

Implementing International Humanitarian Law: Problems and Priorities*

by Dieter Fleck

The implementation of international humanitarian law applicable in armed conflicts must be considered in the light of three basic problems.

First, in time of peace no one wants to think about the kind of situation where this body of law is put into practice. Nor is it easy to foster enthusiasm for legal rules which are beyond people's personal experience. But unless certain efforts are made and steps taken in peacetime, it cannot be expected that these rules will be implemented in time of crisis or war.

Actual documented practice is a second problem: the applicable rules have largely been violated during armed conflicts. The general consensus has it that such violations cannot be successfully sanctioned and that humanitarian protection therefore cannot stand the test of reality.

The third problem is related to the first and the second. Humanitarian law can be expected to evolve only after armed conflicts have ended, in times of lasting peace; many people therefore believe that progress can be made only when the need for measures of implementation seems most remote.

Given these problems and preconceived notions, it is heartening to see that increased interest has been aroused, not only by the frequent reports of grave breaches of humanitarian principles but also by the complex state of national decisions regarding the ratification of the

* Article based on a lecture given at the Seminar on the Implementation of International Humanitarian Law, organised by the ICRC in cooperation with the International Institute of Humanitarian Law and the Bulgarian Red Cross, Sofia, 20-22 September 1990.

1977 Protocols additional to the Geneva Conventions¹ and the 1980 UN Weapons Convention,² in efforts made to implement the relevant parts of treaty-based and customary international law in this respect.

This article asks three practical questions: what is required under existing international law (I)? Which provisions of humanitarian law have already been implemented (II)? What national and international measures should now be taken (III)? The article ends with a general assessment (IV) including some suggestions on how to solve the main problems mentioned at the beginning.

I. What is required under existing humanitarian law?

The rules of international humanitarian law are to a great extent peremptory norms (*jus cogens*) which, in accordance with Article 53 of the Vienna Convention on the Law of Treaties, are “accepted and recognized by the international community of States as a whole” as norms “from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”.³ Most of the provisions of international humanitarian law are also *self-executing*. They are unequivocal and complete and hence can be implemented by government agents and individuals without national legislative measures.⁴ There are, however, certain exceptions. Some of the provisions of international humanitarian law do require legislative measures for implementation; insofar as those measures have not yet been taken, they should be drawn up when ratification is decided on or as soon as possible thereafter. This is especially true for the obligation to prosecute grave breaches, but the implementation of *self-executing* provisions can and should be facilitated and supported by national laws, regulations and directives as well.

¹ At present (February 1991) Protocol I (relating to the protection of victims of international armed conflicts) is in force for 100 States, Protocol II (relating to the protection of victims of non-international armed conflicts) for 90 States.

² 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, in force for 28 States.

³ Lauri Hannikainen, *Peremptory Norms (jus cogens) in International Law. Historical Development, Criteria, Present Status*, Helsinki, Finnish Lawyers' Publishing Company, 1988.

⁴ Krzysztof Drzewicki, “International Humanitarian Law and Domestic Legislation with Special Reference to Polish Law”, *Revue de droit pénal militaire et de droit de la guerre*, Brussels, Vol. XXIV-1-2, 1985, pp. 29-52 (33).

Many provisions of humanitarian law expressly call for national measures of implementation. In doing so, they comply with Article 26 of the Vienna Convention, which provides that any treaty in force is “binding upon the parties to it and must be performed by them in good faith”; they also meet the specific requirements for humanitarian protection in wartime conditions, when respect for the rules cannot easily be expected unless express national and international action has been taken to direct and support implementation.

