

The International Committee of the Red Cross and the promotion of international humanitarian law: Looking back, looking forward

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humanitarian law. She spent the last seven years of her career at the ICRC analyzing global trends in armed violence with the aid of a network of contacts in universities and strategic research centres. As political adviser responsible for analysing future trends in armed violence, she drew the attention of the ICRC's upper management and Assembly to emerging challenges.

Abstract

In a globalizing world marked by geopolitical upheaval, unprecedented threats to human security, new forms of violence and technological revolutions, particularly in the area of information technology, it is no simple task to raise awareness of international humanitarian law (IHL) applicable to armed conflict and ensure that warring parties comply with this body of law. This article traces the history of the International Committee of the Red Cross's (ICRC) work in promoting IHL from 1864 to the present, juxtaposing this history with important events in international relations and with the organization's (sometimes traumatizing) experiences that ultimately gave rise to innovative programmes. The article summarizes lively debates that took place at the ICRC around such topics as the place of ethics in the promotion of IHL, respect for cultural diversity in the various methods used to promote this body of law, and how much attention should be devoted to youth – as well as the most effective way to do so. The author concludes by sharing her personal views on the best way to promote IHL in the future by drawing on the lessons of the past.

Keywords: international humanitarian law, history, dissemination, promotion, integration, implementation, education, prevention, culture, ethics.

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Throughout its history, the ICRC has demonstrated its utility and unique role in the context of armed conflict, even though this is not the only situation of violence that falls within its remit. The organization's real strength lies in the mirror effect on which it was founded:¹ its work in conflict situations to help people in distress derives from IHL, which it encourages belligerent parties to abide by; and this body of law in turn grows and develops by virtue of the observations made by the organization in the theatre of conflict. This mirror effect sets the ICRC apart in the humanitarian sphere.

The aim of this article is to describe the ICRC's unique experience in promoting IHL since the nineteenth century in the hope that it will be of use to others. Since the advent of international criminal justice, IHL has been invoked often in the media, in most cases in reference to serious violations of that body of

1 This image was borrowed from François Bugnion, *The International Committee of the Red Cross and the Protection of War Victims*, 2nd ed., ICRC, Geneva, 2000, p. 301.

law. Governments, together with governmental and non-governmental organizations, refer to it to assess the behaviour of combatants, and they call on combatants to respect IHL. The military leaders of warring parties recognize the risks inherent in failing to train their troops in it; realizing that they may be called to account for their actions in a court of law, they put more of a priority on teaching IHL. Consequently, this body of law, which the ICRC has been promoting since its founding, is now more widely known and is defended by other entities. This is a positive development in a world in which IHL is often flouted and in which its very relevance is called into question.

To describe the ICRC's role in promoting IHL, it is first necessary to delineate the topic and then decide how to approach it.

This article only addresses the ICRC's work in the promotion of IHL,² its implementation³ and its integration⁴ into domestic law. It does not address dissemination of the Fundamental Principles of the International Red Cross and Red Crescent Movement,⁵ nor does it describe efforts undertaken in this regard by the National Red Cross and Red Crescent Societies or the International Federation of Red Cross and Red Crescent Societies (IFRC).

Given the impossibility of summarizing more than 150 years of promoting IHL in a few dozen pages, this article discusses, in chronological order, the initiatives that the author, drawing on her knowledge and the experience she acquired during her professional career, deemed most important. The progression from one phase in the history of the promotion of IHL to the next is linked to events that affected the

- 2 In the past, the "promotion" of IHL referred to efforts undertaken to encourage States to ratify the treaties that they had signed or to adhere to them; the term has taken on a broader meaning over time. Some use it in place of the word "dissemination", which is now considered a little old-fashioned. In this document, the promotion of IHL covers any action aimed at encouraging familiarity with, understanding of and respect for these rules and their spirit. Marion Harroff-Tavel, "Promoting Norms to Limit Violence in Crisis Situations: Challenges, Strategies and Alliances", *International Review of the Red Cross*, No. 322, March 1998.
- 3 Implementation, a legal obligation of States, consists of transposing IHL into domestic law, for cases when international law is not directly applicable or to set out criminal sanctions in the event of violations. It may involve more than one government ministry.
- 4 The integration of IHL aims at creating mechanisms and proposing practical measures to ensure it is included in the training of armed forces and security forces and in the education of certain components of civil society, such as youth and academic circles. Because awareness of the law does not automatically lead to a change in behaviour and attitudes, practical guidelines must be given in order to put the law into practice. This terminology is no more than twenty years old. It is specific to the ICRC and, initially, was used mostly in the context of legal support provided to the army and police. Until recently, this type of work aimed at civil society was included in the meaning of the term "dissemination".
- 5 "Dissemination is the spreading of knowledge of IHL and of the Principles and ideals of the Movement so that they may be understood, accepted and respected; it is also intended to facilitate humanitarian work." The dissemination of IHL targets arms carriers as well as civil society. It is a legal obligation of States, which receive support from other entities, mainly the ICRC, the National Societies and the IFRC (the task of dissemination is included in their statutes to varying degrees). See ICRC and League of Red Cross and Red Crescent Societies, *Promotion of International Humanitarian Law and of the Principles and Ideals of the Movement: Dissemination – Guidelines for the '90s*, preparatory document for the 26th International Conference of the Red Cross and Red Crescent, reprinted in *International Review of the Red Cross*, Vol. 32, No. 287, 1992, p. 175. This conference was postponed *sine die* – see Yves Sandoz, "The 26th International Conference of the Red Cross and Red Crescent: Myth and Reality", *International Review of the Red Cross*, Vol. 35, No. 305, 1995.

ICRC and gave rise to new initiatives. The process of identifying the defining initiatives and contextualizing them is, of course, partly subjective. Still, this analysis could serve as a useful starting point for further academic research, as it draws on no more than a rapid and limited examination of source documents, interviews, books and articles.

The article concludes with the author's comments on the future of IHL promotion, informed by her missions to diverse conflict situations in such places as Colombia, Darfur, Rwanda, Uganda, Bosnia and Herzegovina, Kosovo, Chechnya, Abkhazia, Nagorno-Karabakh and Tajikistan.

From 1863 to the First World War

The task of informing the public of the neutrality of both wounded soldiers and medical services can be traced to the first meeting, held on 17 February 1863, of the International Committee for Relief to the Wounded, the forerunner of the ICRC. Dr Théodore Maunoir put it this way: "It would be useful if the Committee 'kept agitating', if the expression might be allowed, for the adoption of our ideas by all, both high and low, by the rulers of Europe, no less than by the peoples."⁶ The Convention for the Amelioration of the Condition of the Wounded in Armies in the Field of 22 August 1864 embodied Henry Dunant's idea that sick and wounded soldiers should be helped, regardless of their country of allegiance, but it contained no provision enjoining the States Parties to instruct their armies in the contents of the Convention. In 1869, the 2nd International Conference of the Red Cross, meeting in Berlin, rectified this oversight when it affirmed the need to "spread awareness of the articles of the Geneva Convention as much as possible, especially among soldiers."⁷

Also in 1869, Gustave Moynier, one of the founders of the ICRC and the main author of the Convention, began publication of the *International Bulletin of Red Cross Societies*; beginning in 1919 it was supplemented by the *International Review of the Red Cross*, which ended up replacing it. In addition to providing information and sharing new ideas, these publications served as a link among the

6 Original French text: "Il serait bon que le Comité entretînt une agitation, si l'on peut s'exprimer ainsi, pour faire adopter nos vues par tout le monde, en haut et en bas, chez les souverains de l'Europe, comme dans les populations." Transcript of the minutes of the first meeting of the International Committee for the Relief of Wounded Soldiers, 17 February 1863. English translation published in *International Review of the Red Cross*, No. 23, February 1963, pp. 63–65. The French original text can be found in "Comité international de Secours aux Blessés, Commission spéciale de la Société en faveur des Militaires blessés durant les guerres, Séance de la Commission du 17 février 1863", *Procès-verbaux des séances du Comité international de la Croix-Rouge, 1863–1914*, ed. Jean-François Pitteloud, with contributions from Caroline Barnes and Françoise Dubosson, Société Henry Dunant and ICRC, Geneva, 1999, p. 18.

7 ICRC translation. Original French text: "répandre autant que possible, spécialement parmi les soldats, la connaissance des articles de la Convention de Genève". "Relativement à la guerre sur terre", Resolution I, point 15, IIème Conférence internationale des gouvernements signataires de la Convention de Genève et des Sociétés et associations de secours aux militaires blessés et malades, Berlin, 22–27 April 1869, p. 248.

National Societies. Today, the *Review* remains an important vector for the promotion of IHL.

Despite Moynier's efforts to inform people of its existence,⁸ the Geneva Convention had lost credibility by the end of the Franco-Prussian War of 1870–71. During that conflict, it was breached many times over, often due to the fact that soldiers and civilians alike were unaware of its content. Critics of the Convention claimed that an international treaty was not necessary to guarantee the neutrality of medical personnel, arguing that this could be accomplished through national regulations.

The International Committee refused to follow them down that path. In 1872, Moynier published a "Memo on the Creation of an International Judiciary Institution whose Purpose Would be to Prevent and Prosecute Violations of the Geneva Convention".⁹ In it he argued that, since public opprobrium was not sufficient to prevent violations, sanctions were necessary for the Convention to be properly applied. This proposal was not followed up on immediately, but it did prefigure the Nuremberg trials of 1945 and the International Criminal Court.

