

# International Humanitarian Law and Arms Control

by Daniel Frei†

*On 1 August 1988 Professor Daniel Frei, who had been a member of the ICRC since 1 March 1986, died suddenly.\**

*A professor of political science at the University of Zurich, Director of the Swiss Institute for International Research, and an eminent specialist on questions of disarmament, neutrality and international co-operation, he placed all his knowledge and experience at the service of the Red Cross whose cause he shared with deep conviction. His death was a great loss for the ICRC, the International Red Cross and Red Crescent Movement and the academic world.*

*Shortly before his death he had written an article for the International Review of the Red Cross on the relations between international humanitarian law and arms control. He dealt in a masterly manner with this complex subject which, despite its current relevance, had been studied very little to date.*

*In paying tribute to Professor Frei's memory, the Review publishes this article below which immediately poses an important question: to what extent can efforts to promote and implement international humanitarian law be considered as a contribution towards arms control?<sup>1</sup>*

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\* See *International Review of the Red Cross (IRRC)*, No. 265, July-August 1988, pp. 388-389.

<sup>1</sup> The author acknowledges helpful comments on a first draft, especially by Jean-Luc Blondel, René Kosirnik, Zidane Mériboute, Raymond Probst and Yves Sandoz.

The views expressed in this article, however, are personal and do not necessarily reflect the views of the International Committee of the Red Cross.

# 1. Introduction

## 1.1. The problem

For almost two decades, the International Red Cross Movement has been engaged in a continuing process of self-examination regarding its contribution to peace and disarmament<sup>2</sup>. At the same time, public attention is being focused on, and sometimes even captivated by, various bilateral and multilateral efforts to achieve progress in nuclear and non-nuclear arms control in fields such as the reduction of strategic and intermediate-range nuclear weapons, nuclear and chemical weapon-free zones, confidence- and security-building measures, and so on. The two lines of action are usually dealt with individually without proper consideration of the manifold interconnections existing between them. Only recently have efforts been made to clarify the relationship between the two<sup>3</sup>. The purpose of this article is to bring them together and to do so by asking the question: *To what extent can the effort to promote and implement international humanitarian law be seen as a contribution in terms of arms control?*

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<sup>2</sup> Cf. for a comprehensive view the article "The International Committee of the Red Cross and Disarmament", in: *IRRC*, vol. 61, March-April 1978, pp. 90-100; for an up-to-date collection of resolutions and other texts cf. *To Promote Peace*, Geneva 1986: ICRC and League of Red Cross/Red Crescent Societies; for another, although very general, approach cf. T. Wulff: "International Humanitarian Law as a Means to Promote International Peace and Security". In: *Proceedings of the Thirty-First Pugwash Conference on Science and World Affairs*, London 1981, pp. 315-319. For the latest "state of the art" of Red Cross thinking on this subject cf. Yves Sandoz: "The Red Cross and Peace: Realities and Limits", in *Journal of Peace Research*, vol. 24, 1987, pp. 287-296.

<sup>3</sup> Cf. the pioneering contribution by Allan Rosas/Pär Stenbäck: "The Frontiers of International Humanitarian Law", in: *Journal of Peace Research*, vol. 24, 1987, pp. 219-236. Rosas/Stenbäck conclude: "We would tend to believe that possible future efforts at developing humanitarian law should focus upon the *human rights* perspective rather than attempt to regulate warfare and methods and means of combat. Thus the direct links between humanitarian law and disarmament should at least not be strengthened further." (p. 233) While agreeing with the first conclusion, the present contribution is based on the conviction that the second conclusion is not necessarily imperative—at least not before having examined the relationship between international humanitarian law and disarmament/arms control more systematically (which will be done on the following pages).—By contrast to Rosas/Stenbäck, Ove Bring: "Regulating Conventional Weapons in the Future—Humanitarian Law or Arms Control?" (*ibid.* pp. 275-286) concludes that the "fruitful relationship between international humanitarian law and disarmament... should be explored more vigorously in the future."

