

# XIXth Round Table on Current Problems of International Humanitarian Law

*(San Remo, 29 August - 2 September 1994)*

*CONFLICT PREVENTION — THE HUMANITARIAN PERSPECTIVE*

## **General Conclusions**

The XIXth Round Table of the International Institute of Humanitarian Law on Current Problems of International Humanitarian Law in San Remo was held from 29 August to 2 September 1994 on the topic of "Conflict prevention — the humanitarian perspective".

The Round Table was opened by the President of the Institute, Ambassador Hector Gros Espiell. Messages were sent by the President of the Italian Republic, Mr Oscar Luigi Scalfaro, by the Secretary-General of the United Nations, Mr Boutros Boutros Ghali, and by the United Nations High Commissioner for Refugees, Mrs Sadako Ogata.

The participants were welcomed by the Mayor of San Remo, Mr David Oddo, and the opening address was made by the President of the International Committee of the Red Cross, Mr Cornelio Sommaruga. In the course of the Round Table discussions, statements were also made by the United Nations Under-Secretary-General and Director General of the United Nations Office at Geneva, Mr Vladimir Petrovsky, the United Nations High Commissioner for Human Rights, Mr José Ayala Lasso, the Director General of the International Organization for Migration (IOM), Mr. James Purcell, and the Secretary-General of the International Federation of Red Cross and Red Crescent Societies, Mr George Weber. Professor Jovica Patrnogic, Honorary President of the Institute, gave the introductory remarks.

Much of the substantive work of the Round Table was conducted in panels under the direction of moderators highly qualified in their respec-

tive fields, seconded by assistants. The Coordinator of Panels was Mr. Ivor Jackson.

The subject of the Round Table was discussed against the background of recent turbulent and tragic events, some of which had resulted from changes in the political landscape due to the end of the Cold War and of the previous bipolarity of world politics. The following conclusions were reached:

1. In recent years, a number of conflict situations have arisen in many parts of the world and have been the cause of widespread and prolonged human suffering. Those afflicted included innocent victims of disregard for or violations of the principles and rules of international humanitarian law and fundamental human rights and people obliged to leave their usual place of residence, often under cruel and inhuman conditions, in order to seek refuge elsewhere, either within their own country or beyond its borders. This tragic human suffering is in itself a reason to focus increasing attention on the problem of conflict prevention and to approach it from the humanitarian point of view.

2. There are two basic considerations in addressing the problem in this way:

Firstly, when there is a danger of conflict, the possible human consequences should always be borne in mind by the parties concerned. There can be little doubt that if they had been fully aware of the magnitude of those consequences, this would probably have had a restraining effect on the emergence of the conflict itself;

Secondly, once a conflict has arisen, it is essential to ensure that humanitarian assistance is provided effectively and under optimum conditions. Continuing and prolonged human suffering necessarily serves to aggravate a conflict situation, whereas humanitarian assistance, by alleviating human suffering, thereby helps to prevent the situation from deteriorating still further. The same applies to the need for observance, *during* a conflict, of the principles of international humanitarian law, international refugee law and international human rights law.

3. Action with a view to *conflict prevention* may be short-term or long-term; whereas short-term action might produce more immediate results, it may not address the underlying causes of a conflict involved because of the "emergency" element and may, in some cases, only have the effect of postponing a real solution. Long-term action, on the other hand, may be more effective by addressing the root causes of the situation.

4. Recent and current conflict situations have been accompanied by an increase in the role assumed by the United Nations in the humanitarian

and ongoing review before they reached a degree of seriousness necessitating recourse to the early warning mechanism. The early warning mechanism should be reinforced by greater emphasis on fact-finding, also at the field level where non-governmental organizations have an important role to play. Some proposed that this mechanism of conflict prevention could be more efficient through the establishment of an early warning "clearing house" or "agency" to collect, collate and transmit relevant information to all UN organs concerned and, as appropriate, to the media. It was recalled that some situations likely to lead to a conflict may have existed for a long period of time, and it would be appropriate to identify them even before having recourse to the early warning mechanism.

11. It was essential that early warning should not be limited to obtaining relevant information, but should also imply a willingness on the part of governments and organizations concerned to take appropriate preventive measures, should these prove necessary in the light of the information obtained, so that early warning is translated into early action.