There exists a wealth of general and specific studies on this topic,⁵ which is also the subject of a comprehensive programme of action drawn up by the International Committee of the Red Cross and the League of the Red Cross and Red Crescent Societies and adopted at the last International Conference of the Red Cross.⁶ The

⁵ See International Committee of the Red Cross and Henry Dunant Institute (eds.), *Bibliography of International Humanitarian Law Applicable in Armed Conflicts*, second edition, Geneva 1987, Part V: “Implementation of International Humanitarian Law”, pp. 423-507; “Implementation of the Protocols”, *International Review of the Red Cross*, N° 217, July-August 1980, pp. 198-204; Michael Bothe and Karin Janssen, “The implementation of international humanitarian law at the national level – Issues in the protection of wounded and sick”, *International Review of the Red Cross*, N° 253, July-August, pp. 189-199; *International Institute of Humanitarian Law*, 12th Round Table on Current Problems of International Humanitarian Law, Refugee Day, and Red Cross and Red Crescent Symposium, Summary of Reports and Discussions on Current Problems of International Humanitarian Law (San Remo, 2-5 September 1987) [Umesh Palwankar, *National Measures for the Implementation of International Humanitarian Law – An Outline of the Present Situation Illustrating Some of the Main Problems*, pp. 1-8; André Andries, *Prevention and Repression of Breaches of International Humanitarian Law – Preliminary Legislative and Other Measures for an Effective Application of International Humanitarian Law*, pp. 9-19; L. R. Penna, *Implementation of International Humanitarian Law and Rules of International Law on States Responsibility for Illicit Acts*, pp. 20-23]; Michel Veuthey, “Implementation and Enforcement of Humanitarian Law and Human Rights Law in Non-International Armed Conflicts: The Role of the International Committee of the Red Cross”, *The American University Law Review*, Washington D.C., Vol. 33 (Fall 1983), N° 1; Michel Veuthey, “The Humanitarian Network: Implementing Humanitarian Law through International Cooperation”, *Bulletin of Peace Proposals*, Oslo, Vol. 18, 1987, N° 2 pp. 133-146; Hubert Bucher, “Die Umsetzung der Zusatzprotokolle zu den Genfer Abkommen ins Bundesrecht”, in Yvo Hangartner and Stefan Trechsel (eds.), *Völkerrecht im Dienste des Menschen, Festschrift für Hans Haug*, Bern and Stuttgart, 1986, pp. 31-45; Frits Kalshoven/Yves Sandoz (eds.), *The Application of Humanitarian Law*, Dordrecht, Martinus Nijhoff Publishers, 1987; Frits Kalshoven/Yves Sandoz (eds.), *Implementation of International Humanitarian Law*, Dordrecht, Martinus Nijhoff Publishers, 1989; Françoise J. Hampson, “Fighting by the rules: Instructing the armed forces in humanitarian law”, *International Review of the Red Cross*, 1989, N° 269, March-April 1989, pp. 111-124; *id.*, “Winning by the rules: law and warfare in the 1980s”, *Third World Quarterly*, London, Vol. 11, N° 2, April 1989, pp. 31-62.

⁶ *Third Programme of Action of the International Red Cross and Red Crescent Movement with respect to dissemination of international humanitarian law and of the principles and ideals of the Movement (1986-1990)*, adopted at the 25th International Conference of the Red Cross (Geneva, 1986) in Resolution IV.

programme and continuing activities in this field require the active support of nations and of individuals, who play a role of growing importance in encouraging respect for this part of international law, intended to protect the individual against States as well. The Red Cross Movement should be encouraged to cast a critical eye on the results of these endeavours. Governments and National Red Cross and Red Crescent Societies will have the opportunity to do so at the forthcoming 26th International Conference of the Red Cross and Red Crescent.⁷

Each country has different needs and priorities for the implementation of international law. The same holds true, of course, for experts working in this field at international level. When it comes to humanitarian law, one traditional school of thought considers penal sanctions, legal provisions against the misuse of the protective emblems and administrative regulations to be important.⁸ I consider organizational and educational measures and dissemination to be more important.

A comprehensive survey of required measures should include the following:

1. National legislation

- Laws and regulations should provide for the application of the Geneva Conventions (I, 48; II, 49; III, 128; IV, 145) and Additional Protocol I (AP I, 84).⁹
- National legislation must be enacted to provide for appropriate penal sanctions of grave breaches of international humanitarian law (I, 49-50; II, 50-51; III, 129-130; IV, 146-147; AP I, 85-91).

⁷ See: "National Measures to Implement International Humanitarian Law – A new move by the ICRC", *International Review of the Red Cross*, N° 263, March-April 1988, pp. 121-140; María Teresa Dutli, "National measures for implementation of international humanitarian law", *Dissemination*, N° 13, May 1990, pp. 8-10.