## 1.2. The yardstick: dimensions and purposes of arms control

According to a familiar definition, arms control is “restraint internationally exercised upon armaments policy, whether in respect of the level of armaments, their character, deployment or use”<sup>4</sup>. Arms control of course does not preclude complete disarmament—on the contrary, it represents a step towards the reduction and, ultimately, the elimination of armaments, preferring, however, a specialized, piecemeal approach<sup>5</sup>. This proceeds in a specialized way by dealing with individual weapons categories rather than aiming at a general and complete ban of armaments, and progresses piecemeal by envisaging a variety of constraints. Such constraints may occur in four dimensions<sup>6</sup>:

- geographically, by reducing the area and/or space in which certain categories of weapons may be deployed or used;
- materially, by reducing the means of warfare, i.e. by imposing restraints on the quantity and/or quality of the weaponry deployed and/or used;
- operationally, by limiting the methods or types of acts performed with these weapons;
- objectwise, by practising restraint in the targets selected for attack.

As far as its basic purpose is concerned, arms control serves a fourfold purpose<sup>7</sup>:

- reducing the likelihood of war, especially by trying to impose limits on the evolution and proliferation of weapons that may destabilize strategic relationships and thus create incentives for preventive attacks;
- reducing the suffering and damage in the event of war;

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<sup>4</sup> Hedley Bull quoted in Ken Booth: “Disarmament and Arms Control”, in: John Baylis et al. (Eds.): *Contemporary Strategy*, 2nd ed., vol. I, London, 1987: Croom Helm, p. 140.

<sup>5</sup> For a more elaborate analysis of the relationship between disarmament and arms control cf. Booth, *op. cit.* pp. 140-146, and Alessandro Corradini: “Disarmament Education as a Distinct Field of Study”, in: Marek Thee (Ed.): *Armament, Arms Control and Disarmament*, Paris, 1981: UNESCO Press, pp. 328-377.

<sup>6</sup> Cf. John Garnett: “Limited War”, in: Baylis et al., *op. cit.* pp. 187-208.

<sup>7</sup> This is a summary of various contributions such as Christoph Bertram: “Arms Control and Technological Change”, in: Thee (Ed.), *op. cit.*, pp. 144-156; Jozef Goldblat: *Arms Control Agreements. A Handbook*, London, 1983: Taylor & Francis, pp. 300 f.; Booth, *loc. cit.*

- reducing expenditure on armaments and saving resources;
- contributing to conflict management by providing a framework for negotiation between opposing sides, by reducing suspicion and by generally contributing to an atmosphere conducive to relaxation of tensions.

It is obvious that what has been achieved by international humanitarian law, in providing for a number of constraints on the waging of war<sup>8</sup>, conforms perfectly well to the definition of arms control quoted above and to its specific elaboration in terms of the four dimensions. The principles of proportionality and discrimination underlying the evolution of the rules of war and international humanitarian law comprise a variety of aspects that might be described by referring to constraints of a geographical, material and operational nature and to the types of objects to be targeted. On the other hand, the four purposes intrinsic to arms control may serve as a kind of a yardstick to assess the contribution offered by international humanitarian law.

## **2. The contribution of international humanitarian law to the cause of arms control**

Bearing in mind the fourfold purpose of arms control, what may be said about the specific contribution made by international humanitarian law to that cause? Clearly, the emphasis has to be put on the second purpose, i.e. the reduction of suffering and damage if war occurs, and on the last purpose, i.e. the political function of providing a means for dialogue even under conditions of extreme adversity. Still, it might be worthwhile examining the scope of international humanitarian law systematically by looking at each of the four purposes one by one.