The ICRC's efforts did eventually begin to pay off: in 1877, not only did Russia, in its war against the Ottoman Empire, instruct all its troops to comply with the Geneva Convention, but the Russian Red Cross Society printed a Commentary on the Convention that Pierre Boissier considered a "model of its kind".¹⁰ The results, he said, were convincing: Turkish soldiers received the same care as Russian ones after being wounded.

A decisive step was taken in 1880. Moynier, aware of the paucity of military regulations in place at the time, came up with the idea of writing, under the auspices of the Institute of International Law that he had founded with other legal experts,¹¹ a manual on the laws of war on land meant for soldiers. In a forum where he held sway and could safeguard the Geneva Convention, he resurrected the idea of national regulations. The manual, which clearly and concisely lays out the principles that should guide the behaviour of soldiers, could be used as a model for the military manuals that States were called on to write and implement. It again addressed the issue of prosecuting violations, whose perpetrators were subject to criminal sanctions.¹² *The Laws of War on Land* or Oxford

8 To make the content more readily accessible, Gustave Moynier prepared a commentary on the Geneva Convention: *Droit des Gens—Étude sur la Convention de Genève pour l'amélioration du sort des militaires blessés dans les armées en campagne* (1864 et 1868), Librairie de Joël Cherbuliez, Paris, 1870.

9 ICRC translation. Original French text: Gustave Moynier, "Note sur la création d'une institution judiciaire internationale propre à prévenir et à réprimer les infractions à la Convention de Genève", *Bulletin International des Sociétés de Secours aux Militaires Blessés*, Vol. 3, No. 11, 1872.

10 Pierre Boissier, *History of the International Committee of the Red Cross: From Solferino to Tsushima*, Henry Dunant Institute, Geneva, 1985, p. 307. Established by the imperial family in 1867, the Russian Red Cross Society was originally named the Society for the Care of Wounded and Sick Soldiers.

11 The Institute of International Law, founded in 1873, plays a role both in the ongoing development of international law by establishing general principles applicable to that discipline, and in the progressive codification of those principles.

12 Before sanctions can be applied, the infractions have to be defined and identical provisions have to be incorporated in States' criminal codes so that soldiers understand the risk of violating the law; that was Gustave Moynier's reasoning. P. Boissier, above note 10, p. 480.

Manual¹³ was sent to all the governments of Europe and America. Translated into several languages, including Chinese, it inspired a number of States to prepare their own military manuals and was the subject of commentaries published by legal experts and military officials in specialized journals. Still, the rules contained in the Oxford Manual had to be made known – and Moynier thought of this. The Preamble is clear in this regard, stating: “it is not sufficient for sovereigns to promulgate new laws. It is essential, too, that they make these laws known among all people.”¹⁴

In 1887, seven years after the Oxford Manual was published, during the 4th International Conference of the Red Cross held in Karlsruhe, the National Societies were encouraged to “spread awareness of the Geneva Convention internally”.¹⁵

The years around the turn of the century bore witness to the vitality of the Red Cross. This was a time of technological revolution – with innovations like the electric telegraph and the spread of railroads – that was arguably analogous to the dawn of the computer age. The ICRC played an active role at the Diplomatic Conference of 1906, which was convened to revise the Geneva Convention. At this conference, governments’ obligation to instruct their troops – especially protected personnel – in the provisions of the Convention and to inform the wider population of the Convention was codified for the first time in IHL.¹⁶ The ICRC had overcome the headwinds impeding its work; it had been tested by several conflicts, which in the end demonstrated that the Geneva Convention did not interfere with military operations but did reduce loss of life.

The National Societies expanded their wartime and peacetime activities to a spectacular extent. The memo sent to the National Societies by Moynier on 15 March 1889 – entitled *Purpose and General Organization of the Red Cross (But et organisation générale de la Croix-Rouge)* – undoubtedly encouraged greater consistency in their flurry of initiatives without undermining their pioneering spirit or autonomy. In 1930 this work was renamed the *Handbook of the International Red Cross (Manuel de la Croix-Rouge internationale)* and became

13 *The Laws of War on Land* (Oxford Manual), adopted by the Institute of International Law at Oxford on 9 September 1880. See Dietrich Schindler and Jiri Toman (eds), *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions and Other Documents*, Martinus Nijhoff, Boston, MA, and Leiden, 2004, pp. 35–48.

14 *Ibid.*, p. 35.

15 ICRC translation. Original French text: “répandre la connaissance de la Convention de Genève en leur sein”. 4th International Conference of the Red Cross, Point VIII, “*Mesures prises par les Sociétés pour répandre la connaissance de la Convention de Genève dans l’armée, dans les cercles particulièrement intéressés à son exécution et dans le grand public*”, Karlsruhe, September 1887.

16 Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field of 6 July 1906, Art. 26. Article 1 of Convention IV respecting the Laws and Customs of War on Land, signed at The Hague on 18 October 1907, only required the High Contracting Parties to give “instructions to their armed land forces which shall be in conformity with the Regulations respecting the laws and customs of war on land, annexed to the present Convention”. The Convention (X) for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention, also signed at The Hague on 18 October 1907 and modelled on the 1906 Convention, was more restrictive in its Article 20: it called on the signing powers to take “the necessary measures for bringing the provisions of the present Convention to the knowledge of their naval forces, and especially of the members entitled thereunder to immunity, and for making them known to the public”.

the text that generations of delegates tasked with promoting IHL carried with them as they headed off into the field of combat and to foreign ministries.

From 1863 to the First World War, the foundations that continue to guide the promotion of IHL today were laid. These include governments' obligation to spread awareness of IHL among soldiers and the general populace; the need to make IHL accessible, to encourage States to enshrine the responsibility of promotion in domestic laws and regulations, and to put in place sanctions; and the responsibility of the National Societies to disseminate IHL's contents both internally and in public fora.

From one World War to the next

The ICRC's main concern during this period was to inform as many people as possible of its work. In terms of IHL more specifically, the organization sought to ensure that it was properly applied during the war, and then to further strengthen it. On 21 September 1914, the ICRC called on all belligerents to give specific instructions to their army commanders in order to ensure that the "humane provisions" of the Geneva Convention of 1906 would be respected.¹⁷

At the end of the First World War, the organization was confronted with situations of violence within States. Indeed, the post-war years were marred by domestic insurrections: the Russian Civil War starting in 1917, the fall of the German Empire in 1918 and the Hungarian Revolution in 1919. It is therefore not surprising that the nagging question of Red Cross assistance for victims of civil wars was on the agenda of the 10th International Conference of the Red Cross, which took place in Geneva in 1921. Attendees at this conference, which set the stage for Red Cross involvement in cases of internal conflicts, expressed the desire that the National Societies and the ICRC "undertake intensive propaganda to create in all countries an enlightened public opinion, aware of the complete impartiality of the Red Cross".¹⁸ This would be the "most effective safeguard possible against any violation of Red Cross principles in the event of civil war". The same International Conference encouraged the ICRC to "continue its supervision to ensure respect for the Geneva Convention and to intervene whenever necessary to ensure that its principles are applied".

Another important development during the post-war period was the ICRC's foray into university education. An international law school was founded in Paris, and Paul Des Gouttes was asked to teach a course on the Red Cross

17 André Durand, *History of the International Committee of the Red Cross: From Sarajevo to Hiroshima*, Henry Dunant Institute, Geneva, 1984, p. 49.

18 ICRC translation. Original French text: "s'engageant à faire une propagande intense pour créer dans tous les pays une opinion publique éclairée, connaissant la pleine impartialité de la Croix-Rouge". "Civil War" (Resolution XIV, Xth International Conference, Geneva, 1921), *Handbook of the International Red Cross and Red Crescent Movement*, 14th ed., ICRC, Geneva, 2008, pp. 1139–1141. Resolution IX of the 14th International Red Cross Conference, held in Brussels in 1930, also implored the National Societies to "intensify their propaganda" ("intensifier leur propagande"). At the 15th International Red Cross Conference in Tokyo in 1934, the role of the League in this matter was set out in Resolution VII.

there in 1922. It was the first time such an invitation had been made by a law school. Red Cross law was also taught at the Hague Academy in 1925 and 1927. It was not until the end of the Second World War, however, that the ICRC petitioned law schools to include such courses in their curricula.¹⁹

The ICRC's efforts in the academic realm are unsurprising. In the 1920s, after a years-long World War, the idea of updating the 1906 Convention garnered much enthusiasm. The specific question of promoting IHL was mentioned in Article 27 of the Geneva Convention of 27 July 1929, which reaffirmed the High Contracting Parties' obligation to take the "necessary steps to instruct their troops, and in particular the personnel protected, in the provisions of the present Convention, and to bring them to the notice of the civil population".²⁰

The two Red Cross International Conferences that preceded the outbreak of the Second World War – held in Tokyo in 1934 and London in 1938 – were for the Movement an opportunity to assert three core beliefs against a backdrop of crisis and expectations of another global conflict.²¹ The first belief was that young people should be familiar with the principles underpinning the Geneva Convention and the Red Cross.²² The ICRC and the League of Red Cross Societies, which had been asked in Tokyo to prepare a manual for children between the ages of 10 and 14, were congratulated in London for the collection of readings for young people that they had written.²³ The second belief had to do with States' responsibility to incorporate IHL into domestic legislation on the basis of a collection put together by the ICRC. For this purpose, National Societies were expected to "study the laws of their country, compared with other countries' domestic laws, in order to draw the attention of their respective Governments to any gaps in their laws".²⁴ The third belief related to the Red Cross's teaching role – a task with both a practical and a moral component – which was included in a resolution.²⁵

19 A. Durand, above note 17, pp. 132–133. Contacts with academia at this time were occasional and *ad hoc*. The first ICRC delegate assigned to work with academia was appointed in 1997.