⁸ This point of view has been criticized by G.I.A.D. Draper in "The Implementation and Enforcement of the Geneva Conventions of 1949 and of the Two Additional Protocols of 1977", *Recueil des cours de l'Académie de droit international de la Haye*, 1979, III, pp. 5-54.

⁹ The Roman numerals stand for one of the four 1949 Geneva Conventions, AP I (or II) for Additional Protocol I (or II) of 1977; the Arabic numerals refer to the relevant article.

- Legislative measures are required to prevent and suppress, at all times, misuse of the protective emblems (I 53-54; II 43-45).

2. Organizational measures in peacetime

- National Red Cross and Red Crescent Societies and other voluntary aid societies must be duly recognized and authorized by their government (I, 26).
- Medical establishments and units shall, as far as possible, be situated in such a manner that attacks against military objectives cannot imperil their safety (I, 19).
- Medical establishments, units, transports and personnel shall be marked by the distinctive emblem of the red cross or red crescent (I, 38-44; II, 41-45; IV, 18).
- Optional light, radio and electronic signals should be provided to mark medical establishments, units and transports more effectively (AP I, Annex I, Articles 5-8).
- In the study, development, acquisition or adoption of a new weapon, means or method of warfare, it must be determined whether its use would, in some or all circumstances, be prohibited by international law (AP I, 36).
- To the maximum extent feasible, military objectives shall not be located within or near densely populated areas (AP I, 58).
- A civil defence organization should be set up for exclusively humanitarian tasks: to protect the civilian population against the dangers and to help it to recover from the immediate effects of hostilities or disasters, and to provide the conditions necessary for its survival (IV, 63; AP I, 61-67).
- National information bureaux for prisoners of war and civilians (III, 122-124; IV, 136-141), and tracing services for missing persons and children (AP I, 33, 78) shall be organized.
- Preparation shall be made for the notification of hospital ships (II, 22).
- Steps shall be taken to safeguard cultural property (1954 Hague Convention, 3).
- Legal advisers for military leaders shall be employed and trained (AP I, 82).

3. Organizational measures to be taken in the event of armed conflict

- Special agreements should be considered for all matters concerning which it may be deemed suitable to make separate provision (I, 6; II, 6; III, 6; IV, 7).
- Protecting Powers or substitutes should be appointed (I, 8, 10; II, 8, 10; III, 8, 10; IV, 9, 11; AP I, 5).
- The activities of the International Committee of the Red Cross must be facilitated and supported (I, 9; II, 9; III, 9; IV, 10; AP I, 81).
- The possibilities and procedures for international fact-finding should be encouraged and supported (I, 52; II, 53; III, 132; IV, 149; AP I, 90).
- The use of good offices for the settlement of disputes should be accepted and supported (I, 11; II, 11; III, 11; IV, 12).
- Hospital zones and localities shall be established for the wounded and sick (I, 23 and Annex I).
- Hospital and safety zones and localities shall be established for the civilian population (IV, 14 and Annex I).
- Prisoners of war shall be protected, and procedures shall be enacted for a competent tribunal to determine the status of persons who have fallen into enemy hands (III, 5 para. 2; AP I, 45 para. 2).

4. Dissemination and educational measures

- Dissemination activities shall be developed at various levels for the military forces and the civilian population (I, 47; II, 48; III, 127; IV, 144; AP I, 83; AP II, 19).
- Qualified personnel shall be trained to facilitate the implementation of the Geneva Conventions and the Additional Protocols (AP I, 6), the 1954 Hague Convention on the protection of cultural property and the Regulations for its execution (1954 Hague Convention, 25-27).
- The armed forces shall receive instruction in international humanitarian law (AP I, 82).

II. What has been achieved in practice?

The International Society for Military Law and the Law of War devoted its XIth Congress (Edinburgh, 19-23 September 1988) to the implementation of international humanitarian law at the national level. A General Report, based on written reports from 18 countries on four continents, and a wide-ranging discussion¹⁰ provide a broad spectrum of opinions and legal answers to questions about national implementation.