### **2.1. Reducing the likelihood of war by coping with destabilizing weapons**

International humanitarian law does not deal explicitly with nuclear weapons and their delivery systems, which are in fact the type of weapons envisaged when we talk about the possible destabilizing effect

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<sup>8</sup> That is how Kalshoven coins the essence of the international law of armed conflict; cf. Frits Kalshoven: *Constraints on the Waging of War*, Geneva, 1987: ICRC.

of armaments. Even if—as many lawyers argue<sup>9</sup>—the use of nuclear weapons can be said to be banned by existing law, the more crucial question of the destabilizing or stabilizing effect of their existence constitutes a different issue not dealt with under any component of the international law of armed conflict; whether or not nuclear weapons tend to stabilize or destabilize a strategic relationship depends almost entirely on the type of delivery systems and the vulnerability of certain targets, such as military and political command centres, and of weapons carrying the threat of retaliation (so-called C<sup>3</sup> invulnerability and second-strike capability).

However, there might still be some **non-nuclear** weapons that can be said to have a certain relevance for strategic stability and which do fall within the subject-matter of international humanitarian law. This may be said to be the case with asphyxiating, poisonous or other gases, the use of which is prohibited under the 1925 Geneva Protocol. In a situation where two adversaries heavily equipped with offensive chemical warfare capability are confronting each other, it is quite conceivable that each side might feel the urge to benefit from the advantage of striking first. In view of recent developments in the field of precision-guided missiles and new types of highly efficient lethal chemicals, such a situation may be becoming less and less hypothetical. A massive full-scale attack employing chemical weapons and carried out with the most modern, fast and precise delivery systems may easily have an incapacitating impact on the entire political and military leadership of a nation comparable with the consequences of an anti-C<sup>3</sup> nuclear attack.

This situation becomes even more of a nightmare if one considers the easy availability of chemical weapons and the relatively low cost of their development and deployment, which makes such weapons candidates for rapid proliferation<sup>10</sup>. If C-weapons are newly introduced into a regional context characterized by a high degree of international tension, they may be conducive to hasty escalation and unleashing of

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<sup>9</sup> E.g. Mohammed Bedjaoui: "Humanitarian Law at a Time of Failing National and International Consensus", in: *Modern Wars. The Humanitarian Challenge*. A Report for the Independent Commission on International Humanitarian Issues, London, 1986: Zed Books, pp. 13-18; for a comprehensive bibliography on the current legal debate cf. *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Geneva, ICRC, 1987, p. 594, footnote 35, and Guy B. Roberts: "The New Rules for Waging War", in: *Virginia Journal of International Law*, vol. 26, Nr. 1 (Fall 1985), p. 163, footnotes 275-279.

<sup>10</sup> Cf. the list of States possessing or allegedly possessing C-weapons, in: J. P. Perry Robinson: "Chemical and Biological Warfare". In: *SIPRI Yearbook 1987, World Armaments and Disarmament*. London, 1987: Oxford University Press, pp. 97-115.

a ferocious armed conflict—whether on the part of the power having just acquired such weapons and wishing to profit from this advantage before it is too late, or on the part of the potential victim who has an interest in striking first before its enemy has the new weapons fully deployed. Furthermore, the situation is becoming more and more alarming as a number of countries is acquiring or building medium-range missiles which might easily be armed with chemical warheads. The combination of missile technology with a CW capacity lends itself to precisely the kind of strategic instability described above.

For this reason the future evolution of international humanitarian law will play a crucial role also with regard to concerns about strategic stability. In particular, it is imperative that substantial progress be achieved with respect to prohibition of chemical weapons, an issue currently being dealt with by the Geneva-based Conference on Disarmament (CD).

## **2.2. Reducing suffering and damage in the event of war**

This second purpose of arms control relates to an area where international humanitarian law obviously fulfils its primordial task. The general Article 35 of Protocol I additional to the Geneva Conventions (1977) goes to the very heart of the matter: “In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited.” This basic rule has been implemented and elaborated by a series of international contractual instruments, beginning with the signing of the first Geneva Convention (1864) and the Declaration of St. Petersburg (1868), up to the aforementioned 1977 Protocols and the 1980 Convention on “inhumane” weapons<sup>11</sup>.