20 Protected personnel are to be understood as "medical, administrative and transport staff and chaplains" ("sanitaires, personnel d'administration ou conducteur, aumôniers"), who must respect the Conventions in exchange for the privileges and immunity they enjoy. Paul Des Gouttes, *Commentaire de la Convention de Genève du 27 juillet 1929*, ICRC, Geneva, 1930, p. 193.

21 This backdrop included the economic depression of the early 1930s, the Chaco War (1932–35), the Second Italo-Ethiopian War (1935–36), the Spanish Civil War (1936–39), the Second Sino-Japanese War (1937–39) and the annexation of Austria by Hitler (1938). The ICRC had serious financial problems in 1938.

22 "Enseignement à la jeunesse des principes de la Convention de Genève et de la Croix-Rouge", Resolution IX, 15th International Conference of the Red Cross, Tokyo, 1934.

23 "Children's History of the Red Cross", Resolution XXIII, 16th International Conference of the Red Cross, London, 1938.

24 ICRC translation. Original French text: "à l'étude de la législation de leur pays, comparée avec les autres législations nationales, aux fins d'attirer l'attention de leurs Gouvernements respectifs sur les lacunes éventuelles de leur législation". "Recueil de textes relatifs à l'application de la Convention de Genève", Resolution XL, 15th International Conference of the Red Cross, Tokyo, 1934.

25 "La Croix-Rouge éducatrice", Resolution XXVI, 16th International Conference of the Red Cross, London, 1938.

What are the key points to take away from the interwar years? Apart from periods of major conflict, the ICRC was still modest in terms of size and financial wherewithal, and depended on the services of volunteers. Its main focus was on spreading awareness of its work, and with this in mind it expanded the scope of “target groups” for its dissemination efforts. On 17 April 1945, the Legal Division was created under the leadership of Jean Pictet.

Aftermath of the Second World War

During the Second World War, the ICRC’s energies were focused on the Central Agency for Prisoners of War, visits to prisoner-of-war and civilian internment camps, and its relief work.²⁶ Still, the ICRC kept busy in the area of dissemination. It created an Information Division near the end of the war to produce films, pamphlets, press releases, exhibitions and radio broadcasts. This division’s staffing was reduced by 80% in 1946 owing to a shortage of resources, but the ICRC was still able, ten years after the London Conference, to publish a pamphlet called *Inter arma caritas* in five languages,²⁷ produce a film on this topic, and publish Jean-Georges Lossier’s book *Fellowship: The Moral Significance of the Red Cross*²⁸ and an English-language supplement to the *Review*. Together with the League, it incorporated the new Conventions into the *Handbook of the International Red Cross (Manuel de la Croix-Rouge internationale)*, which it reissued and published also in English and Spanish. These were substantial undertakings for an organization that, in 1948, had thirty-four delegations staffed by seventy-five delegates, over half of whom were volunteers (in comparison, the ICRC today has approximately 13,400 delegates in more than eighty countries).

We can now look at the immense task of revising and codifying IHL, which the ICRC had begun even before the Second World War ended, at a time when it was fighting “for its survival” and “on the verge of bankruptcy”.²⁹ The Geneva Conventions of 1949 clarified certain aspects of the 1906 and 1929 Conventions. They also added the obligation of the High Contracting Parties to disseminate the 1949 Conventions as widely as possible, in times of war and peace, in “programmes of military and, if possible, civil instruction”.³⁰ The Commentary

26 One activity of the ICRC should be mentioned here: the legal assistance that it provided to prisoners of war who were subject to criminal sanctions in an effort to ensure they were accorded at least the minimum rights provided by the 1929 Convention. When it came to prosecuting violations of the law, the ICRC wanted to ensure that this was not done in a spirit of vengeance or reprisal.

27 Frédéric Sordet, *Inter Arma Caritas: The Work of the International Committee of the Red Cross During the Second World War*, Geneva, ICRC, 1973.

28 Jean-Georges Lossier, *Fellowship: The Moral Significance of the Red Cross*, Geneva, 1948.

29 ICRC translation. Original French text: “pour sa survie” and “au bord de la banqueroute”. Catherine Rey-Schyr, *De Yalta à Dien Bien Phu: Histoire du Comité international de la Croix-Rouge, 1945–1955*, Georg, Geneva, 2007, Foreword by François Bugnion, pp. 7–9.

30 Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, 75 UNTS 31 (entered into force 21 October 1950) (GC I), Art. 47; Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, 75 UNTS 85 (entered into force 21 October 1950) (GC II), Art. 48;

on these articles points out that this obligation was “general and absolute” and that the expression “if possible” did not make it optional.³¹ It was included because, in some countries, civilian instruction is not under the authority of the central government.

States are also required to adopt the legislative, administrative and regulatory measures necessary to ensure that the Geneva Conventions are respected. They must establish “effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article”.³² This was a major step forward.³³

The Cold War and decolonization

What did the ICRC do during the Cold War and the decolonization period to promote IHL, apart from the codification efforts mentioned above? It is necessary to place the discussion in context. When the First World War ended, the ICRC faced the challenge of civil wars; after the Second World War, the challenge was wars of independence. These included the Indochina War, the struggle for independence in the Dutch East Indies, fighting in the wake of the partition of British India, and the decolonization of the British and French mandate territories in the Middle East and North Africa. The ICRC’s theatre of operations had shifted from Europe to so-called “third world” States that had adhered to the Geneva Conventions by reaffirming their country’s treaty commitments. Human rights law came into play internationally with the adoption of the Universal Declaration of Human Rights in 1948, followed by the International Covenants in 1966.³⁴ In a bipolar world with an intensifying arms race, ideological enmity was near its peak. Communist bloc countries considered IHL to be a form of superstructure that expressed the will of the ruling class. It is not known what concrete initiatives the Soviet Union undertook to instruct its troops in the Geneva Conventions during that period. Marxist doctrine, based on class struggle, rejected the concepts of neutrality and impartiality. The trauma caused by the

Geneva Convention (III) relative to the Treatment of Prisoners of War of 12 August 1949, 75 UNTS 135 (entered into force 21 October 1950) (GC III), Art. 127; Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War of 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950) (GC IV), Art. 144. The wording in the four articles is nearly identical. Article 127 of GC III adds that any “military or other authorities, who in time of war assume responsibilities in respect of prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions”. The commentary on this article mentions the groups to be targeted for civilian instruction: National Societies, the press and law faculties. Article 144 of GC IV also mentions dissemination to police forces “who in time of war assume responsibilities in respect of protected persons”. The Commentary on this article states that the Red Cross has a significant role to play in the area of dissemination.

31 Jean Pictet (ed.), *The Geneva Conventions of 12 August 1949: Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field: Commentary*, with contributions by Frédéric Sordet (collab.) et al., ICRC, Geneva, 1952, pp. 348–349.

32 GC I, Art. 49; GC II, Art. 50; GC III, Art. 129; GC IV, Art. 146.

33 F Bugnion, above note 1, pp. 1081–1083.

34 International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, adopted by the UN General Assembly on 16 December 1966.

atrocities committed in the Soviet Union during the Second World War was a sensitive topic, and the ICRC, which had been unable to protect Soviet prisoners held by the Germans, was widely mistrusted. Promoting IHL in this context was quite a challenge.

The post-war period: Priorities other than the dissemination of IHL

At the start of the Cold War, the task of spreading awareness of IHL does not appear to have been a priority. In the first place, confrontations between the superpowers were played out in third-world conflicts, where the United States and the Soviet Union maintained a degree of influence over their satellite countries dependent on their support. The ICRC hoped that the United States would use this influence to keep an eye on the fighting. The Soviet Union and its allies justified their behaviour by invoking a reservation they had entered in regard to the Third Geneva Convention of 1949. This reservation stated that a prisoner of war who had been convicted of war crimes or crimes against humanity could be excluded from the protections afforded by the Convention.³⁵ Certain facets of the Convention had thus been stripped of their substance, but at least the reference to IHL remained. The ICRC then focused its attention more on strengthening this body of law and protecting civilians. The organization was still hampered by modest financial resources, and its legal staff were busy preparing commentaries on the Geneva Conventions.

New Delhi, 1957: Growing interest in teaching young people

The 19th International Conference of the Red Cross, held in New Delhi in 1957, encouraged the ICRC to pay more attention to the youth of the day, perhaps in view of the demographic composition of the theatres of hostilities and the chilling of East–West relations caused by the Cold War. The Conference proposed several measures meant to “educate the young generation in the spirit of the Geneva Conventions”.³⁶ Among these were the inclusion in school curricula of the core principles of the Geneva Conventions; efforts by the League, with the ICRC’s support, to include the topic “The School and the Publicising of the Geneva Conventions” in an upcoming conference on public education being organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Bureau of Education; and the production of films on the Geneva Conventions meant for young people. The Conference felt that it was necessary to instil in youth “the ideal of peace and respect for others” and that “the Geneva Conventions constitute a sound basis for social education”.³⁷

35 F. Bugnion, above note 1, pp. 719–724; Claude Pilloud, “Reservations to the Geneva Conventions of 1949”, *International Review of the Red Cross*, Vol. 16, No. 180, 1976, p. 115.

36 “Young People and the Geneva Conventions”, Resolution XXIX, 19th International Conference of the Red Cross, New Delhi, 1957.

37 “Practical Means of Spreading Knowledge of the Geneva Conventions among Young People”, Resolution XXX, 19th International Conference of the Red Cross, New Delhi, 1957.

