

EDITORIAL

PROHIBITIONS AND RESTRICTIONS ON THE USE OF CERTAIN WEAPONS

THREE KEY QUESTIONS

This issue of the *International Review of the Red Cross* is devoted to various aspects of prohibiting and restricting the use of certain weapons.

Whenever this type of topic is discussed, it naturally raises fundamental questions among the general public as to the meaning of the work being carried out in this area.

It appears necessary to anticipate this debate and to reply straight away to three key questions, even if they may seem obvious to experts:

- Should we not seek to eliminate war itself, rather than to regulate it?
- Are there such things as “clean” weapons and “useful” or “necessary” suffering?
- Is it the role of the Red Cross to deal with the weapons issue?

Abolish war or regulate it?

This question has been asked ever since the Red Cross and international humanitarian law came into being.

The answer lies in one word: complementarity. War is today no longer an accepted means of settling disputes and the campaign to establish an international community that refuses to accept it is perfectly legitimate, as is, moreover, the revolt against the folly and atrocities of war.

The fact remains, however, that the international community has not been able to set up some sort of system whereby justice and peace could be imposed, and that it has yet to reach a consensus on the notion of an

equitable society, which is prerequisite for defining the parameters of a peace accepted by all.

There is much work still to be done in this respect and it is more vital than ever before: the development of technology and man's invention of means capable of exterminating humankind make it imperative for the international community to lay down fundamental and procedural rules without delay for a world without war, lest it be destroyed itself.

But war is a reality now more than ever. Every effort must therefore be made to attenuate its effects, especially by educating those who must engage in warfare.

International humanitarian law sets basic standards, the observance of which distinguishes the soldier from the criminal and the violation of which perverts the most honourable of causes. Despite the horror of war, it must not be forgotten that humanitarian law has spared millions of lives and immeasurable suffering.

Such work, which is not a contradiction of, but a complement to the efforts undertaken to build a world without war, therefore merits full appreciation.

Are there such things as “clean” weapons and “necessary” suffering?

The expression “superfluous injury and unnecessary suffering”, the meaning of which is analysed in depth in this issue of the *Review*, is unfortunate. It inevitably elicits ironic reactions from the public, for it is difficult to understand how “useful” injury or “necessary” suffering can exist. This expression, however, is rooted in the fundamental idea that war is not an end in itself and does not permit more than is necessary for victory. And indeed, the essential purpose of international humanitarian law may be to eliminate “unnecessary” suffering, — unnecessary in terms of war of course, which is inherent in the application of international humanitarian law — and not all suffering: the “utility” or “non-utility” of war itself is not at issue here.

It would be wrong to belittle this purpose, especially since wars generate a type of violence which very quickly gets out of hand, and that often the original reasons for making war are forgotten and all “meaning” lost: murders of civilians or prisoners, rape or torture which are just examples of this trend, are, alas, far too common.

The terminology used in the 1980 Convention — “weapons deemed to be excessively injurious” or “having indiscriminate effects” — is more

explicit. Weapons must not have effects that are excessive in relation to their military purpose and, especially, should be sufficiently precise to avoid causing incidental injury among civilians. These expressions remain, however, highly esoteric. In actual fact, the intention is to prohibit means of war which are excessively cruel or, to put it clearly, barbaric weapons, i.e. weapons which discredit those who use them, just as certain heinous acts bring discredit to those who commit them, however worthwhile the cause they may be defending.

Heading the list of these weapons are of course the so-called weapons of mass destruction. The use of biological and chemical weapons is banned today. The conventions relating to these weapons also cover their manufacture, possession or sale. Extremely complex monitoring procedures are provided for by the Chemical Weapons Convention, since the use of chemical agents is also necessary for peaceful purposes. This global approach to the problem is indispensable, because governments could never consent to place themselves at a disadvantage before an adversary capable of wielding — if it alone possesses such weapons — a terrible instrument of blackmail.

Clearly, nuclear weapons should be the subject of a similar convention, but there has been a delay in tackling the problem for psychological or strategic reasons which would certainly merit serious re-examination in the light of today's international context.

The absence of clear regulations on these weapons and the prevailing uncertainty resulting therefrom greatly detract from the overall credibility of efforts made in the field of disarmament, for no one can guarantee that the whole world will not go up in flames if a first strike occurs.