12. An important issue is the degree of seriousness which a situation must have attained to justify action to avert conflict. It was considered that there must not necessarily be large-scale violations of human rights or that the situation should have direct trans-frontier consequences, but that it should nevertheless be of such a nature as to attract international concern.

13. It was noted with satisfaction that the concept of "*preventive diplomacy*" had now been accepted, and had also been recognized as a potentially effective tool for action. There was, however, a need to render preventive diplomacy more effective by ensuring that existing arrangements for it are fully utilized in all potential or actual conflict situations, and that action taken under these arrangements is fully coordinated. It was recognized that uncoordinated or divergent action can seriously undermine the effectiveness of preventive diplomacy.

14. It was considered that the mediatory role of the United Nations Secretary-General should be given full support and reaffirmed by General Assembly resolutions. Moreover, the relevant intergovernmental bodies and organs, e.g. UNHCR, UNICEF and the United Nations Coordinator for Humanitarian Affairs, might also be in a position to exercise a mediatory role, a possibility which should be resorted to whenever appropriate in situations calling for mediatory preventive action.

15. In various recent conflict situations, recourse had been had to enforcement measures under Chapter VII of the United Nations Charter,

and it was recognized that such measures can, under certain circumstances, constitute appropriate preventive action. It was considered that such measures could be rendered more effective through the establishment of a permanent United Nations Emergency Force as suggested in *An Agenda for Peace* submitted by the Secretary-General and by a revitalization of the Military Staff Committee provided for in Chapter VII of the United Nations Charter.

16. There is nevertheless some doubt as to whether enforcement measures under Chapter VII constitute appropriate preventive action in all cases, more especially in view of the political element which could, under certain circumstances, constitute an impediment to conflict resolution. Consideration should therefore be given to the more basic need to establish an open and constructive dialogue with regard to potential or existing conflict situations, including their humanitarian aspects. These concerns should, as far as possible, be taken into account by the Security Council, and enforcement measures under Chapter VII, whether or not involving the use of force, should always respect generally accepted humanitarian standards as defined by international humanitarian law and human rights law.

17. It was recognized that *peace-keeping* and *peace-building* efforts undertaken by the United Nations or by regional organizations may be of importance as preventive action. When such action is undertaken, however, due regard should be had to the humanitarian aspects of conflict prevention. It should, moreover, be ensured that peace-keeping efforts, through their objective and impartial character, are designed to avoid a further deterioration of a conflict situation and contribute to a lasting solution. Peace-building efforts should address the causes of a conflict situation in a comprehensive manner so as to bring about solutions of a basic and lasting nature.

18. In view of the large number of players normally involved in a potential or actual conflict situation, the effectiveness of any preventive effort must necessarily depend upon appropriate *coordination* between them. On the other hand, the effectiveness of such efforts could be seriously undermined through uncoordinated action. It was therefore considered that appropriate coordination and harmonization mechanisms should be established at the universal level, e.g. by reinforcing the powers and the authority of the United Nations Department of Humanitarian Affairs (DHA) established pursuant to General Assembly resolution 46/182 of 19 December 1991. Appropriate coordination arrangements should also be made at the local level between the organizations concerned and

agencies represented in a country or area where a potential or actual conflict situation exists.

19. **Disarmament** can be a very important factor in preventing conflicts or reducing their effects. In spite of certain recent encouraging developments in this area, the overall results have not been satisfactory. Sustained and intensified efforts are therefore required. Nuclear and biological weapons need to be fully regulated. Special mention was also made of the need to deal with the problem of landmines and to promote wider acceptance of international instruments relating to this matter.

20. Particular emphasis was placed on the role which can and should be played by **regional organizations** in conflict prevention, as a complement to that performed by the United Nations at the universal level. It was recognized that with their knowledge of, and concern for, the political problems existing in their respective areas, regional organizations may be in a particularly favourable position to exercise a mediatory function. They may also be able to mobilize the requisite political will to resolve a potential or actual conflict. Finally, they might be able to generate the necessary solidarity to promote solutions for potential or actual conflict situations arising in other areas, and in any event to co-ordinate the provision of humanitarian assistance aimed *inter alia* at mitigating the effects of a conflict situation. Such action by regional organizations should, of course, be in conformity with Chapter VIII of the United Nations Charter.