Early 1960s: A dissemination plan, a new dynamic

In the 1960s, the ICRC adjusted its focus. It planned to fulfil its responsibility set forth in its statutes to work “for the continual improvement and diffusion of the Geneva Conventions”,³⁸ to which all countries in the world were party. Increasing awareness of the dangers that the Cold War and the arms race posed for humanity made people more amenable to the ICRC’s message. It was once again possible to talk about war. The ICRC had its work cut out for it, however, since according to Jean Pictet, only the Federal Republic of Germany had made a true effort to disseminate the Conventions.

The ICRC began by adopting a plan for disseminating the Geneva Conventions on 5 March 1959. It identified three target groups: the army, the medical corps and the public. This latter group was further divided into three categories: youth, college students and the general public (officials of National Societies and civil defence, police corps and all government officials who, in the event of an armed conflict, would have to apply the Conventions). Numerous activities were planned which, depending on the target group, ranged from standard activities (books, classes, instruction manuals, films, radio broadcasts, training courses) to more original ones (including cartoons, a fictional story of a family protected by the Geneva Conventions, and real-life stories of people protected by the Conventions). Professor Jacques Freymond pitched another idea: a four-lesson course on the Geneva Conventions, to be given at the Graduate Institute of International Studies in Geneva.³⁹ The ICRC also recognized the importance of improving its relationship with the press, which saw the organization as uncommunicative.

Congo, Biafra, Yemen: Confronting ignorance of IHL

The ICRC was aware of its lack of familiarity with non-European countries despite having engaged in some limited work on other continents. It realized that “eight years after the end of the Second World War, it was still beholden to a mind-set and organization that had been imposed on it by the circumstances of the war”.⁴⁰ That had to change.

Between 1958 and 1962, decolonization in Africa and the ICRC’s work on that continent in conflict situations, including in Congo, made two things clear: the ICRC knew next to nothing about these countries, and IHL and the Red Cross were

38 Statutes of the International Red Cross, adopted by the 18th International Conference of the Red Cross, Toronto, July–August 1952, Art. VI, para. 7.

39 Responsibility for teaching this course has been taken over by the Geneva Academy of International Humanitarian Law and Human Rights, which is jointly managed by the Graduate Institute of International and Development Studies and the University of Geneva.

40 ICRC translation. Original French text: “huit ans après la fin du deuxième conflit mondial, il vivait encore selon une optique et avec une organisation qui lui avaient été imposés par les circonstances de la guerre”. ICRC, “Rapport du groupe de travail No. I présenté à l’assemblée plénière du CICR”, 11 March 1954, Archives du Comité International de la Croix-Rouge, Microfilms, procès-verbaux, C 03.

practically unknown quantities there.⁴¹ So the ICRC undertook two initiatives. First, it created a general delegation for subequatorial Africa, one of whose tasks was to spread awareness of IHL. Second, it began to train African interns, established contact with African circles in Geneva, and reissued a culturally adapted booklet on the Geneva Conventions with the help of African artists. These decisions were driven by principles in vogue at the time: decentralization of its work, humanitarian diplomacy and sensitivity to cultural diversity.

The North Yemen Civil War (1962–70), the final years of which overlapped with the Nigeria–Biafra conflict, helped usher in this change in paradigm. Yemen had existed in total isolation, and the people were utterly unaware of the Geneva Conventions. Certain local traditions (such as punitive mutilations) were not permitted under IHL.⁴² This conflict brought the ICRC face to face with the effects wrought by ignorance of existing norms, and it had a major emotional impact within the organization. The ICRC had to do something.

The ICRC reorganizes in line with its ambitions

What did the ICRC do concretely in the following years? For one, it continued to publish for the purposes of disseminating IHL. It also modified its internal structure to support its ambitions: it strengthened its press division and, in 1970, created a department in charge of external growth, and a dissemination division. This reorganization at headquarters was accompanied by the setting up of regional delegations in Latin America, Africa and Asia in the early 1970s. The ICRC also involved the National Societies in its dissemination efforts,⁴³ while reminding governments of their responsibilities as well.⁴⁴

All these efforts ran parallel to a growing interest at the United Nations (UN) in raising awareness among troops of the principles and spirit of the Geneva Conventions and to dissemination-related resolutions adopted by the International Conferences of the Red Cross held in Vienna (1965), Istanbul (1969) and Tehran (1973).⁴⁵ These efforts would be further supported by two training institutes: the International Institute of Humanitarian Law, founded in

41 Françoise Perret and François Bugnion, *De Budapest à Saigon: Histoire du Comité international de la Croix-Rouge, 1956–1965*, ICRC and Georg, Geneva, 2009, pp. 319–320.

42 *Ibid.*, p. 548.

43 On 26 August 1970, the first circular on dissemination was sent to the National Societies, suggesting that they take part in a global dissemination campaign and share their experiences with the ICRC. In January 1971, a first report on dissemination was sent to the National Societies, and on 30 March 1971 a questionnaire on university education in IHL was sent to the National Societies and universities. In 1972, a university curriculum on IHL and a dissemination action plan were sent to the National Societies, and the issue of dissemination was systematically included in the *International Review of the Red Cross*. In October 1976, the first IHL training course for National Society officials was given at the Henry Dunant Institute.

44 On 15 August 1972, the first memorandum on dissemination was sent to governments.

45 “Implementation and Dissemination of the Geneva Conventions”, Resolution XXI, 20th International Conference of the Red Cross, Vienna, 1965; “Dissemination of the Geneva Conventions”, Resolution IX, 21st International Conference of the Red Cross, Istanbul, 1969; “Implementation and Dissemination of the Geneva Conventions”, Resolution XII, 22nd International Conference of the Red Cross, Tehran, 1973.

San Remo in 1970, and the Interamerican Institute of International Humanitarian Law set up in Bogotá in 1976 under the auspices of the Santo Tomas de Aquino University and the Columbian Red Cross. The ICRC could also count on the support of the Henry Dunant Institute in Geneva, which it founded together with the League of Red Cross Societies and the Swiss Red Cross in 1965.

The 1975 Tansley Report: Dissemination as a factor for protection

While the 1960s saw the ICRC putting the foundations of dissemination into place, the 1970s was a time for internal challenges that ran parallel to the expansion of its dissemination work. These challenges culminated in the Tansley Report of 1975. The ICRC had been deeply affected by the controversy surrounding the interruption of its work in the Nigeria–Biafra conflict;⁴⁶ while carrying out major relief operations, it became aware of the presence of hundreds of public and private humanitarian initiatives. The ICRC and the League, in conjunction with the National Societies, commissioned a study into the role of the Red Cross by a team of researchers headed by Donald Tansley.⁴⁷ The team visited forty-five countries and produced a series of reports. The dissemination aspect of the study was summarized as follows: “Dissemination of the Geneva Conventions is a difficult task, but even there, much more could be done.”⁴⁸ In a comment that is significant to anyone who knows the internal dynamics of the ICRC, Tansley considered dissemination to be a form of indirect protection: “Red Cross protection is interpreted by the ICRC not only in the minimum sense of deterring bodily harm but also at times in the maximum sense of developing an individual’s qualities as a human being. Thus the ICRC facilitates educational programmes.”⁴⁹ The Tansley Report concluded with a series of recommendations, some of which had to do with the promotion of IHL:

- strengthen the Red Cross’s international network, which, as a pressure group vis-à-vis governments, was one of its main assets;
- depend more on the League and the National Societies to help people understand the usefulness of the law and provide additional information on topics including patterns of violence, detention conditions and the use of weapons;
- “simplify the law, in information terms if not in legal terms”, since there are, “after all, a limited number of people in the world who are able to interpret it in its present form”;⁵⁰ and

46 Simone Delorenzi, *Contending with the Impasse in International Humanitarian Action: ICRC Policy Since the End of the Cold War*, ICRC, Geneva, 1999, pp. 22–23.

47 In 1968, Donald Tansley was appointed vice-president of the Canadian International Development Agency. From 1973 to 1975, he examined the role of the International Red Cross.

48 Donald D. Tansley, *Final Report: An Agenda for Red Cross – Re-appraisal of the Role of the Red Cross*, Henry Dunant Institute, Geneva, 1975, p. 23.

49 David P. Forsythe, *Re-appraisal of the Role of the Red Cross*, No. 1: *Present Role of the Red Cross in Protection*, ed. Joint Committee for the Reappraisal of the Role of the Red Cross, Henry Dunant Institute, Geneva, 1975, p. 49.

50 D. D. Tansley, above note 48, p. 69.

- adopt a regional approach to conveying information, which “could take into account cultural values and practices, as well as associating Red Cross values more directly with the values found in a particular culture”.⁵¹

That same year, Jacques Moreillon took over as head of the Department of Doctrine and Law. Drawing largely on the Tansley Report, to which the ICRC would eventually respond,⁵² he devoted a dissemination policy and significant resources to the matter. He was also instrumental in further developing the organization’s official policies and historical research, and this helped strengthen the identity of the organization, whose responsibility was to promote IHL.

1977: From the Diplomatic Conference to the Warsaw Seminar

In many ways, 1977 was a pivotal year for the dissemination of IHL: the Additional Protocols to the Geneva Conventions, which reaffirm and extend the obligation of States to disseminate IHL, were adopted;⁵³ a draft action plan was set out in Resolution 21 of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts;⁵⁴ the first regional seminars, in Warsaw for Europe and Yaoundé for Africa, were organized; and the 23rd International Conference of the Red Cross (held in Bucharest) reaffirmed the importance of dissemination.

The Diplomatic Conference: Widening obligations

The Additional Protocols expand the High Contracting Parties’ obligation to disseminate the Geneva Conventions and the Additional Protocols as widely as possible. This represents incontestable progress in the realm of non-international armed conflicts, since Article 3 common to the four Geneva Conventions does not mention this obligation. Additional Protocol I, applicable in international armed conflicts, calls for armed forces to be instructed in the Geneva Conventions and encourages the civilian population to study them (as in 1949, a flexible formulation was needed in view of the decentralized educational systems in federal states). It stipulates: “The High Contracting Parties and the Parties to

51 *Ibid.*, p. 69.