It cannot be denied that no other current in arms control has been so powerful and productive with respect to mitigating the consequences of armed conflict in terms of human suffering and material damage. Based on the principles of proportionality and discrimination, international humanitarian law has constantly strived to make full use of the potential inherent in the four dimensions of restraint: geographical restraints (e.g. the prohibition on extending military operations to demilitarized zones); restraints regarding means of combat (e.g. prohibition or restriction on the use of certain conventional weapons which may be deemed to be excessively injurious or to have indiscriminate effects); restraints regarding methods of combat (e.g. prohibition of

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<sup>11</sup> For a systematic inventory of these instruments, cf. Goldblat, *op. cit.*, pp. 81-89.

indiscriminate attacks, obligations regarding precautions in the course of an attack and against the effect of attack, prohibition on taking hostages, etc.); and restraints regarding the selection of targets for attack (e.g. protection of persons *hors de combat*, prisoners of war, civilians, objects indispensable to the survival of the civilian population, works and installations containing dangerous forces).

Since the adoption of the first Geneva Convention in 1864, the scope, substance and number of such restraints have gradually been extended. Looking at the progress achieved in the past 125 years, therefore, one might conclude that this evolution represents triumphant progress in the field of arms control, steadily limiting the area, means, methods and targets of warfare, thus efficiently taming the tragedy of war and reducing the amount of suffering and damage it brings about. No other approach to arms control can claim to have had such a decisive and substantive impact.

However, although it would be mistaken to deny the very substantial progress achieved so far, such a conclusion must be said to be rather premature and one-sided. The most dreadful of all weapons, the nuclear bomb, has not yet been the object of any clear-cut and universally acknowledged legal doctrine. And, viewed in a dynamic perspective, the evolution of constraints reducing the suffering and damage of warfare must always be seen in conjunction with the lethal and destructive power of the means and methods of combat available. In this connection a far less positive evaluation seems appropriate: While international humanitarian law has made undeniable progress, the “progress” made in terms of killing and the destructive power of the weapons available has also kept growing and seems to have grown even faster. The resulting “differential” may explain the sad fact that the amount of human suffering, especially if measured in terms of casualties among the civilian population, and the amount of destruction resulting from armed conflict, has tended to double every twenty years during this century. Nevertheless, one cannot but conclude that in the absence of the extension and consolidation that has taken place in the field of international humanitarian law the consequences would be unimaginably more tragic.

This contribution may be said to be even more important as it does not relate only to the past and present state of arms development and deployment. According to Protocol I, Article 36, the High Contracting Parties are under an obligation also to determine, “in the study, development, acquisition or adoption of a new weapon, means or method of warfare, whether its employment would, in some or all circumstances,

be prohibited". Thus a "safety fence" has been established, imposing constraints on future evolution as well.

### **2.3. Reducing expenditure on armaments**

As far as the third purpose of arms control is concerned, the question to be addressed to international humanitarian law is this: Does it contribute to reducing the burden of military expenditure? At a first glance, the answer probably has to be in the negative. Maybe it is even justified to say that it does the opposite. For example, the obligations regarding the management of prisoners-of-war camps and the prohibition of methods of warfare defined as perfidy hardly make warfare "cheaper"—on the contrary. Some other obligations also clearly require additional investment; such is the case with precautions against the effects of attacks, for example, refraining from locating military objectives within or near densely populated areas. Unfortunately, some prohibited means and methods of warfare may also seem particularly attractive precisely because they are highly cost-efficient, like spreading terror among or starvation of the civilian population.

Still, such "bookkeeping" would be not only cynical but shortsighted as well. As a matter of fact, most measures of restraint are applied reciprocally, which means that all parties to a conflict may profit from them on a mutual basis. If the potential parties to a conflict had to fear the unrestricted use of all permitted and prohibited means and methods of warfare, they would most certainly feel compelled to take extensive measures to protect their respective civilian populations and cherished objects against such cruel acts, and this would call for immense investment. The burden of military expenditure, in such a case, would be considerably heavier; it might be double or even triple that required in the absence of such a threat.