The International Institute of Humanitarian Law has performed an outstanding task over the last twenty years by disseminating knowledge of the law in international courses, encouraging national activities to further this end, and maintaining a continuing humanitarian dialogue. Extensive documentation and evaluation of national activities worldwide can be expected from a research project directed by Professor Michael Bothe.¹¹

Taking my own country, Germany, as an example, an important task was certainly to finalize the ratification of the Additional Protocols. The Ratification Act was signed on 11 December 1990¹² and the ratification document was deposited with the Swiss Federal Council on 14 February 1991.¹³ The German declarations of understanding made on this occasion meet international standards and clearly state that even members of an alliance who have different positions on ratification of the Additional Protocols can still solve problems of applicability in this respect. In accordance with Article 90, para. 2 of Additional Protocol I Germany also recognized *ipso facto* the competence of the International Fact-Finding Commission. The establishment of this new body to ensure respect for the Conventions and the Protocols should be broadly supported so as to ensure equitable geographical representation as required under Article 90 para. 1 d).

International treaty law is part of internal German law by virtue of the ratification of the relevant treaties (Art. 59, para. 2 of the Basic Law of the Federal Republic of Germany). Moreover, the general rules

¹⁰ Published in: *Revue de droit militaire et de droit de la guerre*, Brussels, Vol. XXVIII-1-2, 1989, pp. 11-379.

¹¹ Michael Bothe (ed.), *National Implementation of International Humanitarian Law, Proceedings of an International Colloquium held at Bad Homburg, June 16-19, 1988*, Martinus Nijhoff Publishers, Dordrecht/Boston/London, 1990.

¹² 11 December 1990 Law related to the Additional Protocols of 1977 to the Geneva Conventions of 1949 (Bundesgesetzblatt 1990 II 1550).

¹³ See the present issue of *International Review of the Red Cross*, pp. 234-236.

of international law are directly applicable internally and take precedence over all other legislation (Art. 25 of the Basic Law). Consequently, the provisions of the four Geneva Conventions and their Additional Protocols, insofar as they are considered to be general rules of international law within the meaning of this constitutional provision (i.e. insofar as they are part of universally applicable customary international law), are in practice part of our constitution. This is in fact the case for a considerable part of treaty-based and customary humanitarian law, but not for each single provision.

In keeping with this general approach, grave breaches of international humanitarian law are sanctioned in Germany by the provisions of the general Criminal Law (*Strafgesetzbuch*). The unauthorized use of the red cross and red crescent emblems and other associated signs is prohibited and punishable under the Administrative Offenses Act (*Ordnungswidrigkeitengesetz*). The protection of medical personnel, units and transports is governed by directives and service regulations, which also define protected personnel and contain provisions on marking and identification, on the extent of permissible use of medical vehicles and medical aircraft, and on disguising the distinctive emblem in exceptional cases. Preparations for National Information Bureaux for protected persons (III, 122-125; IV, 138-141; AP I, 78) are made both by the Federal Ministry of Defence and the German Red Cross. No provisions have been made for the establishment of zones of special protection (IV, 14) but the establishment of hospital zones (I, 23), for which the selection of suitable locations can be a problem, is being studied. The Geneva Conventions set forth strict requirements for the establishment of such zones. It is difficult to meet all requirements in densely populated areas and detailed planning in peacetime appears to be impossible.

The German Red Cross plays an active role in disseminating humanitarian law, motivating volunteers from a broad cross-section of the civilian population to deal with this complex set of rules. The German Red Cross has published, in addition to a four-language edition of the Fourth Geneva Convention and the Additional Protocols,¹⁴ a number of manuals on certain aspects of particular interest.¹⁵

¹⁴ *Das IV. Genfer Abkommen vom 12. August 1949 zum Schutze von Zivilpersonen in Kriegszeiten, Textband* (Vol. 1), Eds. Wolfgang Voit and Elmar Rauch, Bonn 1980, 293 pages (texts in German, French, English, and Russian); *Zusatzprotokolle zu den Genfer Abkommen vom 12. August 1949 über den Schutz der Opfer bewaffneter Konflikte, Textband* (Vol. 2), Eds. Wolfgang Voit and Elmar Rauch, Bonn 1981, 452 pages (texts in German, French, English, and Russian).