52 ICRC, *The ICRC, The League and the Report on the Reappraisal of the Role of the Red Cross*, Geneva, 1979, offprint regrouping content from several issues of the *International Review of the Red Cross* from No. 204, June 1978, to No. 208, February 1979.

53 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977 (entered into force 7 December 1978) (AP I), Art. 83; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 1125 UNTS 609, 8 June 1977 (entered into force 7 December 1978), Art. 19.

54 *Draft Resolution CDDH/438 on the Dissemination of Knowledge of International Humanitarian Law Applicable in Armed Conflicts*, Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva (1974–1977), 55th plenary meeting, 7 June 1977, Vol. 7, p. 181.

the conflict shall without delay take all necessary measures for the execution of their obligations under the Conventions and this Protocol.”⁵⁵ Additional Protocol I also includes concrete measures: qualified personnel must be trained, in peacetime and with the support of the National Societies, to facilitate the implementation of the Conventions and the Protocol; legal advisers must be available to the armed forces to assist in the implementation of the law and in the training of those forces; commanders must ensure those under their control are aware of their obligations under the Conventions and the Protocol; and the High Contracting Parties must inform each other, as quickly as possible, of the laws and regulations they adopt to implement the Protocol.⁵⁶ Today, making legal advisers available to military commanders, training the armed forces and teaching this body of law to the civilian population are considered customary rules that also apply in non-international armed conflicts.⁵⁷

The Diplomatic Conference also declared “a state of emergency” (“un état d’urgence”) in reference to dissemination⁵⁸ – a call heeded by Jacques Moreillon, then director of IHL at the ICRC. His initiatives would underpin new developments in the promotion of this body of law. Resolution 21 lays out an action plan that includes training qualified personnel, incorporating courses in university curricula and teaching the principles of humanitarian law in secondary schools. It encourages the ICRC to publish materials, circulate information and organize seminars and courses on IHL. The National Societies are called on to provide support in these matters to their respective governments.

Poland: The promotion of IHL as a vector of East–West dialogue

The conferences of experts that met from 1969 to 1974 and the Diplomatic Conference held from 1974 to 1977 gave rise to an East–West dialogue that paved the way for the adoption of the Additional Protocols. The ICRC then had the idea of continuing this dialogue and cooperative effort on each side of the Iron Curtain and orienting them toward the dissemination of IHL. One country in particular – Poland – could serve as the framework for this dialogue. Poland had seen and was thankful for the ICRC’s involvement in the process of compensating victims of pseudo-medical experiments conducted in the concentration camps under the Nazi regime, and it was hungry for contacts beyond the Soviet orbit. The Polish Red Cross enjoyed relative independence. Friendships had developed over the course of eight years of negotiations between the ICRC’s legal experts and important figures in the Polish academic milieu. The first European seminar on the dissemination of the Geneva Conventions was

55 AP I, Art. 80, para. 1.

56 AP I, Arts 6, 82, 87, 84.

57 Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Vol. 1: *Rules*, Cambridge University Press, Cambridge, 2005, Rules 141–143, pp. 500–508.

58 Sylvie-Stoyanka Junod, “La diffusion du droit international humanitaire”, in Christophe Swinarski (ed.), *Studies and Essays on International Humanitarian Law and Red Cross Principles in Honour of Jean Pictet*, ICRC and Martinus Nijhoff, Geneva, 1984, p. 365.

therefore held in Warsaw, in 1977. It produced three general conclusions: dissemination is primarily a duty of States; dissemination should not be limited to the Geneva Conventions but should also include the Fundamental Principles “in the general concept of the individual’s responsibilities towards others”; and dissemination cannot be dissociated from the encouragement of a spirit of peace.⁵⁹

Dissemination as a factor for peace?

The key debate at the time concerned the issue of peace. There were two schools of thought: one, supported by the Soviet bloc countries (which at the time held the advantage in terms of conventional weapons, while the West held the nuclear edge), felt that the Red Cross should weigh in on current issues such as disarmament and new weapons development and condemn aggressors, while the other sought to avoid using the issue of peace to politicize the Red Cross. The question of dissemination did not escape the controversy – does it contribute to peace? José Barroso, chairman of the League’s Board of Governors, noted at the International Conference of the Red Cross held in Tehran in 1973, “it strikes me as contradictory that the Geneva Conventions should be disseminated as a factor for peace when they deal solely with the protection of war victims”; to which Jean Pictet replied, “I think that whenever in wartime men agree not to kill each other, agree to care for each other and to protect each other, they accomplish an act of peace.”⁶⁰ At the same time, the Conference, in a unanimous resolution, said it was “convinced that, in a world torn by violence, there is a pressing need for a widespread dissemination of and instruction in the Geneva Conventions, as an expression of basic Red Cross principles, and hence a factor for peace.”⁶¹ The Bucharest Conference confirmed this view, stressing that dissemination should never “make war appear ‘acceptable’”.⁶² This was a welcome message in countries with authorities that refused to recognize being in a situation of conflict, and in societies that wished to put war behind them.

The practical scope of this normative work: The ICRC in Poland under martial law

The ICRC’s commitments and activities in the following years are too numerous to discuss in detail. For anyone wondering about the practical impact of these standards, resolutions, seminars and action plans, one particular success of the

59 ICRC translation. Original French text: “dans le concept général des responsabilités de l’individu vis-à-vis de ses semblables”. 23rd International Conference of the Red Cross, Bucharest, “European Seminar on Dissemination of Knowledge of Geneva Conventions, Warsaw, 21–30 March 1977”, report presented by the ICRC and the Polish Red Cross, June 1977, p. 6-V.

60 Report of the 22nd International Conference of the Red Cross, Tehran, 8–15 November 1973, p. 71.

61 “Implementation and Dissemination of the Geneva Conventions”, Resolution XII, 22nd International Conference of the Red Cross, Tehran, 1973.

62 “Dissemination of Knowledge of International Humanitarian Law Applicable in Armed Conflicts and of the Fundamental Principles of the Red Cross”, Resolution VII, 23rd International Conference of the Red Cross, Bucharest, 1977.

ICRC is worth mentioning. At the end of 1981, the Polish government decreed martial law and arrested the leaders of Solidarnosc. The country was totally cut off from the outside world, and dire rumours were circulating. In this tense situation, ICRC delegates were able to enter the country, cross the barricades and visit the “internees”. Furthermore, the government did not lay a finger on the officials of the National Society. This success was attributed to the dissemination efforts that had been conducted in the country in the preceding years. The ICRC’s interlocutors, well aware of the organization’s objectives and of the consequences of a constructive response, did not have to think twice.

1978 to 1990: The rise in dissemination after the Nyamaropa tragedy

The Nyamaropa tragedy, in 1978, was the catalyst for a major dissemination effort that went well beyond the scope of Africa. Three ICRC delegates were brutally murdered in Rhodesia – the victims of ignorance – while they were driving a vehicle clearly displaying the Red Cross emblem. This sent the ICRC into a state of shock. The organization responded by putting into place several measures to encourage the warring parties to respect IHL and reduce the risk of such crimes recurring.

The information campaign in Rhodesia

The Department of Operations and the Press and Information Division launched a massive information campaign in Rhodesia after consulting sociologists, professors, journalists and other members of civil society. They were advised to draw on the talents of African communication specialists in order to send a simple but meaningful message to the political leaders, guerrilla leaders and refugees in the camps and in rural areas, including children. Communication teams were set up in Rhodesia, Botswana and Zambia. Numerous channels and means of communication were employed, including television, radio, posters and cartoons. Afterwards, no faction displayed any hostility towards the ICRC. The success of this campaign led the ICRC to replicate it in the Philippines, Angola and El Salvador.⁶³ The principle of sending a specialized delegate to crisis situations became standard. On-the-spot dissemination (*la diffusion à chaud*) was born. It would quickly become an integral part of all the ICRC’s major operations and would be specifically mentioned in the fundraising appeals that the organization sent to the international community.

63 Jenny Griswold, “A Communication Campaign Designed to Solve a Critical Humanitarian Problem”, Case Study No. 1726, *PR News*, ISSN 0033-3697; ICRC, *Red Cross Information in Areas of Conflict: Analysis of the Information Campaign in Southern Africa 1978–1980, Recommendations for Similar Activities in Africa in the Future*, Geneva, 1981.

In 1982, the two approaches – on-the-spot dissemination and dissemination conducted away from the battlefield (*la diffusion à froid*) – were merged following a restructuring. This offered an advantage. Dissemination now had as much to do with the role of delegates and the nature of their work (some saw it as a “life insurance policy” for ICRC delegates) as with the essential principles of IHL and the protection of non-combatants. In the field, the task of delegates responsible for dissemination and communications was not always easy, however, and their work was often considered the poor child of the organization’s larger mission rather than as part of a comprehensive protection strategy.

Dissemination seminars in the 1980s: The case of South America

Beginning in 1977 and throughout the 1980s, the ICRC ran numerous dissemination seminars in Eastern Europe, Africa, Asia and Latin America on Jacques Moreillon’s impetus and with his involvement.