It should be noted, however, that the strategic nature of weapons of mass destruction has justified negotiations which did not deal solely with their use. Such negotiations have extended beyond the scope of international humanitarian law alone and, for the reasons stated above, have covered all aspects of the problem, including the possession of such weapons.

As for the 1980 Convention, its ambitions are more down to earth and it relates to weapons which *a priori* have no strategic importance. Yet it is equally important because it deals with weapons which are actually used in present-day conflicts: incendiary weapons, whose use sparked cries of outrage during the Vietnam war, and especially mines, which are today scattered all over the globe and cause tremendous suffering and immeasurable social, ecological and economic damage.

In short, weapons which are particularly cruel or barbaric do exist, and it is perfectly justifiable to discuss them. If there is no consensus on

the identification of these weapons, no dialogue among political, military and humanitarian figures, no international conventions, it is simply impossible to envisage curbing the development and use of such weapons.

Is it the role of the Red Cross to deal with the weapons issue?

Weapons of mass destruction have been a long-standing concern of the International Committee of the Red Cross. In particular it took an active part in drafting the Geneva Protocol of 1925 on chemical weapons and reacted vigorously to the nuclear bombings of Hiroshima and Nagasaki. The International Red Cross and Red Crescent Movement as a whole has, moreover, adopted various resolutions dealing with this issue both during its internal meetings and jointly with governments at International Conferences of the Red Cross and Red Crescent.

Taking a general stance on an issue is one thing, however, but studying specific bans in closer detail is another.

In engaging in such work, the ICRC has acted in accordance with the mandate conferred upon it by the international community to work for the faithful application of international humanitarian law and to prepare any development thereof. As the Protocols of 1977 additional to the Geneva Conventions have reaffirmed and developed the principles and rules relating to the conduct of hostilities, it is incumbent upon the ICRC to study the incorporation of those principles and rules, and indeed all others within the scope of international humanitarian law, in other legal instruments.

The Convention of 1980 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons is undeniably part of international humanitarian law and implements, by means of specific prohibitions and restrictions, principles and rules laid down by Protocol I of 1977. It was drafted in response to a resolution adopted by the Diplomatic Conference which had hammered out the 1977 Protocols, and on the basis of work carried out by an *ad hoc* commission set up by the Conference.

It was at this point that the ICRC 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. The objective is to obtain a clear definition of the technical characteristics of a weapon, its military utility and any possible substitutes for it, as well as the "human cost" its use would incur in terms of physical or psychological suffering, or adverse

effects on society or the environment. The weapon's precision, its possible neutralization after use, its cruelty or the irreversible nature of its effects are also factors for consideration.

A tough job, some might think.

True, it is difficult work, very wearing at times, but certainly worthwhile, and that is the only thing that counts. It is never easy to confront the reality of war. But the ICRC cannot close its eyes and refuse to cooperate in the development of humanitarian norms, while its delegates are deeply involved, day in and day out, in the tragic reality of war. The ICRC can make a direct contribution to certain aspects of this analysis by the experience it has acquired in conflicts, particularly in the area of war surgery.

For the most part, however, its task is to seek the most qualified experts to shed light on various aspects of a problem, to set up and conduct their meetings by pinpointing with them the issues to be examined and the conclusions which may be drawn — in short, to act primarily as a catalyst. This in-depth preparatory work enables reports to be drafted as objectively as possible, on the basis of which it is then up to the States, and to them alone, to adopt specific rules.

All modesty aside, reports drawn up by the ICRC on the basis of the work of experts on anti-personnel mines and blinding weapons are good examples of the contribution the ICRC can make. By serving as a forum for reflection on these issues, the *International Review of the Red Cross* can unquestionably increase understanding of their importance.

But this "educational" purpose of the *Review* clearly depends on the quality of the thoughts received and on this occasion we shall not resist the temptation to render a glowing tribute to Henry Meyrowitz.

At over 80 years of age, Henry Meyrowitz once again provides us in this issue with a pertinent, in-depth analysis of an important aspect of the problem under consideration here.

May his outstanding commitment and perseverance serve as an example to all those who, far or near, are called upon to address it, for the humanitarian stakes are high indeed.

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