines and moves by the international community to ban these weapons.

3. The ICRC's position

The following is a summary of the position adopted by the ICRC on the issues to be discussed by the Review Conference:

The ICRC is convinced that the only clear and effective means of ending the suffering inflicted on civilians by anti-personnel landmines is their total prohibition. While only a year ago this proposition was considered unachievable it has now attracted a growing list of advocates, including Afghanistan, Belgium, Cambodia, Colombia, Estonia, Iceland, Ireland, Lao People's Democratic Republic, Malaysia, Mexico, Norway, Peru, Slovenia, Sweden, the UN Secretary-General, the European Parliament, the Organization of African Unity and many humanitarian organizations which see it as the only real solution to the global scourge of land-mines.

The type of complex measures which have been considered by the Group of Governmental Experts might have a modest effect on the level of civilian mine casualties. However, if the exceptions and exclusions currently being suggested by some States are adopted, the new control regime risks having no substantial effect on the overall problem of landmines and could even lead to an increase in the use of and trade in anti-personnel mines.

In addition, certain essential minimum steps must be taken as follows:

- extend the 1980 Convention on Certain Conventional Weapons to cover all internal armed conflicts;
- incorporate into the Convention effective implementation mechanisms which make use of independent international supervision;
- find ways to encourage implementation of the Convention by States and compliance with it by all parties to armed conflicts;
- find ways, including positive incentives, to encourage universal adherence to the Convention which, at this date, has only 50 States Parties.

The ICRC appeals to governments and to the concerned public to give the highest priority to ensuring that the September-October Review Conference takes bold and effective steps to end the worldwide scourge of landmines. Excessive caution and unnecessary exceptions will be reflected in lost lives, limbs and livelihoods for many years to come.

The ICRC also believes that intentional blinding with laser weapons should be stigmatized in 1995 as an unacceptable form of warfare. Given the current state of laser technology and developments in laser weapons, the 1995 Review Conference of the CCW represents the last and only opportunity for the international community to address this issue. Laser weapons suitable for blinding could be produced on a large scale in the next few years and their proliferation among the world's armies as well as terrorist and criminal groups could be expected soon thereafter. Efforts to deal with the problem at that stage would be immensely more complicated and costly, and unlikely to succeed.

The Review

Review Conference of the 1980 Weapons Convention

by **Nikolay Khlestov**

The United Nations General Assembly welcomed, in its resolution 48/79 of 16 December 1993, the request made to the organization's Secretary-General by a State party to the 1980 Weapons Convention¹ (France) to convene a conference to review, in accordance with Article 8(3), the provisions of that Convention. In paragraph 6 of the same resolution, the General Assembly encouraged the States party to ask the Secretary-General to set up a group of government experts to prepare such a conference. The States did so and the group of experts that was subsequently brought together held three meetings in 1994 and one in 1995. Pursuant to a decision by the group, the Review Conference is to be held in Vienna from 25 September to 13 October 1995.

One might ask whether it is really necessary to review the Convention on "inhuman weapons"² and what outcome can be expected of such a conference.

Before answering that question, it should first be remembered that the United Nations conference held on 10 October 1980 adopted this Convention by consensus, together with three Protocols, respectively on:

- 1) non-detectable fragments (Protocol I);
- 2) prohibitions or restrictions on the use of mines, booby-traps and other devices (Protocol II); and

¹ United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (10 October 1980).

² Although one would be hard put to name a "human" weapon, this diplomatic jargon is in common use at the United Nations.

3) prohibitions or restrictions on the use of incendiary weapons (Protocol III).

The idea of specific prohibitions or restrictions on the use of certain weapons is not a new one, since the international community already showed an interest in it during the drafting of the 1977 Protocols additional to the 1949 Geneva Conventions. Indeed, the 1974-1977 Diplomatic Conference set up an ad hoc committee to deal with issues relating to restrictions on conventional weapons, i.e. those that do not fall into the categories of nuclear, biological or chemical weapons.

Prohibitions or restrictions on certain types of conventional weapons raise a number of difficult problems owing not only to their substance, but also to the fact that they are part of both disarmament law and humanitarian law. Each of these branches of international law approaches the issue differently.³ The 1980 Convention and its Protocols are more closely related to humanitarian law than to disarmament law, since they do not touch on matters involving the production, storage, sale or purchase of weapons. The Review Conference should remedy this shortcoming by adding to these instruments, following the example of disarmament law, provisions on the development, stockpiling and transfer of mines so as to curb the effects of these inhuman weapons.

An attempt was made in the 1980 Convention and its Protocols to “humanize” the use of weapons. With respect to practical implementation, however, Protocol II has run up against more obstacles than the other two Protocols. When referring to mines, one must always bear in mind the fact that “weapons do not exist in themselves, but as means towards the conduct of particular kinds of military operations: if the operations, or most of them, were illegal, what would be the point of investing in, developing or acquiring the weapons?”⁴

It is a well-known fact that nine out of 10 people injured by mines are civilians. Easy to lay and very difficult (and extremely dangerous) to clear, these “seeds of death” constitute a permanent threat long after peace has been restored. They hinder humanitarian activities undertaken by the

³ See Yves Sandoz, “A new step forward in international law — Prohibitions and restrictions on the use of certain conventional weapons”, *International Review of the Red Cross (IRRC)*, No. 220, January-February 1981, pp. 3-18.

⁴ See Frank Berman, “Ensuring compliance with the law of war; some policy considerations”, in *125th Anniversary of the 1868 Declaration of St. Petersburg, International Symposium on the Law of War, Tavrichesky Palace, St Petersburg, 1-2 December 1993, Summary of the proceedings*, ICRC, Geneva, December 1994, p. 74.

ICRC, UNHCR, UNICEF and the DHA (United Nations Department of Humanitarian Affairs) and they make peace-keeping operations all the more difficult. UNHCR has already described the extremely serious and harmful effects of mines on its efforts to protect and assist refugees and returnees. As a result of the indiscriminate use of mines, especially in internal armed conflicts, the number of displaced persons and refugees continues to grow. The main idea behind the review process is to lay the burden of responsibility squarely at the door of those who produce or use mines, and thereby, if possible, to avoid further unnecessary casualties and to improve the protection afforded civilians.

The first task of the Review Conference is to make the 1980 Convention and its Protocol II applicable to non-international armed conflicts. It is no secret that the most barbaric use of anti-personnel mines occurs in internal armed conflicts. This is not surprising since only trained military personnel can anticipate the full effects of these weapons; they also bear in mind possible movements by their own troops and the safety of their technical services. It is in view of these considerations that specialized personnel mark and register minefields carefully. However, belligerents in internal armed conflicts, who have often received little if any military training, usually lack this type of knowledge. In addition, they sometimes use anti-personnel mines deliberately to terrorize civilians. That is why it is in the interest of all governments, including those which face problems of insurgency, to ensure that the Convention and Protocol II apply to non-international armed conflicts. This would, moreover, have no bearing on the sensitive and tricky issue of recognition of a party to a conflict, yet any violation of these instruments by one or another of the parties would be considered a criminal offence and the perpetrator could thus be prosecuted for grave breaches of humanitarian law. There can be no significant improvement in this field until the scope of the Convention and Protocol II is extended to include internal armed conflicts, which are increasingly more common than international armed conflicts. According to current estimates, some 100 million mines are now scattered in more than 60 countries and hundreds of civilians fall victim to them every day.

As we have seen, the 1980 Convention and Protocol II present a number of shortcomings. In addition, their practical implementation leaves much to be desired. One of the reasons for this is that they have so far been ratified by only 41 States. The preparatory work for the Review Conference has undoubtedly encouraged other States to reconsider their position on these instruments, and certain positive developments can therefore be expected on the eve of the Conference. In any event, stricter provisions should be adopted on mines with a view to prohibiting weapons

which by their very nature have indiscriminate effects or cause excessive suffering.

The Review Conference provides an excellent opportunity to amend the 1980 Weapons Convention and Protocol II so as to make their provisions more specific. It was with this in mind that military experts from various countries drafted a number of amendments at the meetings of the group of experts held in 1994 and 1995. The amendments, if adopted by the Conference, would considerably broaden the scope of Protocol II, in particular. This endeavour may, however, prove unsuccessful unless the international community gives due importance to introducing an implementation mechanism. It was precisely the absence of such a mechanism that prompted certain States not to ratify the 1980 Convention and its Protocols, and others to express their dissatisfaction. If an implementation mechanism were adopted, these instruments would rally the support of far more States. Its general aim would be to ensure compliance with international humanitarian law, a field that was recognized as having special significance by the 49th session of the United Nations General Assembly in its resolution on the Decade of International Law.

To adopt an implementation mechanism applicable only to the Convention, as has been suggested by some, or only to Protocol II, would be an unsatisfactory solution. Such a mechanism should apply to both the Convention and Protocol II. Later on, the States party could extend it to include the other Protocols. It should regulate all problems relating to mines, including mine clearance, the sharing of experience in this field and the exchange of information on the production, stockpiling, development and export of anti-personnel mines (and possibly other types of mines). The implementation mechanism should be based on a reporting system that could be made compulsory by the States party. Members of the "club" of countries opposed to mines could set up a procedure to investigate violations of the provisions of the 1980 Convention and Protocol II. This "club" could also work out a code of conduct concerning the export of anti-personnel mines that would regulate the transfer of such weapons. Some States have tried to pave the way towards a compromise in this area even before the start of the Conference. The United States moratorium on the export of anti-personnel landmines has thus garnered the support of a considerable number of producer countries.⁵

⁵ By a presidential decree of 21 November 1994, Russia joined the present moratorium on the export of anti-personnel landmines which have no self-destruct mechanism and cannot be found by mine detectors. The moratorium came into force on 1 December 1994 for three years.

A possible compromise for the Review Conference to consider would be to agree on a transitional period allowing States to adjust gradually to the new requirements. A commission could be set up within the framework of the 1980 Convention and Protocol II to assist States during this period. The commission, which would be composed of government representatives and function in an open manner, would act as a supervisory body and encourage periodic exchanges of views. It could also provide a cost-effective means of dealing with any other issues relating to the mutual obligations of States party under the existing Convention and Protocol II and under the revised instruments. To handle such a transition period will be no easy task for the international community and this is one of the issues which the Conference must tackle. One way of proceeding would be for the Conference to adopt a special declaration containing provisions along the following lines:

- “(a) From the date of entry into force of the revised Convention and Protocol II, States may no longer accede to the old instruments, only to the new ones.
- (b) The old instruments shall continue to be valid as long as any State remains a party to them. By acceding to the revised Convention and Protocol II, a State shall cease to have any obligations under the old instruments, without prejudice to the provisions of Article 7 of the Convention.”

There are other issues of equal importance that the Review Conference should address, such as the adoption of new protocols. The international community should also turn its attention to the problem raised by the development of new weapons. “...It may seem esoteric to spend time discussing possible prohibitions of weapons that have not yet appeared on the battlefield. However, as we well know, once a weapon is fielded it is very difficult to stem its proliferation and widespread use. It makes sense, therefore, to dedicate a little time to taking preventive steps that would save enormous problems at a later stage.”⁶

Speaking at the International Symposium on the Law of War held in commemoration of the 125th anniversary of the 1868 Declaration of St Petersburg, the American professor G.H. Aldrich rightly pointed out that Article 36 of Protocol I to the Geneva Conventions “obligates Parties,

⁶ Statement by the ICRC to the First Committee of the United Nations General Assembly on 20 October 1993, *IRRC*, No. 298, January-February 1994, p. 59.

when developing or acquiring a new weapon, to make a determination whether and in what circumstances its use would be unlawful".⁷ The Review Conference provides the opportunity to take another step forward in the process begun in St Petersburg more than 125 years ago, when the law of the Hague took its place alongside the law of Geneva, by drafting new protocols to the Convention.

The idea of prohibiting blinding weapons was launched by the ICRC, which has held a series of meetings of experts on the subject of laser weapons. Although still being developed, these inhuman weapons that cause permanent blindness have already demonstrated their powerful potential, especially when used on a mass scale. Blinding as a method of warfare should be considered as a superfluous injury and a cause of unnecessary suffering.

The Review Conference will consider the adoption of a protocol prohibiting the use as a method of warfare of laser beams that cause serious damage to eyesight. This prohibition should include the production and use of laser weapons designed primarily to blind. The ban should apply to both laser beams and laser weapons. The proposed prohibition should, however, take into account the needs of the armed forces with respect to targeting and the use of laser beams for medical, industrial or other civilian purposes. The protocol should therefore include a clause providing that the prohibition of laser weapons shall not cover incidental blinding as a result of the lawful use of laser beams. Indeed, "...a law which lacks realism will inevitably be violated".⁸ If the Review Conference adopts a protocol prohibiting the use of laser weapons that is based on a realistic approach, this will give a new impetus to the further development of the 1980 Weapons Convention.

The Conference could also recommend that the above-mentioned commission, if set up, consider preparing other protocols, for instance on small-calibre weapons. This recommendation could be based on the relevant resolution of the previous conference.

Another task of the forthcoming Conference will be to examine how to speed up the new Convention's entry into force. Article 5 could be amended so as to provide that this would take place three months after the date of deposit of the sixth instrument of ratification, acceptance,

⁷ *124th Anniversary of the 1868 Declaration of St Petersburg, op. cit.*, p. 53.

⁸ See Jean Pictet, "The formation of international humanitarian law", *IRRC*, November-December 1994, No. 303, p. 528.

approval or accession, and paragraphs 2, 3 and 4 of the same article could be amended accordingly. The Conference could also make it more difficult for States to denounce the Convention. This could be achieved by adding to Article 9, as is commonly done in the conventions of the International Labour Organization, two paragraphs to the following effect:

“Article 9: Denunciation

1. Any High Contracting Party may, by so notifying the Depository, denounce this Convention or any of its annexed Protocols no sooner than ten years after the day on which the Conventions and any of its Protocols come into force. Any such denunciation shall only take effect one year after the date on which it is registered.

2. Any High Contracting Party which ratifies this Convention and any of its annexed Protocols and does not, within the year following the expiry of the ten-year period mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, shall be required to wait for another ten years before it can denounce the Convention or any of the annexed Protocols, and so forth for each ten-year period thereafter, under the terms of this article.”

The first sentence of Article 9, para. 2, of the existing instrument should be deleted and the rest of Article 9 stand as it is.

The purpose of this proposal (made by the Russian delegation) is self-evident: to strengthen the commitment of States party to the Convention and to make it more difficult for them to denounce it. Some might argue that this ten-year period offers the States too little opportunity to withdraw from the treaty. However, there is a strong and simple argument in favour of introducing such a provision, namely, that denunciations do occur and that what we are dealing with here are extremely dangerous weapons. Not to adopt it would be to tempt the devil.

Nikolay Khlestov was born in Moscow and graduated in 1974 from the International Law Faculty of the Moscow Institute of International Relations. He is currently head of the Humanitarian Division within the Legal Department of the Russian Ministry of Foreign Affairs. He organizes campaigns to spread knowledge of international humanitarian law among the Russian armed forces and media, and publishes articles in Russian legal journals on the activities of various international organizations. Mr. Khlestov, a member of the Russian International Law Association, heads the Russian delegation at the sessions held by the group of government experts preparing the Review Conference of the 1980 Weapons Convention and its Protocols.

Landmines and measures to eliminate them

by Jody Williams

Introduction

Concern about the effects of certain conventional weapons, particularly landmines, is not new. Had that concern been lacking, the 1980 Convention on Conventional Weapons¹ (CCW) would not have been formulated. Nor would some of the earlier studies on the issue by UN bodies have been written. What is new is a heightened interest in the problems caused by landmines, particularly in post-conflict settings. Several factors have contributed to the increased recognition that even though the CCW is in place, it has not addressed the ever-worsening situation on the ground. (The United States army estimates that 400 million landmines have been sown since the beginning of the Second World War, including at least 65 million in the last 15 years.)

With the end of the Cold War and the accompanying perception of decreased nuclear threat, there has been growing attention to other weapons which have, in fact, inflicted far more casualties in the wars of the past few decades than nuclear and chemical weapons combined. At the same time, the UN has had more room to facilitate negotiated solutions to protracted wars throughout the developing world. What it found when it began to deploy peace-keeping missions in various countries was significant landmine contamination, which has had an impact not only on UN missions but also on new development efforts. This contamination has also affected the work of a wide range of non-governmental organizations (NGOs) and of the International Committee of the Red Cross (ICRC).

¹ The full name of the CCW is the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects.

Renewed awareness of the problem has resulted in fresh initiatives, both at the international and the national levels, to attempt to limit the proliferation and indiscriminate use of landmines. Many of these initiatives would not have been taken had it not been for the work of the ICRC and the recent International NGO Campaign to Ban Landmines. The ICRC has long been involved in efforts to regulate the use of weapons, including landmines. Meetings sponsored by it in the 1970s were seminal in the process leading to the CCW. Its more recent work in this area, resulting in its call for a ban in February 1994, was inspired in particular by the experience of ICRC surgeons in the field. As for the NGO landmines campaign, it has brought together an unprecedented coalition of 350 groups from different fields (human rights, development, refugees, arms control, humanitarian and environmental problems), thereby reflecting the magnitude of the landmine scourge.

Brief history of landmines and their changing use

The history of landmines can be traced back to the American Civil War. But mines as they are known today were originally developed during the First World War to defend against tanks. Given the size of anti-tank mines, it was relatively easy for enemy troops to enter minefields and remove the weapons for their own use. This led to the development of the anti-personnel mine, a much smaller delayed-action explosive device which was sown throughout anti-tank minefields to deter enemy soldiers from entering. First used to protect the more valuable anti-tank mine, the anti-personnel mine has taken on a life of its own.

Although they were originally designed for use primarily as defensive weapons, landmines have increasingly been deployed offensively. While such use has not been confined to internal conflicts — the United States pioneered advances in mine technology and deployment during the war in Indochina, and the former Soviet Union resorted to them on a massive scale in Afghanistan² — landmines have become a choice weapon in these wars and their offensive use often a preferred tactic. Cheap, easily avail-

² The US army made the following assessment: "The Soviet forces found it necessary to employ more than 30 million landmines against the lightly armed rebel forces. Soviet landmine emplacement evolved to such an extent that they employed scatterable landmines in support of offensive operations" (*Landmine Warfare — Trends & Projections*, Defense Intelligence Agency and US Army Foreign Science and Technology Center, December 1992, pp. 2-4).

able and “ever vigilant” once emplaced, anti-personnel landmines have proliferated in armed conflicts everywhere.

What sets the weapon apart is its time-delay function. Not designed for immediate effect, landmines lie dormant until triggered by a victim. While mines can be directed against a legitimate military target, what might have been one at the time of sowing will in most cases, because of their delayed action, not remain so over the entire life span of the weapons. In many cases, particularly during the wars and internal conflicts of the past couple of decades, landmines have been used as offensive weapons to cut off access by opposition forces and their civilian supporters to large tracts of land.

Often designed to maim, their psychological impact on the enemy is undeniable. In addition to demoralizing combatants, landmine casualties can also overload military logistical support systems since most mine victims require more extensive medical and rehabilitative attention than other types of war-related casualties. Moreover, landmines do not discriminate between the logistical support systems of the military and those of society as a whole. They terrorize and demoralize civilians, and their impact on the fragile health systems of the countries where they are used in great numbers can be overwhelming. Post-conflict landmine casualties are almost exclusively civilian.

The impact of landmines extends beyond just health-care systems. When much of a country has become the theatre of battle — as in Afghanistan, Angola, Cambodia, Mozambique, Somalia, the former Yugoslavia, and the list goes on — little is spared. Used offensively, landmines are deployed to depopulate areas, to disrupt agriculture and to interrupt the flow of goods and services. Transportation systems are affected, as are power systems, agricultural and grazing lands, religious sites, national parks and forests, and villages and the people living in them or fleeing from them. In short, all that makes up the fabric of a country can be contaminated by landmines. Unlike other weapons of war, landmines³ and explosive devices which act like landmines are not silenced by any peace agreement. They continue to kill and maim for generations.

³ While attention has been focused on landmines, in many situations unexploded ordnance (UXOs) are as lethal a legacy as landmines. While the military use a number of definitions to avoid placing some weapons systems in the “landmines” category, others would argue that the appropriate point of departure for any definition is the impact on the victim.

Landmines and the law of war

Humanitarian law, or the law of war, seeks to limit as much as possible destruction and injury to the civilian population during armed conflicts. The basic tenets, which apply also to landmines, say essentially that soldiers may not use any means to achieve their ends, that there are limits. There must be a balance between military need and consequences to the civilian population — and that balance must be proportional. Combatants must distinguish between civilians, who must not be targeted in war, and other combatants. As part of customary law, these tenets apply to all States regardless of other treaty obligations. Additional attempts have been made to limit the use of landmines through the CCW.

International discussions regarding landmines — those of more than a decade ago leading to the development of the CCW, and more recently in preparation for review and amendment of the treaty in September 1995 in Vienna — have considered the issue of proportionality in a time-limited fashion. Proponents of landmines argue that they are a necessary weapon which, when used properly, can be directed toward military targets, while keeping “collateral damage” under control. In theory, this is accurate — especially if discussion regarding landmines and their consequences is limited only to the duration of the military engagement itself. But when the life span of the weapon and post-conflict impact are considered, the question of proportionality takes on new meaning.

If the consequences of landmine use include consideration of the life span of the weapon — which can be decades — the balance between the immediate military utility during the engagement and the long-term costs to the civilian population becomes so skewed as to make the immediate utility appear almost insignificant by comparison. It may be that landmines are a militarily useful tool. Nonetheless, that usefulness is far outweighed by their long-term socio-economic consequences. Over time (and in some cases during the conflict itself), landmines harm civilians and the environments in which they live more than they affect the military targets at which they are aimed.

Furthermore, research has shown that in practice landmines are frequently employed directly against civilians, both intentionally and indiscriminately. Evidence from a number of countries shows that mines are often used as part of deliberate military strategies designed, in direct contravention of the law of war, to spread terror among civilians and/or prevent them from producing food for themselves or enemy troops.

Nature and scope of the problem

Landmines have been used on a massive scale since their development. As mentioned earlier, it has been estimated that 400 million landmines have been sown since the beginning of the Second World War, including at least 65 million in the last 15 years.⁴ Currently 80 to 110 million are deployed in 64 countries around the world. The majority of countries most heavily contaminated with landmines are in the developing world.

Africa is the hardest hit continent with a total of perhaps 37 million landmines in at least 19 countries.⁵ Angola alone has an estimated 10 million landmines and an amputee population of 70,000.⁶ Other countries particularly affected are Eritrea, Ethiopia, Mozambique, Somalia and Sudan. But Africa is not alone — mines are also found in Asia, Europe, Latin America and the Middle East.

While landmines are ubiquitous, they have been used in particularly large numbers in Afghanistan, Angola and Cambodia. There are altogether at least 28 million landmines in those three countries alone, which are home to 85% of the world's landmine casualties.⁷ Europe is said to have the fastest growing problem, with more than 3 million landmines already deployed during the fighting in the former Yugoslavia.⁸

Landmines have been used so extensively because they are readily available, cheap and easy to use. While landmines are not hard to deploy, their removal is painstakingly slow, dangerous and expensive. Mine-detection technology has not kept pace with rapid developments in mines, which have made them more deadly and more difficult to trace.

⁴ Stephen Goose, "The Economics of Landmines", article for *UNIDIR Newsletter*, published in early 1995, citing US Army Foreign Science and Technology Center, US Defense Intelligence Agency, *et al*, *Landmine Warfare — Mines and Engineer Munitions in Southern Africa*, May 1993, p. 15.

⁵ The US State Department puts the number at 20 million; the United Nations Department of Humanitarian Affairs Land Mines Database, in a country-by-country listing of the number of mines, states that there are at least 37 million landmines in Africa.

⁶ Shawn Roberts and Jody Williams, *After the Guns Fall Silent: The Enduring Legacy of Landmines*, Vietnam Veterans of America Foundation, Washington, DC, May 1995, working draft.

⁷ US State Department, *Hidden Killers: The Global Landmine Crisis*, Bureau of Political - Military Affairs, Washington, DC, December 1994, p. 1.

⁸ US State Department, *Hidden Killers: The Global Problem With Uncleared Landmines*, Bureau of Political-Military Affairs, Washington, DC, July 1993, p. 38.

Equipment designed in the 1940s is still being used to detect landmines produced in the 1980s and 1990s.

Mines, which used to be made of metal and thus were relatively easy to find, are now increasingly made of plastic. Currently available systems do not reliably detect minimum-metal plastic mines in battle-contaminated field conditions. In Cambodia, for example, for every mine found an average of 129 harmless metal fragments are detected.⁹ Each instance of possible mine contamination must be investigated, prolonging mine-clearance operations. But advances in mine technology have not been limited to plastic casings. Mines have become sophisticated weapons with electronic fuses and sensor systems which can make them even more deadly. They can now sense footstep patterns, body heat, sound and the signal of a mine detector — all or any of which can make them explode.

Clearance is made even more difficult by an almost complete disregard for the stipulated mapping and recording of minefields. While the CCW requires the mapping of “pre-planned” minefields, the term “pre-planned” is not defined. Even if it were — given the few instances of minefields mapping and recording in the majority of conflicts of the past several decades — the provision would probably not be followed. Military instructions also provide for the mapping and recording of minefields. But as the UN and other experts involved in humanitarian mine clearance have repeatedly pointed out, in the overwhelming majority of cases, instructions in this regard are not heeded.

Advances in mine-delivery systems have made it possible to remotely scatter mines at rates of well over 1,000 per minute.¹⁰ While it might be possible to record the general location of such mines, even the military concede that accurate mapping is impossible. The Falklands/Malvinas conflict provides an illustration of this problem: during the fighting, British troops kept detailed maps of presumed locations of remotely-delivered mines. But clearance attempts after the war were

⁹ United Nations, *Assistance in Mine Clearance: Report of the Secretary-General*, New York, United Nations, A/49/357, 6 September 1994, p. 4.

¹⁰ One example is the UK’s scatterable anti-personnel mine, known as “Ranger”. A fully-charged rack can fire 1,296 mines per minute. Lt. Col. C.E.E. Sloan, RE, *Mine Warfare on Land*, Brassey’s Defence Publishers, 1986, p. 38. The US pioneered the development of air-scatterable mines, deploying thousands of “dragon’s teeth” over Indochina. The former Soviet Union, during its invasion and occupation of Afghanistan, dropped millions of “butterfly” mines over the country.

thwarted because the mines could not be found. Large areas of the islands are still off-limits today.¹¹

Even in the relatively few instances where minefields have been mapped, in many cases the information has become almost irrelevant over time as weather conditions have changed the original location of the weapons. For example, mines sown on riverbanks have been washed downstream by flooding, and mines sown in desert environments move easily and frequently in shifting sands. Also, in heavily contested areas, mines are often sown on top of previous minefields so that even if maps have been made at some point during the conflict, they do not include all of the new mines laid as battle fronts shift back and forth and opposing forces mine and re-mine the same areas to defend their respective positions.

While many are familiar with military minefield breaching, the concept of humanitarian mine clearance is relatively new. In breaching, various methods can be used, but the basic premise is to cut a path through the minefield. Mines outside the path are disregarded and a relatively low clearance rate is tolerated in the breach itself — soldiers expect to suffer casualties. Humanitarian mine clearance, however, involves the removal of all mines — the UN standard is 99.9% — to return previously-mined land to civilian use. Even where there have been advances in the ability to detect mines, the focus has been on military, not humanitarian, needs. The differences between the two types of mine clearance and the imperative need for new technologies to respond in particular to the humanitarian crisis resulting from landmine contamination are not being adequately addressed.

The sheer numbers are overwhelming, but numbers alone do not fully explain the problem. It takes 100 times as long to remove a landmine as to deploy it. And a field with one landmine in it can be unfit for productive use as surely as a field with 100 landmines in it. It can take a mine-removal team as long to clear a field with one mine in it as a field with 100 mines in it. The process is the same wherever there is a fear of mine contamination: the entire area must be painstakingly combed and probed either to remove mines that are actually there — or to demonstrate that the area is free of mines. With the millions of landmines currently contaminating

¹¹ Human Rights Watch Arms Project and Physicians for Human Rights, *Landmines: A Deadly Legacy*, Human Rights Watch, New York, October 1993, p. 27.

the globe, even if no more mines were produced or deployed, it would take decades to overcome the problem.

But mines do continue to be produced and most of the mines found in contaminated countries were not made there: 85% were purchased or transferred from producer countries.¹² Of the more than 255 million landmines manufactured over the past 25 years, about 190 million have been anti-personnel mines. At one time or another, at least 100 companies were involved in the production of 360 types of anti-personnel mines in 55 countries. Current production averages about 5 million mines every year; for the previous 25 years, it averaged 10 million annually. Of the US\$ 20 billion spent annually on arms, it is estimated that conventional anti-personnel mines account for less than US\$ 100 million.¹³

China, the former Soviet Union and Italy have been the major producers and traders of landmines in recent years. Other important suppliers have included the former Czechoslovakia and the former Yugoslavia, along with Egypt, Pakistan and South Africa. Prior to the mid-1980s, the United Kingdom, Belgium and the United States ranked among the top producers and exporters; other significant exporters in that period included Bulgaria, France and Hungary.¹⁴

The International NGO Campaign to Ban Landmines

The first organized efforts by the NGO community to address the problem of landmines began in 1992 with a handful of organizations, including Handicap International (France), Human Rights Watch (USA), Medico International (Germany), the Mines Advisory Group (UK), Physicians for Human Rights (USA) and the Vietnam Veterans of America Foundation (VVAFA-USA). Those six organizations have since become the steering committee of the International NGO Campaign to Ban Landmines, and the VVAFA its coordinator.

The Landmines Campaign has grown to include approximately 350 NGOs working in at least 20 countries around the world for a ban on

¹² *Report of the Secretary-General, op. cit.*, p. 8.

¹³ Goose, *op. cit.*, p. 2. See also *Deadly Legacy* for detailed information on landmines trade and production. The Arms Project maintains a database on the issue.