¹⁵ *Der Schutz der Zivilkrankenhäuser und ihres Personals*, Ed. Hans Giani,

A Presidential Commission of the German Red Cross acts as the main forum for all questions related to the implementation of humanitarian law in Germany, thus making available advice by highly qualified independent experts and at the same time promoting ongoing dialogue with representatives from the Ministries of External Affairs, the Interior, and Defence. The Federal Armed Forces and the German Red Cross co-operate closely in various activities to disseminate and implement humanitarian law.

The Federal Armed Forces, for their part, have legal advisors down to division level. Their task is not only to provide legal counsel as required under Article 82 of Additional Protocol I, but also to act as attorneys in disciplinary matters. Germany does not have a special criminal jurisdiction for the armed forces but there are military disciplinary courts. The Defence Ministry's legal service deals with all relevant international legal affairs, including the legal assessment of new weapons, means or methods of warfare (AP I, 36).

Dissemination and educational measures are actively supported by the universities, the German Society for Military Law and Humanitarian Law and two specialized academic journals,¹⁶ which are used in addition to international journals available.

III. What remains to be done?

A comparison of what is required and what has been done reveals that although valuable work has been accomplished in numerous countries, many agreed measures of implementation remain to be taken. This is a serious problem and undoubtedly one of the main reasons why humanitarian law is disregarded in armed conflicts.

Measures of implementation have to be assessed from the long-term point of view. Given the complexity of peacetime and wartime tasks, the question of what should be done to ensure the proper imple-

Heft 3, Bonn 1980, 79 pages; *Zivilschutz*, Ed. Georg Bock, Heft 4, Bonn 1981, 98 pages; *Der Schutz im Bereich der öffentlichen Verwaltung*, Ed. Walter Hofmann, Heft 5, Bonn 1982, 79 pages; *Polizei (Vollzugspolizei der Länder, Bundesgrenzschutz)*, Eds. Ernst Rasch and H. Joppich, Heft 6, Bonn 1983, 74 pages; *Heft für Juristen*, Eds. Wolfgang Voit and Michael Bothe, Heft 7, Bonn 1984, 136 pages; *Es begann in Solferino*, Eine Darstellung der Genfer Rotkreuz-Abkommen, German Red Cross, 40 pages; *Es begann in Solferino*, Die Genfer Rotkreuz-Abkommen, Problemfälle – Beispiele – Sachverhalte, Lösung der beschriebenen Fälle, Handbuch für Lehrkräfte, Juristen und Konventionsbeauftragte, Horst Seibt, German Red Cross, 64 pages.

¹⁶ *Neue Zeitschrift für Wehrrecht; Humanitäres Völkerrecht – Informationsschriften*.

mentation of humanitarian law is not easy to answer. We cannot meet all requirements at once and therefore have to set priorities.

To take the example of my own country again, particular efforts are presently being made to draft new German military manuals on humanitarian law.¹⁷ A collection of all relevant international instruments, with annotations and an index, is also being prepared. Moreover, we are about to draft a handbook on humanitarian law which will in fact be the first complete and concise modern reader on the subject to be published in German. It is necessary to publish military manuals on humanitarian law and to distribute them far beyond military circles, for the handbook cannot be prepared without outside help from universities and Red Cross experts. An English translation of the draft is being sent to our allies and all friends willing to assist us in this task. The results of all these discussions will be incorporated into the final text. Finally, a *précis* of the handbook and a collection of cases and solutions will be part of our manuals programme.

