

HUMANITARIAN ACTION AND PEACE-KEEPING OPERATIONS

The ICRC President, Mr. Cornelio Sommaruga, and his special adviser, Mr. André Pasquier, took part on 5 and 6 March 1993 in the 25th session of the Academy for Peace and International Security in Monaco, chaired by the Academy's President, Professor René-Jean Dupuy.

The session's theme was: "The UN and regional organizations – how can they cooperate to improve international security? Is there a special role for Europe?"

About one hundred people representing international organizations, diplomatic and political circles, and the media attended the meeting. Among them were Mr. Robert Badinter, President of France's Constitutional Council and former Keeper of the Seals, Mr. Peter Schmidhuber, member of the Commission of the European Communities, and Mr. Manfred Wörner, Secretary-General of NATO. Talks were given on "Europe and the problem of security" and "The UN and regional organizations – limits to cooperation".

Mr. Sommaruga took part in a round table discussion on the subject of "peace-keeping operations and intervention on humanitarian grounds". The other participants were Professor Maurice Torrelli, Dean of the Institute of Peace and Development Law at the University of Nice – Sophia Antipolis, Dr. Luise Drüke, senior liaison officer for European matters at UNHCR, and Colonel Robert Meille, an officer in the French Army and former commander of the French battalion in Croatia.

*The **Review** has pleasure in publishing below the text of the talk given by the ICRC President on this occasion. Examining as it does the relationship between humanitarian action and peace-keeping operations, it represents the latest contribution to the current debate on the issue of intervention on humanitarian grounds.¹*

¹ See Yves Sandoz, "Droit or devoir d'ingérence and the right to assistance: the issues involved"; Maurice Torrelli, "From humanitarian assistance to intervention on humanitarian grounds?"; Denise Plattner, "Assistance to the civilian population: the

Never since the Second World War has the International Committee of the Red Cross had to face, simultaneously, so many deadly conflicts. When I think of all these crises, my feelings are mixed. On the one hand, we have never been so active, never done so much for so many victims of armed conflict; but on the other hand, never has our work been called into question as fundamentally as it is now in connection with certain conflicts, and never have the Geneva Conventions been so completely disregarded and the rights of conflict victims spurned with such tragic results.

The questions raised by this state of affairs reflect the uncertainty that we are all feeling in the face of the upheavals following the end of the Cold War. History itself is disintegrating under nationalistic, ethnic, religious and political pressures. New ideologies rooted in violence have profoundly altered the nature and scope of conflict. Anarchy and intolerance have turned war into a merciless struggle where no holds are barred. And civilians are the first to suffer. Millions of men, women and children are being starved, arrested, tortured, raped or simply massacred, as a matter of deliberate policy. Others are forced to take the road to exile in a state of total destitution. Every day we measure the difficulty of persuading the belligerents in these barbaric struggles to respect even the most basic rules of humanitarian conduct.

What can we do to stem this tide of violence? Is there a way of restoring respect for the humanitarian principles that we believed were recognized and secure? How can we convince the warring parties to honour their commitments and allow humanitarian agencies to do their work?

With conflicts all around us sliding, inexorably it seems, from horror into utter chaos, many questions clamour for our urgent attention. International humanitarian law, as compiled in the Geneva Conventions and now universally accepted, is an edifice that has required over a century of patient construction. Is it no longer able to

development and present state of international humanitarian law", *International Review of the Red Cross*, No. 288, May-June 1992, pp. 215-263; and Frédéric Maurice†, "Humanitarian ambition"; Cornelio Sommaruga, "Assistance to victims of war in international humanitarian law and humanitarian practice", *IRRC*, No. 289, July-August 1992, pp. 363-382. The reader may also be interested to read an article by the ICRC President entitled "*Droit d'ingérence: faut-il repenser l'action humanitaire?*" which was published in *Le Monde* on 19 February 1993.

withstand the violence being unleashed around us? Will humanitarian diplomacy alone be sufficient to bring the conduct of belligerents back within the limits of humanitarian law? Does the sheer scale of present needs not oblige humanitarian organizations to coordinate their activities more closely? Must we now accept the use of armed escorts to ensure protection for our convoys? Must we, as some suggest, seek new solutions by establishing a so-called "right to intervene on humanitarian grounds", that is, the right to use force if necessary, to ignore the principle of non-interference in the internal affairs of sovereign States, in order to impose humanitarian measures in cases where the survival of entire populations is at stake? Or should we opt for a compromise, linking humanitarian action more systematically to the political action taken by the United Nations in the framework of what are known as "peace-building" operations?

I would like to examine these various questions and proposals in the rest of my talk.