¹⁴ Steven Askin and Stephen Goose, "The Market for Anti-personnel Landmines — A Global Survey" *Jane's Intelligence Review*, September 1994, p. 425.

landmines. It is now made up of organized components in Australia, Belgium, Cambodia, Canada, France, Germany, Ireland, Italy, Mozambique, the Netherlands, New Zealand, Norway, the Philippines, Spain, Sweden, Switzerland, Thailand, the United Kingdom and the United States. There are also NGOs active in the Campaign from other countries such as Afghanistan, Costa Rica, India, Nepal and South Africa.

These organizations have joined together to promote the Campaign's "Joint Call to Ban Anti-personnel Landmines." This is a twofold call for, on the one hand, an international ban on the use, production, stockpiling and sale, transfer or export of anti-personnel mines, and, on the other hand, for contributions, by countries responsible for the production and dissemination of anti-personnel mines, to the international fund administered by the UN and to other programmes to promote and finance mine victim assistance and landmine awareness, clearance and eradication worldwide.

The Campaign has also held two international conferences on landmines, the first in London in 1993 and the second in Geneva in 1994. It is planning a third conference to be held after the CCW Review Conference. In various individual country campaigns, there have also been collections of signatures on a petition calling for a ban on landmines. The signatures, now totalling well over half a million, will be presented to the chair of the Vienna Conference. In addition, the International Campaign to Ban Landmines will be sponsoring a "Call for Posters" — an invitation to students around the world to contribute designs of posters to illustrate a world free of landmines.

NGOs have also made significant contributions through systematic documentation of the problem of landmines, compiled in the form of country reports on Angola, Cambodia, El Salvador, Iraqi Kurdistan, Mozambique, Nicaragua and Somalia. Human Rights Watch and Physicians for Human Rights have also produced *Deadly Legacy*, a 537-page report considered to be one of the most comprehensive works on the various aspects of the problem. Finally, just before the Review Conference the VVAF will be releasing its *Socio-Economic Report on the Impact of Landmines*, which quantifies the effects of landmines through studies on Afghanistan, Cambodia, Mozambique and the former Yugoslavia.

Because of their accumulated expertise on various aspects of the problem, NGOs have frequently been asked to participate in government and other expert sessions on landmines. The first such meeting of significance was a three-day landmines symposium held by the ICRC in Montreux in April 1993. NGOs also participated to a lesser degree in the

ICRC's subsequent meeting on military utility in January 1994.¹⁵ Most recently in March 1995, four NGOs of the Campaign's steering committee were key participants in two days of Public Hearings on Landmines held by the European Parliament. These led to the introduction of an EP resolution calling for a ban on landmines.

NGO involvement in the issue of landmines has been critical to sparking widespread attention to the problem both by their governments and in the media. Various organizations in the International Campaign have worked closely with their governments on national initiatives to deal with the landmines problem. While each country campaign and the various NGOs working to ban landmines have made significant contributions to the overall effort, several initiatives stand out as particularly illustrative of the contributions of the NGO campaign: those of Italy, Belgium and Cambodia.

Impact of the Campaign: the examples of Italy, Belgium and Cambodia

Italy

When representatives of the International Campaign first met with Italian NGOs to start up activities in Italy, while there was much interest, initial efforts were halting. The first landmines workshop held in the country, in December 1993, was small and somewhat tentative. Within eight months, however, the Italian campaign had made truly impressive strides. Through a series of appearances on the most widely watched Italian television talk show, Italian supporters of the campaign brought the issue of landmines to the public. The Italian Minister of Defence appeared with campaign representatives and voiced his support for a ban on landmines.

The high visibility given to the issue helped the Italian campaign to mobilize public support and press the government for change. On 2 August 1994, Italy, which had been a major manufacturer and exporter of landmines, surprised the international community with a Senate motion

¹⁵ The ICRC has produced reports on both the Montreux symposium and the Geneva meeting on military utility. It has also submitted documentation on various aspects of the landmines issue to the group of government experts preparing for the Vienna Review Conference.

ordering the government to ratify forthwith Protocol II of the 1980 Convention; to take immediate legal action to launch a moratorium on the export of anti-personnel mines, to put an end to the production of those mines by Italian companies or companies operating in Italy and to support workers in that sector; and to promote clearance efforts in countries contaminated with anti-personnel mines. It remains to be seen how far Italy has actually proceeded towards halting production.

In the discussion prior to the vote, the Italian government representative noted that export authorizations for anti-personnel mines had not been issued by Italy since November 1993. He stated that his government formally undertook to observe a unilateral moratorium on the sale of anti-personnel mines to other countries and to ready the necessary instruments for stopping the production of such devices by Italian companies or companies operating on Italian territory. Moreover, Italy moved rapidly to ratify the CCW and at the same time its Parliament directed the government to support a Swedish proposed amendment to the CCW that would ban anti-personnel landmines. This, however, the government has yet to do.

Finally, to continue building awareness in Italy, the Italian campaign held three days of events in Brescia, home of Valsella landmines, in September right after the Senate motion was passed. In a clear demonstration of public support for the ban initiatives, thousands of people came together for the events, which included a 17 km walk to the Valsella plant to call for a ban on landmines. In one of the most moving moments of the march, women workers from the plant stood up and added their voice to the call for a ban. The mayor also announced that the town council had voted unanimously, in a special meeting, to join the Italian Campaign to ban landmines.

Belgium

Although Belgium has become involved in various aspects of the landmines problem in recent years, it initially concentrated its efforts on mine clearance. In 1992, Belgium introduced a UN resolution calling for a coordinated approach to the problem of mine removal. The resolution also asked the Secretary-General to present a comprehensive plan for demining. This early initiative contributed to the development of what is now the United Nations Demining Trust Fund, under the Department of Humanitarian Affairs. In July 1995, the UN hosted a major donors conference in Geneva in support of the Demining Trust Fund.

While the focus in Belgium seemed to be on the clearance aspect of the landmines problem, a significant domestic effort was slowly being made to push a bill through the country's Parliament. The Belgian campaign, working with Senators Lallemand and Dardenne who sponsored the bill, strove to ensure that there was support for it. After months of careful shepherding of the landmines bill through the Parliament, on 2 March 1995, by unanimous vote, Belgium became the first country to enact legislation banning landmines. At the same time, Senator Dardenne reported that the Belgian Defence Minister had promised to destroy most of the country's stocks of 340,000 landmines and the equipment to lay them.

Specifically, the Belgian legislation bans the use, production, procurement, sale and transfer of landmines, including components, parts and technology. Anti-tank mines are also banned wherever the necessary pressure to make them explode can be provided by a person, as are submunitions that are knowingly designed not to explode on first impact. The law will apply for a period of five years, renewable for the same period by the Council of Ministers. Perhaps as significant as the legislation itself is the fact that efforts by the Minister of Defence to include NATO exclusions in the law were defeated.

Cambodia

Cambodia is the first severely mine-contaminated country where a significant NGO campaign has helped to build an organized response by the local community to the landmines crisis. The International Campaign worked with representatives of the Cambodian government and the Cambodia Mine Action Centre (CMAC) to promote Landmines Awareness Day on 23 February 1995. With that day as a focal point, the Campaign began collecting signatures on a petition calling for a ban on landmines. More than 300,000 Cambodians responded and the signatures were presented to the government. Furthermore, in March the United Kingdom landmines campaign organized a meeting in the House of Commons. A Cambodian delegation took part and, calling upon the British government to support the ban on landmines use, presented the list of signatures to the Prime Minister.

The Cambodia campaign also sponsored the first international conference in a heavily-mined country. Held from 2 to 4 June 1995, the conference brought together over 400 representatives of NGOs and governments from 42 countries. Among the many issues covered at the conference was proposed draft legislation that would ban landmines in Cambodia.

Other responses by the international community

As noted above, the increased recognition that the CCW has not addressed the ever-worsening situation on the ground has resulted in new national and international initiatives to attempt to limit the proliferation and indiscriminate use of landmines or to ban them outright. Many of the national initiatives, which have involved close cooperation with NGOs, have been seen as first steps toward a complete ban on landmines. This was the idea behind the development of the first unilateral initiative, taken by the United States in 1992, to adopt legislation providing for a one-year moratorium on the export of landmines. That legislation, sponsored by Senator Patrick Leahy and Congressman Lane Evans, and extended in 1993 by a unanimous vote, is recognized, along with two UN resolutions for worldwide moratoria introduced by the United States, as having been a primary catalyst for other export control initiatives.

The first country to respond to this initiative was France. During a visit to Cambodia in February 1993, the then French President, François Mitterrand, officially announced his country's "voluntary abstention" from exporting anti-personnel landmines, in effect since the mid-1980s. Shortly thereafter, France also initiated the process which is to result in the Review Conference of the CCW in Vienna in September 1995. Then on 11 November 1993, Senator Leahy, speaking on behalf of the United States delegation to the UN, introduced a resolution urging States to implement moratoria on the export of anti-personnel landmines. These moratoria were envisioned as first steps toward a permanent export control regime.

The response to the moratorium movement and to the first UN resolution has been impressive. Currently, 15 countries have announced comprehensive export moratoria, namely Argentina, Belgium, Canada, the Czech Republic, France, Germany, Greece, Israel, Italy, Poland, the Slovak Republic, South Africa, Spain, Sweden and the United States. In addition, the Netherlands and Switzerland have enacted limited moratoria restricting exports to States party to Protocol II of the CCW, and the United Kingdom and Russia have declared moratoria on anti-personnel landmines that do not self-destruct or self-neutralize. With the decision taken by the European Council of Ministers in May 1995, exports of non-self-destructing mines have also been banned from EU territory.

To continue building toward a permanent control regime, the United States sponsored a second UN resolution on export moratoria in 1994.¹⁶

¹⁶ *Moratorium on the export of anti-personnel landmines*, United Nations General Assembly resolution A/C.1/49/L.19, 1 November 1994.

The resolution, again introduced by Senator Leahy, called for more export moratoria. But what was perhaps more significant in the resolution was its call for further international efforts to seek solutions to the problems caused by anti-personnel landmines, with a view towards the eventual elimination of anti-personnel landmines. Some States tried to remove that language from the resolution, but it was finally adopted by consensus.

Some countries have moved beyond simple export limitations on landmines. In June 1994, the Swedish Parliament voted that Sweden should declare that a total international ban on anti-personnel mines was the only real solution to the problems caused by the use of these weapons. It also voted that the government should therefore propose means of achieving such a ban. Sweden subsequently prepared an amendment to Protocol II of the CCW which would ban anti-personnel landmines. This amendment is to be submitted to the Vienna Review Conference.

While fifteen countries¹⁷ support the call for a ban it is not likely that a consensus will be reached on the amendment in Vienna.

Finally, apart from legislative initiatives, on 30 November 1994 the Netherlands Defence Minister announced before the country's Parliament the intention of its armed forces to destroy 423,000 anti-personnel and anti-tank mines at a cost of some US\$ 5 million.

Vienna Review Conference

As noted above, a Review Conference will be held in Vienna in September 1995 to amend the CCW. A series of four governmental preparatory sessions were held in Geneva in 1994 and early 1995. NGOs were present at the first and second sessions, before leaving to protest against the blocking of their presence at the other meetings — this despite the fact that NGOs have recognized expertise in various aspects of the landmines issue and were present at the sessions leading to the development of the convention. In subsequent preparatory sessions, NGO representatives formed part of the Australian, New Zealand and Swedish governmental delegations. Rather than take a broad approach to the prob-

¹⁷ Afghanistan, Belgium, Cambodia, Colombia, Estonia, Iceland, Ireland, Laos, Malaysia, Mexico, Nicaragua, Norway, Peru, Slovenia and Sweden. The Vatican has also called for a ban (as from August 1995).

lem, which would require a serious assessment of the real impact of landmines on the ground with a view to amending the CCW in such a way as to address the problem meaningfully, the preparatory sessions have taken a more narrow approach limited to adjustments of the existing framework. It has already become clear from the proposed amendments drawn up at those meetings that the international community is not ready to meet its stated goal of eliminating landmines.

Many of those who advocate a complete ban on landmines as the only realistic means to deal with the global crisis believe that the reluctance of governments and the military to analyse the problem seriously and to take real steps toward a solution has more to do with the fear of setting a precedent regarding long-used conventional weapons than the actual need for landmines themselves. That this might be the crux of the issue was revealed in the 1994 negotiations on possible legislation to place a one-year moratorium on the production and procurement of landmines in the United States. Expressing his opposition to the proposed bill in a letter to Senator Mark Hatfield, Army Chief of Staff General Gordon Sullivan wrote that "the precedent established — that of unilateral denial to US forces of a legitimate, essential weapon, based on potential post-conflict humanitarian concerns — threatens the use of a wide range of military weapons".

While the international community will likely take only limited steps in Vienna toward its stated goal of the eventual elimination of landmines, the process leading to the Review Conference has been important. It has helped focus attention on the problem and will provide a significant forum for more lobbying and education of governments as to the long-term implications of the continued proliferation of landmines. NGOs will come together in Vienna for a series of activities during the Review Conference, and the International Campaign is pressing for certain minimum changes to the CCW that it considers to be essential in moving toward the goal of a ban on landmines. These changes concern, first of all, the treaty's scope: the Campaign believes that the CCW should be amended to cover the use of landmines in all circumstances. Secondly, the CCW should be amended to include automatic verification measures and to stipulate that sufficient resources must be made available for verification to ensure that the measures can be carried out. Thirdly, the CCW should be amended to provide for automatic, regular review of its provisions so that the international community will not have to wait another ten years to come together to assess the impact of any changes to the Convention made at the Vienna Conference with a view to improving actual conditions on the ground and alleviating the

suffering caused by landmines. The Campaign believes that such review should take place every 5 years, if not sooner.

Conclusion

A few questions about landmines were recently posed by Russell W. Ramsey from the United States Army School of the Americas at Fort Benning, Georgia, in his assessment of the book *Landmines: A Deadly Legacy*, by Human Rights Watch and Physicians for Human Rights. In commenting on the book for *Military Review*, Ramsey asked:

“What crop costs a hundred times more to reap than to plant and has no market value when harvested? What weapon is still lethal to unsuspecting human targets when the soldiers who brought it to the battlefield have become old men? What Cold War legacy has the greatest mathematical probability of claiming victims now and for the next couple of generations? What weapon employed by US forces in scrupulous adherence to the laws of land warfare may have inflicted more friendly than enemy casualties in several campaigns?”

The answer is, of course, anti-personnel landmines. These weapons have a huge impact on societies. Their effects, as briefly outlined above, are all the more pervasive because they are not conflict-limited. They continue for decades. Thus societies are affected not only in the immediate term but for generations. Landmines are not simply the cause of an immediate crisis in a country in conflict, they are also a long-term obstacle to total peace and post-conflict development of a society and its people. Thus, children now living with landmines are affected. But so will their children be, and their children’s children. The only way to end this scourge is to move quickly to fulfil the goal stated by the international community in last year’s United Nations resolution on landmines and to eliminate landmines from the world’s arsenals once and for all.

Jody Williams, Vietnam Veterans of America Foundation, has coordinated the development of the International Landmines Campaign since its inception at the end of 1991. After receiving an M.A. in International Relations from the Johns Hopkins School of Advanced International Studies, she coordinated the Nicaragua-Honduras Education Project, which organized and led fact-finding delegations of opinion makers from the United States to Central America. For the six years immediately prior to her joining the Landmines Campaign, she was first director of the Children’s Project, then associate director of Medical Aid for El Salvador, with offices in Los Angeles and San Salvador.

Toward a global ban on landmines

by Anita Parlow

1. INTRODUCTION

The use of arms, projectiles, or material calculated to cause unnecessary suffering, and more especially of poisoned weapons (chemical and biological weapons), was banned under the conceptual framework of both the 1907 Hague Convention (IV) and the 1925 Geneva Protocol. In the discussions leading to a ban on the use of chemical weapons, diplomats from around the world referred to their use as “barbaric and dishonourable” because of their effect on soldiers or the likely indiscriminate impact on civilians. It is a universal achievement that it is now impossible to conceive of a world that does not show concern for civilians caught up in war. As international attention to the protection of civilians in internal armed conflicts grows, it is accompanied by renewed debate regarding regulation of warring parties’ conduct through humanitarian and human rights law.

During the Cold War, policy-makers viewed civilian deaths in wars of national liberation primarily in geopolitical terms. Under the moral mantle of anti-Communism, humanitarian questions were often confused with or subordinated to ideological considerations. The International Committee of the Red Cross (ICRC) reports that 80 per cent of the victims of armed conflict since World War II have been victims of non-international conflicts. Now, as ethnic and civil catastrophes shape the post-Cold War order, one of the more impassioned debates involves a rethinking of the changing nature of war and how it is waged. The gravity of breaches of international humanitarian law against civilians in Rwanda, Bosnia-Herzegovina and Iraq, combined with the seeming inability or unwillingness of the world community to stop them, underscores both the urgency and difficulty of enforcing universally accepted humanitarian principles. This raises both legal and pragmatic questions regarding the

degree to which nations are still resolved to adhere to the principles of humanitarian law and whether current examples of resistance to core humanitarian principles suggest a betrayal of the ideals that speak to our common sense of humanity.

The first restrictions on military conduct emerged after the 1859 Battle of Solferino.¹ More recent international efforts to restrain the conduct of war have been triggered by crises of disproportionate civilian deaths. Now large civilian casualty rates are again challenging the international community to direct the pressure of humanitarian discourse away from prerogatives of embattled rulers of fragmented States and place greater emphasis upon universal responsibility to one another. The growing effort to ban anti-personnel landmines presents an opportunity for nations to allow questions of military security to yield to national self-restraint. The non-governmental organization (NGO) lobby to ban the production, use and transfer of anti-personnel landmines is provoking a significant worldwide debate on the circumstances under which humanitarian concerns might override the arguments for the use of this weapon of war. The international lobby initially depended upon the global position of the United States to advance its humanitarian agenda. As a country with little commercial or strategic interest in landmines, the United States would appear to be well positioned to support, and indeed mobilize support for, the principles that would expand protection to civilians around the world. Although congressional leaders of the effort to ban anti-personnel mines indicated in an opening humanitarian salvo that the fight has just begun, disagreement between the Pentagon and the State Department over the merits of mine warfare has dimmed the chances that the Clinton administration will shift the balance away from arguments for the military necessity of one very small weapon.² To its credit, the administration is asking the right questions. But to find adequate answers, the world community must devise a humanitarian blueprint that takes human and economic costs into full account.

¹ See Convention (IV) respecting the Laws and Customs of War on Land, October 18, 1907, II, ch. I, art. 23(a), 36 Stat. 2277, T.S. No. 539, reprinted in Documents on the Laws of War, 43, 52 (Adam Roberts and Richard Guelff, eds., 1982); Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare, 17 June 1925, 26 U.S.T. 571, T.I.A.S. No. 8061, 94 L.N.T.S. 65, reprinted in International Committee of the Red Cross, International Law Concerning the Conduct of Hostilities 174, 174-175 (1989). See also 1899 Hague Declaration 2 Concerning Asphyxiating Gases, reprinted in Documents on the Laws of War 35-37 (Adam Roberts and Richard Guelff, eds., 1982) banning delivery of asphyxiating gas by projectile.

² Interview with Department of Humanitarian Affairs Under-Secretary Peter Hansen, Geneva, 5 July 1995.

II. INDISCRIMINATE IMPACT ON CIVILIAN LIFE

With mounting evidence of severe disruption to civilian life, there is near universal agreement on the urgency of the global landmines problem.³ A recent State Department report estimates that roughly 65 million to 110 million uncleared anti-personnel landmines are scattered like seeds of death in fifty-six countries around the world.⁴ Even after peace has been negotiated in Cambodia, El Salvador and Mozambique, civilians continue to die or be crippled by exploding landmines at an overall rate of 500 per week.

Although precise international statistics are not kept on landmine injuries or deaths, most of the victims are poor farmers, women or often children who are collecting firewood, tending cattle or gathering food in an area that was previously a battleground.⁵ A particularly insidious weapon with a distinct purpose in the field of munitions, the anti-personnel mine is designed to maim opposition soldiers. *Landmines: A Deadly Legacy* describes the effect a mine explosion has on the human body. Landmines create:

“ruinous effects on the human body; they drive dirt, bacteria, clothing, and metal and plastic fragments into the tissue, causing secondary infections. The shock waves from an exploding mine can destroy blood vessels well up the leg, causing surgeons to amputate much higher than the site of the primary wound”.⁶

³ Dr Rémi Russbach, Medical Director of the International Committee of the Red Cross and founder of its Medical Division, writes that in the period between January 1991 and July 1992, 23 per cent of the 14,221 individuals seeking treatment at four ICRC hospitals were wounded by mines. Rémi Russbach, “Casualties of Conflicts and Mine Warfare”, in *A Framework For Survival: Health, Human Rights, And Humanitarian Assistance In Conflicts And Disasters*, pp. 121, 126 (Kevin M. Cahill ed., 1993) [hereinafter *Framework For Survival*].

⁴ Office of International Security and Peacekeeping Operations, United States Department of State, *Hidden Killers: The Global Problem with Uncleared Landmines* p. 33 (1993) [hereinafter *Hidden Killers*]. The Director of the United Nations Demining Program, Patrick Blagden, estimates upward of 200 million mines. “Summary of United Nations Demining Report Presented by Patrick M Blagden, United Nations Demining Expert” in *ICRC Symposium on Anti-Personnel Mines, Montreux 21-23 April 1993*, p. 117 (1993) [hereinafter *Montreux Symposium*]. Additional estimates range between 100 and 200 million mines. See Jan Eliasson, UN Department of Humanitarian Affairs, *Informal Paper on the Subject of Land Mines* p. 1 (7 April 1993) (on file with author).

⁵ See Asia Watch & Physicians For Human Rights, *Land Mines in Cambodia: The Coward's War*, p. 9 (1991) [hereinafter *Land Mines in Cambodia*].

⁶ The Arms Project of Human Rights Watch & Physicians for Human Rights, *Landmines: A Deadly Legacy* p. 431 (1993). For additional discussion of landmine wound treatment, see Robin M. Coupland & Adrian Korver, “Injuries from Antipersonnel Mines:

In an attempt to combat the effects of war-related injuries, such as those created by landmines, the ICRC is currently running twenty-seven orthopedic programmes and as many surgical units in fourteen wartorn countries.⁷ This, combined with the fact that nearly 25 per cent of the civilian casualties treated by the ICRC in the eighteen-month period ending July 1992 were suffering from mine-related injuries gives some idea of the scope of the anti-personnel mine problem. In Cambodia, one out of every 236 people has lost at least one limb owing to surgical amputation following a mine explosion.⁸ This rate is high compared even with Angola, where amputations have to be performed on one of every 470 people. In the United States, where the threat posed by anti-personnel mines is minimal, amputations are performed on one of every 22,000 individuals. The ICRC's substantial efforts to stop the use of mines serves as a barometer for the magnitude of the problem. The humanitarian organization reports that in most mine-infested countries, it is generally impossible for local infrastructures to provide the necessary level of rehabilitative care, such as artificial limbs for survivors.

The French-based Handicap International, like the ICRC, reports that an increasing proportion of its resources is devoted to mine-related surgery or the fitting of prosthetic devices to women and children who step on anti-personnel mines as they herd sheep or search for firewood. Phillippe Chabasse, Executive Director of Handicap International, explained the reason for which his organization advocates a ban on anti-personnel landmines: disabled survivors are a major social and economic burden that further impoverish a society and impede Handicap International's ability to support community reconstruction. "We have to work very hard just to get back to zero".⁹

The Experience of the International Committee of the Red Cross", 300 *British Medical Journal* p. 1509 (1991)I; Robin M. Coupland, "Amputation for Antipersonnel Mine Injuries of the Leg: Preservation of the Tibial Stump Using Medial Gastrocnemius Myoplasty", 71 *Annals of the Royal College of Surgeons*, England, p. 405 (1989).

⁷ Interview with Dr Rémi Russbach, 13 Sept. 1993. See also Alain Garachon, *ICRC Technical Orthopaedic Programmes for War Disabled* 2 (1993). Alain Garachon, Director of the ICRC's Rehabilitation Programme, noted that "a child injured at 10 years of age with a life expectancy of another 40 or 50 years will need 25 prostheses which at 125 USD each amount to 3125 USD. In countries where average incomes are of the order of 10 to 15 USD a month, one can easily understand that crutches are all that are available to that population".

⁸ *Landmines: A Deadly Legacy*, *supra* note 5, pp. 126-127.

⁹ Interview with Dr Phillippe Chabasse, Director, Handicap International, in London, England (18 May 1993). Chabasse also noted in his earlier presentation at the ICRC Symposium on Anti-Personnel Mines that "families have less and less the financial and production capacity to support" the growing numbers of handicapped persons. *Montreux Symposium*, p. 9, *supra* note 3, at 9. Also: *Rendre la Terre à La Vie*, Handicap International,

The presence of these “eternal sentinels” is not a problem of the past. The United States State Department notes, in its report *Hidden Killers*, that mines are increasingly a weapon of choice in the growing number of ethnic and civil conflicts engulfing the world.¹⁰ The United Nations estimates that four million mines have been sown across the former Soviet Union and Yugoslavia in the past three years alone.¹¹

The consequences of uncleared mines are particularly acute in developing countries. Oxfam International reports that the cumulative effect of the landmines problem carries with it the potential to destabilize entire economies as large tracts of land are rendered useless for cultivation or grazing.¹² In Somalia, the US State Department estimates that one million mines have rendered entire towns, villages and agricultural land useless.¹³ In Angola, British mine clearance teams estimate that twenty million mines were laid over 33 per cent of the country, contributing to starvation when productive land was rendered useless. In Mozambique, Human Rights Watch reports that over two million mines remain deployed, including thirty-two types of anti-personnel mines and nineteen types of anti-tank mines, manufactured by fifteen nations. In Afghanistan, the British-based Mines Advisory Group estimates that it will take between ten and fifteen years to clear the priority zones of Afghanistan, a country infested with ten million mines. Reports by the New York-based Arms Project of Human Rights Watch and by Physicians for Human Rights conclude that countries most infested by mines are impoverished and lack the ability to harness the requisite resources to respond to the exploded mine’s medical, social, economic and environmental consequences.

July 1995.

In his testimony to the Senate Foreign Affairs Subcommittee on the Global Landmine Crisis, UN demining expert Patrick Blagden testified that 3,400 mine clearers in four countries have been able to remove between 65,000 and 80,000 mines, approximately one-thousandth of the world’s total. “Two and one-half million were laid in Yugoslavia and Cambodia, [meaning] we are losing the battle at least thirtyfold”. Interview with Patrick Blagden, 13 May 1994.

¹⁰ See *Hidden Killers*, p. 10, *supra* note 3. “Landmines pose a special problem to the world’s poorest countries. For example, rural Africa, the world’s most mine-infested region with roughly 18-30 million mines sown in eighteen countries, has the least capacity for mine-clearance. External support is required for a meaningful mine-clearance campaign to exist”, *Id.*, p. 34. “In fiscal year 1993, the US State Department, including USAID, allocated \$9 million for demining projects in Afghanistan, Mozambique, Somalia, Cambodia, and Central America”, *Id.*, p. ii.

¹¹ Telephone interview with Jan Eliasson, former Under-Secretary General for Humanitarian Affairs, 16 February 1994.

¹² Interview with Joel Charney, International Programme Director, Oxfam International, in London, England, 25 May 1993.

¹³ See *Hidden Killers*, pp. 153-154, *supra* note 3.

Landmines have substantially impeded UN peace-keeping operations as well as efforts by the United Nations High Commissioner for Refugees (UNHCR) to oversee the return of millions seeking post-Cold War resettlement. The High Commissioner for Refugees reports this disruptive effect: "UNHCR restructured operations in Afghanistan, Cambodia and Mozambique as a few ounces of foot pressure on the wrong patch of ground caused too many explosions".¹⁴

Although the international community is taking active steps to remove previously deployed mines, efforts to date have been inadequate. For example, a mine-removal programme under the direction of the United Nations is currently under way in Somalia, with some 200 Somalis trained in clearance techniques. Through a precarious process of using hand-held metal probes, 21,000 mines have been removed to date. The mine-clearance personnel are being doubled, but despite this the Director of the UN's Demining Programme, Patrick Blagden, says that without more technologically sophisticated, and therefore expensive, methods, "the situation is hopeless". Congressman Lane Evans, co-sponsor of the US landmines moratorium, quoted an estimate of \$3,500,000 to bring heavy mine-clearance vehicles into Somalia alone, leaving the price tag for the removal of mines from even the world's most heavily infested areas far more than the United Nations or its member States are prepared to pay.

III. INITIATIVES TO BAN LANDMINES

The possibility of curbing an epidemic which is maiming the world's poorest is spurring an organized effort in humanitarian and United Nations circles. In 1992, a coalition of humanitarian and human rights groups, including Human Rights Watch, Handicap International, Physicians for Human Rights, Medico International, Mines Advisory Group and Vietnam Veterans of America Foundation - which took the lead - launched an international campaign to ban the production, use and sale of mines. Although the anti-personnel landmine lacks the dramatic images of biological or chemical warfare that belligerents after World War I had a mutual interest in banning, the campaign is gaining momentum. The

¹⁴ Interview with Dr Sadako Ogata, UN High Commissioner for Refugees, in Washington, D.C., 13 May 1994. The interview occurred at the time of the Commissioner's testimony to the Foreign Operations Subcommittee of the Senate Appropriations Committee.

efforts of this international coalition of NGOs, whose members have been working in capitals around the world to persuade the States' diplomatic missions to support a ban, reflects an enhanced role for the international NGO community in enforcing international humanitarian law.¹⁵

The global campaign offers the world's governments an opportunity for a multilateral effort to apply humanitarian restraints on warfare. In a time of highly technical, modern, target-specific weaponry, the anti-personnel landmine is the most ubiquitous, least visible and, according to the US Department of State, the most deadly weapon levelled against civilians, who continue to be threatened long after the fighting is over. The opening rounds of this year's expert sessions at the United Nations have now ended, and it appears unlikely that many countries will support an outright ban on mine production and use. Should they indeed fail to do so, the NGOs and the ICRC - which are aggressively pressing for a ban - have little choice but to accept technological limits, such as self-destruct mechanisms, as a step toward their long-term goal.¹⁶

¹⁵ Even before the 1949 adoption of the Geneva Conventions, the NGOs and the ICRC acted to protect civilians from abuse by States. Traditionally, this effort was made in two discrete spheres; humanitarian law kept its focus on matters military, leaving human rights concerns for peacetime review. More recently, human rights reporting organizations such as the Human Rights Watch and Amnesty International have begun to incorporate humanitarian law principles into their human rights reporting. The two spheres, human rights and humanitarian law, appear to be converging in view of the international community's obligation to protect civilians from abusive State action in the context of internal conflicts. See generally Theodor Meron, "On the Inadequate Reach of Humanitarian and Human Rights Law and the Need for a New Instrument", *77/3 American Journal of International Law*, p. 589 (1983).