A number of different measures of implementation which should be taken up relate to the *identification* of works and installations containing dangerous forces (AP I, 56), and the identification of cultural property. Here Germany will have to harmonize differences in implementation which derive from its federal system. We also have to take decisions on the *status of civilian personnel* employed for military tasks, and to prepare the necessary *notifications* on the status of personnel, the recognition of aid societies and humanitarian organizations (I, 26), and on hospital ships (II, 22). A practical problem is posed by the protection of *search and rescue helicopters*, since they are also designed for reconnaissance and not just for humanitarian missions. This is a problem faced by most armed forces in the world. *Ad hoc* protection for search and rescue missions in times of armed conflict is an important issue, one worth taking up at international level. This also holds true for various other measures which can hardly be promoted except in international co-operation. The training of *legal advisers* in the armed forces is already to an important degree based on international exchange activities, of which the courses organized by the International Institute of Humanitarian Law are of particular value. Our courses in Germany are open to foreign participants both as

¹⁷ *Zentrale Dienstvorschrift 15 – ZDv 15* [Joint Services Manual 15] *Humanitäres Völkerrecht in bewaffneten Konflikten* [International Humanitarian Law in Armed Conflicts] (under preparation); *15/1 – Grundsätze* [Principles]; *15/2 – Handbuch* [Handbook]; *15/3 – Textsammlung* [Collection of Instruments]; *15/4 – Sammlung von Fällen mit Lösungen* [Collection of Cases and Solutions].

students and lecturers. Thus we can benefit from international support even at home.

Other measures to be considered and planned in peacetime concern *medical zones* (I, 23 and Annex) and *security zones* (IV, 14 and Annex), the *protection of cultural property*, in particular refuges intended for sheltering movable cultural property (1954 Hague Convention 8), and the organization of a *National Information Bureau* in co-operation with the National Red Cross Society (III, 122, IV, 136). The 25th International Conference of the Red Cross (Resolution XIV) urged the States party to the Conventions to consider taking such measures as may be necessary to institute their National Information Bureau in peacetime so that they would be in a position to fulfill tasks as soon as possible in the event of an armed conflict. German planning efforts in this respect are still in the early stages, and we could benefit from the expertise of the International Committee of the Red Cross to make full use of modern information technology which could help not only to save manpower and financial resources but also to standardize information and thus make the Bureau more effective. A small mobile system and a few trained experts to handle it could render extremely valuable services in armed conflicts. This idea might sound too practical, but the question should nevertheless be asked whether industrialized countries could not offer assistance in this field, in the interests of humanitarian protection, to the parties to ongoing conflicts or to victims of disaster situations.

Lastly, various *legal issues* should be settled in co-operation with the relevant ministries, agencies, allied forces, alliances, etc. (e.g. rules of engagement - AP I, 87).

While it remains true that implementation of international obligations is a national responsibility, efforts taken by or under the auspices of international organizations may enjoy a higher degree of publicity, at least among the relevant agencies and experts. Problems may arise, however, in terms of effectiveness and lack of national support. In the absence of a functioning system of Protective Powers and/or substitutes, the International Fact-Finding Commission (AP I, 90), the formal establishment of which is now possible, could act as a deterrent against violations of humanitarian law. I consider it a task of top priority in this respect to make strong efforts to enlarge participation in and support for this new system and to develop ideas as to how it could make inquiries and use its good offices, as provided in Article 90, paras. 2 c) and d). It would be helpful if the Commission could establish and publish its own rules as soon as possible, even if

these rules are not very likely to be put to the test in the foreseeable future.¹⁸

The International Committee of the Red Cross, whose mandate to gather and assess all information on legislative and other measures taken for the implementation of humanitarian law and to report regularly on the follow-up was expressly renewed by the 25th International Conference of the Red Cross (Resolution V), can be expected to offer not only a general review of current achievements and problems in the implementation field but also prospects and suggestions for future work to be taken up by the Red Cross Movement. The States party to the Geneva Conventions should meet the challenge and give full support to necessary activities.

The problem of ensuring “respect for human rights in armed conflicts” can also be tackled through United Nations bodies, which have in fact been dealing with the matter now for many years and which should stress this as one of the main activities to be undertaken during the United Nations Decade of International Law (1990-99).¹⁹

Finally, nations might be encouraged to report to the Swiss Federal Council, as the depositary of the Geneva Conventions and their Additional Protocols, on national rules and regulations and other measures adopted to implement humanitarian law. The Geneva Conventions and their Additional Protocols (I, 48; II, 49; III, 128; IV, 145; AP I, 84) provide that the High Contracting Parties shall communicate to one another, through the Swiss Federal Council and, as appropriate, through the Protecting Powers, not only their official translations of the Conventions and Protocols but also the laws and regulations which they may adopt to ensure the application thereof. Similar information on the 1954 Hague Convention on the Protection of Cultural Property could be sent to UNESCO.