The organization’s initiatives to raise awareness of IHL in South America are of particular interest. This continent represented a testing ground for the organization. This was a time when military dictatorships were highly wary of human rights and considered human rights defenders dangerous left-leaning activists. The ICRC was nevertheless able to convince members of the Argentine and Chilean militaries not only to participate in seminars on the theme of “Human Rights, International Humanitarian Law and National Security” (such as in Costa Rica and Colombia) but also to organize such events back home (in Argentina and Chile, for example).⁶⁴ While agreeing that the exigencies of national security (to use the military terminology) implied limitations on human rights, the ICRC insisted that these limitations could in no case infringe upon the baseline set forth in common Article 3, even in cases where humanitarian law did not apply.

Action plans: Defining the “target groups”

More broadly, the ICRC decided on the need to clarify the strategic orientations of dissemination and translate them, with its partners in the Movement, into concrete objectives. Between 1978 and 1990,⁶⁵ the ICRC and the League came up with three action plans, in consultation with the National Societies. These plans had three main thrusts: encouraging States to accede to the Additional Protocols, conducting more in-depth research and publishing the results, and continuing to promote IHL and the Fundamental Principles.⁶⁶ These objectives were met: during this period the

64 It is worth mentioning the Inter-American Seminar on State Security, Human Rights and International Humanitarian Law, organized jointly by the ICRC and the Inter-American Institute of Human Rights, in San José, Costa Rica, in 1982. It was attended by representatives of the military and of National Societies and by researchers specializing in human rights, from across the continent. The ICRC also took part in seminars in Bolivia, Uruguay, Peru, Chile and Venezuela.

65 Action plans for the periods 1978–1981, 1982–1985 and 1986–1990.

66 Details on what was done in the 1980s are contained in the guidelines for the 1990s.

ICRC president issued five appeals to governments calling on them to adhere to the Protocols or to ratify them, and more than 170 missions for this same purpose took place. The main legal work was a Commentary on the Additional Protocols⁶⁷ – this was among 223 texts on IHL and/or the Fundamental Principles published by the ICRC, the League and the Henry Dunant Institute between 1975 and 1990. Dissemination projects targeted six specific groups: National Societies, armed forces, governments,⁶⁸ universities,⁶⁹ health-care personnel⁷⁰ and the mass media.

Support for the National Societies enshrined in the 1986 Statutes

The ICRC allocated resources to its collaborative work with the National Societies. They were encouraged to appoint someone in charge of dissemination, and many of them received educational material, a financial contribution and training support. The ICRC also trained dissemination delegates of its own to provide support to the National Societies; at the end of 1983, four regional ICRC delegations were assigned one of these delegates. In 1987, in a first among National Societies, the Moroccan Red Crescent organized six seminars for the “target groups” identified in the Movement’s action plan.

The 1986 version of the Statutes of the International Red Cross and Red Crescent Movement, still in effect today, clarifies the roles of the respective entities:⁷¹

- the National Societies “disseminate and assist their governments in disseminating international humanitarian law; they take initiatives in this respect”;
- the ICRC’s role includes “to maintain and disseminate the Fundamental Principles of the Movement” and “to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflict”, a mission that was already set forth, in simpler form, in the 1952 Statutes;
- the League is to “assist the International Committee in the promotion and development of international humanitarian law and collaborate with it in the dissemination of this law and of the Fundamental Principles of the Movement among the National Societies.”

67 ICRC, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Geneva, 1987.

68 For this, the focus was on organizing training seminars for civil servants and diplomatic staff in different parts of the world, including in Geneva and New York for accredited UN diplomats.

69 The ICRC and the Polish Red Cross began the Warsaw summer course on IHL in 1981; the ICRC and the International Institute of Human Rights in Strasbourg started offering IHL seminars in 1982. The ICRC also ran conferences and produced publications.

70 Specialized publications were produced; the Medical Division, in cooperation with the University of Geneva and the World Health Organization, began the English-language course “Health Emergencies in Large Populations” in 1986; and in the field, training in first aid was provided to Afghan refugees on the border with Pakistan.

71 Article 9.3 of the Seville Agreement of 1997 on the Organization of the International Activities of the Components of the International Red Cross and Red Crescent Movement confirmed the ICRC’s “lead role” in this matter.

Setting up integrated and decentralized training for the armed forces

At the start of the 1980s, the ICRC helped States, which were responsible for instructing their armed forces in IHL, by providing support to the courses given at San Remo in the form of a document known at the ICRC as the Mulinen Handbook.⁷² The officers, once trained, were expected to introduce courses on IHL at the military schools and academies in their respective countries after adapting the course content to their needs and the national context. Most countries concerned requested financial aid from the ICRC (in the form of grants), which was quite costly.

The ICRC changed strategy in 1984. The courses at San Remo were being attended mainly by officers nearing the end of their careers, and the heads of delegation pressed hard to have the ICRC give courses in the military schools and academies of the countries in which they were assigned. The goal from that point forward was to train officers who were in direct contact with the military, in the upper command.⁷³ The students at these courses would eventually hold command posts themselves and be responsible for training their units. The first course of this type, modelled on the San Remo course, was given in Sudan in 1984. The three ICRC delegates to the armed forces then devised a shorter training course, more operational than legal in focus, which met the needs of officers in charge of training combat troops. The aim was to have an “integrated” course, not a theoretical discourse on the law. The end goal was to develop the soldiers’ instinct to use their weapons and carry out their missions within the constraints of the law; officers had to be able to incorporate IHL and its operational considerations into the tactical and strategic decision-making process, in accordance with their rank.⁷⁴ Initially, courses in the field were given by staff based in headquarters, who conducted temporary field missions.

The diplomatic front

The many conflicts taking place between 1978 and 1990 spurred the international community to action. Who does not remember Vietnam’s intervention in Kampuchea, the Iran–Iraq War, the South Atlantic War (Falklands/Malvinas) and the fighting in Angola?⁷⁵ When conflicts are on the front pages of newspapers, interest in IHL increases. Here are some examples.

In 1980, States agreed to disseminate in both wartime and peacetime the Convention on Prohibitions or Restrictions on the Use of Certain Conventional

72 Frédéric de Mulinen, *Handbook on the Law of War for Armed Forces*, ICRC, Geneva, 1987.

73 This could be the minister of defence, the head of military training, the chief of staff, or commanders of major units (i.e., brigades or divisions).

74 Between 1975 and 1990, the ICRC organized eighty-eight national or regional seminars for the armed forces and participated in twenty courses of this type in San Remo; it also supported the production of teaching materials.

75 ICRC, *Quinze ans d’activités opérationnelles du CICR en faveur des victimes de la guerre et des conflits armés, 1970–1985*, internal document, 7 November 1985.

Weapons which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, along with its Protocols, and “in particular, to include the study thereof in their programmes of military instruction, so that those instruments may become known to their armed forces”.⁷⁶ The continuity in thought since the Berlin Conference of 1869 is remarkable.

Five resolutions on the promotion of IHL were adopted at just two International Conferences, those in Manila in 1981 and Geneva in 1986.⁷⁷ The Manila Conference called on governments to create joint committees that would bring together representatives of government ministries and National Societies, and the Geneva Conference encouraged the ICRC to regularly run international courses on the law applicable in conflict situations for the armed forces.

Finally, the ICRC and UNESCO agreed to include IHL in courses on human rights. In San Remo, the ICRC explained its view:

These two laws do not conflict The persons concerned are the same In academic circles the same people are likely to teach both laws ... [and] the sources of finance for the teaching of the two laws are very often also the same.⁷⁸

Beginning in 1970, the ICRC contacted UNESCO, the Council of Europe, the Organization of American States and the Arab League to encourage them to help disseminate IHL. In 1979, during a visit by the ICRC president to UNESCO in Paris, the two organizations decided to establish regular contact. In July 1981, the United Nations Institute for Training and Research for the first time asked the ICRC to take part in the course on international law that it was giving at The Hague. By 1989, the historic year in which the Berlin Wall crumbled and the Iron Curtain fell, the ICRC had got into the habit of networking, without losing sight of the limits of cooperating with intergovernmental organizations that are sensitive to political considerations.

The 1990s: Innovation, reflection and debates

The fall of the Berlin Wall kicked off a chaotic period, with no new world order replacing yesterday's bipolar world. While conflicts in Central America, Southeast Asia and southern Africa came to an end, violence was nevertheless breaking out

76 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, Geneva, 10 October 1980, Art. 6.

77 “Dissemination of Knowledge of International Humanitarian Law and of the Red Cross Principles and Ideals”, Resolution X, 24th International Conference of the Red Cross, Manila, 1981. “The Protocols Additional to the Geneva Conventions”, Resolution II; “Dissemination of International Humanitarian Law and the Principles and Ideals of the Movement in the Service of Peace”, Resolution IV; “National Measures to Implement International Humanitarian Law”, and Resolution V; “International Courses on Law Applicable in Armed Conflicts”, Resolution VI, 25th International Conference of the Red Cross, Geneva, 1986.

78 Jean-Jacques Surbeck, *Co-ordination Among Interested International Organisations in the Field of Promotion, Dissemination and Implementation of International Humanitarian Law*, 6th Round Table on Current Problems in International Humanitarian Law and Red Cross Symposium, San Remo, 5–8 September 1979, pp. 11–12.

in all four corners of the globe.⁷⁹ The disintegration of the Soviet Union also led to a fundamental change: a continent to which the ICRC did not have access for seventy years and where IHL and the Fundamental Principles had made no perceptible inroads was suddenly accessible at the same time that new conflicts were erupting in the Caucasus and Tajikistan. In Africa, people were worried about the breakdown of governmental structures in failed States, the growing number of uncontrolled militias and the spread of criminal, predatory violence driven by the need of the parties to the conflict to finance their struggle after losing the support of one of the superpowers. Terrorizing the civilian population in violation of IHL was becoming an objective of combatants, who often operated clandestinely. The safety of delegates was becoming increasingly uncertain.