But sometimes action on the ground is required to bring the two sets of principles together. According to NGO coalition organizer, Jodie Williams, "When exploding mines impeded UN peacekeeping operations, the UN's concerns matched the NGOs' and the issue gained visibility." Interview with Jodie Williams, Director, Vietnam Veterans of America Foundation Landmines Campaign, in Washington, D.C., 18 December 1993.

¹⁶ Interview with Edward Cummings, Department of State Legal Office and member of US delegation to the United Nations expert sessions regarding the Review Conference of the Convention on Conventional Weapons, in Washington, D.C. (12 August 1994). Cummings described the US policy as stopping short of a ban. In a press conference following his presentation at the United Nations International Meeting on Mine Clearance, (Geneva, 5-7 July 1995) sponsored by the Department of Humanitarian Affairs, the head of the US Delegation, Cyrus R. Vance, said that, although there was not unanimity in the United States Government on the question of military utility of anti-personnel landmines, "the US position favours tightly restricting and controlling the stockpiling, production of landmines" and, where possible, restricting its use to governments. "It is our considered position that an outright ban is impossible — that a great majority of countries do not favor a ban," said the United Nations Secretary-General's former envoy to Yugoslavia.

UN Secretary-General Boutros Boutros-Ghali, in his statement on 13 May 1994 before the Foreign Operations Subcommittee Hearings on the Global Landmine Crisis, supported a total ban on landmines:

A Group of Governmental Experts constituted by the UN Secretary General to prepare the Review Conference of the States Parties to the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (1980 CCW) to take place in Vienna from 25 September to 13 October 1995 held four meetings in 1994 and 1995. The Final Report of the Group of Experts whose final meeting took place in Geneva from 9 to 20 January 1995 indicates that the primary purpose of Protocol II of the 1980 CCW (Protocol on prohibitions or restrictions on the use of mines, booby-traps and other devices — hereinafter Landmine Protocol) is to protect civilian populations from indiscriminate suffering both during and after conflicts. The Final Report, importantly, does recommend restrictions on the use of landmines in internal wars. But by proposing complex and limited restrictions rather than an outright ban on the production, use and transfer of anti-personnel landmines, the recommended regime creates a complex programme with insufficient enforcement procedures. Many NGOs claim that the Review Conference is in danger of failing in its central mission: to reduce civilian casualties in the growing number of internal conflicts.

The meetings of experts stopped short of specifying a minimum of metallic content to ensure detectability, offered “self-destruct mechanisms” as a solution to avoid post-war explosions and left undecided the question of a verification provision or enforcement measure.¹⁷

In the United States, initial congressional response to this NGO-led effort has been just short of remarkable. In 1993, the US Congress extended for three years a 1992 moratorium that forbids the US export, sale

“An international Convention on Mines is urgently needed. Its purpose should be to reach agreement on a total ban on production, stockpiling, trade and use of mines and their components. Only in this way can the international community begin to make sustained headway against the killing, maiming and societal destruction caused by these terrible weapons”.

The Secretary-General reinforced this advocacy of a global ban at the International Meeting on Mine Clearance in his address to the Plenary Session on 6 July 1995, saying that the 50th Anniversary of the United Nations offers an opportunity for “clear humanitarian action”. See UN International Meeting on Mine Clearance, *SG/Conf. 712*, 9 June 1995.

Arms Watch Director, Steve Goose, reported that the NGOs’ approach is to keep the heat on and enlist more NGOs, particularly in the developing world, to “make this much more of a grass roots campaign”. Interview with Steve Goose, Director, Human Rights Watch/Arms Watch Project, in Washington, D.C., 12 August 1994.

¹⁷ See CCW/Conf. 1/GE/23, 20 January 1995. See also *Landmines and Blinding Weapons from Expert Group to the Review Conference: ICRC Briefing and Position*, ICRC, February 1995.

or transfer of anti-personnel landmines abroad. The Congress stopped short of legislating a ban on the production of landmines, a measure that producers and the military threatened to oppose.¹⁸ According to leading ban proponent Senator Patrick Leahy, “[W]hen the Senate voted 100-0 for my amendment to stop all United States landmine exports, the goal was to put this country in a position to seek a broader, international agreement to end the landmine scourge”.

The congressional action caught the Pentagon, as well as the world’s landmine producers, off guard and it resulted in substantial international interest in considering controls on this type of munition. However, momentum for a total ban on landmines has been slowed since the advent of lobbying on behalf of the world’s various military and security apparatuses. Thus the United Nations chooses to focus on eradicating the danger caused by landmines already deployed. The General Assembly, in its forty-eighth session (1993), adopted a Belgian proposal for financing of mine-clearance operations that are often prerequisite to resettlement and repatriation. This resolution calls on the Secretary-General to review the scope of the anti-personnel landmines problem and to consider the “advisability” of establishing a voluntary trust fund to finance the growing number of mine-clearing efforts that are prerequisite to peace-building measures. The Voluntary Fund was created in 1994 and is administered by the United Nations’ Department of Humanitarian Affairs, which was itself created in 1991 to respond to humanitarian disasters.¹⁹

The UN General Assembly also unanimously adopted a US-sponsored resolution calling on the international community to agree to a moratorium on the export of those anti-personnel mines that pose an inordinate danger to civilian populations. Ironically, the United States was one of only three countries to abstain on a vote on the same day calling for a United Nations conference to review the convention that places humanitarian limits on the use of landmines. This position, in sharp contrast to the overwhelming international support for the resolution, demonstrates, in part, the effect on US policy of the disagreement between the Pentagon and the Congress over the question of placing meaningful restraints on these hidden killers.

¹⁸ Telephone interview with Rod Bilz, Public Relations, Alliant Techsystems (16 December 1993); see also John Ryle, “The Invisible Enemy”, *New Yorker*, 29 November 1993, at p. 120.

¹⁹ *Supra*, note 1. Hansen said he hoped for \$75 million in contributions from member States to the United Nations Voluntary Trust Fund for Mine Clearance Activities. Interview, Geneva, 5 July 1995.

In any event, Senator Patrick Leahy, in a strongly-worded letter to the *New York Times*, highlighted what has become the most significant obstacle to the United Nations initiative, namely the refusal for strategic reasons to abandon mine warfare.

Following the NGO efforts and the ICRC's 1993 Montreux Symposium on Anti-Personnel Mines, eighteen producing countries enacted moratoria on the transfer and use of landmines. Furthermore, the United Nations General Assembly, in its 49th session, enacted two additional resolutions²⁰ on 15 December 1994 which most notably urged all States to take measures to become parties to the Protocol, invited them to declare moratoria on the export of anti-personnel landmines and indicated that, for humanitarian reasons, States should move toward "the ultimate goal of the eventual elimination of anti-personnel landmines" with the caveat that such a goal should be reached after the development of "viable and humane alternatives".

The Clinton administration, through UN Ambassador Madeleine Albright, has promised to align its stated values to specific policy choices. UN Ambassador Albright promised to expand US diplomatic initiatives to restrict sales, and to open discussion with "primary landmine producing and exporting countries on the content and scope of a permanent export control regime."²¹ Responding to the sharpened voice at the Pentagon, NGOs have called her position rhetorically firm but politically inadequate. The US abstention, and current debate within the US Department of Defense, suggest a split within the administration that could cause the United States to lose its leadership role and derail any hopes for a ban.²²

²⁰ A/RES/49/75D and A/RES/49/79.

²¹ Interview with the Public Relations Team of the US Mission to the United Nations, in Washington, D.C. (15 December 1993). Ambassador Albright also calls efforts to persuade UN General Assembly members to observe a moratorium on the export of landmines, a "first step in the Clinton administration's comprehensive effort to address the devastating consequences of their [mines] indiscriminate use". Madeleine Albright, US Permanent Representative to the United Nations, Press release, 15 December 1993.

²² In a letter to Senator Patrick Leahy from Secretary of State Warren Christopher and Secretary of Defense William J Perry, the Secretaries indicated that the administration is conducting an "intensive policy review" to determine the parameters of the US position regarding landmines. However, the letter indicated the unlikelihood of US support for a ban:

"[W]e are concerned that the legislation that you are considering, which would ban US production/procurement of anti-personnel landmines, would be counterproductive to the goal we all share of developing as quickly as possible an effective anti-personnel landmine control regime. Pursuing this legislation now would prejudice US negotiating

In May 1994, President Clinton submitted to Congress a message in support of ratification of the Landmine Protocol to the CCW, which Congress then ratified in March 1995, with certain reservations. The legislation ensures that the US will take part in the forthcoming Review Conference. It appears likely that the United States will not support a ban despite the urging of several longer-term States parties.

The United Nations Meeting on Mine Clearance, which was held in Geneva in July 1995, brought together Ministers and senior officials from 97 governments in one of the first high-level attempts on a worldwide scale, to address the landmine crises.

The background papers presented to the aforesaid UN meeting indicate the character and nature of the many dilemmas that mine warfare creates for civilian populations once hostilities have ceased, and the degree to which the United Nations bureaucracy is getting set to respond to a problem that is outpacing current solutions. The Chairman of the International Meeting on Mine Clearance, Mr Erik Derycke, Belgian Minister for Foreign Affairs, said that, despite reluctance of some States to support a total ban, the two-day meetings were designed to mobilize the international community with hopes for an eventual ban.²³ Working sessions included: 1) Mine Surveys; 2) Current Methods in Mine Clearance; 3) Training Indigenous De-miners; 4) Management of De-mining Operations; 5) New Technologies in Mine and Minefield Detection and Mine Clearance; 6) Treatment and Rehabilitation of Landmine Victims; 7) Emergency Mine-Clearance Problems and Solutions; 8) Education and Mine Awareness; 9) The Integrated Mine-Clearance Programme.

position, restricting our ability to conduct effective consultations with countries critical to control regime”.

Letter from Warren Christopher, Secretary of State, and William J Perry, Secretary of Defense, to Patrick Leahy, US Senator (28 June 1994) (on file with Senator Leahy) [hereinafter Christopher letter].

Senator Leahy points out that the previous administrations' failure to seek ratification of the Conventional Weapons Convention was linked to a dispute with Congress over ratification of two earlier international agreements regarding the law of war: Protocols I and II to the 1949 Geneva Conventions, which the United States signed in 1977. The Reagan administration submitted the more limited Protocol II of the 1949 Conventions for ratification, withholding support from the more extensive Protocol I. The Senate Foreign Relations Committee refused to act, waiting for the submission of both of the almost universally accepted Protocols to the Geneva Conventions before acting on either. The Department of Defense is currently reviewing these Protocols. This dispute between the Executive and the Congress was in part responsible for the refusal of the Reagan and Bush administrations to submit for ratification the 1980 CCW. Interview with Patrick Leahy, US Senator, in Washington D.C., 13 May 1994.

²³ Interview, Geneva, 5 July 1995.

The UN General Assembly has not yet passed on the question of limiting mine warfare for consideration by the United Nations' agenda for disarmament. However, the NGOs of the US advocate that the United Nations member States should do far more than produce a fund to pay for the costs of mine clearance.

The Sri Lankan Ambassador to the United Nations, whose nation's army has suffered severe casualties due to mines sown by opposition forces in its tragic civil war, opposes restraints on mine warfare. According to Ambassador Stanley Kalpage, "In the world of United Nations *realpolitik*, the member States appear less than convinced that an outright ban, given the combined problems of creating verifiable international agreements and implementing them, is little more than romantic humanitarianism". NGO supporters of a total ban argue that a ban on landmines inherently falls within the meaning of international law that requires armies to direct their activities solely against military and not civilian objectives. At a series of ICRC and NGO meetings on the subject, most participants agreed that the problem with landmines is that they do not distinguish between military and civilian footfalls, and continue to kill long after a conflict is over.²⁴ The NGO's and ICRC's strategy to achieve a ban is to stigmatize the use of anti-personnel mines much as bacteriological and chemical warfare was stigmatized in the past, while urging on the governments' deliberations from the outside and focusing long-term attention on the issue.²⁵

²⁴ *International Conference for the Protection of War Victims*, ICRC (Geneva, 30 August - 1 September 1993). The Conference's Final Declaration, adopted on 1 September 1993 by consensus of the 168 participating States, concluded: "We refuse to accept that civilian populations should become more and more the principal victim of hostilities and acts of violence perpetrated in the course of armed conflicts", *International Review of the Red Cross (IRRC)*, No. 296, September-October 1993, p. 377.

Cambodia's civil conflict is the first war in history where mine-related casualties have exceeded injuries caused by all other weapons. Cambodia has the highest percentage of disabled inhabitants of any country in the world. Of the country's 8.5 million inhabitants, over 30,000 are amputees and a further 5,000 or so amputees live in refugee camps along the Thai border. In 1990 alone, as many as 6,000 Cambodians had a leg or foot amputated as a result of an injury caused by a mine. See Eric Stover & Dan Charles, "Cambodia's Killing Minefields", *New Scientist*, 19 October 1991, p. 29; *Land-mines in Cambodia*, *supra* note 4, pp. 59-79; *NGO Conference on Anti-personnel Mines* (London, 24-26 May 1993).

²⁵ Aryeh Neier, Director of the Soros Foundation, in his keynote address to VVAF-led NGO Conference on Anti-Personnel Mines, in London (24 May 1993). Neier advised the coalition to "stigmatize" mine warfare in the same manner that biological and chemical warfare are stigmatized by the world community. Since the ICRC Montreux meetings and the NGO Conference in London, producing States have placed moratoria on landmines and, more recently, the Organization of African Unity supported a restriction on use, with NGOs in Mozambique preparing a country-wide conference in June 1995 on the scope of the problem in Mozambique.

NGOs consider that international education on the scope and problem of landmines constitutes an initial victory. But they are now facing the most salient question: how to build an effective effort to press for real restraints on mine warfare, using the sessions for the upcoming Review Conference of the 1980 CCW as a component of a far larger strategy. Although the ICRC supports an initiative to ban the production, use and transfer of landmines, the Review Conference offers only some promise of constructing standards that will impose technological restraints to limit yet undeveloped types of warfare.²⁶ Perhaps the most important dimension is the application of its Protocol II to internal conflicts.²⁷ Along with the central questions of applicability to internal conflicts and the capacity to monitor, verify or enforce any new restraints, the landmine debate is likely to become polarized, as it has in the US, between proponents of an immediate, total ban and those who favour technical modification coupled with export controls that are likely to remain porous. Perhaps the most important work lies not in legal wrangling over the Protocol but in devising workable mine-clearance programmes coupled with an effective regime of export controls.

IV. MILITARY STRATEGY OR HUMANITARIAN NECESSITY

Jan Eliasson, former UN Under-Secretary General for Humanitarian Affairs, called the recent shift in the use of anti-personnel mines in warfare sufficient grounds to justify a complete ban.²⁸

²⁶ See: Louise Doswald Beck, ed., *Blinding Weapons: Reports of the Meeting of Experts Convened by the International Committee of the Red Cross on Battlefield Laser Weapons, 1989 - 1991*, ICRC, Geneva, 1993.

²⁷ A central issue for the Review Conference of the 1980 CCW is its application to internal armed conflict. Although this article will not trace the legal evolution of placing humanitarian restraints on internal conflict, it is relevant to note that Article 3 common to the four 1949 Geneva Conventions imposes legal obligations on parties involved in an internal war. In 1975, Antonio Cassese argued for the proposition of customary laws of internal war. See Antonio Cassese, "The Spanish Civil War and the Development of Customary Law Concerning Internal Armed Conflicts", in *Current Problems of International Law*, p. 287 (Antonio Cassese, ed., 1975). Protocol II confirms the validity of legal regulation of internal war and provides some details about the human rights of civilians in internal armed conflict. David P. Forsythe, "Human Rights and Internal Conflicts: Trends and Recent Developments", 12 *California Western International Law Journal*, pp. 287, 294 (1982); Robert K. Goldman, "International Humanitarian Law and the Armed Conflicts in El Salvador and Nicaragua", 2 *American University Journal of International Law and Policy* pp. 539, 543 (1987). The ICRC argues that the Convention applies to both liberation movements and States party: Yves Sandoz, "A new step forward in international law - Prohibitions or Restrictions on the Use of Certain Conventional Weapons", *IRRC*, No. 220, January-February 1981, p. 10.

²⁸ Interview with Jan Eliasson, *supra* note 10. Renewed interest in the humanitarian law of war is, in part, due to the strategic focus of domestic conflicts in which civilian populations are the primary targets of hostilities.

Eliasson, and his successor Peter Hansen, who coordinates the UN Demining Programme, support an outright ban on production and sales under existing law. "Mines once served a defensive purpose, deployed on clearly marked battlegrounds. But with the increased targeting of civilians or civilian territory as a war objective, the anti-personnel landmine, which kills long after the conflict is over, is transformed into a weapon of terror".²⁹

Therein lies the humanitarian problem. State officials and military officials who argue against restrictions on mine warfare defend the use of mines as inexpensive and technically undemanding weapons that help establish "parity" in counter-insurgency situations.³⁰ The assumption is that villages, open fields and grazing lands are justifiable targets because they may harbour or support the enemy. However, the light, easy-to-handle explosives that are planted to deny opposing forces access more frequently deny civilians the full use of their villages and agricultural lands. At the January 1994 meeting of Governmental Experts in Geneva, the ICRC questioned representatives of the world's armed forces about the military utility of mines. The overall conclusion of the military experts gathered at that meeting was that mines serve an important, if limited, military function. However, British military strategists who support a ban suggest that it might be custom, rather than military necessity, that undergirds arguments for continued use of anti-personnel landmines.

On 14 June 1995, governmental and non-governmental organizations in Mozambique's first national symposium on the subject of landmines pointed out that while it is Third World countries that suffer the consequences of mine warfare, it is primarily the developed world that produces them. Delegates also pointed out that the extent and implications of mine-related problems, while not as extensive as predicted, impede post-war reconstruction, and that Mozambicans do not want the mined countries to be marginalized in the global debate.³¹

Despite their overwhelming pro-mine stance, the problem of uncleared mines cannot be laid solely at the doorstep of national armed forces.

²⁹ Interview with Jan Eliasson, *supra* note 10. See generally "Cambodia's Killing Minefields", *supra* note 23; Americas Watch, *Landmines in El Salvador and Nicaragua: The Civilian Victims* (1986).

³⁰ Meeting, American Society of International Law, in Washington, D.C. (6-9 April 1994).

³¹ Interview with João Paulo Cuelho, Chair, Landmine Symposium sponsored by Eduardo Mondlane University and Human Rights Watch, 14 June 1995.

Anti-personnel mines are also widely used by some guerrilla forces that are not acknowledged by governments, as belligerents frequently do not subject themselves to the restraints prescribed by international humanitarian law. There is mounting evidence of growth in the use of anti-personnel landmines by insurgents; the low-cost plastic mine is an increasingly effective "poor man's weapon", which at three to twenty US dollars each is designed to reduce the mobility of even the best equipped regular armies.

Commercial interests pose less of an obstacle to those who seek to achieve a ban than strategic interests. Although the combined global trade in landmines is about \$200 million annually, it is a relatively small part of the \$600,000 million global arms budget, but the demand for landmines is increasing.³² The end of the Cold War has led to a reduction of nuclear forces, but business is growing in the area of small conventional arms, as industries rush to supply adversaries in the estimated twenty-nine wars now in progress around the globe.

According to the New York-based Arms Watch, 100 companies in forty-eight countries produce more than 340 types of anti-personnel mines. Most of the world's landmine-producing facilities are government owned, with the largest exporters located in Italy, Russia, Ukraine, Belarus and China, the latter also being an important export target for Western firms that produce mine-related technology. For private companies, like Daimler Benz of Germany, Tecnovar of Italy, Daewoo Corporation of South Korea, or Alliant of the United States, landmine sales are typically part of a larger product line and not separately itemized in company annual reports. Producers are proliferating, according to a recent study by the US Defense Intelligence Agency. The agency names China, Egypt, Pakistan and South Africa as new "ambitious marketers of landmine munitions deeply involved in high technology proliferation".

The official data places the United States well behind the market leaders. In *Landmines: A Deadly Legacy*, Human Rights Watch observes that the United States had shifted from its role as a leading exporter of mines during the Vietnam era to a minimal level of export prior to its three-year moratoria. The Human Rights Watch report notes that the

³² *Landmines: A Deadly Legacy*, *supra* note 5, at pp. 35, 37. This is especially true with the sales of plastic, scatterable mines - although difficulty in tracking landmine production and sales is compounded by the fact that no company makes meaningful public disclosure of its land mine sales. For an overview of mine variety and availability see *Jane's Military Vehicles and Logistics 1992-1993* (1993).

Minnesota-based Alliant Techsystems, a former subsidiary of Honeywell Incorporated's Defense Systems, is the US Army's largest munitions contractor and a company with one of the largest economic stakes in self-destructing mines. Not surprisingly, Alliant argued for the utility of landmines with self-destruct mechanisms to Congress, stating that this mechanism provided a practical way to achieve the goal of the UN Protocol.³³ According to Alliant, "self-destructing mines serve a military purpose of protecting US soldiers by providing: force multiplier effects, safety to troops, elimination of hazardous and time-consuming clearance, and American forces understand them".³⁴

V. THE RELEVANT LAW

The law that principally governs the use of anti-personnel landmines is commonly referred to as the Landmines Protocol (or Protocol II) annexed to the 1980 CCW. Its inclusion was largely in response to the high numbers of civilian casualties caused by mines and unexploded munitions in Vietnam. The 1980 CCW is based on the "principle that prohibits the employment in armed conflicts of weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering".³⁵

The original draft presented by Britain was intended to reduce harm to civilians in armed conflicts, deriving its provisions from customary law codified by the Hague Conventions of 1899 and 1907 and the fundamental principles of the Geneva Conventions and their Additional Protocols, which require warring parties to refrain from targeting civilian populations.

The applicability of international norms to military conduct is indisputable given the Nuremberg Trials' explicit recognition of the Hague codification and the overwhelming ratification of the Geneva Conventions. However, while these norms have been useful in raising consciousness and, in a few instances, providing a basis for war crimes trials or

³³ Interview with Tim Rieser, Aide to Senator Patrick Leahy, in Washington, D.C. (12 July 1994). (Rieser noted that several conversations were initiated by Alliant representatives to lobby support for the retention of a self-destruct solution).

³⁴ Alliant Techsystems, Press release, 16 December 1993 (generally concerned with company views on efforts to curb impact on civilians).

³⁵ 1980 CCW, Preamble.

other interventions, they have rarely been used for restraining the conduct of protagonists in an internal conflict. The campaign to ban landmines challenges governments to break from this tradition; to breathe meaning into humanitarian principles rather than belatedly to complain about conduct the world community considers objectionable.

The Landmines Protocol states that its central intention is to protect civilian populations from the "indiscriminate" effects of war. In addition, it requires that combatants take "feasible precautions" (defined as "practicable or practically possible" under the prevailing circumstances) to protect civilians from the effect of mines and booby traps. The parties to it are required to keep records of minefields which would facilitate mine-clearance activities once hostilities have ceased. It prohibits in all circumstances the use of mines "either in offence, defence, or by way of reprisals against the civilian population or individual civilians" (Article 3 (2)).

But in practical experience, the Landmines Protocol has completely failed to serve its purpose: to protect innocent civilians. In fact, since the adoption fifteen years ago of the Landmines Protocol, civilian injuries due to exploding mines have skyrocketed. But despite evidence of ignorance of the law governing the use of mines, the most significant legal and diplomatic argument against restraints on mine warfare is found in the States' argument that the law does not apply to internal conflicts. A conventional view regarding the application of humanitarian law, including the Conventional Weapons Convention, continues to be that internal conduct does not come within the political jurisdiction of the international community.³⁶ But given the increasing number of internal conflicts and the increased visibility of humanitarian issues, the question of self-restraint

³⁶ The issue of the application of the Protocol to internal conflict has emerged as a substantive issue at the Meetings of the Governmental Experts to prepare the Review Conference of the 1980 CCW. Their discussions have reflected the tension between the State's right to national sovereignty and political independence and its duty to respect the rights of civilian populations. *Progress Report of the Group of Governmental Experts to Prepare the Review Conference of the States' Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or to Have Indiscriminate Effects*, UN GAOR, 49th Sess., Agenda Item 10, at p. 8, UN Doc CCW/CONF.1/GE8 (1994). The Summary Report noted that the "issue of extending the scope of Protocol II and/or the Convention as a whole was widely discussed to extend the scope of at least the Protocol to cover non-international conflicts that," according to the Chair, "cause the greatest problem", *Id.* "Alternative A" and "Alternative B" of Article I reflect the necessity to protect civilian populations "in all circumstances" inferring the likely application of the revised Protocol to internal conflict. Fourth Session, 20 January 1995, CCW/CONF.1/GE/23, Final Report.

Human Rights Watch has argued that the Landmines Protocol already applies to internal conflict since the civilian populations' need for protection from combatants

in the conduct of internal wars has moved in from the periphery of humanitarian discourse.

The ICRC's legal department and some NGO legal specialists argue that indiscriminate use of anti-personnel landmines in internal conflict is *already illegal* under the customary law that prohibits indiscriminate use of weapons, a position that underscores the need for a global ban. Despite such interpretations, some government officials at best prefer modifications in the design of anti-personnel landmines to include self-destruct devices, perhaps owing to a lack of will to support an action unpopular with the world's military strategists.³⁷

The effort to transform the growing international revulsion to mines into norms that could meaningfully sustain an international ban has attracted considerable media interest both to the problem itself and to the forthcoming United Nations Review Conference. Beyond the problem of the Landmine Protocol's applicability to internal conflicts, the current law provides no obligation for mine clearance; no verification provisions; no enforcement procedures; says nothing about the production or transfer of mines; and leaves sufficient space in its operative clauses as regards its application to domestic wars to keep lawyers debating for decades.³⁸

VI. DEMINING: A SLOW AND DANGEROUS PROCESS

With military and commercial interests advocating self destruct mechanisms as a high-tech alternative to a ban on production, stockpiling and transfer, the necessity for an ongoing programme of mine clearance

remains the same whether they are enmeshed in international or internal war. Interview with Steve Goose, Deputy Director, Arms Watch. In addition, the ICRC attached great importance to verification procedures through a permanent, independent, supervisory body.

³⁷ Louise Doswald-Beck, Legal Department, ICRC. The rules of humanitarian law of war reflect a tension between the "standards of civilization and the necessities of war". Interview, Geneva, April 1994.

³⁸ A few member States view the UN's preparatory sessions as a way to raise the entire question of how to assess the development of new weapons in humanitarian terms. For example, the ICRC has shown a clear interest in discussing new weapons such as anti-personnel laser weapons to get ahead of the technology rather than mop up after it. See Anita Parlow & Bob Deans, "Long After Wars End, Land Mines Remain, Bringing Death Underfoot", *Atlanta Journal & Constitution*, 16 January 1994 at A1. Also, Anita Parlow, "Banning Land Mines", 16 *Human Rights Quarterly*, No 4, November 1994, p. 715.

poses the central practical dilemma. Although mine technology is increasingly sophisticated, clearance technology has not kept pace. As Jan Eliasson notes, “[I]t is one thing to lay mines and quite another to clear them”. Eliasson calls the bottom line a budgetary matter. Without a legal obligation in the Landmines Protocol for mine sowers to remove their deadly legacy once hostilities have ceased, “the international community will most likely remain the primary entity capable of paying for the costly demining efforts”.³⁹

Mine clearance and disposal are not only expensive at an estimated \$400 to \$700 per mine, but also primitive, slow and hazardous. Electronic sweepers are typically ineffective off the main roads because widely used plastic mines are difficult to locate and do not respond to metal detectors. Rae McGrath, Director of the British-based Mines Advisory Group, who conducts mine-clearance programmes around the world for the United Nations, reports that the “plough would seem an effective way to breach minefields, but if the ground is too rough or community water systems and agricultural and grazing fields are involved, demining requires the far more widely used, dangerous and time-consuming hand-held probe”.⁴⁰

Mine clearance problems appear to be exacerbated, rather than relieved, by some cutting-edge technology. For example, one recently produced device releases a cloud of ethylene vapour, which is then detonated, to breach minefields. Because this fuel-air mix does not cover the area uniformly, its detonation leaves gaps in the minefield below. Moreover, this controversial method of mine clearance has a disquieting offensive potential and is unusable in sensitive areas such as water filtration systems and villages.

Additional problems concern the need of mine-clearance personnel to know which mines have been sown, a considerable problem since few mined areas are mapped. In Kuwait, a country with sufficient funds to finance the best mine-clearance effort, over eighty such personnel have been killed although all were trained in the most up-to-date techniques.

³⁹ ICRC President, Cornelio Sommaruga, vows to continue the landmine campaign as part of the ICRC’s effort to create a world in which a “humanitarian space” is preserved. Interview in Geneva (8 May 1995).

⁴⁰ Rae McGrath, *Report on the Afghanistan Mines Survey* 58, London, England, 1991.

VII. CONCLUSION

Just as nuclear arms were a symbol of the Cold War, anti-personnel landmines are becoming a symbol of its aftermath. The Review Conference of the 1980 Convention places anti-personnel landmines in the context of present-day armed conflict and offers an opportunity to make its Protocol II an effective instrument for controlling their production and use.