In other words, the standards set by international humanitarian law, by restraining the means, methods and targets of warfare, and by way of reciprocity, tend to lower expectations regarding certain acts in the event of war; thus they render costly defensive measures against such acts largely unnecessary, and this results in a marked decrease in parts of the military burden. Again this leads to the conclusion that the impact of international humanitarian law is second to no other achievement so far on the record of international arms control; in financial terms, the modest steps taken towards preventive arms control (e.g., by the ABM treaty, temporarily avoiding the spending of resources for ballistic missile defence) rate quite poorly in comparison with this contribution.



#### 2.4. Contributing to conflict management by providing a framework for negotiation

By definition, international humanitarian law provides for the observance of a minimum of rules even in “worst case” situations, when dialogue has broken down and is replaced by the *ultima ratio* of armed conflict. The significance of this fact must not be underestimated. Even if only a minuscule subset of rules is respected, this represents an element of ritual, and ritualization means that the conflict is given a formal structure. And even if the rules are not respected, having rules is quite different from having no rules at all to break<sup>12</sup>. Thus, although confronted in a deadly quarrel where no common ground seems to remain, the adversaries share a minimum of communality. This fact may constitute a framework for conflict management, albeit a symbolic one.

On a more operational level, the very nature of the provisions of international humanitarian law offers a specific point of departure for the resumption of dialogue and thus for a gradual transformation of the armed conflict. This point of departure results from the fact that inevitably the question of respecting or disregarding the rules of warfare becomes an issue for negotiation—both tacit and explicit—between the adversaries. Tacit negotiation takes place owing to the principle of reciprocity. Each side will carefully watch the other side to assess the extent to which it is complying with the provisions, and will make its own behaviour conditional upon the other side’s behaviour. In order to ensure reciprocity, parties to an armed conflict tend to exchange all kinds of signals and cues although they may be far from negotiating formally, bilaterally or via a third party. Such tacit bargaining may relate, for instance, to the renunciation or cessation of indiscriminate bombing of civilians and civilian objects: it may constitute a nucleus of a more far-reaching dialogue which can eventually end up in an informal or formal ceasefire, which in turn triggers more substantive efforts to solve the conflict by peaceful means. In other words, the very existence of the international law of armed conflict serves as a frame of reference for a dialogue indicating ways out of the armed conflict. Thus international humanitarian law promotes peace, and does so systematically when the need for peace is felt most urgently. The relationship between the law of armed conflict and the resolution of conflicts has been explicitly acknowledged by the International Confer-

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<sup>12</sup> For a further elaboration of the meaning of such symbolic interaction cf. Stan Windass: *The Rite of War*, London, 1986: Brassey’s Defence Publishers, pp. 120-127.

ence on the Relationship between Disarmament and Development (1987); the Final Document of this Conference reads:

“They [the States participating in the International Conference] also stress the importance of respect of the international humanitarian law applicable in armed conflicts. Respect of this law makes it easier to pave the way for a solution to conflicts...”<sup>13</sup>.

It does so even more specifically with respect to the institution of the Protecting Power provided for in Article 8/8/8/9 common to the Geneva Conventions and in the Protocols additional thereto<sup>14</sup>. These provisions, especially those on the role of the International Committee of the Red Cross (ICRC) as a substitute, guarantee the omnipresence of an offer of services to be addressed automatically to the parties to the conflict. Although there is no guarantee that both sides will accept such an offer, these provisions nevertheless constitute a crucial element of potential bridge-building and reanimation of communication between the adversaries.

The ICRC has cultivated this function in a very careful way and enshrined it in an elaborate doctrine regarding the foundations, conditionality and practice of the “right of initiative”<sup>15</sup>, its cornerstone being the principle of neutrality. It is probably right to say that there is no other body of arms control agreements outside the field of international humanitarian law where the conflict management function enjoys such an elaborate status and such a high degree of institutionalization, and where its immediate political impact on restoring peace is so clearly structured.