Against this tumultuous backdrop, the ICRC continued its efforts to promote IHL with its partners in the Movement. It carried out pilot projects to determine how best to adapt its educational efforts to very different cultural contexts and how best to use art to communicate. It also took an interest in the mechanisms that influence human behaviour in combat situations. It was thoroughly rethinking the issue. Some high-level managers nevertheless expressed doubt about the utility of dissemination following the Rwanda genocide in 1994 and the murder of three delegates in Burundi and another six in Chechnya in 1996,⁸⁰ events that challenged the link between dissemination and security.

Achievements of the International Red Cross and Red Crescent Movement

In 1989–90, the Movement engaged in a global campaign to protect war victims that involved 135 National Societies.⁸¹ Following this effort, the ICRC and the League prepared dissemination guidelines for the 1990s.⁸² The International Conferences of the Red Cross and Red Crescent held in Geneva in 1995 and 1999 concluded with some relatively standard dissemination-related pledges.⁸³

79 Second Gulf War and second Intifada, internal conflicts in Afghanistan, Tajikistan and Nepal, Balkan and Caucasus conflicts, Rwanda genocide and conflicts in Somalia, the DRC and Guinea-Bissau, Chiapas revolt in Mexico, border conflict between Ecuador and Peru. The list, unfortunately, is long.

80 After the Nyamara murders in Rhodesia, the ICRC undertook a massive dissemination effort in Africa. Yet after the tragedies in Burundi and Chechnya, some ICRC officials wondered whether dissemination worked, as if it alone could be expected to safeguard delegates. Dissemination continued, however, to enjoy the full support of President Cornelio Sommaruga and interlocutors in government circles, who encouraged the ICRC to carry on its efforts.

81 ICRC and League of Red Cross and Red Crescent Societies, *Promotion of International Humanitarian Law and of the Principles and Ideals of the Movement: Results of the World Campaign for the Protection of Victims of War*, preparatory document for the 26th International Conference of the Red Cross and Red Crescent, CD 5/2, C.I/5.1/1, Geneva, 1991. This conference was postponed *sine die*.

82 ICRC and League of Red Cross and Red Crescent Societies, above note 5.

83 We would note, however, that the 1995 Conference adopted the Final Declaration of the International Conference for the Protection of War Victims of 1 September 1993, which encouraged the development of practical measures to promote the law in countries where government structures were falling apart. "International Humanitarian Law: From Law to Action. Report on the Follow-Up to the International Conference for the Protection of War Victims", Resolution I, 26th International Conference of the Red Cross and Red Crescent, Geneva, 1995.

It was in this auspicious context that, in October 1994, the ICRC adopted a plan to shore up its activities related to dissemination and cooperation with the National Societies based on:

- approaching guerrilla forces and other unstructured armed groups on an *ad hoc* basis, going beyond the traditional dissemination-related support provided to armed forces, supranational armed forces (NATO, ECOMOG) and UN troops;
- giving priority to youth, not just in schools but – for the first time – in the streets, in order to reach those who, having fallen through the cracks of the educational system, could come under the sway of paramilitary groups. Efforts would be focused on urban youth (reaching youth in the countryside was overly ambitious) and, in the educational sphere, on universities and on schools that train diplomats and senior civil servants. The strategy for the educational sphere and the National Societies was to train the trainers in three phases: raising awareness, encouraging involvement and fostering autonomy; and
- better informing the media of IHL in order to steer them away from war propaganda. The emotions stirred up by the hateful invective of the Mille Collines radio station in Rwanda were still raw.

Respecting cultural diversity and using art to be more effective

Woza Africa! Music Goes to War is the title of a superb book – with a foreword by Nelson Mandela – that is the culmination of a dissemination initiative involving five major African musicians.⁸⁴ Following an epic trip to Liberia, Angola, the Sudanese border and KwaZulu-Natal, these individuals conveyed the spirit of IHL to African youth through their songs, some of which topped the charts. In Guatemala, in an effort to find effective dissemination tools and build links with a community severely tested by *la violencia*, representatives of Mayan society sought to establish parallels between Mayan mores and IHL.⁸⁵ In Burundi, in the wake of an outbreak of what was termed “interethnic violence” and in a society where the chains of command were in tatters, the ICRC established a dialogue both among Burundians and between Burundians and the ICRC around a “shared humanitarian standard”. The thought was that the preparation of a Declaration for Standards of Humanitarian Conduct as a result of this dialogue “was to be followed by a more educational phase undertaken by indigenous leaders, and finally adoption on an additional and more mandatory level”.⁸⁶ These are just a few examples demonstrating the belief among those responsible for dissemination in the need to innovate and use art to anchor the message of IHL in the native culture and draw on the expertise of sociologists, anthropologists and local

84 Kole Omotoso, with Foreword by Nelson Mandela, *Woza Africa! Music Goes to War*, J. Ball, Johannesburg, 1997.

85 Claudia F. Dary, *El derecho internacional humanitario y el orden jurídico maya: Una perspectiva historico-cultural*, FLACSO, Guatemala, 1997.

86 Édith Baeriswyl and Alain Aeschlimann, “Reflections on a Dissemination Operation in Burundi – Declaration for Standards of Humanitarian Conduct: Appeal for a Minimum of Humanity in a Situation of Internal Violence”, *International Review of the Red Cross*, Vol. 37, No. 319, 1997, p. 398.

communication specialists, in the same spirit that inspired the ICRC after the Nyamara tragedy.

Still, some dissenting voices were heard within the ICRC. Looking at the example of Youssou N'Dour singing "*Tears, my tears are falling! Africa, Africa will sing—So Why? The sun in your heart is your smile—So Why? Come on, let's call for peace—So Why?*" ("*Les larmes, les larmes m'en tombent! L'Afrique, l'Afrique va chanter—So Why? Le soleil dans ton coeur, c'est ton sourire—So Why? Allons, lançons un appel pour la paix—So Why?*"), some feared that the ICRC (although it was not doing the singing) would be associated with pacifism, not understanding that artists simply wished to round out a message on the limits of war with a personal appeal for peace. In the end, should parallels be sought between the law and local mores, accepting the risks inherent in this approach, or was it only necessary to inject cultural sensitivity in the means of communication? In departing from the traditional approach to dissemination of the law, was the ICRC not losing its way? An internal study on this topic was carried out.⁸⁷ The debate remains open.

Reaching young people in the Caucasus and Central Asia

The conflicts in Abkhazia, Nagorno-Karabakh, Chechnya and Tajikistan gave rise to numerous breaches of IHL, an unknown body of law in these areas, and it was in these places that dissemination efforts aimed at young people really took off for the ICRC. They were the outcome of a series of questions. Was it enough to instruct the armed forces in IHL, in countries where the ideological nature of military training was generally predicated on total war? At a key juncture in history, with new States becoming independent, was it not necessary to also raise awareness among adolescents and students more broadly—tomorrow's citizens, soldiers and, in some cases, decision-makers? Though the people responsible for deciding whether or not to comply with the law in contemporary conflicts did not all attend university, would the same necessarily be true in the future? There was an opportunity to seize and partnerships to develop with the local and national educational systems, whose support was a critical success factor. The ICRC prepared courses of study for secondary schools, as part of literature classes, in the Russian Federation, Georgia and Azerbaijan in 1996, then in Armenia in 1997. The aim was to encourage young people, for several years in a row, to reflect upon the appropriate behaviour in conflict situations, whether in their immediate environment or in the middle of the fighting, while referring to the works of major writers from the region. The merit of this programme, called MINEDUC, was that the ICRC was not coming in like a missionary to spread the

87 G. Chaves, '*L'Approche interculturelle pour la promotion du droit international au CICR*', ICRC internal study, 1998–1999. See also M. Harroff-Tavel, above note 2, pp. 5–20; Marion Harroff-Tavel, "Cultural Diversity and the Challenges it Poses for Humanitarian Practitioners", *African Yearbook on International Humanitarian Law*, 2007; Marie-José Domestici-Met, "Cent ans après la Haye, cinquante ans après Genève: Le droit international humanitaire au temps de la guerre civile", *Revue Internationale de la Croix-Rouge*, No. 834, June 1999, pp. 277–302.

good word. Rather, in partnership with the country's educational system, the programme was designed around a facet of the national culture: literature. And it set its sights high. To give an idea of the ICRC's ambitions, in 2001 it shipped 2.5 million manuals to eighty-nine regions of the Russian Federation, for 65,000 schools. The programme was then rolled out to Tajikistan, Uzbekistan and Kyrgyzstan in novel ways (through dialogue with writers' collectives and inclusion in civic education curricula and in paramilitary courses inherited from the Soviet era).⁸⁸

An internal evaluation of MINEDUC was carried out in 1998, and an independent external evaluation was done in 2001. Adolescents who went through the programme had greater knowledge of IHL and human rights than those who did not, although they spoke more readily of human values than of specific IHL topics. The evaluation also attributed changes in attitude to MINEDUC. Students spoke of the widespread and deep impact of this thought-provoking programme on their view of the world and the role that they would play in it. The sophistication and cost of these educational programmes was nevertheless controversial within the ICRC.

Dissemination at universities: The MINUNI programme and its after-effects

In the early 1990s, the ICRC systematically pursued the promotion of IHL in universities. The programme it developed, called MINUNI, reached its fullest expression in the Commonwealth of Independent States (CIS). There, the ICRC sought to have IHL incorporated into university faculties of law, international relations and journalism; it prepared teaching aids in Russian, trained young assistants (some of whom would carry on the work) and promoted mechanisms of cooperation between Russian and Western universities. Thanks to the ICRC's efforts, IHL was made part of the Federal State Educational Standards in the Russian Federation.⁸⁹ At the same time, the ICRC held regional seminars on implementing IHL (called MEON) in Minsk, Tashkent and Riga in 1994 and 1995, and then in Baku, Yerevan and Tbilisi in 1996, with the support of UNESCO and the Organization for Security and Cooperation in Europe. These efforts led to the creation of interministerial committees in the fifteen countries of Eastern Europe and Central Asia. Subsequently, the MINUNI and MEON programmes, having been tested on a large scale in the CIS countries, would be introduced on other continents.