Whatever the outcome of the Vienna Review Conference, the NGOs and the ICRC have demonstrated an enhanced ability to move States to action. They view the Vienna Conference as one step in a continuum that would ban mine production, use and transfer, institute a verification regime and support technologies for mine detection and clearance that are sustainable in local communities. Little would be lost and much gained by a clear humanitarian decision that would offer hope to those who figure among the world's most impoverished and who seek a future that extends beyond conflict and holds promise of post-war reconstruction.⁴¹

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⁴¹ The author is grateful to the William Penn Foundation, Mrs Kenneth Montgomery, the Uniterra Fund, Reebok International and the Public Welfare Foundation for underwriting this work as part of a series of articles on human rights and humanitarian intervention.

The Swiss draft Protocol on Small-Calibre Weapon Systems

Bringing the dum dum ban (1899) up to date

by Eric Prokosch

I

In August 1994, at the third session of the group of governmental experts to prepare the 1995 Review Conference of the 1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, Switzerland introduced a proposal for a new protocol to the Convention. The Swiss draft Protocol on Small-Calibre Weapon Systems would prohibit the use of small-calibre arms and ammunition which, at ranges of 25 metres or more, transfer more than 20 Joules of energy per centimetre to the human tissues during the first 15 centimetres of passage in the body.

This paper¹ examines the Swiss proposal against the background of the intergovernmental discussions in the 1970s which led to the adoption of the 1980 Convention. It argues that by taking advantage of the scientific work done since then, the Swiss draft overcomes the criticisms levelled against earlier proposals for a new ban. The Swiss initiative presents the States participating in the Review Conference with a new opportunity to ensure that the principle set forth in the 1899 Hague ban on dum dum bullets remains applicable to the conditions of modern warfare.

II

In 1899 the Hague Peace Conference adopted a Declaration prohibiting the use of "bullets which expand or flatten easily in the human body,

such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions". The Hague Declaration Concerning the Prohibition of Dum-Dum Bullets was an early effort to reduce the suffering inflicted on combatants by prohibiting the use of a specific class of munitions. Since its adoption nearly 100 years ago, it has been largely respected, at least in the letter of the law: the bullets specifically described in the Declaration have not, for the most part, been used in war.

The Hague Declaration is a concrete expression and application of the prohibition of use of weapons and projectiles of a nature to cause superfluous injury or unnecessary suffering. This prohibition has most recently been enshrined in Article 35 of Protocol I additional to the Geneva Conventions of 1949 and is generally regarded as a rule of customary international law, binding on all parties to armed conflicts. Because of its wide acceptance, the Hague Declaration on dumdum bullets also can be regarded as a rule of customary international law. It can further be argued that with regard to small-calibre weapon systems, the Hague Declaration sets a minimum standard for what is meant by "superfluous injury" or "unnecessary suffering". Any other small-calibre projectile producing the same degree of injury should similarly be regarded as prohibited under customary international law.

When a missile such as a bullet or a bomb fragment hits the body and penetrates the tissues, some or all of its kinetic energy (energy of motion) is transferred to the tissues, thrusting them aside with explosive rapidity. The greater the amount of energy transferred, the greater the amount of tissue destruction.²

A bullet is aerodynamically designed to pass through the air with a minimum of air resistance, and the high rate of spin imparted to it in the gun barrel ensures its stability, so that the nose of the bullet faces forward. The materials of the human body are far denser than air, but a good design, a solid construction and a high rate of spin can still ensure that a bullet will maintain its nose-forward orientation and pass through the body without losing much of its energy or causing a massive wound (except at short ranges, because of the yawing of the bullet; see below, section VII). But the mushrooming of a dumdum bullet striking the body causes a large surface of bullet material to press violently against the tissues; the energy of the bullet is rapidly transferred to the body, and a massive wound results.

From the reasoning outlined above, it should follow that if a bullet does not deform like a dumdum but transfers its energy to the body rapidly by some other means, then it, too, should be regarded as prohibited for

use under customary international law. That this reasoning is not sufficient in practice is shown by the appearance of new military rifles and ammunition tending to cause severe wounds, and by the efforts of weapons designers to produce such arms.³ The dum dum ban needs to be brought up to date so that the protection against excessively damaging effects which it sought to achieve will be maintained under modern conditions.

III

The revival of international concern over the wounding effects of rifle bullets came with the appearance of the AR-15 (M16) 5.56 mm rifle in the US-Vietnam war. For many years, 7.62 mm had been the standard calibre for military rifles in both NATO and Warsaw Pact countries, and in 1957 the US Army announced the adoption of a new 7.62 mm rifle, the M14. Meanwhile, a US company, Armalite, scaled down its own 7.62 mm rifle by adapting it to shoot modified 5.56 mm (.22 calibre) hunting ammunition. The new rifle, which the company called the AR-15, had the advantage from a military point of view of weighing one-fourth less than the M14, and the ammunition also was lighter, reducing the recoil against the soldier's shoulder and enabling a soldier to carry more rounds. As interest in the problems of counter-insurgency grew under the Kennedy administration in the early 1960s, the US military quietly bought several thousand AR-15s and sent them to Vietnam for testing in combat conditions.

Soon reports began appearing of the lethality of the new rifle. "Unofficial reports say the AR-15's light bullet, travelling at 3,300 feet per second, does cartwheels as it penetrates living flesh, causing a highly lethal wound that looks like anything but a caliber .22 hole", the US magazine *Army* reported in August 1963. Two US Army doctors who evaluated AR-15 wounds at an Army hospital in South Vietnam in 1966 reported that while wounds inflicted at close range had small entrance and exit holes, those at larger ranges exhibited small entrance holes "whereas the exit wound is a gaping, devastated area of soft tissue and even bone, often with loss of large amounts of tissue", with disintegration of the bullet and minute splattering of lead.⁴

The AR-15 was redesignated by the US Army as the M16 rifle, and in 1967 the Army announced that it would be adopted as the standard infantry weapon for US Forces outside NATO. By 1978 the rifle had been exported to 21 countries and was being produced under licence in another three, with various other 5.56 mm rifles in production elsewhere.⁵

IV

In 1974, at the first session of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (CDDH), seven States presented a proposal for a new ban on the use of especially injurious bullets.⁶ The proposal, later modified, was discussed at the two sessions of the Conference of Government Experts on the Use of Certain Conventional Weapons organized by the International Committee of the Red Cross (1974, 1976); by the *Ad Hoc* Committee on Conventional Weapons of the CDDH (1974-1977); and at the UN Conference on Prohibitions or Restrictions of Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (1979-1980).

One of the problems faced by the proponents of the ban was the difficulty of obtaining scientific information on the wounding effects of military rifle bullets. The study of missile wounding, known as wound ballistics, had been placed on a sound scientific footing through extensive experiments conducted during World War II, but the missiles mostly used in the experiments were steel balls (approximating bomb fragments).⁷ Missile wounding is an extremely rapid process, difficult to observe; most research is done in military laboratories, and the results are kept secret.

To compensate for the reduced size of the 5.56 mm bullet, the AR-15 (M16) designers had increased the velocity of the bullet so that it would have an adequate range and the flat trajectory needed for accurate aiming. The M16 bullet had a muzzle velocity (velocity on leaving the gun) of 980 metres per second as compared to 870 metres per second for the M14 rifle and 720 metres per second for the Soviet AK-47 7.62 mm rifle, while at a range of 100 metres the velocities of the three bullets were 830, 800, and 630 metres per second respectively, according to figures cited in the early 1970s.⁸

This feature led many commentators to attribute the wounding effect of the M16 bullet to its enhanced velocity. Thus, the two US Army doctors quoted above referred to the M16 as “a devastatingly effective combat weapon with tremendous wounding and killing power related to its high velocity and air-transit characteristics”, although they noted that “many ordnance personnel” also thought the bullet tumbled, which could cause severe wounds.⁹ The observation that bullets broke up in the body led to the supposition that this break-up might also be a cause of the extensive wounds.

The notion of high velocity as the principal reason for the M16 wounding effect was reflected in the report of the group of experts convened by the ICRC in 1973 to discuss the use of weapons which might cause unnecessary suffering or have indiscriminate effects:

“Wounds from projectiles that strike the body at more than about 800 metres per second differ both in degree and in kind from wounds caused by lower-velocity projectiles. Because of the tendency of high-velocity projectiles to tumble and become deformed in the body, and to set up especially intense hydrodynamic shock-waves, the wounds which they cause may resemble those of dum-dum bullets”.¹⁰

The uncertainty over what caused the M16 wounds (and, thus, over what needed to be banned, or how the ban should be formulated) was reflected in the wording of the seven States' proposal at the CDDH in 1974. The proposal cited no fewer than seven possible factors — two possible causes (velocity plus other design features), two possible resultant sorts of bullet behaviour (deformation and tumbling) and three possible effects in the body (shock waves, damage outside the trajectory, and the production of secondary missiles). The text read:

“Projectiles of small-calibre weapons may not be so designed or have such velocity that they are apt to deform or tumble on or following entry into a human body or to create shock-waves which damage tissue outside their trajectories or to produce secondary projectiles”.

At the ICRC Conference of Government Experts on the Use of Certain Conventional Weapons held in Lucerne in 1974, the notion of velocity as a determinant of bullet wounding came in for attack. According to the conference report, the 1973 group's report “was strongly criticized by many experts for suggesting that, at impact velocities of around 800 metres per second, there was a discontinuity or jump in the relationship between bullet velocity and bullet wounding capacity”.¹¹ Participants in the conference presented various, seemingly contradictory battlefield observations and experimental findings on bullet effects. A number of experts “estimated that there was insufficient evidence to warrant the conclusion that modern small-calibre projectiles caused unnecessary suffering. In their view, the evidence demonstrated merely that wounds caused by modern small-calibre projectiles, or by what had been termed high-velocity projectiles, might or might not be more severe than the wounds caused by larger-calibre or lower-velocity projectiles”. These experts “were of the opinion that the formulation of a rule of restriction or prohibition on the weapons at issue did not appear warranted; nor, they

felt, would such a rule be practicable without previous agreement on relevant parameters". One expert held that the adoption of the six States' proposal "would lead to the prohibition of every military rifle in use today".¹² The conference report records that "all experts taking part in the debate readily agreed that further study and research were required to arrive at more definite conclusions".¹³

The proposal was modified in an attempt to take account of the criticisms and resubmitted to the CDDH in 1975, now with 16 sponsors, all but one of which was a non-aligned country.¹⁴ After the discussions at the second session of the ICRC Conference of Government Experts on the Use of Certain Conventional Weapons in Lugano in 1976, a further revision was submitted to the CDDH by Sweden.¹⁵ Despite the changes, no consensus was reached, and the three Protocols attached to the 1980 Convention do not contain any ban relating to the use of small-calibre projectiles. Instead, the UN Conference adopted a resolution in 1979 inviting governments to carry out further research on the wounding effects of small-calibre weapon systems and appealing to all governments "to exercise the utmost care in the development of small-calibre weapon systems, so as to avoid an unnecessary escalation of the injurious effects of such systems".¹⁶

The research envisioned in the resolution had already begun. At the Lugano meeting in 1976, the Swedish and Swiss government experts presented soap blocks showing the results of tests carried out after the Lucerne conference of 1974. Various bullets had been shot through the blocks of soap, cast in the shape of a human thigh; the blocks were then cut open, revealing cavities which could be presumed to correspond to the permanent and temporary cavities that would be formed by similar shots in the human body and, thence, to the extent of tissue damage. The tests showed that certain bullets left a narrow, through-and-through track while others made a track that started small but blossomed where a mass of soap the size of a fist had been violently thrust aside as the bullet passed through. It seemed evident that certain bullets produced much worse wounds than others, but the reasons were still not clear.¹⁷

In 1975 Sweden convened an international, interdisciplinary symposium on wound ballistics. Further symposia were held in 1977, 1978, 1981, 1985 and 1988. Many papers were presented by military and medical experts from different countries and many topics were discussed, including not only the physical process of wounding but complex physiological effects, the surgical treatment of injuries, and techniques of testing and observation. One of the benefits of the symposia was that a body of knowledge was being built up, freely available in the open

literature and reflecting the approaches of different national research traditions.

V

In May-June 1994 the ICRC convened an expert meeting to help it prepare background documentation for the group of governmental experts preparing the Review Conference of the 1980 Convention. At the meeting, the ballistic scientist Beat P. Kneubuehl, Head of the Defence Technology Service of the Swiss government's Defence Technology and Procurement Agency, presented experimental findings on the wounding effects of different military rifle bullets. Drawing from a recently published textbook on wound ballistics which he had written with the German professor of forensic medicine Karl G. Sellier,¹⁸ Kneubuehl was in a position to present a comprehensive and convincing account of the process of bullet wounding and the design parameters producing different levels of injury.

It has long been known that bullets can tumble inside the body and that tumbling is a cause of severe wounding, as, in moments when a bullet is moving through the body with a wide angle of incidence¹⁹ rather than nose-on, the area of the bullet pushing against the tissues is relatively large, and the transfer of energy to the tissues is correspondingly great. The contribution of Sellier and Kneubuehl is to describe tumbling as a regular process and to explain it in terms of the forces acting on the bullet.

According to Sellier and Kneubuehl, a bullet which is fully enclosed in a metal jacket, as are virtually all military rifle bullets today, will start to turn around a lateral axis at some distance after entering the body. Once it starts to turn, the rate of turning increases rapidly; the angle of incidence reaches 90 degrees and the bullet continues turning until it is travelling nearly tail first. After that, it can partly turn several more times before entering the last phase, when it will again be travelling tail first. Depending on its construction, a full-metal-jacketed bullet can deform or break up because of the stresses placed on it during turning, but deformation or break-up of a full-metal-jacketed bullet is a by-product of turning and not an independent process, although, once it happens, the deformation or break-up adds to the wounding effect because of the increase in the surface area of bullet material pressing against the tissues.²⁰

The turning, or "tumbling", of a bullet is thus the critical mechanism resulting in severe injury, and the likelihood of causing a severe wound

will depend on how far a bullet penetrates the body before turning. An ammunition designer who is intent on inflicting the greatest possible damage will want to have the bullet turn as soon as possible, thus achieving the same effect (rapid transfer of most or all of the bullet's kinetic energy) as with the outlawed dum dum bullet. A designer wishing to avoid severe wounds will want the bullet to travel as far as possible before turning; a soldier hit in the arm or leg will be out of action temporarily but is unlikely to suffer permanent injury or to die.

The question which factors would produce rapid onset of tumbling in the body has long interested ammunition designers. As long ago as 1930, R. H. Kent, a physicist at the US Army laboratories at Aberdeen Proving Ground, Maryland, developed formulas to represent the tumbling of bullets in dense media.²¹ He concluded that the tendency to tumble was dependent on the angle of incidence of the bullet on impact with the body and that a bullet with a light nose would have a strong tendency to tumble.²² In 1967 another scientist at the Army Ballistic Research Laboratories at Aberdeen Proving Ground, Eugene T. Roecker, produced a more elaborate set of formulas and concluded from them that an M16 rifle bullet could be made to tumble more readily if the cylindrical section behind the bullet crimping were shortened.²³

According to Sellier and Kneubuehl, the tendency of a bullet to tumble early on entering the body is dependent on the angle of incidence on impact, the shape of the bullet nose, and the gyroscopic stability of the bullet.²⁴ Gyroscopic stability, in turn, is dependent on such factors as the rate of spin, the moments of inertia, and the geometry of the bullet. In general, the greater the gyroscopic stability of a bullet (for example, because of a higher spin rate), the further it will go in the body before starting to tumble; and the shorter a bullet is in relation to its diameter, the less likely it is to tumble.

VI

In his 1967 paper, the US Army scientist Eugene T. Roecker lamented the fact that bullet designers seldom tried to maximize the wounding effect:

“The design of a rifle bullet for combat purposes has generally been dictated by interior ballistics, exterior ballistics, and manufacturing conveniences. Lethality was rarely considered at the designing stages because of a lack of an adequate theory for lethality prediction”.²⁵

Roecker proceeded to construct what he described as “a means of designing a more lethal bullet”. But if wound ballistics can be used to maximize injury, it can also be applied in reverse for humanitarian purposes.

In 1981, NATO announced its decision to adopt a second standard calibre for small arms, alongside the previous standard calibre of 7.62 mm. The second calibre selected was 5.56 mm, the same as that of the M16 rifle, but a Belgian round, the SS 109, was adopted rather than the M16 round as a basis for standardization of ammunition for NATO rifles.

In a presentation to the fourth International Symposium on Wound Ballistics in 1982, a representative of the Ballistics Laboratory of the Belgian *Fabrique Nationale*, manufacturer of the SS 109, said that the new bullet had a “high coefficient of essential stability” and a high rate of spin imparted by a rifling twist of one turn in 7 inches, as compared with the M16 twist of one turn in 12 inches.²⁶ He made it clear that the SS 109 design programme had been heavily influenced by the 1979 resolution of the UN Conference cited above, appealing to governments “to avoid an unnecessary escalation of the injurious effects” of small-calibre weapon systems.²⁷

Test results presented by Beat P. Kneubuehl at the ICRC expert meeting in 1994 showed the superiority of the SS 109 over some other bullets in terms of compliance with humanitarian rules. The results were presented in the form of graphs showing the amount of energy transferred to the test medium during each centimetre of penetration. According to the test results, which are based on only a limited number of firings, the SS 109 bullet starts transferring energy rapidly (at a rate of 50 Joules or more per centimetre) only after penetrating 14 centimetres; by the time it penetrates 20 centimetres, it has deposited 600 Joules of energy in the tissues. In contrast, the Russian AK-74 5.45 mm rifle, which for some years had been reported to cause severe wounds, starts transferring energy rapidly after penetrating 9 centimetres and has deposited 600 Joules of energy by the time it penetrates 14 centimetres. The AK-74 bullet will cause a severe wound much closer to the surface of the body than the SS 109.

VII

The Swiss draft Protocol on Small-Calibre Weapon Systems reads:

“1. It is prohibited to use arms and ammunition with a calibre of less than 12.7 millimetres which from a shooting distance of at least

25 metres release more than 20 Joules of energy per centimetre during the first 15 centimetres of their trajectory within the human body.

2. The States Parties commit themselves to intensifying their cooperation in order to establish an internationally recognized experimental method by which the effect of small-calibre projectiles in the human body can be precisely assessed”.

The Swiss draft Protocol has several advantages over previous texts.

- The term “small-calibre weapon systems” encompasses both ammunition and the weapons firing it, an acknowledgment that design features of a weapon, such as the rifling twist, may be responsible for wound effects. In contrast, the Hague Declaration refers only to “bullets”. The use of this broader term closes an important gap wherein ammunition developers could design small-calibre projectiles such as flechettes in such a way as to break up on entering the body and claim that their use would not violate the Hague Declaration because they were not, strictly speaking, bullets.²⁸
- Unlike the Hague Declaration and the texts proposed in the 1970s, the Swiss draft refers only to the effects of small-calibre weapon systems, not to the ways in which these effects are produced (mushrooming, tumbling, etc.). This approach avoids the arguments raised in the previous discussions over what mechanisms were actually responsible for the effects produced. It also ensures that the ban will cover any future weapon systems producing similar effects through the use of mechanisms not envisioned at the time of adoption of the protocol.²⁹
- The effect of a small-calibre projectile is specified in terms of energy deposit, a physical process which can be measured by a simple procedure such as measuring the size of the cavity formed in a block of soap at different distances of penetration.³⁰ (The authors of the draft have not tried to specify a standard test procedure, perhaps out of a sense that such an attempt could excite controversy among the different national schools of wound ballistics, some of which use gelatin as a flesh simulant in ballistic tests while others use soap. The advantage of soap is that the passage of the missile through it leaves a permanent record of the temporary cavity, whose dimensions can then be easily measured. Soap is inexpensive and readily available to agencies wishing to conduct tests in different countries.)³¹
- The missile effects described in the Swiss draft correspond to the critical features of the wounding process as shown in experimental

tests and explained in wound ballistics theory. The stipulation that the missile should deposit no more than a certain amount of energy per centimetre during a certain length of penetration into the body corresponds to what Sellier and Kneubuehl have called the "narrow channel" — the wound track created in the first phase of the passage of the projectile while it is still travelling nose-on and has not yet started to tumble.³² The Swiss draft is based on the findings of wound ballistics; at the same time, wound ballistics can help ammunition designers and the responsible authorities to ensure that weapons for use in armed conflicts conform to the agreed rules.

The actual numbers in the Swiss draft are sure to be the subject of debate among States. Four figures are offered: a figure for the upper limit of what is covered as a "small-calibre" weapon system, and figures for the shooting distance,³³ the minimum length of the narrow channel, and the maximum amount of energy deposit in the narrow channel.³⁴ The length of the narrow channel, specified at 15 centimetres, is an especially critical figure, as it is this which will most affect the likelihood of causing severe injury or death. Ideally this figure should be as large as possible in the interest of minimizing the risk of severe injury.³⁵

The Swiss initiative does not rest on scientific findings alone. The concern expressed by the UN Conference in its 1979 resolution, and the example of the NATO countries in trying to respond to that concern when standardizing their 5.56 mm rifle ammunition, should help to move the initiative forward. The States participating in the Review Conference of the 1980 Convention should seize the opportunity to set up a drafting process for the elaboration and ultimate adoption of the strongest possible ban on the modern dum-dum bullets. Such a ban would serve the interests of States and the interests of humanity by protecting the soldiers of present and future generations against the unnecessary harm inflicted by especially injurious small-calibre weapon systems.

Eric Prokosch received a doctorate in anthropology from Stanford University in 1969. He has written extensively on anti-personnel weapons and was a contributor to the Stockholm International Peace Research Institute report *Anti-personnel Weapons*. He attended the 1974 and 1976 ICRC Conferences of Government Experts on the Use of Certain Conventional Weapons as an observer for the Friends World Committee for Consultation (Quakers). His book *The Technology of Killing: A Military and Political History of Anti-personnel Weapons* was published by Zed Books in London and New Jersey in June 1995.

NOTES

¹ This article was also published in the University of Essex *Papers in the Theory and Practice of Human Rights*.

² Rapid energy transfer results in the violent formation of a "temporary cavity" in elastic tissues such as muscle. The temporary cavity expands and contracts very quickly several times before collapsing around the "permanent cavity" or wound track left behind as a record of the passage of the missile. According to the findings of an extensive wound ballistics research project conducted at Princeton University during World War II, "study and measurement of a large number of temporary cavities show that the total volume of the cavity is proportional to the energy delivered by the missile". As the Princeton study revealed, the stretching and displacement of tissues during the formation and contracting of the temporary cavity can result in serious damage within a large region around the path of the missile. Tissues are torn and pulped, capillaries are ruptured, nerves may lose their ability to conduct impulses, soft organs may be damaged, gas-filled pockets in the intestines can rupture, and bones that have not suffered a direct hit may be broken. (E. Newton Harvey, Howard McMillen, Elmer G. Butler and William O. Puckett, "Mechanism of Wounding", pp. 144, 175, 197-198, 201-211, in James C. Beyer, ed., *Wound Ballistics*, US Department of the Army, Washington, 1962, pp. 143-235.) It follows that the larger the temporary cavity, the greater the extent of damage and the greater the risk of damaging a vital organ which is not directly in the path of the missile.

Energy transfer (also referred to as energy deposit) has long been recognized as a crucial element in missile wounding. It was, for example, the main factor used in a 1969 US Army Laboratory study of the wounding capacity of M16 rifle ammunition. The study noted without disagreement that "previous investigators have asserted the inherent logic in the assumption that the level of incapacitation which would be caused in a soldier by a missile is proportional to the amount of energy deposited in a target by the missile". The previous investigators referred to had studied the wounding capacity of fragments, rifle bullets, and flechettes. (Larry M. Sturdivan, William J. Bruchey, Jr. and David K. Wyman, "Terminal Behavior of the 5.56 mm M193 Ball Bullet in Soft Targets", US Army Ballistic Research Laboratories report No. 1447, August 1969, p. 24.)

³ A US Army weapons engineer wrote in 1967: "Bullets can be designed to deform in a dense medium, such as flesh; Geneva Convention [sic] and other rules, however, prohibit their use. To conform to such rules and still maintain a typical bullet shape (ignoring dart-like configurations), the optimum wound ballistics design is often considered to be one that imparts maximum kinetic energy to the flesh by means of high drag". The logic of this statement is that a bullet producing exactly the same effect as a dum-dum bullet — maximum energy transfer — will "conform" to the laws of war as long as the bullet itself does not mushroom. (Eugene T. Roecker, "The Lethality of a Bullet as a Function of its Geometry", US Army Ballistic Research Laboratories report No. 1378, October 1967, p. 13.)

⁴ Francis C. Dimond, Jr. and Norman M. Rich, "M-16 Rifle Wounds in Vietnam", *Journal of Trauma*, Vol. 7, No. 3, 1967, pp. 620-624.

⁵ Stockholm International Peace Research Institute, *Anti-personnel Weapons*, Taylor & Francis, London, 1978, pp. 98-104.

⁶ Document CDDH/DT/2, submitted by Egypt, Mexico, Norway, Sweden, Switzerland and Yugoslavia, later joined by Sudan, as quoted in Hans Blix, "Current Efforts to Prohibit the Use of Certain Conventional Weapons", *Instant Research on Peace and Violence*, Tampere, Vol. 4, No. 1, 1974, pp. 21-30.

⁷ A detailed account of the US World War II wound ballistics research programme may be found in Harvey *et al.*, *op. cit.*

⁸ International Committee of the Red Cross (ICRC), *Weapons that May Cause Unnecessary Suffering or Have Indiscriminate Effects; Report of the Work of Experts*, ICRC, Geneva, 1973, Table III.1, p. 34.

⁹ Dimond and Rich, *op. cit.*, p. 624.

¹⁰ ICRC, 1973, *op. cit.*, paragraph 112, p. 38. The group of experts was convened by the ICRC at the request of 19 States represented at the second session of the ICRC Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. At both the first (1971) and second sessions of the Conference of Government Experts, Sweden and other countries had called for the elaboration of explicit draft prohibitions of specific categories of conventional weapons. (Blix, *op. cit.*)

¹¹ International Committee of the Red Cross, *Conference of Government Experts on the Use of Certain Conventional Weapons (Lucerne, 24.9-18.10.1974); Report*, ICRC, Geneva, 1975, paragraph 129, p. 40.

¹² *Ibid.*, paragraph 151, p. 46.

¹³ *Ibid.*, paragraph 154, p. 47.

¹⁴ Document CDDH/IV/201, part IV, reproduced in *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts; Geneva (1974-1977)*, Berne, Federal Political Department of Switzerland, 1978, Vol. 16, p. 602. Document CDDH/IV/201, a working paper, was submitted by Algeria, Austria, Egypt, Lebanon, Mali, Mauritania, Mexico, Norway, Sudan, Sweden, Switzerland, Venezuela and Yugoslavia, later joined by Afghanistan, Colombia and Kuwait.

¹⁵ Document CDDH/IV/204, reproduced in *ibid.*, p. 607.

¹⁶ The resolution is reproduced in Yves Sandoz, "Prohibitions or Restrictions on the Use of Certain Conventional Weapons", *International Review of the Red Cross*, No. 220, January-February 1981, p. 33.

¹⁷ International Committee of the Red Cross, *Conference of Government Experts on the Use of Certain Conventional Weapons (Second Session — Lugano, 28.1-26.2.1976); Report*, ICRC, Geneva, 1976, pp. 61-69, 116-119.

¹⁸ Karl G. Sellier and Beat P. Kneubuehl, *Wound Ballistics and the Scientific Background*, Elsevier, Amsterdam, 1994.

¹⁹ The angle of incidence of a projectile (also known as yaw) is the angle between the axis of the projectile at any moment and the tangent of the trajectory traced by the centre of gravity of the projectile.

²⁰ A full-metal-jacketed bullet striking the body at less than about 600 metres per second remains intact despite tumbling, but at impact velocities above 600 metres per second it deforms as a result of stresses during tumbling. The bullet is squeezed, mainly at the base; bits of lead are squeezed out of the base, forming separate fragments, and the bullet is flattened. When the impact velocity is increased to a certain threshold, the bullet separates into two parts of approximately equal size, in addition to the fragments from the core. At still higher impact velocities, more fragments are produced. (Sellier and Kneubuehl, *op. cit.*, pp. 174-177.) The wounding effects of bullet deformation and fragmentation have been studied by, among others, Martin L. Fackler of the Wound Ballistics Laboratory at the US Army's Letterman Army Institute of Research; see Fackler, "Physics of Missile Injuries", in N. E. McSwain, Jr., and M. D. Kerstein, *Evaluation and Management of Trauma*, Appleton-Century-Crofts, Norwalk, Connecticut, 1987, pp. 25-41.

²¹ Over the past century, students of wound ballistics have used firings into dense media such as clay, water, soap, or gelatin as approximations of what happens when a missile penetrates the body. Because these materials have uniform physical properties throughout and can be cheaply prepared in uniform lots, an experimenter can afford to

conduct a series of trial shots, varying such factors as the missile shape, size, or velocity. Materials such as gelatin and soap are good "flesh simulants" in ballistic tests because their density is close to that of the soft human tissues, which — like them — are made mostly of water.

²² R. H. Kent, "The Theory of the Motion of a Bullet about its Center of Gravity in Dense Media, with Applications to Bullet Design", US Army Ballistic Research Laboratories report No. X-65, 14 January 1930.

²³ Roecker, *op. cit.*

²⁴ *Op. cit.*, p. 138.

²⁵ *Interior* ballistics (the motion of a projectile inside a gun), *exterior* ballistics (its motion through the air) and *terminal* ballistics (its motion on hitting a target) are the three branches of the science of ballistics. Wound ballistics is a subfield of terminal ballistics.

²⁶ The M16 twist had earlier been increased from one turn in 14 inches so that the bullet would be stable when fired in Arctic conditions (*Jane's Infantry Weapons 1975*, *Jane's Yearbooks*, London, 1974, p. 327).

²⁷ C. de Veth, "Development of the New Second NATO Calibre: The '5.56' with the SS 109 Projectile", in T. Seeman, ed., *Wound Ballistics; Fourth International Symposium, Acta Chirurgica Scandinavica*, Stockholm, Supplementum 508, 1982, pp. 129-134.