### **3. What about verification and sanctions?**

#### **3.1. Purposes of verification and sanctions**

Ideally, every arms control treaty also comprises provisions for ensuring compliance with the rules laid down therein. They basically serve a twofold purpose:

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<sup>13</sup> A/CONF. 130/39, Article 35(c)(ii).

<sup>14</sup> Cf. Kalshoven, *op. cit.* pp. 61-64, 126-129 and 145.

<sup>15</sup> Yves Sandoz: “Le droit d’initiative du Comité international de la Croix-Rouge”, in: *German Yearbook of International Law*, vol. 22, 1979, pp. 352-373.

- giving access to information as to whether or not a party is complying; and
- in case of non-compliance, triggering sanctions to repair the violation.

Apart from monitoring and sanctioning, such verification provisions, to a greater or lesser extent, may also serve three additional purposes:

- providing reassurance through confirmation that a treaty is being implemented;
- serving as a convenient channel of communication through which States may identify and deal with potential or actual disputes; and
- establishing precedents and patterns of trust and co-operation preparing the ground, politically and psychologically, for more extensive provisions to be worked out in the future<sup>16</sup>.

In practice, a variety of arrangements can be observed, ranging from, as in most cases, simple reliance on “national technical means of verification” (i.e. unilateral inspection by satellites and “legal”, or sometimes illegal, espionage) to a comprehensive system of inspection and sanctions, as in the case of the safeguard regime set up in connection with the Nuclear Non-Proliferation Treaty, where the International Atomic Energy Agency (IAEA) may sanction violations by curtailment or suspension of assistance<sup>17</sup>.

### **3.2. Approach to sanctions and verification in international humanitarian law**

When examining international humanitarian law from the viewpoint of arms control, the question has to be asked as to the scope and efficacy of its verification and sanction provisions. As far as prohibited weapons are concerned, no special verification procedures can be found in any of the documents from the 1868 Petersburg Declaration to the 1981

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<sup>16</sup> Andrzej Karkoska: *Strategic Disarmament, Verification, and National Security*, London, 1977: Taylor & Francis, pp. 34f; Allan S. Krass: *Verification—How Much is Enough?* London, 1985: Taylor & Francis; William F. Rowell: *Arms Control Verification*. Cambridge Mass., 1986: Ballinger; Kosta Tsipis (Ed.): *Arms Control Verification*. Washington D.C., 1986: Pergamon/Brassey's.

<sup>17</sup> Cf. Goldblat, *op. cit.*, pp. 90-111; William C. Potter (Ed.): *Verification and SALT*, Boulder, 1980: Westview Press, pp. 52f.

Conventional Weapons Convention; maybe they are not required, because the victims will immediately realize when a violation occurs. Nor are there any provisions for sanctions, which in this case remain confined to deterrence by the reciprocal threat to use the same weapons in return and/or the wish to avoid worldwide public disapproval, provided the party concerned is sufficiently sensitive to it. Where detection of compliance or non-compliance may be more ambiguous, *ad hoc* international (usually UN) fact-finding commissions have been appointed; such has been the case in connection with the alleged use of chemical weapons in the war between Iraq and Iran.

The Geneva Conventions and the Protocols additional thereto, however, go much further in this respect. Compliance with the “Law of Geneva” is promoted by a whole bundle of provisions such as an International Fact-Finding Commission, periodic International Conferences of the Red Cross where the application of international humanitarian law is discussed, and, chief among all these provisions, the institution of the Protecting Power and its substitute, the ICRC “or any other organization which offers all guarantees of impartiality and efficacy”, which are given the right of initiative and, once accepted, have considerable supervisory power. Supervision mainly refers to the provisions regarding treatment of prisoners of war and civilians detained in places of internment, detention and work; according to the Third Geneva Convention, Article 126, and the fourth Convention, Article 143, delegates of the ICRC have permission to go to all places where such protected persons may be, and they shall be able to interview them without witnesses, having also full liberty to select the places, duration and frequency of these visits. Beyond that, the ICRC, as a rule, also pays attention to cases of gross and systematic violation of provisions governing means and methods of warfare actually used at the front.

