

FINAL ADDRESS BY MR. CORNELIO SOMMARUGA

Mr. Chairman,
Excellencies,
Ladies and Gentlemen,

Allow me to thank you most warmly for giving me the floor once more. In my capacity as Special Rapporteur, I would like to share with you some thoughts prompted by your deliberations.

In a few moments' time our Chairman will declare this Conference closed. To attempt to take stock at this early stage would certainly be premature, considering the intensity of the work and the very large number of proposals made. Aware as I am of the dangers of going too fast and of ignoring the deeper issues that need to be pursued, I should nevertheless like to take advantage of this unique opportunity to make a few final comments.

Before I do so, however, I wish once again to thank the Federal Council of the Swiss Confederation for convening this Conference and to express my sincere gratitude to you, Mr. Chairman, and to all the representatives of the States party to the Geneva Conventions who came here to reiterate before the international community their undertaking to respect and ensure respect for the provisions of international humanitarian law. I also want to thank the representatives of governmental and non-governmental organizations, who made a point in their outstanding statements of stressing the importance they attach to respect for humanitarian law, for their valuable contributions.

I should also like to convey to you the thanks of the ICRC for the kind words spoken by many delegates in praise of its work. The ICRC understands that these words were addressed to the entire International Red Cross and Red Crescent Movement, to the National Societies which have supported its operations in the field, and to the International Federation of Red Cross and Red Crescent Societies, which imparted an important message to you this morning.

Mr. Chairman, I should also like to convey to you my sincere thanks for the remarkable way in which you have presided over our deliberations and have led this important conference to a successful conclusion.

The objectives which this Conference set for itself must be analysed from two points of view. First, we all feel there is an urgent need to find answers to the tragedies and horrors brought about before our eyes, every day, by so many conflicts born of hatred,

intolerance and political unreason. Second, this Conference has a long-term dimension: it has shown us the need for a humanitarian mobilization uniting the whole of the international community so as to restore full authority to humanitarian law by making it known, by watching more scrupulously over its observance, by considering means of strengthening the mechanisms for its implementation and monitoring and for bringing those who violate it to account. Looking beyond the immediate challenges, this Conference has endeavoured to seek answers to issues that will become urgent in the future. This implies action of a long-term and continuous nature. In this respect the Conference should be regarded, not as a goal that has been reached, but as the starting point of a process of renewed undertaking by States to respect and ensure respect for humanitarian law under all circumstances. A very great number of speakers have, in the course of the discussions, put forward specific proposals towards that end.

These proposals are too numerous and too diverse for us to review here. Each of them deserves in-depth consideration, and you may rest assured that the ICRC will pursue that task with the full attention they deserve, just as it will not fail to devote every effort to the examination and implementation of the important Final Declaration you have just adopted. Let me at this juncture express my very warm gratitude and admiration to Ambassador Kirsch of Canada for having so efficiently conducted the consultations for the drafting of the declaration. My thanks also go to all those who contributed to the result.

I have noted several points of agreement to which I should like to draw your attention. I wish to mention seven points, while realizing that other conclusions will also have to be studied in an appropriate framework.

First, it is necessary to make sure that humanitarian law is truly universal by inviting States which have not yet done so to become party to the Geneva Conventions of 12 August 1949 and to their Additional Protocols. I am pleased by the ratifications announced during this Conference.

Any inequality in the legal regime, any imbalance in the obligations undertaken by the belligerents, carries within it the seeds of violations because adversaries are not guided by the same provisions. The universality of the Conventions and Protocols therefore represents a first step — a limited step, no doubt, but a necessary one — towards universal respect for their provisions.

In the same spirit, we must appeal to States which made reservations when they acceded to the 1949 Geneva Conventions and ask

them to examine the possibility of withdrawing those reservations. Indeed, any such reservation by definition runs counter to an existing rule. It thereby creates a breach in the treaties' universality and bears within it the seeds of violations.

Moreover, these reservations are, I believe, a hangover from the Cold War and the ideological struggles of another era. It should therefore be possible to withdraw them.

Secondly, many speakers have stressed the need for improved knowledge of humanitarian law, in particular in government and academic circles and among members of the armed forces.

This is something that goes without saying, for how can humanitarian law be respected if it is not known to those who must apply it?

No army worth its salt would send into battle a soldier who has not been taught how to use his weapon. It is equally unacceptable to send to the front a soldier who does not know the rules of humanitarian law.

The basic principles of humanitarian law must therefore be taught in all armed forces throughout the world. This is a considerable undertaking, and the ICRC stands ready, for its part, to do all it can to help.

Along the same lines, I wish to emphasize the responsibility of the *media*, which all too often are content merely to retransmit images or accounts of the atrocities committed, at the risk of stirring up hatred and cries for revenge, without recalling the paramount importance of the rules which have been mocked and without calling for their respect. The potential is enormous, and if the media are prepared to meet this challenge, they can make a decisive contribution to improved knowledge of the requirements of humanity. The future will otherwise be bleak indeed.

Thirdly, we must redefine the responsibility of States — which under Article 1 common to the four Geneva Conventions are obliged to respect and ensure respect for humanitarian law at all times — of international organizations, specifically the United Nations, whose primary role is to maintain international peace and security, and of humanitarian institutions, responsible for bringing relief to the victims of conflicts. Too often in the recent past we have witnessed the dangers inherent in any blurring of mandates: this is a warning we cannot ignore.