²⁸ A flechette is a small, nail-like object with several fins at the blunt end. In the early 1960s the US Army embarked on a programme to develop a flechette-firing rifle, the "Special Purpose Individual Weapon". In 1966, engineers working at AAI Corporation, one of the companies involved in the project, filed applications for patents on a "concave-compound finned projectile" and a "multiple hardness pointed finned projectile" (granted as US patent numbers 3,861,314 and 3,851,590 respectively). The purpose of both of these constructions was to make the nose deform on impact, causing the flechette to tumble. ("It will be readily apparent that increased effectiveness is obtained with this projectile in a soft, dense type target, such as an animal, due to the tumbling and enlarged effective projected peripheral area of the projectile in the tumbling curled configuration... as compared to the small piercing configuration of the projectile if it should pass into or through the target in a straight linear fashion", the inventor wrote in the second patent application cited above. The first application contained similar language.)

Another design, tested for wounding effects at the US Army Ballistic Research Laboratories, was for a bimetallic flechette; the two metals would have separated on impact, greatly increasing the area pushing against the flesh. The deformation of the first two flechettes is very close to the "expanding" or "flattening" of dum-dum bullets, in the terminology of the Hague Declaration, and the break-up of the bimetallic flechette would be prohibited under the Hague Declaration if the Declaration were applied to flechettes. (As Louise Doswald-Beck and Gérald Cauderay have pointed out, "the French authentic text [of the Declaration] refers to 'balles qui s'épanouissent', which means bullets which open up, and therefore includes fragmentation"; Louise Doswald-Beck and Gérald Cauderay, "The Development of New Anti-personnel Weapons", *International Review of the Red Cross*, No. 279, November-December 1990, pp. 565-577, at p. 568.)

²⁹ Cf. Sellier and Kneubuehl, *op. cit.*, p. 313.

³⁰ The use of energy deposit as a criterion for wounding effect is an improvement over the Swedish working paper on "Possible Elements of a Protocol on Small-Calibre Projectiles", introduced at the CDDH in 1976 (document No. CDDH/IV/214, cited above). The Swedish paper proposed banning the use of small-calibre projectiles which, among other things, tumble rapidly in the human body; with reference to tumbling, it specified that the average yaw angle (angle of incidence) of the projectile must not exceed an agreed number of degrees during the first 14 centimetres of penetration. The Swedish paper and the Swiss draft Protocol describe the same phenomenon, but the measurement of average yaw angle as required under the Swedish text would have necessitated the use of expensive equipment for high-speed photography in gelatin or high-speed X-ray photography in other media, or for average yaw angles to be derived from other measurements by an agreed formula.

³¹ For a discussion of the choice of flesh simulants, animals, and other materials used in ballistic tests, see Sellier and Kneubuehl, *op. cit.*, pp. 188-214.

³² According to Kneubuehl (personal communication), the onset of the temporary cavity corresponds to an angle of incidence of about 20 degrees.

³³ The Swiss draft applies only to ranges of 25 metres or more. The reason for excluding shorter ranges is that bullets at these ranges are subject to a yawing motion. As Sellier and Kneubuehl have noted (*op. cit.*, p. 109), gas flows produced by the air column ejected from the gun barrel or by powder gases flowing around and in front of the projectile can be observed at the muzzle of the gun before the bullet has left the barrel. During the first few centimetres of its flight, these gases exert a lateral force on the bullet, setting up a yawing motion (a periodic deviation of the attitude of the projectile from a nose-on orientation). During the first 10 to 20 metres of its flight, the angle of incidence of the bullet varies between 0.5 degrees and 3 degrees, reaching the maximum every 1.5 to 3 metres. As the propensity of a bullet to tumble in the body is greatly affected by the angle of incidence at the moment of impact, it is quite possible that one bullet, striking a person at close range with an angle of incidence of, say, 3 degrees, will tumble soon after penetrating the body, causing a severe wound, while an identical bullet, fired under the same conditions, will strike with a minimal angle of incidence and start tumbling much later.

After 10 to 20 metres' flight, the effect of the spinning motion of the bullet (known as angular momentum) overcomes the yawing and the angle of incidence declines. It is at these longer ranges that the difference in wounding effect of different small-calibre weapon systems becomes evident.

³⁴ Another possibly significant factor in the wounding process, not covered in the Swiss text, is the effect of a small-calibre projectile hitting bone. At the ICRC expert meeting in 1994, Kneubuehl stated:

“When a rifle bullet hits a bone shortly after the impact, it penetrates the bone with only a small loss of velocity and energy. Measurements showed that at an impact velocity of 800 metres per second the velocity decreases by only 30 metres per second (energy loss ca. 220 Joules) penetrating a femur. The resulting impulse is too low for deforming or breaking the projectile. On the other hand the penetration of the bone disturbs the stability and after [penetrating] the bone the bullet turns earlier to the sidewise position. So it is possible that a bullet which would not break in soft tissue can fragment after hitting a bone because of the earlier destabilisation. Bullets that hit bones with low velocities have not yet been examined”.

The effects of missile shots into bone have been studied much less than effects in soft tissues. It is possible that future research may reveal differences among small-calibre weapon systems as to the severity of wounds produced as a result of projectile deformation or tumbling when hitting bone. If it turns out that these differences are significant and do not coincide with the differences in severity of injury in soft tissues already covered under the protocol, the protocol could be modified accordingly.

³⁵ As Karl G. Sellier stated at the third International Symposium on Wound Ballistics in 1978, “An essential demand must be to make the narrow channel as large as possible, that is to utilize bullets with the largest possible longitudinal moment of inertia. By means of an elongation of the narrow channel one can, in practice, attain that no vital organs lie in the range of the extremely large wound cavity, which is caused by the transverse position of the bullet”. (Karl G. Sellier, “Effectiveness of Small Calibre Ammunition”, in T. Seeman, ed., *Proceedings of the Symposium on Wound Ballistics, Acta Chirurgica Scandinavica*, Stockholm, supplementum 489, 1979, pp. 13-26, at p. 24). According to Kneubuehl's figures (which, like those quoted earlier, are based on only a limited number of test firings), the 7.62 mm NATO bullet travels 19 centimetres before starting to deposit energy rapidly, and by 22 centimetres it has deposited 600 Joules of energy. Thus the SS 109 bullet, while an improvement over the M16 bullet, is still more likely to cause a severe injury than the larger-calibre NATO round.

THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND THE PROTECTION OF WAR VICTIMS

In its recent issues the *International Review of the Red Cross* announced the publication of a work entitled *Le Comité international de la Croix-Rouge et la protection des victimes de la guerre* by François Bugnion, Deputy Director of the ICRC Department of Principles, Law and Relations with the International Red Cross and Red Crescent Movement.

The book has already become the reference work *par excellence* on the International Committee of the Red Cross in that it analyses, in a combined historical and legal approach, the process whereby the international community came to entrust the Committee with tasks and areas of competence relating to the protection of war victims. It also highlights the interaction between the development of ICRC practice and that of international humanitarian law.

The book answers a whole number of questions regarding the constitution of the ICRC, its legal personality, the tasks entrusted to it and the principles which guide its work. Moreover, it gives a valuable insight into the structure, role and scope of action of the International Red Cross and Red Crescent Movement.

We have selected two chapters from this work which, as Jacques Freymond, a former Vice-President of the ICRC, emphasizes in his review of the book published in this same issue (see pp. 477-480), is "important [...] because of its contribution to the design and implementation of a humanitarian strategy". We consider both chapters to be particularly significant because they deal with topics that are little known or perhaps even misunderstood. Below the reader will find Bugnion's analysis of a subject that has never yet been studied, namely "The composition of the International Committee of the Red Cross".

The September-October 1995 issue of the *Review* will publish the chapter entitled "Red Cross Law", which deals with the Movement's various bodies, its Statutes and its Fundamental Principles and the resolutions adopted by International Conferences of the Red Cross and Red Crescent.

The Review

The composition of the International Committee of the Red Cross

by François Bugnion

“I know of no part of jurisprudence or of the humanities to which the institution calling itself the Geneva Committee can be connected”, declared the renowned Russian jurist Fiodor Fiodorovitch de Martens, legal adviser to the Imperial Russian Government, at the Fourth International Conference of Red Cross Societies held in Karlsruhe in September 1887.¹

No wonder he was puzzled, for although the International Committee is an international institution by reason of its activities and duties, its composition is still that of a private association under Swiss law.

The International Committee is the continuation of the Committee of Five appointed by the Geneva Society for Public Welfare on 9 February 1863. This Committee founded the Red Cross and took the initiative of promoting the original Geneva Convention. Ever since, members who resign or die have been replaced by individuals chosen by the remaining members, so there has been no break in the International Committee’s already long history.

The Committee has called in reinforcements when its workload made this necessary. The number of its members increased from five to seven during the Franco-Prussian war of 1870-71; there were sixteen at the end of the First World War and twenty at the end of the Second World War. Since 1945 they have numbered between fifteen and twenty-five.

¹ *Quatrième Conférence internationale des Sociétés de la Croix-Rouge tenue à Karlsruhe du 22 au 27 septembre 1887, Compte rendu, p. 95.*

The members of the Committee have always been chosen from among Swiss citizens. At first this was only a practice, perhaps an accident, but for many years now it has been a statutory prescription. Article 7, paragraph 1, of the ICRC Statutes reads:

“The ICRC shall co-opt its members from among Swiss citizens. It shall comprise fifteen to twenty-five members”.²

Article 5, paragraph 1, of the Statutes of the International Red Cross and Red Crescent Movement, adopted by the Twenty-fifth International Conference of the Red Cross (Geneva, October 1986), also provides that the ICRC “co-opts its members from among Swiss citizens”.³

On 1 January 1995, the International Committee had twenty-two members, all of whom were Swiss.⁴

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* * *

The practice of recruiting the International Committee by co-opting members from among Swiss citizens has guaranteed its neutrality, independence, and continuity of action. But, because of the international dimension of its attributions, many observers have found the practice anomalous and have put forward proposals to modify it.

² Article 7, para. 1, of the Statutes of the ICRC, adopted on 21 June 1973 and revised on 6 December 1973, 1 May 1974, 14 September 1977, 29 April 1982 and 20 January 1988. See *IRRC*, No. 263, March-April 1988, pp. 154-165, at p. 159. The rule that members of the ICRC shall be co-opted from among Swiss citizens did not appear in the Statutes adopted on 15 November 1915 (ICRC archives, files CR 92 and 011) or those adopted on 10 March 1921 (*RICR*, No. 28, April 1921, pp. 379-380). It was introduced for the first time in the Statutes adopted on 28 August 1930. See *Manuel de la Croix-Rouge internationale*, 6th ed., Geneva, ICRC, and Paris, League of Red Cross Societies, 1930, pp. 145-148, at p. 147 (Art. 7).

³ Statutes of the International Red Cross and Red Crescent Movement, adopted by the Twenty-fifth International Conference of the Red Cross, Geneva, October 1986, Article 5, para. 1, *IRRC*, No. 256, Jan.-Feb. 1987, pp. 25-59, at p. 32. The rule stating that members of the ICRC shall be co-opted from among Swiss citizens already appeared in the Statutes of the International Red Cross adopted by the Thirteenth International Conference of the Red Cross, The Hague, 23-27 October 1928, *Treizième Conférence internationale de la Croix-Rouge, Compte rendu*, pp. 182-186, at p. 184. Thus the rule was introduced into the Statutes of the International Red Cross before it appeared in those of the ICRC.

⁴ The members of the International Committee are listed inside the cover page of every issue of the *International Review of the Red Cross*.

The first such proposals came from the International Committee itself. In a communication to the First International Conference of Aid Societies for the Relief of War Wounded, meeting in Paris in 1867, the International Committee stressed the need to bring its precarious situation to an end and to adapt its organization to the needs of the times, while placing it on a permanent footing.

In accordance with the principle that all the nations that rallied to the common cause should be represented on the Committee and have a legitimate share in its decisions, and anxious to uphold the principle of equality, the International Committee proposed to stand down in favour of a *Conseil supérieur de l'oeuvre*, whose members would be elected by the various countries' Central Committees in the proportion of one member for each military power. This international representation would be grouped around the Geneva Committee, which would act as its Bureau.⁵

The Paris Conference merely touched upon this proposal, postponing consideration of it to a subsequent Conference.⁶ The Second International Conference (Berlin, 1869) confirmed the International Committee in its functions but deferred discussion of its composition to the next Conference, which was due to take place in Vienna in 1871.⁷

The Geneva Committee, for its part, stood by the plan for its own reform that it had submitted to the Paris Conference, and continued to believe that it would not be truly international until it included representatives of the various nations' Central Committees.⁸

Optimism was in the air. Nobody imagined that a trivial matter like war could disturb the sweet harmony which apparently reigned among the various countries' aid societies.

⁵ Reorganization of the International Committee, proposal put forward at the International Conference, Paris, 26 August 1867, *Actes du Comité international de Secours aux Militaires blessés*, Geneva, Imprimerie Soullier & Wirth, 1871, pp. 73-75.

⁶ *Conférences internationales des Sociétés de Secours aux Blessés militaires des Armées de Terre et de Mer, tenues à Paris en 1867*, 2nd ed., Paris, Imprimerie Baillière & fils, 1867, Part I, pp. 317-320, Part II, pp. 21-22, 151-155, 182-190, 242-247 and 250 *ter*.

⁷ *Compte rendu des Travaux de la Conférence internationale tenue à Berlin du 22 au 27 avril 1869 par les Délégués des Gouvernements signataires de la Convention de Genève et des Sociétés et Associations de Secours aux Militaires blessés et malades*, Berlin, Imprimerie J.-F. Starcke, 1869, pp. 18-19, 42-44, 221-228, 254-255 and 261-266.

⁸ Ninth circular to Central Committees, 21 September 1867, *Actes du Comité international de Secours aux Militaires blessés*, pp. 79-82; Eleventh circular to the Central Committees, 30 March 1868, *ibid.*, pp. 87-88; Note addressed to the Central Committees, 20 June 1868, *ibid.*, pp. 94-109.

The Geneva Committee wrote in July 1870:

“The essentially international feature of the societies under the aegis of the Red Cross is the spirit that moves them, the spirit of charity that causes them to come to the rescue wherever blood is shed on a battlefield, and to feel as much concern for wounded foreigners as for their own wounded countrymen. The societies constitute a living protest against the savage patriotism that stifles any feeling of pity for a suffering enemy. They are working to pull down barriers condemned by the conscience of our times, barriers that fanaticism and barbarity have raised and still too often strive to maintain among the members of the human family”.⁹

Disillusionment soon set in. A few days later the Franco-Prussian war broke out and the fledgling National Societies were at each other’s throats. The Societies of the belligerent States engaged in spreading the most poisonous propaganda, moved by the “savage patriotism” that the International Committee had just denounced; and even some Societies of neutral countries did not hesitate to enter the fray. So violent were the recriminations and so deep the wounds that it took the International Committee thirteen years of patient effort to persuade the National Societies to meet again.

The verdict was conclusive: the National Societies were auxiliaries of their army medical services; they depended on the backing of their national authorities and the support of public opinion; to muster the resources they needed for their work, they were obliged to appeal just as much to patriotism as to humanitarian feelings. They were too much a part of national life to be reasonably expected to stand aloof when their countries were fighting for survival.

That being so, an International Committee composed of representatives of the various nations’ Central Committees would certainly be paralysed just when it was most sorely needed.

This taught the Committee a lesson it had small chance of forgetting, for the same situation has arisen to a greater or lesser degree in every subsequent conflict up to the present day. Thus, when its composition was

⁹ “Du double caractère, national et international, des Sociétés de secours”, *Bulletin international des Sociétés de secours aux militaires blessés*, No. 4, July 1870, pp. 159-162, at p. 160.

again discussed, this time at the Third International Conference of Red Cross Societies (Geneva, September 1884), the International Committee resolutely opposed the suggestions it had itself put forward at the Paris and Berlin Conferences.

The Conference was considering a proposal for reform submitted by the Central Committee of the Russian Red Cross. The violations of the Geneva Convention that took place during the Russo-Turkish war of a few years earlier (1876-1878) had convinced the St Petersburg Central Committee that the only way to strengthen ties between the Societies was to set up a central body formally recognized by all powers signatory to the Geneva Convention.

This went far beyond the question of the composition of the International Committee, and the Conference, believing that the Russian proposals were too radical to be usefully debated until the Central Committees had studied them and formed an opinion, postponed its study of them to a subsequent Conference.¹⁰

The decisive debate therefore took place at the Fourth International Conference of Red Cross Societies (Karlsruhe, 1887). Meanwhile the Central Committee of the Russian Red Cross had spelled out its conclusions, proposing the establishment of an International Committee of the Red Cross composed of members appointed by the governing bodies of National Societies, one member for each National Society.¹¹ The Geneva Committee, for its part, advocated the maintenance of the *status quo*.¹²

The Russian proposals led to heated discussion. What was at stake was not only the composition of the International Committee, but also relations between Red Cross institutions, and more particularly the independence of the National Societies. The National Societies' autonomy was guaranteed by the fairly loose structure instituted by the Constituent Conference of October 1863 and upheld by the Paris and Berlin Conferences. The Geneva Committee was not elected by the various Central Committees, and could therefore not claim to be of higher rank than they. It existed

¹⁰ *Troisième Conférence internationale des Sociétés de la Croix-Rouge tenue à Genève du 1^{er} au 6 septembre 1884, Compte rendu*, pp. 61-70, 74-87 and 429.

¹¹ *Du rôle du Comité international de la Croix-Rouge et des relations des Comités centraux de la Croix-Rouge*, Report submitted by the International Committee to the International Conference of Red Cross Societies held in Karlsruhe in 1887, Geneva, ICRC, 1887, esp. pp. 9-14.

¹² *Ibid.*, pp. 22-24.

side by side with, and independently of, the National Societies which it represented. It could make recommendations to them and tell them what it would like them to do, but had no right to give them orders. But obviously an International Committee composed of representatives of all the Central Committees would *ipso facto* rank higher than the Central Committees and, once the Russian proposals were formally embodied in a diplomatic treaty as the St. Petersburg Committee wished, the National Societies' freedom of action would be a thing of the past.

The matter was referred to the Third Committee. It concluded that the Geneva Committee should stay as it was, "having more duties than privileges, not having the exclusive monopoly in any aspect of the work of the Red Cross, but continuing to be the highest expression of its international action".¹³

The Russian Red Cross delegates, Counsellor d'Oom and Professor de Martens, drew attention to the "singular position" of the Geneva Committee and to the fact that its authority rested only on the esteem in which its members were held, since there were no rules governing their appointment. It would, they said, have to be replaced by a truly international body, composed of representatives of the various Central Committees, whose authority would be formally recognized.

Gustave Ador, speaking for the Geneva Committee, simply pointed out that the Committee had never asked for wider powers, had not taken the initiative of asking for its rights to be more fully defined, and wanted the *status quo* to be maintained.

The Russian proposal was defeated by a large majority.¹⁴

Thus, after a debate that had occupied the attention of four International Conferences, the Geneva Committee found itself confirmed in its functions and composition. There seem to have been four reasons for this:

- (1) the illusory nature of attempts to impose rules on charitable activities;
- (2) the impossibility of converting to war conditions types of organization intended to function in peacetime;
- (3) the independence that the National Societies had always enjoyed and were determined to retain;

¹³ *Quatrième Conférence internationale des Sociétés de la Croix-Rouge tenue à Carlsruhe du 22 au 27 septembre 1887, Compte rendu*, p. 90.

¹⁴ *Ibid.*, pp. 19-25, 69-70, 88-102.

- (4) the facts were there: the organization set up by the Constituent Conference of October 1863 had prospered beyond all expectations; it would have been irresponsible to change it for another form of organization that no one could be sure would work.

The composition of the International Committee was again discussed at the Sixth International Conference of the Red Cross (Vienna, 1897). The Central Committee of the Russian Red Cross had submitted a report suggesting that a penal sanction be incorporated in the Geneva Convention. The report proposed two levels of supervision. On the national level, each State party to the Geneva Convention would be required to adopt a penal law enabling it to repress breaches. On the international level, the Geneva Committee would investigate alleged breaches and settle any differences that might arise between the belligerents in this regard. For that purpose, the composition of the Geneva Committee would be modified to make it truly representative of the various countries' Central Committees.

This proposal was fiercely opposed. One after another the delegates of the States party to the Geneva Convention took the floor, declaring that their governments would never agree to supervision by neutral delegates appointed to investigate alleged breaches. When the Russian proposal was put to the vote, it received no support at all.¹⁵

Nothing daunted, at the First Hague Peace Conference of 1899 the St Petersburg government proposed "the establishment of an 'International Red Cross Bureau', recognized by all the powers and founded on the principles of international law to settle all questions concerning voluntary assistance and medical aid in wartime...".¹⁶

The Conference rejected this proposal on the grounds that reorganization of the Red Cross was not on its agenda.¹⁷

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The founding of the League of Red Cross Societies just after the First World War was perhaps not a new attempt to modify the composition of

¹⁵ *Sixième Conférence internationale des Sociétés de la Croix-Rouge*, Vienna, 1897, pp. 99 and 218-226.

¹⁶ *Conférence internationale de la Paix, La Haye, 18 mai-29 juillet 1899*, new ed., The Hague, Ministry of Foreign Affairs, 1907, Part III, p. 2.

¹⁷ *Ibid.*, pp. 2-3.

the International Committee, but it was at least an attempt to transfer most of its tasks and powers to a multilateral institution.

Aware that converting the Red Cross to peacetime activities, and especially reconstruction work, made greater cooperation between National Societies necessary, the International Committee had itself considered broadening its composition.¹⁸ But when Henry Pomeroy Davison, President of the War Council of the American Red Cross, led the National Societies of the major allied and associated powers (the United States, France, Great Britain, Italy and Japan) in forming an "International Committee of Red Cross Societies", the Geneva Committee felt threatened. It became all the more uneasy when Davison called a Constituent Conference in Cannes without waiting for the International Conference of the Red Cross which the ICRC had announced it was about to convene.

The League and the International Committee were profuse in expressions of harmonious cooperation and fraternal understanding, but the differences between them were deep and very real.

The League was founded outside the framework of the International Conference of the Red Cross. Its first Statutes,¹⁹ adopted in Paris on 5 May 1919, gave the five founding Societies a dominant position and the power permanently to exclude the National Societies of the former Central Powers (Germany, Austria, Hungary, Bulgaria and Turkey) as well as the Russian Red Cross. This ran counter to two basic principles of the Red Cross, universality and the equal status of National Societies. The League's founders intended the new institution to become the real centre around which cooperation among National Societies would be organized. They lost no opportunity of expressing their profound respect for the International Committee but, just as certainly, they saw no obvious place for it in the new scheme of Red Cross international relations. Without saying so openly, they wanted the Geneva Committee to have a merely honorary status that would soon have reduced it to a "museum piece".²⁰

¹⁸ Interview of the Allied Red Cross Societies with the International Committee, Geneva, 12-14 February 1919, statement by Mr. Edouard Naville, Acting President of the International Committee, *RICR*, No. 3, March 1919, pp. 336-340, at p. 339.

¹⁹ Statuts et Règlement de la Ligue de Sociétés de Croix-Rouge (*sic*), *RICR*, No. 6, June 1919, pp. 691-698.

²⁰ On 25 February 1923 Sir Arthur Stanley, Chairman of the British Red Cross Society, wrote to Prince Charles of Sweden, President of the Swedish Red Cross, as follows: "Yet to me it would seem fair to reserve a place for the members of the ICRC so that the new organization might benefit from their experience, from an endeavour that has continued

There would be no more war, for the victors had decided as much and the newly founded League of Nations was there to prevent it. Therefore the role of neutral intermediary, until then the recognized attribute of the International Committee, was, like war itself, merely a legacy of the past and better forgotten.

For its part, the International Committee took the view that only an International Conference of the Red Cross attended by all duly recognized National Societies was entitled to adopt a new scheme of organization for Red Cross international relations. The Committee upheld the Fundamental Principles proclaimed at the very founding of the Red Cross. It had no intention of abandoning the special relationship it had fostered with the National Societies ever since and wanted to continue to play an active part in an institution which it had initiated. The experience of more than half a century had taught it that its universally recognized role of neutral intermediary was useful and, as the World War had just shown, important. It felt that the scourge of war could not be abolished by decree, and that the flaws in the Covenant of the League of Nations were too obvious not to give rise to misgiving.

The dissension between the International Committee and the League was thus fundamental, and had nothing to do with differences of temperament, to which it was somewhat glibly ascribed. So, when there were calls from all sides for the two bodies to merge, each of them felt that its existence was threatened.

Laborious negotiations followed. They lasted more than eight years and occupied the attention of four International Conferences of the Red Cross. All proposals put forward for the merger or organic union of the two bodies were discarded one after the other. The League's member Societies insisted that the new institution should be representative, to ensure that they would have a legitimate share in its decisions, while the International Committee was still convinced that its neutrality and independence - and therefore the fulfilment of its mission - depended on the system of co-opting its members.

without interruption for 60 years, and to offer this venerable institution the place of honour which it deserves", ICRC Archives, file CR 113; *Réorganisation de la Croix-Rouge internationale*, Report and documents concerning the discussions between the International Committee of the Red Cross and the League of Red Cross Societies, July 1922-July 1923, (Eleventh International Conference of the Red Cross, Geneva, August 1923, Document No. 37), pp. 79-82, at p. 81; André Durand, *History of the International Committee of the Red Cross: from Sarajevo to Hiroshima*, Geneva, Henry Dunant Institute, 1984, pp. 177 and 183-184.

This is no place for a detailed account of these difficult negotiations, during which both sides made serious blunders.²¹ Having explored all possibilities of merger in vain, they concluded that the ICRC and the League should continue to exist as mutually complementary organizations. No attempt should be made to amalgamate them into a single body; each of them should be assigned a well-defined field of activity and they should form part of a larger institution, the International Red Cross.

Such was the aim of the draft Statutes of the International Red Cross, drawn up by Colonel Draudt, Vice-President of the League, and Professor Max Huber, a member of the ICRC.²² The draft was adopted by the Thirteenth International Conference of the Red Cross (The Hague, October 1928).²³

Thus, after nearly ten years of argument, the International Committee was confirmed in its functions and composition.

The International Committee was the butt of ironic comment about the way it had defended its traditional position at the end of the First World War, instead of bowing to the gale of idealism unleashed by President Wilson which seemed to bear the League towards the enchanted shores of a future free from the threat of war. But history has vindicated the International Committee, not its detractors. Throughout the Second World War, owing to the nature of its membership, the League was unable to undertake relief work for civilians in occupied Europe on its own, since most of its senior officials belonged to countries that were at war with Germany, and the German government would not sanction any action by the League in territories occupied by the Axis.²⁴ It was only through the Joint Relief Commission of the International Red Cross that the League was able to help the civilian population.²⁵ Moreover, the international

²¹ For the history of these negotiations, see Durand, *op. cit.*, pp. 139-194, and Henry W. Dunning, *Elements for the history of the League of Red Cross Societies*, Geneva, League of Red Cross Societies, December 1969 (cyclostyled), pp. 13-48.

²² Colonel Draudt and Max Huber, "Rapport à la XIII^e Conférence internationale de la Croix-Rouge sur les Statuts de la Croix-Rouge internationale", *RICR*, No. 119, Nov. 1928, pp. 991-1010.

²³ *Treizième Conférence internationale de la Croix-Rouge tenue à La Haye du 23 au 27 octobre 1928, Compte rendu*, pp. 12-19, 48-75, 85, 101-114, 117-118 and 182-186.

²⁴ *Report of the International Committee of the Red Cross on its activities during the Second World War (September 1, 1939 - June 30, 1947)*, Vol. III, *Relief Activities*, Geneva, ICRC, May 1948, p. 364.

²⁵ The Joint Relief Commission of the International Red Cross was a joint ICRC-League body formed in July 1941 to carry out relief operations for civilians affected by the war. For the activities of this body, see the *Report of the Joint Relief Commission of the International Red Cross, 1941-1946*, Geneva, ICRC - League of Red Cross Societies, 1948.

organizations depending on the League of Nations were, like the League of Nations itself, unable to take any action whatsoever.

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In spite of the extraordinary range of its activities during the Second World War, at the end of the war the International Committee was in the dock. When the Nazi concentration camps were thrown open and the fate of Soviet prisoners of war was made known, all that the ICRC had done for other victims was forgotten. Some of its critics went so far as to demand that the International Committee be purely and simply abolished and its responsibilities transferred to the League, which was completely dominated by the victorious nations.

Others, while not calling for the ICRC to be dismantled, attacked its composition, working methods and mission, as did Count Folke Bernadotte, President of the Swedish Red Cross, in the proposal he submitted to the Preliminary Conference of Red Cross Societies, meeting in Geneva on the initiative of the ICRC from 26 July to 3 August 1946.

Count Bernadotte, after paying tribute to the International Committee's work during the war, said that he was sure "that the results arrived at (...) might have been, and could be, infinitely greater if the Committee possessed still greater authority, by the mere fact of its being the direct representative, in time of peace, of the Red Cross Societies of all the countries in the world and, in time of war, that of all the neutral countries". In his view, the members of the International Committee could belong to countries other than Switzerland and should be elected by the International Conference of the Red Cross. In the event of war, all members belonging to belligerent countries would be replaced by citizens of neutral countries. Since it was the business of the International Committee to monitor the application of the humanitarian rules, it had to be as strong and representative as possible.²⁶

²⁶ Speech by Count Folke Bernadotte, President of the Swedish Red Cross, Geneva, July 1946 (cyclostyled), ICRC Archives, file CR 109b; *Report on the Work of the Preliminary Conference of the National Red Cross Societies for the study of the Conventions and of various Problems relative to the Red Cross (Geneva, July 26-August 3, 1946)*, Geneva, ICRC, January 1947, p. 120.