21. It was considered that **non-governmental organizations** can frequently play a major part in conflict prevention. They may, for example, be able to facilitate preventive diplomacy by their contribution to fact-finding and early warning, and through the mediatory function which they may be able to exercise in certain cases. In this context, the role of National Red Cross and Red Crescent Societies in conflict prevention, both before and during the conflict and in the post-conflict phase, was particularly stressed and it was considered that National Societies should adopt a more activist approach as regards both long-term and short-term objectives.

22. Humanitarian action to mitigate human suffering resulting from conflict situations has a preventive character in so far as it serves to avoid any further deterioration. In this connection, it was noted with satisfaction that humanitarian issues had now come to the forefront of public attention throughout the world. It was considered that **humanitarian assistance** should now be recognized as a major factor in the area of prevention. It was, moreover, deemed essential that humanitarian assistance be provided

under optimum conditions in complete accordance with the three principles which should govern all humanitarian action, i.e. humanity, impartiality and neutrality. It was of particular importance that in all conflict situations humanitarian action be kept clearly distinct from political and military action.

23. Efforts should be made to develop the *right* under international law of innocent victims *to receive* assistance. Such efforts appeared to be justified by more recent practice, and the "Guiding Principles on the Right to Humanitarian Assistance", adopted by the Board of the Institute in April 1993, can provide an appropriate basis for further promotional efforts in this area. These Guiding Principles have been greatly welcomed by a number of institutions concerned and could appropriately be drawn to the attention of the United Nations Commission on Human Rights and the International Red Cross and Red Crescent Movement.

24. The right of the international community to concern itself *with human* rights situations has now been generally accepted. Moreover, efforts with a view to prevention can be successful only by ensuring full respect for and effective implementation of international human rights law, international humanitarian law and international refugee law. On the other hand, failure to respect these different branches of international law could well result in a further deterioration of a conflict situation. It was therefore necessary to promote observance through effective action by the relevant international bodies. These include the ICRC, UNHCR, the United Nations human rights mechanisms and intergovernmental and non-governmental organizations which, in the course of their activities, are confronted with violations of these branches of international law. Among the United Nations human right mechanisms, particular emphasis was placed on the newly created post of a United Nations High Commissioner for Human Rights. The first actions undertaken by this highly important official in the United Nations system, which were aimed at protecting endangered human rights and thereby preventing possible conflicts, notably in Burundi, Guatemala and Rwanda, were particularly commended since they reflect a significant development of the role of the United Nations in this field. The increased role of the United Nations Centre for Human Rights was also noted with satisfaction.

25. The various measures to be taken against gross violations of basic human rights should include *international penal sanctions*. In this context, the creation of the ad hoc tribunal for various violations of international humanitarian law in the former Yugoslavia was noted. The ultimate objective should be to establish a permanent international judicial body,

with the necessary jurisdiction to deal with such crimes wherever they may occur.

26. Ensuring respect for international humanitarian law, international refugee law and international human rights law also calls for continuing efforts to promote accession to the relevant international legal instruments. In addition, existing arrangements for dissemination and training should be increased and extended so that all target groups concerned are educated to understand and observe humanitarian principles in their respective fields of activity and cultural environment.

27. For the successful implementation of the said three branches of international law, adequate training of the necessary personnel is of capital importance. In this respect, the long-standing experience of the Institute and other competent bodies, in particular the ICRC and UNHCR, should be used more fully. The dissemination of knowledge of these branches of international law is an ongoing task to which adequate attention should also be paid in the future.

28. The media have a major role to play in alerting public opinion to conflict situations. In many cases, however, certain media have departed from the professional ethical standards established for journalists, which should be particularly closely followed in conflict situations. There is therefore a need to ensure the strict observance of these standards.

29. The Institute wishes to express its appreciation to the chairpersons, the participants who introduced the various subjects, the moderators of panels and their assistants, the Coordinator of Panels and the other participants for their valuable contributions to the discussions. Special thanks go to the Organizing Committee of this Round Table, chaired by Dr. Ugo Genesio, Secretary-General of the Institute.

30. The Institute will compile the wealth of material produced by the Round Table and will arrange for its publication, including the moderators' reports, in due course. It will also ensure the follow-up of the Round Table's recommendations, in cooperation with the other institutions concerned.