Thus the ICRC has succeeded in pushing its efficacy to the maximum extent possible by evolving a highly refined practice of conditionality associated with accepting mandates and of a reporting system characterized by precision, rigour, reliability and discretion<sup>18</sup>. In rare cases, which are clearly defined by guidelines based on the ICRC mandate and practice, the ICRC resorts to public declarations condemning general deficiencies, and, in case of very grave violations, also naming

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<sup>18</sup> For published details regarding ICRC operational practice in accepting and executing its mandate and dealing with cases of grave breaches of obligations cf. “Action by the International Committee of the Red Cross in the event of breaches of International Humanitarian Law” in *IRRC*, no. 221, March-April 1981, pp. 76-83.

the non-complying parties. In the period from 1946 to 1987 the ICRC issued no less than 74 such public appeals.

Even if it is hard to determine with precision the degree of the “deterrent” effect emanating from such supervisory activities and even if the ensuing reciprocity mechanisms and pressure of public opinion cannot be assessed reliably, the least that can be said is that these activities have a beneficial impact with respect to the third, fourth and fifth of the purposes of verification mentioned above: ICRC activities clearly reassure the parties in cases where the ICRC is able to report positive compliance; as such reports are known to be impeccably reliable they may be conducive to rebuilding confidence between the parties. ICRC “interposition” furthermore guarantees a minimum of communication, as mentioned previously. And finally, the 125-year record of international humanitarian law clearly pays dividends in terms of credibility which make this law a suitable candidate for continuous development, i.e. extensions in both scope and relevance, as mirrored by the grandiose progress made from the modest 10 articles of the 1864 Geneva Convention to the comprehensive set of 127 articles agreed upon in Protocols I and II. In sum, it seems justified to say that the ICRC represents *mutatis mutandis* a verification institution that goes far beyond the mandate and efficiency of any verification mechanism established so far by other disarmament and arms control accords.

#### **4. International humanitarian law, arms control and peace: Summary and conclusions**

International humanitarian law can justly be seen as part of the arms control process. In imposing constraints on warfare it shares the same fundamental motives underlying all efforts towards disarmament and arms control. When its basic aims and practice are examined systematically from the viewpoint of arms control, not only does its intimate proximity to other arms control endeavours become evident, but also it can quite pertinently claim to represent one of the most successful cases of arms control. No doubt its success story can be expected to continue, thanks to the momentum now solidly established for 125 years.

Nothing would be more wrong therefore than to regard this effort as contradictory to efforts towards disarmament and arms control or, worse, as if it implied neglect or indifference for the cause of peace. In

no way whatsoever does international humanitarian law hinder the quest for disarmament and peace. On the contrary, it offers direct and substantive support for that noble task, and it does so in a variety of ways: by reducing the likelihood of war in dealing with destabilizing weapons, by contributing to conflict management and providing a framework for negotiation, by contributing to the rebuilding of confidence between parties at war and by further evolving its own scope and relevance.

This leads to the conclusion that international humanitarian law deserves to be promoted by every possible means, and any effort to do so represents a contribution to the cause of arms control and, implicitly, to the cause of peace. More specifically, two lines of action ought to be pursued: first, the further consolidation of relevant provisions, mainly through advocating the signing and ratification of existing law; secondly, the dissemination of knowledge of this law among those who are called upon to implement it, i.e. the armed forces, government departments, schools and universities, the media and the public at large, with a view to making the application of the existing rules more effective. In this respect, much remains to be done. However, promotion of international humanitarian law also means its further expansion by the development of new law; a number of ideas meeting this demand are already on the agenda of preliminary international discussions<sup>19</sup>, and many more ideas may still be forthcoming. Thus, the field of international humanitarian law offers ample room for a variety of both practical and relevant initiatives and activities.

**Daniel Frei†**

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<sup>19</sup> Cf. Bring, *op. cit.*