Count Bernadotte's proposals were inspired by the conviction, already expressed during the Karlsruhe Conference sixty years previously by Counsellor d'Oom and Professor de Martens, that the International Committee's authority would be more highly respected if recruitment of its members were more broadly based. But by suggesting that in the event of war members of the International Committee belonging to the belligerent States would be replaced by nationals of neutral countries, he hoped to forestall the objection that had led to the rejection of the Russian Red Cross proposals, namely that the International Committee would be hamstrung by quarrels among members belonging to the warring parties.

These proposals were attractive. They relied implicitly on the great credit enjoyed by the Swedish Red Cross and its President owing to their humanitarian activities during the Second World War. On closer examination, however, they raised more difficulties than they could resolve, being based on a confusion between three completely different situations. The first of these is permanent neutrality, that is, the status of a country bound to perpetual neutrality by treaties that oblige other States to respect its territory as inviolable. The second is occasional neutrality, whereby a State chooses to stay neutral in a given conflict while reserving the right to act differently in another. The third is non-belligerence, whereby a State abstains, perhaps for only a short time, from taking part in active hostilities, but does not consider itself bound by the obligations imposed by the law of neutrality, and reserves the right to enter the fray when it pleases. However, it was clear from the example of Italy between September 1939 and June 1940, and of the United States until November 1941, that the presence of nationals of non-belligerent countries on the International Committee would paralyse its work and make it impossible for it to convince the outside world that it was neutral and impartial. Furthermore, the obligation at the beginning of and during each conflict to appoint nationals of neutral States to replace members belonging to nations drawn into the war meant that the composition of the International Committee would have to be modified at the very time when its action was most needed.²⁷ The

²⁷ "If we want to work effectively in wartime, it is quite a risk to propose an organization whose composition would have to be changed the moment war broke out" said Dr Gustave Adolphe Bohny, President of the Swiss Red Cross. *Conférence préliminaire des Sociétés nationales de la Croix-Rouge pour l'étude des Conventions et de divers problèmes ayant trait à la Croix-Rouge, Procès-verbaux* (cyclostyled), Vol. IV, meetings of Commission III, p. 83 (meeting of Tuesday 30 July 1946).

Canadian Red Cross delegate was hardly exaggerating when he conjured up the image of a “kaleidoscopic organization” whose composition was constantly changing.²⁸ In any event, an International Committee so composed would lack the primary requisite for effective action, namely stability.

It is hardly surprising then that Count Bernadotte withdrew his proposals soon afterwards.²⁹

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The composition of the International Committee was not called into question at the 1949 Diplomatic Conference or at the more recent Diplomatic Conference on the Reaffirmation and Development of Humanitarian Law (1974-1977), but on both occasions it was proposed to transfer part of the Committee’s responsibilities to a multilateral institution.

The French delegation at the 1949 Diplomatic Conference expressed the fear that the protection the Conventions were designed to offer would be inoperative in any future world war because there would be no neutral States in a position to perform the tasks required of Protecting Powers. It therefore proposed the establishment of an “International High Committee for Humanitarian Protection”, made up of thirty eminent political, religious and scientific figures, leading members of the legal profession and holders of the Nobel Peace Prize, elected by an assembly of delegates of all the States signatory to the Geneva Conventions. In situations where no Protecting Power had been appointed, this High Committee would perform all the tasks normally assigned to Protecting Powers by the Geneva Conventions.³⁰

Although the French delegates took care to point out that the proposed High Committee would not duplicate the International Committee, their

²⁸ *Ibid.*, p. 79.

²⁹ “My proposal resulted in lengthy and lively discussions. A special committee was formed which met frequently. In the course of these meetings I greatly revised my original attitude toward the problem (...). In short, I have become convinced that the International Committee ought to continue in its present form and retain its present composition....”, Folke Bernadotte, *Instead of Arms*, London, Hodder and Stoughton, 1949, pp. 129-131 and 163-166, at p. 130; Ralph Hewins, *Count Folke Bernadotte, His Life and Work*, London, Hutchinson & Co., 1949, pp. 171-173 and 175-179.

³⁰ *Final Record of the Diplomatic Conference of Geneva of 1949*, Bern, Federal Political Department, 1949 (hereinafter: *Final Record 1949*), Vol. III, pp. 30-31.

proposal nevertheless transferred much of the ICRC's work to a multi-lateral organization.

The idea was greeted with extreme scepticism. Its critics pointed out the difficulty of forming a committee of members from different States, possessing all the necessary qualifications and able to work effectively.³¹ There was also the objection that this International High Committee - whose members would have to be recognized and accepted by all States - would be an artificial body, for its members would "therefore be in some way outside and superior to the existing world".³² In the end, when the French delegate said, in reply to the question as to where this august humanitarian assembly would meet if there were no more neutral States, that "it could meet on a piece of internationalized territory, or on several such territories in different parts of the world",³³ it became clear that this was mere word-play and that the whole business was a fantasy rather than a realistic weighing up of possibilities.

Finally the Conference adopted a resolution recommending that "consideration be given as soon as possible to the advisability of setting up an international body, the functions of which shall be, in the absence of a Protecting Power, to fulfil the duties performed by Protecting Powers in regard to the application of the Conventions for the Protection of War Victims".³⁴ It was up to France to take steps to put this resolution into effect and the Quai d'Orsay began consultations in 1950. It received so few replies that it was clear that other countries were not interested,³⁵ and after a brief exchange of correspondence this resoundingly named but impractical project was dropped.

At the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law, several delegations proposed that the Protecting Powers' monitoring of compliance with humanitarian rules, which relies to a large extent on the consent of the belligerent parties,

³¹ *Final Record 1949*, Vol. II-B, p. 92 (the Bagge speech).

³² *Ibid.* (the Sokirkine speech).

³³ *Ibid.*, pp. 92-93 (the Cahen-Salvador speech).

³⁴ Resolution 2, *Final Record 1949*, Vol. I, p. 361.

³⁵ Paul de Geouffre de la Pradelle, "Le contrôle de l'application des Conventions humanitaires en cas de conflit armé", *Annuaire français de droit international*, Vol. II, 1956, pp. 343-352, at p. 351; L. Aureglia and P. de la Pradelle, "Organisation, fonctionnement et protection du contrôle de l'application des conventions humanitaires en cas de conflits armés", *Annales de Droit international médical*, Monaco, No. 2, Feb. 1958, pp. 47-69, esp. p. 55.

should be supplemented by an automatic procedure entirely independent of their consent. The proposal envisaged that the United Nations could either act as a substitute for defaulting Protecting Powers or appoint an organization of its choice to act in their stead.

That was the gist of a draft amendment, presented by Norway and the Arab States, which proposed to add the following provision to draft Article 5 of Protocol I relating to the appointment of Protecting Powers and their substitutes:

“If the discharge of all or part of the functions of the Protecting Powers, including the investigation and reporting of violations, has not been assumed according to the preceding paragraphs, the United Nations may designate a body to undertake these functions”.³⁶

Given the similarity between the duties of the Protecting Powers and those of the ICRC, had this proposal been accepted it would have transferred to a multilateral organization part of the tasks normally falling to the International Committee.

In support of the amendment it was argued that a supervisory body which would not depend on the consent of the parties was necessary to monitor compliance with humanitarian law, and that the United Nations should be assigned powers in this regard.

The opponents of the amendment objected that it imposed an unacceptable constraint and interfered with the existing system of Protecting Powers, which was based on the parties' consent. They felt that responsibility for monitoring the application of the humanitarian treaties could not be handed over to a political institution, and that this role was incompatible with the responsibilities for maintaining peace which are entrusted to the United Nations by its Charter.³⁷ The United Nations observer

³⁶ *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts* (Geneva, 1974-1977), Bern, Federal Political Department, 1978 (hereinafter: *Official Records CDDH*), Vol. X, p. 69. (Doc. CDDH/I/235/Rev.1, Report to Committee I on the work of Working Group A). This draft amendment was the result of the merger of two draft articles (Amendment CDDH/I/75, proposed by the Arab States, and Amendment CDDH/I/83, proposed by Norway, *Official Records CDDH*, Vol. III, p. 31 and 35. It is not our intention to offer an opinion here as to whether it is any part of the Protecting Powers' mandate to investigate and report on breaches of the Geneva Conventions, as the authors of these amendments claimed, but there is room for doubt.

³⁷ Summary record of the twenty-seventh meeting of Committee I (Doc. CDDH/I/SR.27), *Official Records CDDH*, Vol. VIII, pp. 253-264.

informed the meeting of his organization's reservations in this regard, pointing out that the UN Charter, the sole source of the powers of the United Nations and its organs, did not give the organization any responsibility for monitoring the application of humanitarian law.³⁸

When put to the vote the draft amendment was rejected, with 27 votes in favour, 32 votes against and 16 abstentions.³⁹

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Thus ever since the International Committee was formed there have been proposals either to modify its composition or to transfer all or part of its duties and powers to a multilateral organization. These have been made repeatedly, indeed almost continually. They have been debated in depth and usually with some vigour. Yet every time the International Committee has been confirmed in its tasks and composition.

Not without good reason. Although the International Committee has been assigned definite tasks in promoting compliance with the Geneva Conventions and their Additional Protocols, and has had to set up quite a large administrative structure to cope with its expanding activities, it is still primarily a relief organization. Even when its action is based on international conventions, the nature of that action is not judicial but voluntary and charitable. Charity, however, cannot be regimented. It would be fatal to try to confine it in a strait-jacket of rigid regulations and complicated procedure. "The fewer rules there are for voluntary relief, the better it will work", as Paul des Gouttes said.⁴⁰

An International Committee composed of representatives of various countries, not all of them on good terms with each other, would inevitably have to have precise and detailed rules of procedure that would make any spontaneous charitable activities impossible.

³⁸ Summary of the statement by Mr. J. Kobiak, United Nations observer, to Working Group A of Committee I on 6 March 1975 (Doc. CDDH/I/GT/48, 10 March 1975, cyclostyled). As far as we are aware, this document is not reproduced in the Official Records of the Diplomatic Conference.

³⁹ *Official Records CDDH*, Vol. VIII, p. 264 (Doc. CDDH/I/SR.27).

⁴⁰ Paul des Gouttes, "Une thèse de doctorat en droit sur la Croix-Rouge", *R/ICR*, No. 45, Sept. 1922, pp. 747-758, at p. 753.

As it is composed at present, the International Committee is, so to speak, concurrent with and independent of the National Societies; it in no way emanates from them. Matters would be very different if it were made up of representatives of all the National Societies, for its very composition would then suffice to rank it above each individual National Society. The question of the composition of the International Committee is, then, largely inseparable from the question of the international Red Cross organization and, more particularly, the independence of the National Societies.⁴¹ In this connection, there is one decisive fact whose importance was clearly recognized by the Karlsruhe Conference of 1887, namely that the National Societies came into being before the international organization of the Red Cross. They were founded as the Belgian, French, Dutch or Prussian Red Cross Societies, and not as branches of a pre-existing international organization. Only later, once they were well established, did they feel the need to come together and adopt more detailed rules to supplement the few general principles contained in the resolutions passed, and the hopes expressed, at the Constituent Conference of October 1863. But by the time the Paris and Berlin Conferences were held in 1867 and 1869 respectively, the National Societies were enjoying a great deal of freedom and were not prepared to give it up. Changing the composition of the International Committee to include representatives of all the National Societies, as Counsellor d'Oom and Professor de Martens had proposed at the Karlsruhe Conference, would have meant sacrificing much of the independence that the National Societies had enjoyed ever since the Red Cross was founded. And who, having tasted freedom, would willingly give it up?

Recruitment of members of the International Committee by co-opting them from among Swiss citizens is a guarantee of cohesion and efficiency. Its members have attended the same schools, and often share the same background - the liberal professions, or higher education; they think along the same lines, and can identify themselves with the institution much more easily than would eminent figures from different parts of the globe. And since they do not represent any State or party, they are responsible only to the Red Cross and to their own conscience. They have no constituency

⁴¹ The only independence referred to here is that of the National Societies at the international level, in other words each National Society's independence vis-à-vis all other Red Cross and Red Crescent institutions. A National Society's independence of the government of its country is an entirely separate matter that has nothing to do with the composition of the International Committee.

to which they are answerable for their activities and for the opinions they express within the ICRC. In fact, despite the momentous nature of their decisions, the vast majority of them are taken not by vote but by consensus emerging from discussion. The International Committee has never reached a deadlock because its members failed to agree.

This method of recruiting members also offers an invaluable guarantee of the confidentiality of information, and therefore of the institution's acceptability. There can be no doubt that considerable pressure would be brought to bear on Committee members of different nationalities to inform their respective governments of the International Committee's activities and of the findings of its delegates. If its composition were to be modified, would the ICRC be in a position to give parties to conflict the assurances of confidentiality which are necessary for the major part of its activities, especially visits to places of detention? Probably not.

The composition of the International Committee is also the most effective guarantee of its independence, for States and National Societies take no part in recruiting its members, and the latter follow no instructions from any State or party in carrying out their duties. They represent nobody but themselves and their decisions are completely independent. Obviously, if they were appointed by the Central Committees of National Societies they would be answerable to their respective Societies and would have to do as they were told.

Recruitment of members of the International Committee by co-opting them from among Swiss citizens also ensures that the Committee is neutral and therefore acceptable. Switzerland obviously has no monopoly on neutrality, but Swiss neutrality is founded on tradition and on treaties which give it special status. Moreover, Switzerland has been spared war for almost two centuries, so has no real enemy. *A priori*, no belligerent party can reasonably fear that the International Committee will not treat it impartially; but what belligerent would trust the ICRC if one of its members were an enemy?

Those who advocate changing the composition of the International Committee have generally pointed to the example of the international organizations and their secretariats. This is a false analogy, for such organizations do most of their work in peacetime, and it is unrealistic to expect that peacetime methods of organization can be applied in times of armed conflict. Indeed, multilateral organizations do not run smoothly even at the best of times. It needs no great acumen to foresee that, if the International Committee included representatives of belligerent nations,

it would itself become a battlefield and its work would inevitably be brought to a halt by its members' quarrels. This is not mere supposition; all too many debates at the United Nations, and the dispute over the representation of the Republic of South Africa that arose at the Twenty-fifth International Conference of the Red Cross (Geneva, October 1986), have shown clearly enough that it is always difficult, and usually impossible, to get representatives of nations who are at each other's throats to come together around a conference table.

However logical it may seem that international missions should be carried out by a multinational organization, the facts are there. The International Committee has been in existence, and active on the international scene, for more than a hundred and twenty-five years. Its work has expanded beyond all possible expectations. It has had serious setbacks but has indisputably done its work with unparalleled efficiency. In its own domain, it has acquired experience unrivalled by that of any other institution. Its basic working principles have remained unchanged; this is the best gauge of its impartiality, the continuity of its action, and therefore its acceptability. It would, to say the least, be rash to try to replace it with a different system that nobody could be sure would work. Whether or not its position is anomalous, the International Committee's record and the services it has rendered have always been an argument for maintaining it as it is.

There remains the alternative proposed by Count Bernadotte, namely that the International Committee would be composed of representatives of the various nations, on the understanding that in the event of war its members from belligerent nations would be replaced by nationals of neutral countries. To start with, it is not clear nowadays what the term "belligerent" means. If belligerence depends on a declaration of war, the United States was not a belligerent in the Viet Nam war, and the Soviet Union was not a belligerent in the Afghan conflict. During the 1962 conflict between China and India, and the 1979 conflict between China and Viet Nam, diplomatic relations were not even broken off. It is easy to imagine the differences that would arise if some members of the Committee belonged to nations engaging in hostilities without a declaration of war. They would refuse to resign, on the pretext that their countries were not formally at war, but they would nevertheless be representatives of belligerent nations. Obviously, once the first shots had been fired and casualties were coming in, all sorts of pressure would be applied to influence the appointment of new members. The war would be over before the International Committee had even started work.

Thus, although purists may object that because of the Committee's international attributes it is illogical to recruit its members by co-opting them from among Swiss citizens, this is in the last analysis the best possible system imaginable in the present state of international relations. And it has one tremendous advantage: it works.

It is also the best possible guarantee of the International Committee's independence and neutrality, and of the continuity of its action.

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The 125th Anniversary of the *International Review of the Red Cross*

A FAITHFUL RECORD

III. THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT: SOLIDARITY AND UNITY

by Jacques Meurant

The spirit of solidarity in suffering is one of the foundations of the Red Cross.

Jean-Georges Lossier*

Help for all means a universal Red Cross.
A universal Red Cross means a united Red Cross.

Walter Bargatzky**

Activities to protect and assist the victims of armed conflict and the development and implementation of international humanitarian law have been important topics for the *Review* since it first appeared.¹ This is only

* Jean-Georges Lossier, *Solidarité — Signification morale de la Croix-Rouge*, A la Baconnière, Neuchâtel, 1948, p. 83.

** "Red Cross unity in the world", *International Review of the Red Cross (IRRC)*, No. 163, October 1974, p. 526.

¹ The first two parts of this article, "I: Protection and assistance" and "II: Victories of the law" were published in the *IRRC*, No. 303, November-December 1994, pp. 532-541, and No. 306, May-June 1995, pp. 302-306, respectively.

natural, bearing in mind the mandate of the ICRC, of which the *Review* is the official publication.

The *Review* has provided a record of the mission and the national and international activities of the Movement's various components, which have developed in highly diverse areas over the past 125 years in both war and peace, and thus traces the evolution of what is often referred to as "Red Cross solidarity".

The *Review* also reflects the different stages in the history of the institutions which make up the International Red Cross and Red Crescent Movement; it presents a broad variety of observations, opinions and information on their mandates, and on the structure and principles that have gradually forged the Movement's inner unity.

It is interesting to examine how the Movement has worked to create unity through solidarity. The content of the *Review* over the past 25 years will help us do this by providing examples from the recent and the not-so-recent past.

Solidarity

1. The origins of solidarity

The relief societies set up from 1863 were motivated essentially by a spirit of charity that prompted their activities to assist wounded and sick soldiers on the battlefield; but perhaps at that point they were not aware of being bound by a pact, or of sharing mutual responsibilities.

Indeed, one might wonder how these few fledgling relief societies could have undertaken joint action or pledged mutual assistance when the prevalent trends of the times, political and economic nationalism in particular, tended to confine them within the national territory of countries that were poised to tear each other apart.

Although the concept of international solidarity was not among the European States' concerns in the 1860s, it was present in the counterforces that developed in the latter half of the century — pacifist associations, philanthropic movements and church organizations — all of which formed powerful lobbies that pressed their governments to place the national interest second to the notion of a higher interest, that of humanity as a whole.

Heirs of the Geneva tradition of philanthropy, Henry Dunant and his fellow-founders of the Red Cross shared these ideas. Dunant thought that,

beyond their wartime mission, the relief societies could render valuable services in the event of epidemics, floods, fire disasters, and so on.

Like Dunant, Gustave Moynier had a vision of what the Red Cross could be, and what it could offer to the world. It was clear to him that the Red Cross could become a universal movement, because he was confident that it would continue to expand geographically and develop quite naturally along with the social progress from which it emanated. But, in his view, this development would have to be a gradual process demanding a great deal of patience, for the underlying structure of the Red Cross was still fragile.

The first step, in accordance with the recommendations of the 1863 Conference, was to promote contacts among the Central Committees, so that they could exchange experiences and agree on measures to be taken in the interest of their cause. With this in mind, the Second International Conference of the Red Cross, held in Berlin in April 1869, felt it essential to set up a journal to “put the Central Committees of different countries in touch with each other and bring to their attention the facts, both official and otherwise, that they need to know”.²

The founding of the *Bulletin international des Sociétés de secours* was a key event, because it created a permanent link among the relief societies and between those societies and the Committee in Geneva. Moynier, who was the *Bulletin's* first editor, used it freely to express his views. In the foreword to the first issue, which was published in 1869, the Committee set out to justify the creation and the mandate of the relief societies, “whose network extends to Asia and America”.³ It highlighted the fact that the Societies were permanent structures, even in peacetime, and pointed out that new developments since 1864 had given them an international mission and a “declared intention to provide mutual assistance and to help all individuals in distress who are within their reach, with no distinction between friend and foe”.⁴

The Franco-Prussian War of 1870-1871 doubtless offers the first example of “Red Cross solidarity” because of the involvement of a number of societies from third-party countries. In spite of the prejudice and rancour shown by the parties to the conflict, the Committee observed

² “Publication d’un Bulletin international”, *Bulletin international des Sociétés de secours* (hereinafter referred to as “the *Bulletin*”), No. 1, October 1869, p. 4.

³ *Ibid.*, “Avant propos”, p. 2.

⁴ *Ibid.*

that “the relief societies have rendered immense service in the midst of great calamity (...) No other war in Europe has ever offered the spectacle of such a deployment of charitable activities. In the war of 1866, this movement barely crossed the borders of the belligerent States, whereas this year it seems as if the entire world was moved to cooperate in tending to the wounded. Solidarity among peoples, although belied by a struggle between two races bent on mutual destruction, was also gloriously affirmed by the neutral countries’ sensitivity to the cries of the wounded and the dying”.⁵

Gustave Moynier took pride in the trust which the Red Cross Societies had earned during this war, for it guaranteed its independence; but he was nevertheless aware of shortcomings. For example, he believed that despite the autonomy which each Central Committee enjoyed, they still had to establish themselves “in harmony with the spirit, the needs and the customs of the country which [they represent]”.⁶ Moreover, the relief societies had demonstrated uneven levels of development and were in danger of collapsing unless they constantly sought to improve their services. He wondered how to incite a healthy rivalry among them and to urge them to progress and “overcome the resistance that apathy or lack of planning has, in many places, set in the path of Red Cross expansion”.⁷

Moynier thought that solidarity was the spur that would encourage the societies to help each other and to develop: “if the societies all made an express pledge of mutual assistance, each one would be stimulated by a sense of responsibility (...) They would strive to do better, and the commitments they made would give them an irresistible impetus, without in any way jeopardizing their autonomy”.⁸

More than a spur, solidarity stands alongside centralization, planning and mutual assistance as one of the rules of conduct which the societies undertook to observe.⁹

⁵ “Les Sociétés de secours pendant la guerre de 1870”, *Bulletin*, No. 5, October 1870, p. 2.

⁶ “Les dix premières années de la Croix-Rouge”, *Bulletin*, No. 16, July 1873, p. 179.

⁷ Gustave Moynier, *La Croix-Rouge, son passé et son avenir*, Sandoz et Thuillier, Paris, 1882, pp. 239-240. In 1896, he wrote further that: “The purpose of proclaiming solidarity is not so that those who invoke it can use it to cushion their laziness, but on the contrary so that it will act on them as an energetic stimulant”, *Notions essentielles sur la Croix-Rouge*, Georg, Geneva, 1896, p. 29.

⁸ Gustave Moynier, *La Croix-Rouge, son passé et son avenir*, *op. cit.*, p. 240.

⁹ Gustave Moynier, “Ce que c’est que la Croix-Rouge”, *Bulletin*, No. 21, January 1875, pp. 1-8, at pp. 4, 5.

Until the time of his death, Moynier was the advocate of Red Cross solidarity and used the *Bulletin*, which was the “official general monitor” of the Red Cross,¹⁰ as a vehicle for his ideas: “By publishing the *Bulletin*, we are permanently consolidating moral unity among all the Central Committees by writing about their common interests, and we are encouraging their progress through emulation, by initiating them in their work”.¹¹

The emulation he spoke of occurred when it came to preparing the relief societies for action in wartime, and particularly to improving health services, medical equipment and staff training. The Third International Conference of the Red Cross (Geneva, 1884), examining the lessons to be learned from the experience of the Balkans conflict and the Russo-Turkish war, laid the groundwork for cooperation among relief societies in peacetime for the organization of transport convoys for the wounded, the recruitment and training of auxiliary medical staff, and the storage of relief supplies. The *Review* published many examples of the relief societies’ achievements in these respects, illustrating them with photographs, maps and drawings.

Hence, the 1870 war and subsequent conflicts at the turn of the century demonstrated the need for an understanding between the relief societies; this was a prelude to the growing awareness on the part of the Red Cross of its responsibilities on the international scene. Yet the Red Cross was still not recognized worldwide, and it had yet to acquire a sense of its responsibilities in peacetime as well as in war. It would take a World War with millions of casualties for the concept of solidarity to take hold in public opinion and for all peoples to consider the struggle against all forms of suffering as their concern. Only then would Red Cross solidarity truly become an international moral value.

2. Solidarity in action

The creation of the League of Red Cross Societies was a milestone, for it came in response to a desire to encourage and develop solidarity among the National Societies in time of peace so that they could harmonize their efforts to alleviate human suffering. The founding Societies, which had witnessed the terrible consequences of the First World War

¹⁰ Gustave Moynier, “Les dix premières années de la Croix-Rouge”, *op. cit.*, p. 195.

¹¹ “Les journaux de l’œuvre”, *Bulletin*, No. 2, January 1870, p. 60.

and were aware of the National Societies' potential as a humanitarian force, were determined that they should work in peacetime within a federation representing both their ideals and their activities.

The first gestures of international solidarity came in the area of disaster relief, particularly in the efforts to combat the famine and epidemics that were ravaging Eastern Europe.

In the 1920s, the *Bulletin*, which was renamed the *Revue internationale de la Croix-Rouge* in 1919, recorded the international activities carried out by the National Societies and the League, with cooperation from the ICRC. These activities included the 1919 typhus control campaign, the fight against famine in Russia from 1920 to 1924, and the relief operations for victims of earthquakes in Chile, Colombia, Costa Rica, Japan and Persia.

From this time on, the coordination and development of disaster relief became one of the fundamental missions of the League, which was renamed the International Federation of National Red Cross and Red Crescent Societies in 1991. This was the spearhead of the activities conducted by the League, which had a longstanding reputation as being the organization most rapidly on the spot and with the highest performance in the field. From 1919 to 1967, the League responded to more than three hundred appeals for emergency relief around the world. This figure is an eloquent reminder of how the sense of solidarity is constantly sustained by misfortune.

The *Review* has reported on large-scale operations, such as those conducted in 1956 and 1957 for Hungarian refugees in Austria and Yugoslavia; between 1959 and 1962 for Algerian refugees in Tunisia and Morocco; and in 1962 when those refugees had to be repatriated to newly independent Algeria.

Red Cross solidarity also flourished between the two World Wars in the field of health, which had become an international as well as a national problem. The major objectives of the League and the National Societies were to control disease and improve the well-being of the population. This was the golden age of curative medicine, symbolized by the nurses whose praises were sung during the Great War.

The *Review* published many studies based on experience which sought to improve medical treatment or means of transport for the sick, and reported on proceedings of the International Commission set up to standardize medical equipment. It published highly technical articles on advances in medical treatment and supplies, ranging from a contribution

to research on an ideal antiseptic for impregnating military dressings¹² and a report on the standardization of stretcher straps.¹³

Without abandoning the curative aspect of their medical and social activities, the National Societies gradually shifted the emphasis to preventive measures, with first-aid programmes, mother and child care, home care and health education, and the more recent introduction of primary health care, all of which have provided a wealth of material for the *Review*.

3. Solidarity and development

Between 1948 and 1967, the National Societies grew in number from 65 to 106. The Movement enjoyed a spectacular expansion, owing mainly to the newly-won independence of many African, Asian and Caribbean countries. This created new responsibilities, for a new Society cannot simply be set up; it must still develop into a functional organization. In 1961, the League's Red Cross Development Programme was introduced for the purpose of organizing the National Societies as a force to provide relief and assistance to the population; a force that drew its strength from the participation of individuals whose activities were geared to the specific needs of each country.

As Henrik Beer, a former League Secretary General, wrote: "This new dynamic Red Cross must be carried forward on the impetus of new principles. It resolutely turns its back on paternalism, which has been superseded by fellowship and full team spirit. It is this which is the originality of the League's mission. At the same time, under the drive and impetus of a spirit of understanding and harmony, it has undertaken the challenging task of weaving a vast network of technical co-operation in the most widely varying fields".¹⁴

The *Review* provides readers with an overview of how the concept of development evolved within the Movement and of the successive strategies that were set up by its statutory bodies. National Society leaders, experts and practitioners have contributed articles expressing their views on the principles and methods of assistance which the richer National Societies adopt for the benefit of their less well-endowed sister Societies.

¹² Professor L. Demolis and Dr Chausse, *Bulletin*, No. 311, July 1928, pp. 690-764.

¹³ Colonel Chelwinski, M.D., *Revue internationale de la Croix-Rouge*, No. 117, September 1928, pp. 789-816.

¹⁴ Henrik Beer, "The League of Red Cross Societies in the modern world", *IRRC*, No. 73, April 1967, p. 176.

The one-way flow of charity which characterized the period between the two World Wars gave way in the 1960s to the notion of multilateral assistance between “donor” (now called “participating”) National Societies and “beneficiary” (now called “operating”) National Societies. It was not until the 1980s that the Movement adopted the more healthy notion of true partnership and active participation of underprivileged communities in their own development, with internal support from volunteers among the local community and appropriate external support from sister Societies.

In recent years, the *Review* has featured special reports on development and cooperation; these show that it is a characteristic of solidarity to evolve under the pressure of events, whether new forms of violence or serious social problems.

In 1988, development was essentially a political concept: the National Societies, their federation and the ICRC had their own opinions on the matter, which could be interpreted in a number of ways depending on whether it was seen as the development of National Society structures and programmes or whether National Society activities were regarded as an integral part of social and economic development in their own countries. The debate on development also revealed differences between proponents of multilateralism and proponents of bilateralism.

What emerged from all this was an affirmation of the specific role played by the Red Cross and Red Crescent in the area of development, and of the need for the Movement to be able to rely on strong, independent National Societies capable of fulfilling their duties as auxiliaries to the public authorities in the event of conflict or natural disaster, and of promoting services for particularly vulnerable communities.¹⁵

In an extremely unstable international context marked by a dramatic disparity between needs and resources on the one hand, and by increasingly pronounced social divisions on the other, the concepts of development that were current in the 1970s and 1980s were called into question and strategies had to be adapted in order to give priority to the most vulnerable communities and to women, children, refugees, displaced persons and those living on the fringes of society, who bear the brunt of political, economic and social upheaval.