To me there is a perfectly obvious need to step up coordination among the large number of humanitarian agencies working in war-torn countries today, both to avoid duplication of effort and to increase the effectiveness of each individual enterprise. Bearing this in mind, I feel we should look more closely at two particular requirements. First, flexible consultation mechanisms must be devised which neither slow the decision-making process nor complicate cooperation in the field. After all, each conflict has its own special characteristics, and a rigid consultation procedure applied to all cases would be impracticable. Secondly, and in my view more importantly, we must agree on sound working principles which will ensure that any cooperation is compatible and at the same time will safeguard the impartial character of all truly humanitarian endeavour. It could be useful to define a standard set of ethical and operational principles for use by all the different non-governmental organizations whose activities do not derive from international treaties and which do not have mandates clearly defined and recognized by the international community.

Turning now to the use of military power to back up humanitarian action, and even in certain cases to protect those charged with carrying it out, these are measures that have sadly proved necessary, particularly in Somalia, a country that was plunged into chaos by armed gangs and widespread looting. In such situations, the extremely insecure conditions in which we have to work have a direct impact on the effectiveness of our operations. But we must be careful not to view armed escorts as either an acceptable or a lasting solution to the problem; they can only be a temporary and quite exceptional palli-

ative. Indeed, if we resign ourselves to such measures, does that not mean that we have given up all hope of inducing the belligerents not only to respect humanitarian operations but above all to spare the civilian population which enjoys no such armed protection? What we must insist on restoring is respect for the protective emblems — primarily the Red Cross and Red Crescent emblems — which are so often completely disregarded. Such respect is indispensable to preserve the impartiality that humanitarian endeavour needs if it is to bring effective and equitable aid to the victims and, as a corollary, to maintain its independence vis-à-vis all the belligerents.

For the same reasons, I believe we should look very closely at a form of interaction which holds much promise in certain circumstances, provided the consent of the warring parties is obtained. I refer to the interaction between humanitarian endeavour and political measures ranging from peace-keeping operations to the more dynamic peace-building operations. This should respond to the urgent needs of the victims while at the same time addressing the underlying causes of the conflict in question. The current UNPROFOR operation in Bosnia has shown us that regarding humanitarian action as political action by other means is not without its dangers.

This last observation makes me wonder about the proposal to establish what is known as a “right to intervene on humanitarian grounds”. Would such a right improve on humanitarian law as defined by the Geneva Conventions? Anyone familiar with the Conventions knows that the problem lies elsewhere. Indeed, the 1949 Conventions and their Additional Protocols, adopted in 1977, contain broad and unequivocal provisions establishing the right of conflict victims to receive assistance and protection. In particular, it is stipulated that impartial relief actions may not be considered by the belligerents as interference in the conflict or as unfriendly acts, even if the relief supplies are intended for the adversary’s civilian population.

It must be acknowledged that the implementation of humanitarian law largely depends on the willingness of the States to meet their commitments. Is it likely that a “right to intervene” can be established without any obstacles whatsoever and without raising new questions? Quite apart from the contradiction in terms involved here, it seems obvious that in practice the right to intervene is subject to a number of contingencies.

First of all, recourse to force must be approved by the UN Security Council. The Council’s decisions — where they are not simply vetoed — are reached after often conflicting interests and divergent political, economic and strategic considerations have been weighed in the

balance. How can the delays and compromises involved in such negotiations be avoided? Half a million civilians had to die in Somalia before any effective military action was taken under UN auspices.

What is more, a military operation may be relatively easy to carry out and cost few lives when mounted against a militarily weak State, but what would be the consequences if the State concerned were a major power? Can an intervention on humanitarian grounds abandon all claim to impartiality and pick and choose its targets on the basis of the balance of power inherent in any conflict? What about Liberia, southern Sudan, Angola, Afghanistan, the Caucasus and Central Asia, and Bosnia? What about the future? Where should our priorities lie? Surely the fact that so many deadly conflicts are raging simultaneously in so many parts of the world imposes its own limits on the right to intervene.

Finally, how can we conceive of a humanitarian operation which is based on force and will thus inevitably lead to further deaths and perhaps even an escalation of the conflict? These are but a few of the many questions that cannot be simply brushed aside.

Everyone has condemned the atrocities being committed in Bosnia, but opinion is sharply divided on whether outside interference is called for, for the reasons just mentioned. The ongoing debate shows how difficult it is to reconcile humanitarian and political considerations in a context in which any action aimed at enforcing respect for civilians implies *de facto* a large-scale military intervention to which States are still reluctant to commit themselves. To the suggestion that military intervention could be restricted to the sole objective of meeting the need for humanitarian aid, we must answer that this could only be one aspect of a wider undertaking aimed at restoring international peace and security.