¹⁸ J. Ashley Roach, *Fact-Finding Commission Under Article 90: Criteria for Implementation*, paper presented to the 15th Round Table on Current Problems of International Humanitarian Law (San Remo, 4-8 September 1990). See also his article in the present issue of the *IRRC*, pp. 167-189, “The International Fact-Finding Commission – Article 90 of Protocol I additional to the Geneva Conventions”.

¹⁹ The UN Commission on Human Rights, in its resolution 1990/66 (7 March 1990), entitled *Human rights in times of armed conflicts*, calls upon all governments to give particular attention to the education of all members of security and other armed forces, and of all law enforcement agencies, in the international law of human rights and international humanitarian law applicable in armed conflicts. Information on the scope of education provided to members of the police and the armed forces is requested by all governments, and an analytical review of the replies received shall be submitted to the Sub-Commission at its forty-second session.

The activities of all the above require a considerable degree of planning and co-ordination if they are to be really useful. To make such co-ordination possible, the States should be encouraged to assist the International Committee of the Red Cross by giving advice, offering information and reporting on relevant activities upon request.

Since successful implementation of humanitarian law depends to a great extent on international co-operation, the forthcoming 26th International Conference of the Red Cross and Red Crescent should be used as a forum for the exchange of information and opinions and for the assessment of current problems and of proposals for further development of implementation work.²⁰

IV. Conclusions

Frequent violations of humanitarian rules and a widespread ignorance of their content, problems and limits have caused considerable difficulties for acceptance of this part of international law. At the same time, the great complexity and the technical nature of various measures may hinder proper implementation. Such problems of motivation and acceptance can only be solved through joint efforts and continued international co-operation.

Convincing solutions are not to be found in the isolated efforts of specialists. Appropriate attitudes towards the protection of the victims of armed conflicts require a generalized approach which takes into account other humanitarian problems, such as population growth, environmental hazards, internal disturbances, hunger, refugee movements, terrorism, drug abuse and exploitation by multinational companies.²¹ For the men, women or children who suffer it does not matter very much whether their suffering is caused by war, terrorism, political oppression or natural disaster. On the other hand, the diversity and the extent of existing challenges have led to a greater awareness for specific tasks at hand.

²⁰ Bosko Jakovljevic, *Ensuring Observance of International Humanitarian Law: The International Conference of the Red Cross and Red Crescent and the Implementation of International Humanitarian Law*, paper presented to the 15th Round Table on Current Problems of International Humanitarian Law (San Remo, 4-8 September 1990).

²¹ Cf. *Winning the Human Race. The Report of the Independent Commission on International Humanitarian Issues*, Foreword by Sadruddin Aga Khan and Hassan bin Talal, London and New Jersey, 1988.

In all of these situations various organisational problems call for concentration and integrated solutions. It is a well-known fact, for example, that even large organisations do not have enough time to train their staff. We cannot expect more than a limited number of lessons on humanitarian law to be given in military courses. But the participation of a legal adviser in the review of operational plans may well result in a higher degree of awareness of legal provisions in an even shorter time.

Plans of action and lists of priorities for the implementation of humanitarian law cannot be worked out unilaterally but only through joint international efforts. Such co-operation will lead to a better understanding of the practical impact of this field of law even in peacetime. In this regard I should like to stress the practical importance of humanitarian co-operation for bilateral relations, in view also of the importance of human rights as part of the common cultural heritage of mankind. Serious efforts to implement international humanitarian law may have confidence-building effects.

Dieter Fleck

Dr. Dieter Fleck, member of the *International Institute of Humanitarian Law*, San Remo, and member of the Board of Directors of the *International Society for Military Law and the Law of War*, Brussels, is Director, International Legal Affairs, of the Federal Ministry of Defence in Bonn. The views expressed in this article are those of the author and do not necessarily reflect either the policy or the opinion of the German Government.