¹⁵ See the special feature entitled “Development and co-operation within the International Red Cross and Red Crescent Movement”, *IRRC*, No. 264, May-June 1988, pp. 203-287.

To mark the 75th anniversary of the Federation, the *Review* examined this problem in a special issue devoted to the role of the Red Cross and the Red Crescent in helping vulnerable communities. Specialists, theorists, practitioners and researchers from within the Movement and from the United Nations system, non-governmental organizations and research institutes demonstrated by means of practical case studies that the condition of vulnerable groups can be improved only with the involvement of members of those groups. The latter must rediscover and tap their own problem-solving capacities; the humanitarian agencies are there only to help them play an active part in their development.

In its medical assistance programmes for conflict victims, the ICRC for its part has adopted an approach which gives prominence to the role that local institutions and communities can play in coping with the situation. It steps in to support their efforts but never seeks to act as a substitute for them.

Generally, in cases involving children in distress, victims of drug abuse and the “poorest among the poor”, the families — especially mothers — relatives, peers and neighbourhood associations can take effective measures to encourage the spirit of solidarity among these particularly vulnerable groups and help them improve their plight.

As the President of the ICRC has observed, “the International Red Cross and Red Crescent Movement is well placed to act as a catalyst and coordinator. Its many volunteers are particularly qualified to reach out to vulnerable groups, to involve them in assessing needs and priorities and to devise and carry out plans of action. Moreover, by developing a greater sense of responsibility among others, the message of solidarity which they convey at all levels is in itself an affirmation of human dignity”.¹⁶

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* *

Thus solidarity in all its different forms has taken root within the Movement both as an ideal and as an obligation. Going one step further, some may even feel, like Jean-Georges Lossier, that the Movement has made of solidarity a virtue which lends the Red Cross its moral significance.

Without any doubt, solidarity is the key to the Movement’s unity.

¹⁶ Cornelio Sommaruga, “Greater solidarity for a more humane approach to development”, *IRRC*, No. 301, July-August 1994, p. 314.

Unity

The concept of the Movement's unity is a complex one: it cannot be merged with the principles of solidarity and universality which underpin it, for it comprises structural, organizational and relational factors in addition to its moral element.

Mr Walter Bargatzky, then President of the German Red Cross in the Federal Republic of Germany, stated in an article that appeared in the *Review* in 1974 that solidarity, of which the components of the Movement had given so many examples since the Red Cross was founded, had helped to forge what he referred to as the international unity of the Red Cross. In his view, the fact that the National Societies have the same rights and a duty of mutual assistance implies that they must, "for the specific purpose of mutual aid, also maintain an inner solidarity, a community of ideas and organization which is virtually equivalent to unity of thought and action".¹⁷

More than one hundred years earlier, Gustave Moynier had realized that there was a bond of unity among the relief societies operating under the Red Cross banner. This bond was "their driving spirit, this spirit of charity that spurs them to provide aid wherever blood flows on the battlefield".¹⁸ In his authoritative study on the Red Cross Principles, Jean Pictet remarked: "Being unable to achieve unity in the material sphere, the Red Cross has created it in regard to its ideal".¹⁹

The Movement's moral unity, which draws upon the Fundamental Principles of the Red Cross and Red Crescent by which its components are bound, emerged only gradually. It has often been challenged and arouses scepticism since it is not the emanation of an organic unit per se, but rather, as Jean Pictet wrote, an "organized group of bodies with its own Statutes", that is, the International Red Cross created in 1928. "This ingenious edifice, which was improved still further in 1952, only established flexible and fairly loose ties between its members, leaving each the largest possible measure of autonomy. The unity achieved remains purely symbolic."²⁰

¹⁷ Walter Bargatzky, *op. cit.*, p. 516. See above**, p. 447.

¹⁸ "Du double caractère, national et international, des Sociétés de secours", *Bulletin*, No. 4, July 1870, p. 160.

¹⁹ Jean Pictet, *Red Cross Principles*, ICRC, Geneva, 1956, p. 86.

²⁰ *Ibid.*, p. 85.

The Movement's unity is nevertheless a reality, yet even today it continues to exercise the minds of the Red Cross and Red Crescent institutions.

1. Moral unity — the Fundamental Principles of the Red Cross and the Red Crescent

Without stating or defining any principles as such, the founders of the Red Cross, and Gustave Moynier in particular, strove from the beginning to discern the main features of their humanitarian ideal.

The driving force behind their ideas was Christian charity, which is often mentioned in the Committee's circulars and the early issues of the *Bulletin*. Yet it is the essential principles on which their efforts were based — humanity, neutrality and unity — that can be perceived in the resolutions of the October 1863 Conference and in Article 6 of the Geneva Convention of 1864.

Gustave Moynier sometimes decreed rules of conduct, sometimes principles. In 1875, he stated that the relief societies were "bound together by their more or less formal commitment to conduct themselves according to certain identical rules. There are four such rules or principles: centralization, foresight, mutuality and solidarity".²¹

In later writings, he mentioned the principles of universality, charity, fraternity, equality and non-discrimination. In his pamphlet entitled *Notions essentielles sur la Croix-Rouge*, published in 1896, he proposed a set of principles for action, the main purpose of which was to highlight the specific nature of the relief societies, and which the societies had to undertake to respect if they wished to be recognized.²² One of these principles was to "adhere to the principle of moral solidarity which unites all the National Societies".²³

The fact is that in the late nineteenth century the International Committee and the relief societies were aware of the existence of common principles but did not feel the need to create a body of principles or a specific Red Cross ideology, for one simple reason: countries which shared a common heritage and religion naturally shared similar values and there was no need to recall them or put them down in writing.

²¹ Gustave Moynier, "Ce que c'est que la Croix-Rouge", *op. cit.*, pp. 4, 5.

²² Gustave Moynier, *Notions essentielles sur la Croix-Rouge*, *op. cit.*, pp. 42-44.

²³ *Ibid.*, p. 44.

But when the Movement began to expand, embracing new National Societies that represented other civilizations, beliefs and cultures, it became necessary to refer to a set of values which all could accept and which would be the connective tissue binding the ICRC and the National Societies together.

The emergence of these principles as reflected in the *Bulletin* and, from 1919, in the *Revue internationale de la Croix-Rouge* leaves an impression of laborious effort, trial and error.

In 1921, the ICRC introduced into its Statutes the four “fundamental and uniform principles that lie at the base of the institution of the Red Cross, i.e. impartiality, political, religious and economic independence, universality of the Red Cross and equality of its members”.²⁴ Curiously enough, the principle of humanity was not mentioned.

The process was further complicated by the creation in 1919 of the League of Red Cross Societies. The statutory bodies of the League and the ICRC tried to outdo each other in casting confusion on the nature and number of the principles. They locked horns in semantic disputes which arose at the 1948 and 1952 sessions of the League’s Board of Governors. The League added thirteen more principles to the ICRC’s four. “Feast after famine”, exclaimed the Chairman of the Standing Commission, Ambassador André-François Poncet.²⁵

As Richard Perruchoud points out, however, this list was a “hotch-potch of principles mixed together with statutory directives and simple examples of cases in which the fundamental principles applied”.²⁶

It was a long road from these uncertain initiatives to the proclamation of the Fundamental Principles of the Red Cross by the 20th International Conference of the Red Cross in Vienna in 1965. In between there were many joint studies in committee, but above all the power of conviction and inspiration of the seminal works by Max Huber and Jean Pictet which gave shape to a set of principles that were acceptable to all.²⁷

²⁴ *Statuts du Comité international de la Croix-Rouge, RICR*, No. 28, April 1921, pp. 379-380.

²⁵ Quoted by Richard Perruchoud, *Les résolutions des Conférences internationales de la Croix-Rouge*, Henry Dunant Institute, Geneva, 1979, p. 130.

²⁶ *Ibid.*

²⁷ Jean Pictet, *Red Cross Principles*, *op. cit.*; Max Huber, *La pensée et l'action de la Croix-Rouge*, ICRC, Geneva, 1954.

The Fundamental Principles, which are now part of the Movement's official doctrine and were included in its Statutes in 1986, are inalienable. Yet they have to be explained if they are to be understood and publicized. This the *Review* set out to do over the past 25 years, by publishing explanatory studies, among which Jean Pictet's *Commentaries on the Fundamental Principles of the Red Cross* take pride of place.²⁸ As it had done in the sphere of dissemination of humanitarian law, the *Review* offered studies that sought to show the similarities and points of convergence between these principles and the precepts of the various civilizations and religions.

Such efforts to clarify and disseminate became increasingly necessary as the international turmoil of the 1970s and the resulting questioning of values prompted the Movement to defend the specific nature of the Fundamental Principles of the Red Cross.

Although the basis and enduring character of these principles have never been challenged, some wonder if they are always appropriate: is the principle of humanity too all-embracing for the Red Cross, beset as it is on all sides by humanitarian needs? Is it possible or reasonable to expect the Red Cross to embark on highly technical activities which its volunteers are not qualified to carry out? Is there not a danger that volunteers and the National Societies which they serve may lose their independence if, by acting as the agents of government authorities, they identify too closely with them? How can universality be reconciled with the great variety of philosophical and religious tendencies? And how can young people be convinced of the value of the principle of neutrality?²⁹

During this same period, drawing upon past experience and extensive consultations, Donald D. Tansley pointed out in his reappraisal of the role of the Red Cross that the wording of the principles was not easy to understand or communicate, and suggested that they be rewritten "in a language and a form which can be easily understood".³⁰

²⁸ See *IRRC*, No. 210, May-June 1979, pp. 130-149; No. 211, July-August 1979, pp. 184-197; No. 212, September-October 1979, pp. 255-258, No. 213, November-December 1979, pp. 301-312; No. 214, January-February 1980, pp. 29-34; No. 215, March-April 1980, pp. 70-78; No. 216, May-June 1980, pp. 129-141; No. 217, July-August 1980, pp. 193-197; No. 218, September-October 1980, pp. 250-255.

²⁹ See Anton Schlögel, "Possibilities and limits of the Red Cross", *IRRC*, No. 155, February 1974, pp. 63-70.

³⁰ Donald D. Tansley, *Final Report: An agenda for Red Cross — Re-appraisal of the role of the Red Cross*, Geneva, 1975, p. 35, quoted in *IRRC*, No. 273, November-December 1989, "Applying the Fundamental Principles of the Red Cross and Red Crescent: A subject for continued thought", pp. 501-506, at p. 501.

The question was of course pertinent but, in the opinion of the League and the ICRC, it was not crucial, and at the Twenty-third International Conference of the Red Cross held in Bucharest in 1977 they stated: "Its fundamental principles are the most valuable asset of the Red Cross, they constitute a binding force, a set of guidelines, a programme of action, the source and expression of an ideal, and a guarantee of universality. There is no need to re-formulate them; the main thing is to live up to them, and make them known and respected".³¹

Nevertheless, a great deal of thought was necessary to try to give each principle a significance that guaranteed and reinforced the cohesion of the Movement, for "the Movement's unity, its credibility and efficiency" were at stake.³² In 1989, as a contribution to a study ordered by the 1986 session of the Council of Delegates, the *Review* began to publish a series of articles on the Fundamental Principles so as to provide a basis for theoretical and case studies on how they should be implemented. The studies reaffirmed the specific Red Cross and Red Crescent approach to humanitarian issues of the times: "It focuses on the human being; the protection of his life, health and dignity is its ultimate goal".³³ The Movement's principles — the principle of humanity which strengthens the bonds among individuals and hence among peoples, the principle of universality which implies solidarity among the National Societies, and the principle of neutrality which consists in remaining receptive to others and ready to act whatever the circumstances — reject violence and defeatism and encourage dialogue and cooperation.

Modern humanitarianism, however, requires not only that suffering be alleviated but also that the causes of suffering be examined and if possible eradicated. The Movement took the attitude that it should work within set limits which it could not overstep without endangering its fundamental purpose; its first priority was the victims, and its preventive action took place in its own specific fields of activity: health care, social welfare, environmental protection, education for peace and promotion of a culture of solidarity.

The essential task in fact is to spread knowledge of the Fundamental Principles. Today, as in the past, "they make for cohesion and unity in

³¹ "Applying the Fundamental Principles of the Red Cross and Red Crescent: a subject for continued thought", *IRRC*, No. 273, November-December 1989, p. 501.

³² *Ibid.*, p. 502.

³³ *Ibid.*, p. 504.

the Movement, and give its actions a predictability that should inspire international confidence. They exist to advance the lofty ideal of relieving human suffering, and respecting them requires a high degree of moral responsibility from all who serve under the red cross or red crescent emblem".³⁴

2. Contributions to peace

Through its principle of humanity, the Red Cross favours mutual understanding, cooperation and lasting peace among the peoples of the world.

When he wrote in 1869 that the National Societies had the "conviction that they were useful auxiliaries of peaceable propaganda and that they made a real, *albeit indirect*, contribution to arousing an aversion to war", Gustave Moynier foreshadowed a decades-long debate within the Movement on the nature and validity of the Red Cross contribution to peace, and on its limits.³⁵

After the First World War, the Red Cross contribution to peace drew greater attention. Characteristically, a joint appeal from the ICRC and the League to the Tenth International Conference of the Red Cross held in Geneva in 1921 exhorted "all peoples to combat the spirit of war that is still rife throughout the world (...) The Red Cross is not content to work in peacetime; it also wishes to work for peace".³⁶ Almost all subsequent International Conferences have expanded upon this declaration, and many prominent figures in the Movement have written in the *Review* on the theme of the Red Cross contribution to peace.

This was the case in the 1930s, for example, when a number of studies published in the *Review* raised the question of the responsibility of the Red Cross with regard to peace, highlighting the peaceable and pacifying value of its work to remedy human suffering. The Red Cross contribution to peace thus appeared to be the result of its humanitarian activities in time of war and in peacetime, a consequence of the principle of humanity.

Gradually, the Movement enlarged the scope of its concerns. In the 1950s it began to examine the topics of atomic weapons, disarmament and the peaceful settlement of conflicts. These themes were an encouragement

³⁴ Marion Harroff-Tavel, "Neutrality and impartiality", *IRRC*, No. 273, November-December 1989, pp. 536-552, at p. 552.

³⁵ "Avant Propos", *Bulletin*, No. 1, October 1869, p. 3 (our italics).

³⁶ Tenth International Conference of the Red Cross, Geneva, 30 March - 7 April 1921, Report, Resolution V.

to members of the Movement who favoured more precise statements and more direct action for peace, including a contribution to the effort to combat the causes of war.

There was heated debate within the Movement, revealing differences over the very concept of peace and the nature of the contribution the Red Cross could make. Some saw this as indirect, that is, consisting of traditional protection and assistance activities, and others saw it as direct, implying the denunciation of aggression and injustice. This dissension was a threat to the Movement's cohesion.

Not until the First World Red Cross Conference on Peace (Belgrade, June 1975) did the Movement adopt by consensus its "Programme of Action of the Red Cross as a Factor of Peace", and in particular its own definition of peace.³⁷ As Jacques Moreillon wrote: "With this consensus, the Red Cross made peace over the matter of peace — a considerable event in itself. It was a sort of pact, and, as such, both a result and a beginning".³⁸ This was to strengthen the Movement's unity. The Second World Conference on Peace held in Aaland, Finland, and Stockholm, Sweden, in 1984 was to corroborate these results; it combined the definition of peace with a set of guidelines that, according to Conference Chairman Harald Huber, "express the Movement's consensus on all aspects of its contribution to peace. Wherever its members come from and whatever their own ideas, they are all bound by the same Red Cross concept of peace and of the means our Movement can, or cannot, use to contribute to peace".³⁹

In 1994, the Movement continued to uphold the commitments that it had made at the two Conferences on peace in 1899 and 1907. As Jacques Moreillon observed: "Our contribution to peace must remain indirect to be effective, but must be based on an overall awareness of what constitutes peace".⁴⁰

³⁷ "By peace, the Red Cross does not mean the simple absence of war but a dynamic process of collaboration among States and peoples, which is founded on freedom, independence, national sovereignty, equality, respect for human rights and a fair and equitable distribution of resources with a view to satisfying the needs of the people", *Report of the League of Red Cross Societies on the World Red Cross Conference on Peace (Belgrade, 11-13 June 1975)* and *Programme of Action of the Red Cross as a Factor of Peace*, LRCS, 1978, p. 23.

³⁸ Jacques Moreillon, "The Fundamental Principles of the Red Cross, peace and human rights", *IRRC*, No. 217, July-August 1980, pp. 171-183, at p. 174.

³⁹ "The Second World Red Cross and Red Crescent Conference on Peace", Closing Ceremony, *IRRC*, No. 243, November-December 1984, p. 316.

⁴⁰ Jacques Moreillon, "The promotion of peace and humanity in the twenty-first century — What role for the Red Cross and the Red Crescent?", *IRRC*, No. 303, November-December 1994, p. 608.

3. Unity through complementarity

As mentioned earlier, the moral unity that derives from the Fundamental Principles of the Red Cross, its solidarity and its contribution to peace does not reflect an organic unity within the Movement. History has decided otherwise: the Movement has not grown into a compact whole or a sort of monolith; rather, over time it has developed into a group of unique institutions formed at different periods but sharing the common objective of alleviating suffering and defending human dignity.

From the beginning there was a danger that moral unity within the Red Cross would break down and that its principal components would become dispersed if they lacked the support of a unified structure to direct its institutions' humanitarian work.

There have been many attempts at unification, starting with a suggestion put forward by the International Committee in 1867 to set up a "Superior Council" composed of members who would be elected by the Central Committees in the various countries, the Committee in Geneva acting as its Bureau. A proposal by the St Petersburg Central Committee followed in 1884, advocating an International Committee of the Red Cross whose members would be appointed by the leadership of the National Red Cross Societies, forming a central institution that would be formally recognized by the States signatory to the Geneva Convention of 1864.

Neither of these proposals were adopted. The Franco-Prussian war had shown that, as auxiliaries to army medical services, the National Societies were obliged to appeal just as much to patriotism as to humanitarian feelings to muster the resources they needed to carry out their work. As François Bugnion concluded: "An International Committee composed of representatives of the various nations' Central Committees would certainly be paralysed just when it was most sorely needed".⁴¹

This implicit acknowledgement of the independence of the National Societies and hence of the Committee was corroborated by Gustave Ador, who felt that "the noble humanitarian purpose of the Red Cross would be better served and pursued by a meeting of individual minds than by regulations".⁴²

⁴¹ François Bugnion, *Le Comité international de la Croix-Rouge et la protection des victimes de la guerre*, ICRC, Geneva, 1994, p. 1141. See herein, pp. 427-446, a chapter from the book, entitled "La composition du Comité international de la Croix-Rouge". On the origins of the International Committee of the Red Cross, see also André Durand, *The history of the International Committee of the Red Cross: from Sarajevo to Hiroshima*, Henry Dunant Institute, Geneva, 1984, pp. 174-194.

⁴² Quoted in Paul des Gouttes, *Gustave Ador, président du CICR*, Georg et Cie, ICRC, Geneva, 1928, p. 13.

Gustave Moynier expanded on this idea in 1896: the National Societies must maintain their independence, for "local habits and customs are apt to foster the spirit of charity within a population". At the risk of contradicting himself, he added: "It would have been utopian to try to subject peoples of all races, living at every latitude, to a uniform administrative system and a single, albeit mitigated, authority (...) Never, in high places, was the incongruous notion entertained for an instant, neither at the outset nor at any later stage, of an international Red Cross, and it is quite inappropriate to describe the existing Red Cross as such".⁴³

The ICRC has always remained true to its policy of defending the independence of the National Societies and promoting solidarity in time of war.

But the National Societies' independence does not mean that they are isolated from each other, for they were designed to cooperate. In an 1870 issue of the *Bulletin*, Moynier made the prophetic observation that the National Societies "form a vast federation whose members have pledged mutual assistance".⁴⁴

This idea made headway and in 1919 culminated in the creation of the League of Red Cross Societies. The *Review* reflected the flutter of ideas that emerged at the end of the First World War (expected to be the last) and the founding of the League of Nations. In 1913, there had already been talk of an "International Union of the Red Cross";⁴⁵ and in 1919 there were dreams that a "Humanitarian League of Nations" could exist alongside the political League of Nations.⁴⁶ Even the ICRC glimpsed prospects of a broader mandate for the Red Cross and coordination of its activities within a "World Union of Red Cross Organizations".⁴⁷

In fact, the founding of the League created more problems than it resolved, particularly for the ICRC. The stakes were high, since the areas

⁴³ Gustave Moynier, *Notions essentielles sur la Croix-Rouge*, *op. cit.*, p. 21.

⁴⁴ "Du double caractère, national et international, des Sociétés de secours", *op. cit.* note 18, p. 160. See also "Ce que c'est que la Croix-Rouge", *Bulletin*, No. 21, January 1875, p. 3.

⁴⁵ Professor Bogagewski, "La Croix-Rouge dans le développement du droit international", quoted by Paul des Gouttes in "De la Fédération des Sociétés de la Croix-Rouge", *RICR*, No. 8, August 1919, p. 927.

⁴⁶ Dr. A. Ninagawa, "Le rôle futur de la Croix-Rouge et le Pacte de la Paix", *RICR*, No. 183, March 1919, p. 267.

⁴⁷ Renée-Marguerite Cramer, "La tâche de la prochaine Conférence internationale de la Croix-Rouge", *RICR*, No. 4, April 1919, p. 414.

of competence of the ICRC and those of the new League had to be defined while preserving the achievements already made: the National Societies' independence had to be maintained and Red Cross unity preserved.

The reports on and resolutions of the International Conferences that appeared in the *Review* give only a sketchy picture of the constant flurry of meetings, commissions and heated negotiations that took place between 1919 and 1928 around the concepts of merger, unification, duality, unity and coordination. Finally it became clear that the only way to preserve Red Cross unity was to officially recognize the complementarity of the ICRC and the League. The 13th International Conference of the Red Cross settled the matter in 1928 when it adopted the Statutes of the International Red Cross. As the text's main authors, Colonel Draudt, Vice-President of the League, and Professor Max Huber, member of the ICRC, wrote: "It was not a matter of setting up a new organization from scratch, but of maintaining intact and strengthening existing elements which had already demonstrated their worth through the services they had provided. It was more a matter of harmonizing the role and functioning of those different elements in the best interests of the Red Cross and to ensure their coordination and unity by placing them in the framework of the International Conference as the supreme deliberative authority of the Red Cross".⁴⁸

4. Towards unassailable unity

Although its status defies legal logic, the International Red Cross has the great merit of presenting to the international community an image of unity which it must continuously improve and uphold. Readers of the *Review* are struck by the determination of the Movement's members to keep in step with the times and to periodically re-examine the Movement's mandate and internal structures, with the preservation of its unity as their main concern.

The changes that occurred internationally in the late 1960s inevitably had repercussions on the Red Cross mission, the activities of the Movement, and even on the place of the Red Cross on the world scene. The difficulties encountered by the ICRC in various internal conflicts of the 1960s, the emergence of numerous non-governmental humanitarian organizations, and the political manoeuvring that infiltrated the Movement's

⁴⁸ Colonel Draudt and Max Huber, "Rapport à la XIII^e Conférence internationale de la Croix-Rouge sur les Statuts de la Croix-Rouge internationale", *RICR*, No. 119, November 1928, p. 994.

meetings created a sense of unease within the International Red Cross. "Does the world still need us?" asked one National Society President.⁴⁹ Others were worried by the depth of the differences of opinion within the Movement; these had reached the point at which the only solution was to conduct a comprehensive reassessment of the historic mission of the Red Cross and its ethical basis, including an examination of "the unwritten principle of unity of ideal, since it is nothing less than the continuance of this unity which is at stake", in the words of Walter Bargatzky.⁵⁰ His main concern was that Red Cross cohesion and unity should be maintained internationally, for, he remarked, "because of its unity and its universality it has found a way into all political spheres, to all military fronts. So I believe that the only clear and irrevocable criterion for the future of the Red Cross must be: Help for all means a universal Red Cross. A universal Red Cross means a united Red Cross".⁵¹

The study reappraising the role of the Red Cross, called the "Tansley Report" after its author, was very timely indeed. Ordered by the Standing Commission, its purpose was to rethink and redefine the role and structures of the Red Cross in modern society so as to determine how in a world of rapid and constant change the Red Cross could adapt to assert itself and ensure its future service to humankind. The study was also intended to "chart a course for the various bodies of the Red Cross, enabling them to direct their efforts and enterprises in the right direction (...) Red Cross unity, universality and capacity to adapt itself to changing conditions depend, as in any organization, on the correlated action of its various interdependent organs. Special attention will therefore be given to the inter-relationship of the various international and national bodies of the Red Cross".⁵²

The Tansley Report, which was published in the *Review* along with reactions from the International Red Cross institutions, had the merit of shedding light on a previously rather obscure matter: the objectives of the Movement as a whole.⁵³ Without calling into question the structure of the

⁴⁹ General Torstein Dale, President of the Norwegian Red Cross, in *IRRC*, No. 140, November 1972, pp. 635-636.

⁵⁰ Walter Bargatzky, *op. cit.*, p. 517.

⁵¹ *Ibid.*, p. 526.

⁵² Standing Commission of the International Red Cross, "Programme for a re-appraisal of the role of the Red Cross", *IRRC*, No. 115, November 1970, p. 592.

⁵³ See Claude Pilloud, "Reflections on general Red Cross objectives", *IRRC*, No. 187, October 1976, pp. 506-511.

International Red Cross, Tansley proposed that the Movement's fundamental objective should be "the provision of emergency help, on an unconditional and impartial basis, whenever and wherever human needs for protection and assistance exist because of a natural disaster or conflict".⁵⁴ This definition did not completely satisfy the National Societies or their federation, which found it too restrictive. It was not until 1977 that the Twenty-third International Conference of the Red Cross meeting in Bucharest reaffirmed the Movement's mission, included the National Societies' medical and social activities to prevent disease, promote health and foster among their members a sense of social responsibility and voluntary service, and encompassed dissemination activities.⁵⁵

The adoption in October 1986 of the Statutes of the International Red Cross and Red Crescent Movement was the major event of the past 25 years. For the first time in the legislative history of the Movement, the Statutes set out its purpose, its goals and what it was that motivated and inspired its action: its basic mission, its Fundamental Principles, its mottoes and its contribution to peace. Moreover, its new name — International Red Cross and Red Crescent Movement — underscored its dynamic character as an institution that since its creation had lived for and by universal humanitarian action.

Eight years after the Statutes were adopted, the Movement once again had to undergo a period of reassessment prompted by problems relating to the application of humanitarian law, the proliferation of humanitarian aid agencies and the difficulty of coordinating relief operations. An Advisory Commission was created in 1993 by the Council of Delegates to "study policy matters of common interest to all components of the Movement and possible courses of action and to advise the Council of Delegates on the Movement's priorities and policies". The ultimate goal was to allow the Movement to fulfil its humanitarian mandate with the greatest possible efficiency and cohesion.⁵⁶

This was the imperative that President Sommaruga referred to recently when he declared to the Movement: "It is tragically pointless to be united and universal if the Movement fails to be effective. But it cannot be

⁵⁴ Donald D. Tansley, *op. cit.*, p. 64.

⁵⁵ 23rd International Conference of the Red Cross, Bucharest 1977, Resolution I: "Mission of the Red Cross", *IRRC*, No. 201, December 1977, pp. 507-508.

⁵⁶ Council of Delegates, October 1993 session, Birmingham, Resolution I, *IRRC*, No. 97, November-December 1993, p. 489.

effective unless we know what is expected of us, what specific task is assigned to each one of us. We must know the clear division of labour between the various partners involved in humanitarian endeavour. To be sure, the Movement must grow more united and universal day by day, but it must also become more effective! The world needs us and it must be able to count on a Movement capable of meeting the great humanitarian challenges while respecting the fundamental principles of the Red Cross and Red Crescent".⁵⁷

The Council of Delegates, which will address the question of the Movement's future at its December 1995 session, will have these words to reflect on. They echo the feelings that the members of the Standing Commission, the members of the ICRC and the President and Vice-Presidents of the League already expressed in 1972 during an informal meeting in Montreux, Switzerland, organized by the ICRC to examine questions of mutual interest: "The Red Cross, therefore, is a complex body formed of various components but moved by principles that make for cohesion yet distinguish it from other welfare movements. What is important is to devise methods of organization that will enable each constituent part to shoulder its specific responsibilities in co-operation with the rest, and thus maintain diversity within unity".⁵⁸

Jacques Meurant, who holds an arts degree and a doctorate in political science, has been working for the Movement since 1962. He has occupied the posts of Special Adviser to the Secretary General of the League of Red Cross Societies, then Adviser on statutory matters and later Director of the Henry Dunant Institute before taking up his current position as Editor of the *International Review of the Red Cross* in 1986.

⁵⁷ "75th anniversary of the foundation of the International Federation of Red Cross and Red Crescent Societies — Address by the President of the ICRC, Mr Cornelio Sommaruga", *IRRC*, No. 300, May-June 1994, p. 282.

⁵⁸ J.-L. Le Fort, "Meeting of Red Cross leaders", *IRRC*, No. 135, June 1972, p. 346.

The International Institute of Humanitarian Law

25 years of humanitarian dialogue

by Jovića Patrnogic

The International Congress on Human Rights as the Basis of International Humanitarian Law, held in September 1970 at the Villa Nobel, San Remo, Italy, commended the proposal of the “promoting committee”¹ to set up an International Institute of Humanitarian Law. Twenty-five years have elapsed since that event, and today the following questions can be asked: What is the purpose of an Institute of Humanitarian Law? What has the Institute achieved? What is the future of the Institute?