But let us return to international humanitarian law. What remedies do the Geneva Conventions offer when all the possibilities of humanitarian diplomacy have been exhausted? Do they preclude the use of force as a last resort? Humanitarian law contains two answers to this crucial question. First, Article 1 common to the four Geneva Conventions requires States "to respect and *ensure respect* for humanitarian law in all circumstances". Second, Article 89 of Additional Protocol I provides that "in situations of serious violations of the Conventions or of this Protocol, the High Contracting Parties *undertake to act*, jointly or individually, in cooperation with the United Nations and in conformity with the United Nations Charter". Clearly, therefore, where matters of humanitarian concern are the major issue in conflicts which threaten international peace and security, it is up to the States them-

selves to go beyond the scope of humanitarian law and to act instead on the basis of Chapter VII of the United Nations Charter, which authorizes the use of force in certain cases. Where, then, is the legal void that the right of intervention could usefully fill?

Security Council Resolution 794 of 3 December 1992, on Somalia, aptly illustrates how a UN operation to maintain peace and security can arise from humanitarian law. It is generally agreed that if the operation's objectives had been merely to improve security conditions without disarming those bearing weapons, that impact would have been temporary and superficial. The steps taken concurrently by the United Nations Secretary-General are further evidence that here, too, the intention was to set up a process to restore peace and security. Once the initial stage of pacification is over, this process should be continued until lasting stability returns to the country. The clashes that have taken place between Somalis and troops deployed under the UN mandate make it obvious that this is an international police action aimed at putting an end to anarchy. We must not underestimate the risk of an escalation that would bring with it even greater dangers for the humanitarian operation.

How does military intervention affect the work being done by humanitarian organizations in conflicts such as these? A clear distinction has to be drawn between the role of States and that of impartial humanitarian organizations, for they have entirely different functions. The function of States, in fulfilment of their duty to dispense justice, is to ensure that the law is respected and to take appropriate measures against States guilty of violating it, while that of relief organizations is solely to assist the victims according to the principles of humanity. In other words, you have on the one hand the police and judiciary responsible for enforcing respect for the law, and if necessary for punishing violations, and on the other the Good Samaritan who provides help. I feel that this is a vital distinction in that it allows us to define and delimit the respective roles of impartial humanitarian organizations and of States, whose duty it remains, at another level and by other means, to "respect and ensure respect for" international humanitarian law. To merge these two roles, as proposed by those who advocate the right to intervene, would result in a situation whereby States, substituting themselves for humanitarian organizations, would impose humanitarian action by force. This would inevitably lead to politicization of the humanitarian mission. That is the bitter lesson of the Bosnian conflict: humanitarian work can be neither negotiated nor conducted by politicians without becoming ensnared in the issues that divide the parties to the conflict. It is hardly surprising,

therefore, that the victims regard the relief supplies they receive as a subterfuge and an admission of the governments' inability or refusal fully to assume their political responsibilities.

If we were to allow such an overlapping of roles, the impartial nature of humanitarian activities would also be called into question and therefore imperilled. In this respect, Mr. Boutros Ghali aptly remarked in a recent interview that any military intervention in the former Yugoslavia would spell the immediate end of the assistance operation being conducted by the UN humanitarian agencies, which would be identified with it. We conclude, therefore, that the proposal to establish a right to intervene on humanitarian grounds has offered no innovative or practical remedies; perhaps its chief effect has been to further blur the line between political and humanitarian action.

For a humanitarian operation to be effective and credible and, generally speaking, for it to win broad acceptance from the belligerents, its purpose must be clear. This fact makes it urgent for the governments and humanitarian organizations, on their various levels of responsibility, to agree among themselves and work out patterns of cooperation based on concepts that constitute different, interlocking parts of the same whole.

Thus, in a new system of collective security which, under United Nations supervision, will pay more attention to the causes of major human tragedies, the use of force can be seen only as a last resort in situations of extreme distress, an exceptional measure that is subject, as we have seen, to many constraints. Is the use of force in fact an adequate response to today's general crisis of values stemming from the collapse of the East-West balance of power? I believe that the most effective means of ensuring that belligerents behave more humanely in the long term and of providing proper protection for the victims is to restore, as rapidly and fully as possible, the authority of international humanitarian law and the moral values it enshrines. This can be accomplished only if the States show the necessary determination and commitment. Together they must embark on a course parallel to that of the humanitarian organizations, first limiting the effects of conflicts by taking preventive diplomatic action and insisting that governments meet their obligations under the Geneva Conventions, and later taking measures to punish any violations in the framework of a new international penal system set up to repress breaches of the law worldwide.