The *fourth point* I should like to make concerns the essential nature of humanitarian assistance.

Humanitarian activities, and in particular those of the International Committee of the Red Cross, are carried out within the framework of the international rules which your States have accepted. They are based on obligations by which States have duly and freely agreed to be bound. They are guided by the Fundamental Principles proclaimed by the International Red Cross and Red Crescent Conferences in which your governments have participated, namely the principles of humanity, neutrality, impartiality and independence. In this respect, humanitarian assistance in no way constitutes interference or unlawful intervention in the internal affairs of States.

As a *fifth point*, we must always bear in mind the universal value of the basic principles of humanitarian law. This universality stems from the fundamental rights of the individual, from the right of every man, woman and child to be treated humanely, with respect for his or her physical integrity and dignity, no matter what the circumstances. While the rules applicable in non-international armed conflicts may therefore quite legitimately be narrower in scope than those applicable in conflicts between States, we must not forget that the principles underlying both are identical and that those principles transcend the different categories of conflicts.

We must have the courage to recognize that it is unacceptable for States to use against their own people methods and means of warfare which they have undertaken not to use in the event of a war with another State.

And let us not forget either that the overwhelming majority of conflicts raging in the four corners of the globe today are internal.

My *sixth* point is perhaps the most difficult — we must find the means of putting an end to the grave, deliberate and repeated breaches of the law we have witnessed in the past few years.

Many of you have underscored the need for a universal and permanent international penal jurisdiction to repress war crimes.

The ICRC wholeheartedly approves these declarations. It is indeed unacceptable that war crimes should go unpunished. Furthermore, the prospect of punishment must have a dissuasive effect, and may serve to prevent further violations.

The measures proposed are important ones, but they will not suffice.

Let us not forget that every grave breach of the Geneva Conventions entails not only the responsibility of the individual who committed it, but also that of the State which ordered it and stood by while it was committed.

The means must therefore be found of bringing States responsible for grave breaches of humanitarian law to conform with the commitments they made.

By taking a first step in this direction, your Conference has raised fresh hope among peoples; let us not disappoint them.

For the means exist, be they diplomatic, economic or even military, in extreme cases and when the violations of humanitarian law are so serious that they constitute of themselves a threat to peace.

The ICRC, for its part, stands ready to pursue its consultations with experts to determine the measures which could be taken, in conformity with public international law, to enable States to fulfil their obligation to ensure respect for humanitarian law in all circumstances.

My *final point* is as follows: we all agree that our work will not stop with the adoption of the Final Declaration, drawn up with such care by the Drafting Committee, or when the Chairman declares that this Conference on the Protection of War Victims is over.

The peoples you represent expect tangible results. There must be a follow-up to your deliberations.

On Monday, I suggested in my opening address that this task could be given to the International Red Cross and Red Crescent Conference, which is particularly well qualified to assess how the conclusions of the International Conference for the Protection of War Victims have been implemented, since each of your governments will be present, alongside the National Red Cross and Red Crescent Societies, their International Federation and the ICRC. The final declaration sets forth a good solution in this respect.

Within the framework of the mandate conferred upon it by all the States party to the Geneva Conventions, to ensure that international humanitarian law is applied, and as a follow-up to its role of Special Rapporteur at this Conference, the ICRC is willing to be a part of any initiative taken by the Swiss government, as the depositary of the Geneva Conventions, with a view to ensuring the implementation of this Conference's conclusions and, in particular, respect for the important final declaration you have just adopted.

Mr. Chairman, Excellencies, Ladies and Gentlemen, these are the thoughts that I wished to share with you after listening to the more than 120 statements made in this hall over the past three days.

But these considerations, the remarkable statements made, must not be allowed to drown out the calls of the victims of war, the pleas of the populations who are the victims of indiscriminate attacks

and violent and arbitrary acts, the moans of prisoners being ill-treated, the heart-rending cries of wounded children.

We must open our hearts to the silent lament of the starving child who realizes he will die.

This is why I am sure I can say that I speak for all those gathered here today when I launch, through you, distinguished Delegates, in the name of us all, an urgent and solemn appeal for all the States you represent and all the belligerents involved in all the conflicts everywhere in the world to abide strictly by the provisions of the Geneva Conventions, and to take all necessary precautions to spare non-combatants, protect the civilian population, respect prisoners, and collect and care for the wounded and sick without discrimination. For only by complying with humanitarian law in the midst of the fighting can the foundations of peace be laid.

Res, non verba!

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FINAL ADDRESS BY Mr. FLAVIO COTTI

Mr. President of the International Committee of the Red Cross,
Excellencies,
Ladies and Gentlemen,

We have now come to the end of this Conference and it remains for me to sum up what has been accomplished here.

I should first like to note the excellent spirit of cooperation that has prevailed throughout our deliberations.

Your self-discipline has enabled us to steer clear of most of the hazards that might have undermined the atmosphere and thus jeopardized the success of this Conference.

Your determination from the start to seek out common ground and work together in a spirit of consensus has imbued the Final Declaration with particular force and meaning. Your approach has shown the urgency you attribute to the problem of protection for the victims of war. Yet words are not enough to counter the fearsome events that unfold daily before us. That, too, you have clearly understood and you have moreover evidenced your will to act, to take a