At the time when the Institute was founded, rapid progress in all spheres of human activity was accompanied, alas, by very complex humanitarian problems, affecting great numbers of people in various parts of the world and stemming from different causes: armed conflicts, internal disturbances and tensions, persecution, violence and the denial of basic human rights, natural or man-made disasters, extreme poverty and underdevelopment, disease, etc. Whatever the causes, the people affected were in need of humanitarian assistance, which was indeed provided in many cases and has alleviated the suffering of many. However, humanitarian action was not always possible and was often inadequate to cope effectively with certain situations. These crises and the difficulties in preventing them or dealing with them — and in meeting the needs — were a cause of great concern for all those who considered that humanitarian

¹ Professor Jovića Patrnogic, Dr Gian-Carlo Lombardo, Mr Francesco Viale and Dr Ugo Genesisio.

issues deserved the highest priority and the full attention of the international community. Humanitarian problems are constantly proliferating and are becoming an increasingly characteristic feature of the contemporary world. The main players on the international scene were preoccupied primarily by political, security and economic problems and the increased use of force to solve disputes, and much less by the humanitarian problems resulting therefrom. People concerned with humanitarian issues therefore had to try to draw attention to these problems and to the need to strengthen humanitarian activities and make them more effective. New ways had to be devised to place humanitarian action high on the agenda of the international community. The establishment of the Institute should be viewed against this background.

The *International Congress on Human Rights as the Basis of International Humanitarian Law* was attended by outstanding scholars from many parts of the world and, on 26 September 1970, it set up the International Institute of Humanitarian Law. The proceedings of the Congress comprise a very valuable collection of contributions by eminent specialists in humanitarian matters, and particularly international law. The San Remo Declaration issued at the Congress is still as relevant as ever, and indeed some of its recommendations have already been implemented. The Statute of the newly created Institute became the framework for some remarkable achievements.

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During the past 25 years times have changed and new types of action are required, but humanitarian problems have not been solved; on the contrary, they have become even more acute. The Institute has been adapting and developing its activities to keep pace with these changes and has gradually become a forum for humanitarian dialogue. To promote such dialogue, the Institute brought together people from very different fields: university lecturers and scientific researchers; government representatives, particularly diplomats engaged in multilateral diplomacy; representatives of intergovernmental organizations, especially from the UN system; representatives of various NGOs, among which special mention must be made of all the components of the International Red Cross and Red Crescent Movement; and private individuals specializing in humanitarian matters. All these people from different backgrounds and professions share a common concern for humanitarian matters, and have both theoretical and practical experience in this sphere.

This wide range of expertise and experience is a characteristic feature of the Institute, which provides an opportunity for dialogue between the people concerned; this dialogue, in turn, has become the Institute's main working method and has enabled it to achieve the results which its members promote and disseminate throughout the world.

The Institute's purpose is not to solve the very complex humanitarian problems which are dealt with directly by the competent bodies concerned, but rather to pinpoint and define those problems, weigh arguments, examine the relevant legal instruments, assess the action taken and come up with new ideas for future development in this field. It also reaffirms the value of humanitarian action and humanitarian law in today's changing world.

During its quarter-century of existence the Institute has dealt with a very wide range of subjects, covering all aspects of humanitarian law and action; moreover, it has reflected the close relationship between human rights and humanitarian law and their complementarity in practice.

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The Institute's activities are numerous and take very different forms. I shall try to outline the more important ones, i.e. those illustrating the various types of action which are all geared towards meeting the objectives set out in its Statute.

- (a) The Institute's highest forum is the Congress, which brings people together to discuss general themes such as humanitarian law, human rights, solidarity and peace. The initial Congress in 1970 dealt with human rights and humanitarian law, while the 1980 Congress examined the subject of "International solidarity and humanitarian action". In 1986 the theme was "Peace and humanitarian action" to mark the International Year of Peace. For its contribution to peace, the Institute received the United Nations Peace Messenger Award.
- (b) Every year in September the Institute convenes a Round Table on current problems of international humanitarian law. This has become an important annual meeting for members of the international humanitarian community. To date, there have been nineteen such Round Tables. The first, in 1974, served as a forum for informal, frank and in-depth discussions of issues raised at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (Geneva, 1974-1977). By orga-

nizing meetings between sessions of the Diplomatic Conference, the Round Table helped clarify views and work out solutions and formulations that might obtain general support at the Conference. Participants included not only many members of the Conference but also other experts in this area. The Round Table continued to function in this capacity throughout the Diplomatic Conference.

In the years when the International Conference of the Red Cross and Red Crescent was convened, the Round Table served as a forum where the future participants — and other people interested in the subject — could have preliminary discussions on the main agenda items of the Conference, which is the supreme deliberative body for the International Red Cross and Red Crescent Movement. On other occasions, the Round Table has dealt with various subjects related to humanitarian law and action which were of topical importance at the time.

- (c) The Institute also convenes numerous meetings, with more limited participation, on specialized subjects. These meetings, working groups and seminars study a wide range of humanitarian issues, including the protection of refugees, the implementation and development of humanitarian law, migration, disaster relief, and the law of armed conflict at sea. The results of the meetings are published; thanks to the authoritative standing of the participants they offer valuable insights into humanitarian issues and, on occasion, provide a legal ruling.
- (d) The Institute pays special attention to the regional aspects of humanitarian issues and convenes meetings in areas where promotion of a regional approach is considered necessary and useful. In this connection, we would mention the series of European seminars on current problems of international humanitarian law in its widest sense — the intention being to bring together Western and Eastern European experts for an open dialogue on various aspects of humanitarian law and to make this law more widely known in Eastern European countries. There have also been meetings of experts in Arab countries and in the Far East, in particular to discuss matters pertaining to the protection of refugees. Among the notable results achieved are the Cairo Declaration on Refugees adopted by the Cairo meeting of Arab experts in 1992, the first instrument to propose measures for the protection of refugees in the Arab world, and the Manila Humanitarian Standards relating to the protection of refugees in Asian countries.
- (e) Education and training in international humanitarian law is one of the permanent and most important aspects of the Institute's work. It began with courses on the law of war, conducted in close cooperation

with the ICRC and bringing together officers of the armed forces of many countries — indeed sometimes from countries which were not on friendly terms with each other — and with seminars to spread knowledge of international humanitarian law and on dissemination methods. The Institute has not only contributed to dissemination but has ensured that it is carried out using a standardized method and approach. Participants in these courses are expected to pass on their knowledge when they return to their respective countries. To date, 54 such courses have been held with more than 2,000 participants from 125 countries.

Because of the constant increase in the number of refugees and displaced persons all over the world and the number of countries affected, the foregoing activities have been supplemented by courses on refugee law. The circumstances required that government officials and humanitarian agencies be given basic instruction in refugee law. This is done in close cooperation with UNHCR and, to date, 10 courses have been held for participants from 95 countries.

Constantly expanding the scope of its teaching activities, the Institute has also introduced courses on specific topics pertaining to human rights, in particular for developing countries, working closely with the United Nations Human Rights Centre.

- (f) In addition, the Institute issues a very wide range of publications. The deliberations of experts on the various topics from the vast field of the Institute's work are published in its *Yearbook*, the publication *Collection*, a series of studies, the reports on its various specialized meetings and the *Newsletter*. All this material is invaluable for everyone concerned with humanitarian issues.
- (g) At the Institute's headquarters in San Remo a documentation centre and library, which specializes in works on international humanitarian law, serve scholars and students from all over the world. Many take advantage of these facilities to conduct their research on the spot.
- (h) Since the whole range of its activities is geared in some way to the dissemination of international humanitarian law, the Institute has established a prize which is awarded each year to organizations or individuals having contributed significantly to the promotion and dissemination of this body of law.
- (i) The Institute's various activities help promote the modern concept of international humanitarian law; starting with its traditional scope but

going on to cover other situations where serious humanitarian problems call for action by the international community on the basis of a broader concept of the law. The Institute's members thus help establish a closer relationship between humanitarian law and human rights law.

Throughout its existence, the Institute has conducted its very diverse activities in cooperation with other interested organizations, in particular those which are mandated by the international community to exercise various functions in the humanitarian sphere. Especially close links are maintained with the ICRC, the guardian of international humanitarian law, and with UNHCR, the IOM, the UN Human Rights Centre, the International Federation of Red Cross and Red Crescent Societies, other intergovernmental and non-governmental organizations, governments, and academic institutions (the Raoul Wallenberg Institute, the Henry Dunant Institute, the Strasbourg Institute of Human Rights). This has enabled the San Remo Institute to include representatives or experts from other bodies in its activities, thus offering them the possibility of becoming involved in the humanitarian dialogue. By working in this way, the Institute has successfully maintained its independence — a precondition to assertion of the authority of its views. Its stance in this respect has earned the Institute consultative status with ECOSOC and the Council of Europe.

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The Institute will mark its 25th anniversary by holding a fourth Congress (6-9 September 1995). It will focus on the theme "United for the respect of international humanitarian law" and will cover various topical subjects: the work of the United Nations in regard to issues concerning respect for international humanitarian law and fundamental rights in conflict situations; the consequences in humanitarian terms of UN sanctions in conflict situations; several basic issues and challenges relating to the protection of refugees during conflicts and in post-conflict situations; preliminary debates on certain items on the agenda of the next International Conference of the Red Cross and Red Crescent, such as promoting greater respect for international humanitarian law; and, finally a review of the work and achievements of the International Institute of Humanitarian Law over the past 25 years.

The Institute will continue to fulfil the role it has played over the last quarter-century. Its rapid expansion over the years from its small beginnings to its present size bears witness to the fact that the international humanitarian community needs such a highly specialized institution. Humanitarian problems worldwide are vast and constantly increasing; it cannot be expected that they will be solved quickly. Therefore institutions which offer a forum for humanitarian dialogue are indispensable today and can contribute to the common effort to enhance respect for international humanitarian law and fundamental human rights. Current trends show that humanitarian action is coming gradually to the forefront of the international community's concerns, and this calls for a continuation of the Institute's role.

Professor Jovića Patrnogic
Honorary President
International Institute
of Humanitarian Law

DECLARATION BY ROMANIA

On 31 May 1995 Romania made the following declaration regarding its recognition of the competence of the International Fact-Finding Commission.

In accordance with Article 90, paragraph 2 (a), of Protocol I of 1977 additional to the Geneva Conventions of 1949, Romania declares that it recognizes *ipso facto* and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the International Fact-Finding Commission to enquire into allegations by such other Party.

Romania is the **forty-sixth** State to make the declaration regarding the Fact-Finding Commission.

Books and reviews

THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND THE PROTECTION OF WAR VICTIMS*

François Bugnion has subjected the International Committee of the Red Cross to a critical — “but not ill-intentioned” — examination in a work which should become required reading.

The reason for this criticism is explained in the general introduction: the Committee, whose mission is to protect war victims, has devoted most of its efforts to this task, thereby inevitably minimizing the time needed for reflection about “its own areas of competence, the bases for its action, and its position in contemporary society and in the international legal order”. And yet, as François Bugnion goes on to say, “any activity that is not guided by reflection is doomed to become dissipated in short-sighted activism”. The institution, which emanated from the dynamics of history and is being carried along by this same force, must now take the time to analyse “its basic orientations and the principles and limitations of its action”. This entails a recapitulation of the International Committee’s history, during which certain principles and rules of conduct have been developed and its position in the international system has been established.

This is the subject of the first volume, which is followed by Volume II, in which the author examines “the bases, scope and limitations of the tasks and areas of competence that humanitarian law has assigned to the International Committee with a view to the protection of war victims”. Volume III is devoted to an examination of the Committee’s legal personality.

The general introduction gives some details concerning the way the author proceeded, his investigations, his choice of the problems to be dealt with in the book, the need for an historical approach and arguments in favour of the legal approach, and the sources of his study. I have mentioned these subjects only to stress the broad scope and high quality of François Bugnion’s presentation of his project and of the structure of his work. Readers understand at once that the wealth of information provided will enable them to enter a complex world under

* François Bugnion, *Le Comité international de la Croix-Rouge et la protection des victimes de la guerre (The International Committee of the Red Cross and the protection of war victims)* International Committee of the Red Cross, Geneva, 1994, 1,438 pages.

the guidance of a practitioner whose judgment is based on common sense and sensitivity, within a strictly academic framework.

It is clearly impossible to carry out in a book review a critical, chapter-by-chapter analysis of a work which is voluminous, despite its concise style. François Bugnion has set out to offer everyone who, willingly or unwillingly, is part of what may be called the international community, to politicians, their protégés and their victims, and to humanitarian activists in universities, schools, religious communities and intergovernmental or non-governmental organizations, a global overview of the work carried out for well over a century, in Europe and throughout the world, by a strange international institution — an association governed by Swiss private law and composed exclusively of Swiss citizens. This institution, according to the author's reference to the advisory opinion of the International Court of Justice of 11 April 1949, "has an independent, limited and functional status in international law" of which "it is time for the Committee to become fully aware and to accept the necessary consequences".

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I shall single out only two fragments from this vast fresco in which military confrontations and peace conferences, scenes of violence and the operations of the International Committee and other humanitarian organizations succeed each other. The first relates to the ICRC's activities during the Second World War, and the second to the author's analysis of the effects of the challenges of our times on the International Committee of the Red Cross, on its policy — or, rather, its humanitarian strategy — on its structure and on its future.

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When entering upon the subject of the Second World War with François Bugnion, we should bear in mind how he defines his approach to the history of the ICRC. Referring to the works on the subject by Pierre Boissier and André Durand, he stresses that his intention is different, "much more modest; it is simply to retrace, through a study of ICRC practice and the work of International Conferences, the initiatives and decisions that have led to the International Committee being assigned tasks and areas of competence relating to the protection of war victims".

That is why his brief presentation of the political causes of the Second World War, which started in Europe with the German attack on Poland, and of the legal relations between the belligerents is followed by a section devoted to the delegations that the International Committee was rapidly able to set up, thanks to the mandate given it by the 1929 Convention and to the development of a standard

operational procedure. The ICRC is thus in a position to take the initiative when necessary. It certainly encounters difficulties and often comes up against insurmountable obstacles, but it is nevertheless committed to the arduous task of protecting the victims of war and pursues this goal by all the means at its disposal. Bugnion's work traces the different stages and setbacks in this process and describes the results achieved according to the status of the people concerned — wounded and sick members of the armed forces, prisoners of war and civilians.

This approach is of interest to any historian who seeks to evaluate the achievements of the ICRC by distancing himself somewhat from recent controversies. It is indeed impossible to assess the scope of the operations conducted by the ICRC and to pass judgment on its policy without placing them in a strategic context: a theatre of war which expanded to cover the whole world; enormous numbers of prisoners on one side or the other, depending on fluctuations in the fortunes of war; the refusal of Soviet Russia and Japan to apply the provisions of the 1929 Convention, which the governments of those countries had not signed — a refusal which led to retaliation by Germany against the Russian prisoners in its hands; the consequent impossibility for the ICRC to ensure protection for a considerable number of war victims; the Japanese Government's decision to apply the provisions of the 1929 Convention according to its own evaluations of circumstances; its refusal to recognize ICRC delegates in occupied territories; the death sentence pronounced against Dr Vischer and his wife, and many other dramatic wartime incidents that took place throughout the world. Wherever they were, ICRC delegates carried out dangerous missions, and were able to save some prisoners of war and improve their living conditions.

This was not possible, however, for civilians in the territories under the control of the National Socialist Government, and especially for the Jewish victims of a systematic extermination policy. The facts are well known. François Bugnion's brief account of the tragedy of the holocaust requires no further comment.

On the other hand, important lessons can be learned from the defeat inflicted by this monstrous totalitarian régime on an institution which, together with others, was defending the dignity of the individual.

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Alas, totalitarianism is not dead. It is re-emerging in different forms in a world in which war is still endemic and which is sliding into a state of chaos and wanton violence.

To what extent will the International Committee of the Red Cross be able to fulfil its mission? François Bugnion enumerates in his conclusion the steps that the ICRC should take in order to meet the challenges — both internal and external — posed by the way in which societies, and the relations between them,

have evolved. His concise statement once again bears witness to his knowledge of the world and of the institution he serves and to his clear-sightedness. It is a work programme that he is proposing to the ICRC and, more widely still, to all people and institutions sufficiently aware of the gravity of the world situation not to content themselves with empty words.

He concludes with a quotation from Clausewitz: "War is an act of violence, and there is no limit to its manifestations. Each adversary's behaviour prompts the other to do likewise, resulting in reciprocal action which, as a concept, is bound to lead to extremes".

Nevertheless, as Bugnion notes, the material constraints which, in Clausewitz's time, "kept war confined in a harness which indeed prevented it from going to extremes [...] have now disappeared. [...] Mankind has amply provided itself with the means of its own destruction. [...] The Second World War has demonstrated that the limits of horror can be pushed back *ad infinitum*".

To this we have to add the savagery of belligerents who, by resorting to the genocide engendered by nationalist passions and racism, destroy not only a country, like the former Yugoslavia, but the entire legal edifice so slowly built up in The Hague and Geneva to keep violence in check.

"The International Committee of the Red Cross", as François Bugnion points out, "has no means of stopping this slide towards the abyss. It cannot prevent war, or even ensure that war claims no victims. Yet what it can do is to draw the attention of governments and public opinion to the consequences of this trend, the disastrous effects of which it is best placed to assess through its day-to-day activities".

This is a great book because of its unity of form and substance and an important work because of its contribution to the design and implementation of a humanitarian strategy. Since I have been able to convey but a dim reflection of it, I can only express the hope that it will be widely publicized and translated and will be read with the attention it deserves by those responsible for the present and future conduct of world affairs.

I should like to add that there are several approaches to a work of this magnitude. In my opinion, the most stimulating and immediately rewarding way of reading it would be to begin with the critical examination of the challenges set out in the conclusion, since it is by formulating responses to these challenges that we will succeed in re-establishing respect for the law of war and the humanitarian law on which collective security is founded.

Jacques Freymond

Jacques Freymond, former professor at the Universities of Lausanne and Geneva and former Director of the Graduate Institute of International Studies in Geneva, was a member of the ICRC from 1959 to 1972. He was Vice-President of the institution from 1965 to 1966 and then from 1969 to 1971.

THE SAINT IN WHITE

Formerly president of the Greek Union of Writers, Dina Vlachou is the authoress of a dozen or so novels and short stories. Her latest work is a fictionalized biography of Henry Dunant.¹ She was so deeply impressed by the personality of that renowned Geneva citizen that she did not hesitate to change his frequently used nickname the “man in white” to the “saint in white” for the title of her book. This is not therefore a decisive historical account; rather is it an attempt to make people more aware, especially young people, of the poignant life of the founder of the Red Cross.

Nevertheless, the book is based on sound historical documentation; the authoress makes discerning use of both *A Memory of Solferino*, the *Mémoires* and the best biographies on the subject. She has closely scrutinized the photographs of Henry Dunant and his contemporaries and recreated the feel of the period by minutely describing their clothing — wing-collars, bow ties, watch chains, sideburns and moustaches. She rounded off her research by a visit to Switzerland and seems enchanted by the old town of Geneva, the beauty of the lake, the view of Mont Blanc, and the Heiden region.

The book is divided into two parts. The first (ten chapters) retraces Dunant’s career in chronological order. It begins with Solferino and goes on to describe his return to Geneva, his painstaking work in writing *A Memory of Solferino*, the origin of the Red Cross and the setting-up of the ICRC, his travels and the meeting with the King of Saxony — all this leading up to the first-ever Geneva Convention of August 1864. The second part (six chapters) takes us to Heiden towards the end of Henry Dunant’s life where he reminisces about the difficult years in his past: bankruptcy, the secretive and final departure from Geneva, his wretched stay in Paris, the 1870 war, his life as a recluse in an old folk’s home in Heiden and finally recognition and being awarded the Nobel Prize.

The book starts at the *Chiesa Maggiore* in Castiglione, where Dunant was working flat out to care for the wounded and quench their thirst, bringing them

¹ Dina Vlachou, *Le Saint en blanc (The Saint in White)*, Elektronikes Technes, Athens, 1994, 127 pp. (in *Greek*). This review is taken from the *Bulletin* of the Henry Dunant Society, No. 17, 1995.

water in his own travelling flask. The scene is described in a vivid, moving way; the writer skilfully inserts, without any apparent discontinuity, earlier biographical details essential to understand Dunant and his compassionate response.

The following chapter recounts his journey in old Massimo's carriage to visit the Emperor and appeal for urgent help for the wounded of Solferino. The atmosphere of the beautiful, clear, moonlight summer night, with the scent of aromatic plants, the cries of nocturnal birds, and the rhythmic sound of horses' hooves along the road, is sharply contrasted with the horrific memories of the battlefield and the underlying fear of being attacked by prowling Austrian deserters. In this heightened state of awareness there came to his mind the *Grande Idée*.

This journey - which is echoed in the same few phrases at turning points in Dunant's existence - becomes a kind of ritual journey; at the approach of death it is transformed into a nightmare where, with old Massimo as his eternal coachman, Dunant is being conveyed along an endless path towards heaven.

The novelist highlights two people from Dunant's Geneva background: his mother and the aged gardener, Jean. The other members of his family remain in the shadow.

As he himself acknowledges in his *Mémoires*, Henry Dunant was profoundly influenced by his mother, a woman entirely dedicated to philanthropic ideas and charitable works. He also admits the influence which Florence Nightingale had upon him by her work during the Crimean War and that of the book *Uncle Tom's Cabin* by Harriet Beecher-Stowe. In the silence into which Dunant withdrew to write *A Memory of Solferino* and in the difficult years that followed, his mother was the only person who understood him and gave him courage and support. But whereas Western historians try to find a Freudian explanation, the writer quite naturally introduces the image of the Virgin and Child, which also appears on the title page of the book. For a Greek writer there is nothing untoward about this, but to Calvinist minds it would be utterly unacceptable, especially in the midst of the Revival - of which Henry Dunant was an ardent supporter.

The old gardener, Jean, was the benign deity who watched over the gardens of the Dunant family property "La Monnaie" and who laid out the superb beds of geraniums and red begonias. He was the one who showed Dunant himself, when he was a small child, how to plant a fragile cutting of a rosebush and tend it through the winter so that it would thrust its roots down deep and one day in May burst into bloom, with its head raised towards God. Dunant later chose the redness of this rose as the colour for the emblematic cross of his organization. This metaphor perfectly conveys the difficult beginnings of the institution.

When Dina Vlachou recalls the return of the man whom we are tempted to call the "prodigal son", she colourfully evokes the preparations for the meal which brought friends, relatives and neighbours together again, as well as the middle class living room lit with oil lamps, the embroidered table cloths, and the dainty side dishes. As the evening progressed, Henry Dunant felt more and more that

there was an invisible river separating him from these people who were solely concerned with their banal cares: their vineyards, their livestock, their pine forests. Then the young people began dancing to the music of an Alpine horn. Thus the setting is transposed into a rural one which might be appropriate for Heiden, but is totally out of place in an account of the middle class, city environment of Geneva. The descriptions of the landscapes and nature, the lake in particular, seem at times somewhat stilted, too similar to the stereotype views of Switzerland widely held in Greece; yet we must also recognize that the Swiss often indulge in equally idealized generalizations when speaking about Greece, and that Dina Vlachou's Greek readers will not be taken aback by her portrayal.

The novelist very skilfully summons up the passing of time, one season after another, whilst not burdening her text with dates; instead, in a few leitmotiv-like phrases she evokes the atmosphere of winter, for example, in the room in Geneva's rue Verdaine.

Dunant's career certainly reached its apotheosis when the representatives of twelve countries met within our walls and the original Geneva Convention was signed on 22 August 1864. The solemn and festive atmosphere within the city hall is strikingly rendered. The authoress adds, by way of a reminder, a few details about the International Red Cross Conferences of 1906, 1929 and 1949.

In the second part of the book: the novelist accords a special place to the symbol of water; the River Seine exercises a kind hypnotic effect on the by then uprooted and destitute Henry Dunant. The placid waters of Lake Constance, reflecting the snow-covered mountains, conjure up the image of a soul at peace as death draws near.

In conclusion, we hope that this book will receive the success it deserves and afford a better understanding of the origins of an institution which, as result of tragic events, is well known to all Greeks.

Michelle Bouvier-Bron

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA — Albanian Red Cross, Rue Qamil Guranjaku No. 2, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANDORRA — Andorra Red Cross, Prat de la Creu 22, *Andorra la Vella*.
- ANGOLA — Angola Red Cross, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ANTIGUA AND BARBUDA — The Antigua and Barbuda Red Cross Society, P.O. Box 727, *Sr. Johns*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, Wiedner Hauptstrasse 32, Postfach 39, 1041, *Vienna 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRAZIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 93, Dondukov Boulevard, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, P.O. Box 324, *Bujumbura*.
- CAMBODIA — 17, Vithei of Cambodian Red Cross, *Phnom-Penh*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O.B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa*, Ontario K1G 4J5.
- CAPE VERDE — Red Cross of Cape Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Praia*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa Maria No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA — Red Cross Society of China, 53, Ganmian Hutong, 100 010 *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, No. 66-31, Apartado Aéreo 11-10, *Bogotá D.E.*
- CONGO — Congolese Red Cross, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Red Cross Society of Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CROATIA — Croatian Red Cross, Ulica Crvenog kriza 14, 41000 *Zagreb*.
- CUBA — Cuban Red Cross, Calzada Nº 51 esquina a 13. Plaza, *Ciudad de la Habana*, C.P. 10400.
- CZECH REPUBLIC — Czech Red Cross, Thunovská 18, 118 04 *Praha 1*.
- DENMARK — Danish Red Cross, 27 Blegdamsvej, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Red Crescent Society of Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, Av. Colombia y Elizalde Esq., *Quito*.
- EGYPT — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, Apartado Postal 2672, *San Salvador*.
- EQUATORIAL GUINEA — Red Cross of Equatorial Guinea, Calle Abilio Balboa 92, *Malabo*.
- ESTONIA — Estonia Red Cross, Lai Street, 17, EE001 *Tallin*.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis Ababa*.
- FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. P.O. Box 168, 00141 *Helsinki 14115*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMANY — German Red Cross, Friedrich-Erbert-Allee 71, Postfach 1460, 53105 *Bonn*.
- GHANA — Ghana Red Cross Society, Ministries Annex Block A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 551, *Sr George's*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.

- GUINEA — Red Cross Society of Guinea, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Red Cross Society of Guinea-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.
- HONDURAS — Honduran Red Cross, 7.ª Calle, 1.ª y 2.ª Avenidas, *Comayagüela*.
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, 1367 *Budapest 51. Pf. 121*.
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New Delhi 110001*.
- INDONESIA — Indonesian Red Cross Society, Jl. Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN, ISLAMIC REPUBLIC OF — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Baghdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingsion 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-cho-me. Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa I, Central District, *Pyeongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LATVIA — Latvian Red Cross Society, 28, Skolas Street, 226 300 *Riga*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LITHUANIA — Lithuanian Red Cross Society, Gedimino Ave 3a, 2600 *Vilnius*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, 2014 *Luxembourg*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, 101, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MALTA — Malta Red Cross Society, 104, St. Ursula Street, Valletta, *Malta*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, avenue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, D.F.*
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulaanbaatar*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Mozambique Red Cross Society, Caixa Postal 2986, *Maputo*.
- MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.
- NAMIBIA — Namibia Red Cross Society, P.O.B. 346, *Windhoek*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217, *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O. Box 28120, 2502 *KC The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*.
- NICARAGUA — Nicaraguan Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. 0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Caminos del Inca y Av. Nazarenas, Urb. Las Gardenias — Surco — Apartado 1534, *Lima 100*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND (The Republic of) — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of Romania, Strada Biserica Anzei, 29, *Bucharest*.
- RUSSIAN FEDERATION — The Russian Red Cross Society, Tcheremushkinski Proezd 5, 117036 *Moscow*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.

- SAINT KITTS AND NEVIS — Saint Kitts and Nevis Red Cross Society, Red Cross House, Horsford Road, *Basseterre*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries*.
- SAINT VINCENT AND THE GRENADINES — Saint Vincent and the Grenadines Red Cross Society, P.O. Box 431, *Kingstown*.
- SAN MARINO — Red Cross of San Marino, Via Scialoja, Cailungo, *San Marino 470 31*.
- SAO TOME AND PRINCIPE — Sao Tome and Principe Red Cross, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SEYCHELLES — Seychelles Red Cross Society, P.O.B. 52, *Mahé*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House, 15 Penang Lane, *Singapore 0923*.
- SLOVAKIA — Slovak Red Cross, Grosslingova 24, 81446 *Bratislava*.
- SLOVENIA — Red Cross of Slovenia, Mirje 19, 61000 *Ljubljana*.
- SOLOMON ISLANDS — The Solomon Islands Red Cross Society, P.O. Box 187, *Honiara*.
- SOMALIA (Somali Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.
- SOUTH AFRICA — The South African Red Cross Society, 25, Erlswold way, Saxonwold 2196, P.O. Box 2829, *Parklands 2121*.
- SPAIN — Spanish Red Cross, Rafael Villa, s/n, (Vuelta Ginés Navarro), El Plantío, 28023 *Madrid*.
- SRI LANKA — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN — Swedish Red Cross, Box 27 316, 102-54 *Stockholm*.
- SWITZERLAND — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, 3001 *Berne*.
- SYRIAN ARAB REPUBLIC — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA, UNITED REPUBLIC OF — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA — Tonga Red Cross Society, P.O. Box 456, *Nuku' Alofa*.
- TRINIDAD AND TOBAGO — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain*.
- TUNISIA — Tunisian Red Crescent, 19, rue d'Angleterre, *Tunis 1000*.
- TURKEY — The Turkish Red Crescent Society, Genel Baskanligi, Karanfil Sokak No. 7, 06650 Kizilay-*Ankara*.
- UGANDA — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UKRAINE — Red Cross Society of Ukraine, 30, ulitsa Pushkinskaya, 252004 *Kiev*.
- UNITED ARAB EMIRATES — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- UNITED STATES OF AMERICA — American Red Cross, 17th and D Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- VANUATU — Vanuatu Red Cross Society, P.O. Box 618, *Port Vila*.
- VENEZUELA — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado 3185, *Caracas 1010*.
- VIET NAM — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
- WESTERN SAMOA — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN — Yemeni Red Crescent Society, P.O. Box 1257, *Sana'a*.
- YUGOSLAVIA — Yugoslav Red Cross, Simina ulica broj 19, 11000 *Belgrade*.
- ZAIRE — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA — Zambia Red Cross Society, P.O. Box 50 001, 2837 Saddam Hussein Boulevard, Longacres, *Lusaka*.
- ZIMBABWE — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

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