

A look at the Declaration of St. Petersburg of 1868

In the 19th century, three texts that laid the foundation for modern international humanitarian law appeared within the space of five years.

1. The “Lieber Code” of 1863¹

The Lieber Code was a set of instructions issued to the United States armed forces during the American Civil War to regulate the conduct of military operations.

2. The Geneva Convention of 1864²

By declaring medical units on the battlefield to be neutral and inviolable, this treaty represented the first step taken in international law to provide protection for the victims of armed conflict.

3. The Declaration of St. Petersburg of 1868³

This text, whose 125th anniversary we are celebrating, revolutionized military thinking by prohibiting, on humanitarian grounds and citing “the laws of humanity”, the use of a weapon of war developed as a result of advances in technology.

¹ Instructions for the Government of Armies of the United States in the Field, of 24 April 1863.

² Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, of 22 August 1864.

³ Declaration of St. Petersburg of 11 December 1868 (29 November by the old Russian calendar) Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 grammes Weight. (See Annex pp. 515-516).

Origin and content of the Declaration of St. Petersburg

At the invitation of Tsar Alexander II, the plenipotentiary representatives of 17 States met from 9 to 16 November 1868 (28 October to 4 November by the old Russian calendar) in St. Petersburg, then the capital of Imperial Russia. Envoys from most European countries, plus Persia and Turkey, attended three days of meetings and negotiating sessions chaired by General Milutin, the Tsar's Minister of War.

Russia had convened the conference to propose a ban on certain types of projectiles which, when they struck the human body, caused especially appalling wounds. The particular object of this prohibition was a bullet fired from a hand-held weapon and exploding on impact, owing to a small explosive charge. The blast itself resulted in a serious wound, but the expanding gases and the scattering of fragments from the casing aggravated the condition of the victim, who inevitably died in agony. The Russian government was willing to renounce the use of such projectiles provided that all other States did likewise.

The plenipotentiaries were quick to agree to the Russian proposal. The only point of disagreement was the maximum weight of the projectiles to be banned. The Russian proposal covered projectiles of up to 400 grammes (anything heavier belonging to the category of artillery and therefore not on the agenda of the conference). This was accepted.

The representatives of the 17 States signed the Declaration on 11 December 1868 (29 November by the Russian calendar). Two further States acceded to it the following year.⁴ Since then, no other State has formally become party to the Declaration. However, the small number of participating States in no way limits the Declaration's significance or its effect — it is today part of customary international law, by which the entire community of States is bound.

⁴ The States signatory to the Declaration of St. Petersburg are as follows:

Austria-Hungary, Bavaria, Belgium, Denmark, France, Great Britain, Greece, Italy, Netherlands, Persia, Portugal, Prussia and the North German Confederation, Russia, Sweden and Norway, Switzerland, Turkey, Wurtemberg.

Baden and Brazil acceded to the Declaration on 11 January and 23 October 1869 respectively.

Significance of the Declaration of St. Petersburg

Nowadays it is not so much the specific prohibition laid down in the 1868 Declaration that merits our attention but rather the approach it represents to a practical matter of humanitarian concern and the considerations that prompted the States to ban a weapon that was already fully developed and whose destructive potential no one doubted.

On the first point, it is remarkable to note that the Russian Minister of War stressed the appalling effects of a newly developed weapon, and that he actually wondered whether such a weapon should be outlawed on humanitarian grounds or whether it should be retained for reasons of military advantage. Studying new weaponry from the viewpoint of its compatibility with international law has since become a *sine qua non* for an effective system of international humanitarian law.⁵

On the second point, it is interesting to look at the preambular paragraphs of the Declaration, which reflect all the considerations that prompted the plenipotentiaries' decision. For example:

"... the technical limits at which the necessities of war ought to yield to the requirements of humanity...";

"... the progress of civilization should have the effect of alleviating as much as possible the calamities of war...".

What follows has become a classic definition of the purpose of war, and one which has lost none of its relevance:

"... the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy...".

Consequently,

"... it is sufficient to disable the greatest possible number of men...";

"... this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable...";

"... the employment of such arms would, therefore, be contrary to the laws of humanity...".

Since the end of the 19th century, the idea that humanitarian principles should set limits on means of warfare has been developed through successive codifications of the law of war.

⁵ See the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), Article 36 ("New weapons").

The most important of these are:

- the Hague Convention Respecting the Laws and Customs of War on Land, of 18 October 1907, and its annexed Regulations;
- the four Geneva Conventions of 12 August 1949 for the Protection of the Victims of War, and their two Additional Protocols of 8 June 1977;
- the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, of 10 October 1980.

Today, various means of warfare, such as chemical and biological weapons, are totally banned. International law places restrictions on the use of others, such as incendiary devices and landmines.

Relevance of the St. Petersburg Declaration for the future

Each new generation must carry on the work of the St. Petersburg Conference. Each new generation must accept prohibitions or limitations on the use of newly developed weapons if they “uselessly aggravate the sufferings of disabled men” (St. Petersburg Declaration) or are “of a nature to cause superfluous injury or unnecessary suffering” (1977 Protocol I). The States represented in St. Petersburg pledged “to come hereafter to an understanding whenever a precise proposition shall be drawn up in view of future improvements which science may effect in the armament of troops...”. Surely, the noblest application of science and, indeed, of human intelligence is to advance “the laws of humanity” even in times of war.

Hans-Peter Gasser

Declaration of St. Petersburg
of 1868
to the Effect of Prohibiting the Use
of Certain Projectiles in Wartime

Signed at St. Petersburg, 29 November (11 December) 1868

On the proposition of the Imperial Cabinet of Russia, an International Military Commission having assembled at St. Petersburg in order to examine the expediency of forbidding the use of certain projectiles in time of war between civilized nations, and that Commission having by common agreement fixed the technical limits at which the necessities of war ought to yield to the requirements of humanity, the Undersigned are authorized by the orders of their Governments to declare as follows:

Considering:

That the progress of civilization should have the effect of alleviating as much as possible the calamities of war;

That the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy;

That for this purpose it is sufficient to disable the greatest possible number of men;

That this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable;

That the employment of such arms would, therefore, be contrary to the laws of humanity;

The Contracting Parties engage mutually to renounce, in case of war among themselves, the employment by their military or naval troops of any projectile of a weight below 400 grammes, which is either explosive or charged with fulminating or inflammable substances.

They will invite all the States which have not taken part in the deliberations of the International Military Commission assembled at St. Petersburg by sending Delegates thereto, to accede to the present engagement.

This engagement is compulsory only upon the Contracting or Acceding Parties thereto in case of war between two or more of themselves; it is not applicable to non-Contracting Parties, or Parties who shall not have acceded to it.

It will also cease to be compulsory from the moment when, in a war between Contracting or Acceding Parties, a non-Contracting Party or a non-Acceding Party shall join one of the belligerents.

The Contracting or Acceding Parties reserve to themselves to come hereafter to an understanding whenever a precise proposition shall be drawn up in view of future improvements which science may effect in the armament of troops, in order to maintain the principles which they have established, and to conciliate the necessities of war with the laws of humanity.

Done at St. Petersburg, 29 November (11 December) 1868.