The principles underlying the ICRC's work with universities were clear: bolster local academic capacity, adapt to the procedures and systems of said universities, develop practical teaching methods (e.g. case studies, internet use

88 Marion Harroff-Tavel, "Les défis de l'action humanitaire du CICR dans les conflits du Caucase et d'Asie centrale (1993–1996)", *Relations Internationales*, No. 105, Spring 2001.

89 Stéphane Hankins, "Promoting International Humanitarian Law in Higher Education and Universities in the Countries of the Commonwealth of Independent States", *International Review of the Red Cross*, No. 319, July–August 1997, pp. 447–450.

and either running or supporting moot court competitions) and provide teaching material. It was in 1997 that the ICRC decided, in Geneva, to put together a collection of case studies that would contain all the teaching material needed to set up a practice-based course on IHL.⁹⁰ That same year, it created a delegate position at headquarters in charge of managing relations with the academic world.

Closer to home, in 1995 the ICRC took part in preparing the Multifaculty Programme for Humanitarian Action at the University of Geneva (later renamed the Centre for Education and Research in Humanitarian Action), and in 2002 it supported the creation of the University Centre for International Humanitarian Law (now called the Geneva Academy of International Humanitarian Law and Human Rights), also in Geneva.

Dissemination among arms carriers: Decentralized positions and a pool of officer-instructors

Several important advances in dissemination targeting the armed forces took place in 1993 and 1994, taking account of nascent nationalisms and ethnic conflicts and drawing on experience acquired in complex situations (e.g. Somalia and the former Yugoslavia). First, the ICRC expanded its dissemination strategy to include “arms carriers” and decided to implement it in a decentralized way, basing its delegates initially in Nairobi and Bangkok.⁹¹ The objective was not only to impart training but also to promote the ICRC among military authorities, so the organization could achieve its operational objectives. Next, the ICRC, while still maintaining a working relationship with the International Institute of Humanitarian Law in San Remo,⁹² opted to create a pool of officer-instructors of various nationalities (who had retired from active duty and were from politically “neutral” countries), who would be available for temporary and occasional missions. It would base these instructors in its delegations, after having them take the integration course for delegates so that they would be better suited to the “ICRC culture” – quite different from that of the armed forces. Finally, the ICRC hired a special adviser, a major-general retired from the Swiss army, whose role was to organize high-level seminars with foreign generals who were likely to carry weight when it came to dissemination among the armed forces of their respective countries.

90 Marco Sassòli, Antoine A. Bouvier and Anne Quintin, *How Does Law Protect in War? Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law*, 3rd ed., ICRC, Geneva, March 2011.

91 The network was then expanded to include New Delhi, Pretoria, Harare, New York and Brussels (posts at the latter two locations began in the early 2000s). The network is currently made up of thirty-five delegates working with armed and police forces and gendarmeries.

92 The ICRC delegates in charge of these decentralized courses have considerably expanded the network of the San Remo Institute, bringing in officers (and in some cases former rebel commanders) from Africa (Uganda, Angola, Ethiopia), Asia (Vietnam) and Latin America. Since 2008, the ICRC has been providing technical support to help modernize the Institute’s courses in terms of both content and methodology, with the help of other partners like the Swiss army.

A new dissemination target: Police and security forces

Owing to changes in the nature of conflict as described above, the ICRC was working increasingly, especially in Latin America, in situations of domestic unrest that were subject not to IHL but to human rights law. The logic underpinning these two branches of law differs.⁹³ The ICRC saw both the armed forces and the police at work in domestic situations of violence. On the other hand, the police sometimes got involved in armed conflicts, without any training in this type of situation or knowledge of IHL. Was it necessary to include police in the ICRC's dissemination efforts and seek closer relations with that group in order to create a climate of trust? Just how far did the ICRC want to go in invoking human rights? Despite internal resistance, the Armed and Security Forces Unit was created, and subsequently became a division. It adopted a pragmatic approach to training the police and hired a police officer, Cees de Rover (former deputy head of the police academy in the Netherlands), to publish a practical instructional manual for training police forces.⁹⁴ Police officers would be assigned to a number of ICRC delegations (in Lima, for example).

The ICRC Advisory Service on IHL

Throughout its history, the ICRC has concerned itself not only with the promotion of IHL treaties but with their implementation as well. Between 1988 and 1991, the ICRC surveyed States and their National Societies to learn about any national implementation measures that they had taken or planned to take to incorporate IHL into domestic law, for purposes ranging from protecting the emblem to prosecuting violations of IHL. In subsequent years, the international community, traumatized by the conflict in Yugoslavia, expressed a growing interest in criminally prosecuting IHL violations. The Conference for the Protection of War Victims (1993) led to the meeting in Geneva in 1995 of a group of intergovernmental experts to address the issue. The group asked the ICRC to prepare a report on the customary rules of international law applicable in international and non-international armed conflict (some of which, as we have seen, concern dissemination). It also recommended, first, that national committees be formed to help governments implement and promote IHL, and second, that information that could be useful for the States be shared.⁹⁵ The request that the ICRC share with States information it received from other States on advisory services rendered was particularly astute: since States did not want a

93 For example, the principle of distinction between military objectives and civilians (or civilian objects) does not exist in human rights law. The concept of "proportionality" does exist in both bodies of law, but differs fundamentally in each.

94 Cees de Rover, *To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces*, ICRC, Geneva, 1998. This practical training manual, which has been translated into several languages, was used by numerous countries as a model for the rules of engagement applicable to their police forces.

95 The 26th International Red Cross and Red Crescent Conference (Geneva, 1995) adopted these recommendations.

system that obliged them to periodically account for what they were doing to apply IHL, a less restrictive way to have them do this was through the ICRC. These annual reports were therefore not so much a means of dissemination as the sharing of best practices, encouragement to act and a form of “indirect” oversight.

To carry out the tasks it had been given, the ICRC set up, in the Legal Division, the Advisory Service on International Humanitarian Law, responsible for providing advice to governments. The Service began work in early 1996, having put in place a decentralized structure with legal experts based in delegations and supported by a team at headquarters. The Legal Division created a specialized documentation centre open to governments, National Societies, organizations and researchers,⁹⁶ which was then folded into the ICRC’s library.

The People on War project

To commemorate the 50th anniversary of the Geneva Conventions, the ICRC conducted the People on War project, in which the organization interviewed more than 20,000 civilians and combatants from seventeen countries between October 1998 and September 1999.⁹⁷ The resulting report highlighted the fact that, while people believe that there should be limits in war, their belief is rooted most commonly in the notion of human dignity, in a religion, in traditions or in a personal code of ethics. 39% of people surveyed in conflict zones had heard of the Geneva Conventions, but only 60% of those could correctly describe the content. People unaware of the Conventions were more likely than others to deny even minimal rights to captured combatants; they were also less apt to help a combatant who was wounded or laying down arms if the combatant was responsible for the death of someone close to them.⁹⁸ In Muslim countries, people who mentioned the notion of law were probably referring to Islamic law. The results of this research set the stage for a collaborative effort with Harvard University (Jennifer Leaning) and the University of Geneva, along with a follow-up survey ten years later.⁹⁹ The People on War project, despite some of the

96 The Advisory Service on International Humanitarian Law engages in a number of activities in close collaboration with the National Red Cross and Red Crescent Societies. It encourages States to adopt laws, rules and administrative provisions that could help them fulfil their obligations, such as prosecuting infractions, protecting the red cross and red crescent emblems and marking protected sites. It organizes seminars that promote contacts among ministries, armed forces, National Societies, universities, civil protection entities, etc. Following these seminars, the Advisory Service provides more specialized assistance to States that request it. The Advisory Service also prepares an annual report to describe its progress. For a fuller description of these obligations and of the Advisory Service’s work, see Paul Berman, “The ICRC’s Advisory Service on International Humanitarian Law: The Challenge of National Implementation”, *International Review of the Red Cross*, Vol. 36, No. 312, 1996, pp. 338–347.

97 The results of this study were published in country reports and in a summary document, Greenberg Research, Inc., *The People on War Report: ICRC Worldwide Consultation on the Rules of War*, ICRC, Geneva, 1999.

98 *Ibid.*, p. 19.

99 Ipsos and ICRC, *Our World. Views from the Field. Summary Report: Afghanistan, Colombia, Democratic Republic of the Congo, Georgia, Haiti, Lebanon, Liberia and the Philippines*, Geneva, 2009.

methodological questions it raised, represented a major investment by the ICRC and was a rich source of feedback.

In the 1990s, some lively debates took place within the ICRC around dissemination. This was particularly true in the Directorate, certain members of which were reluctant to see the organization get more involved in “prevention” work and to allocate resources to it. Programmes focusing on youth or in the realm of education, along with the effort undertaken to infuse cultural diversity into the IHL message, faced real challenges – especially within the organization – for those who carried them out. Strong support from President Cornelio Sommaruga, Yves Sandoz and François Bugnion for IHL promotion work in the 1990s, along with the interest shown by a number of donors, therefore played a key role. The same can be said of Jean Marc Bornet, the general delegate for Eastern Europe and Central Asia, who was committed to the MINEDUC, MINUNI and MEON programmes in the regions under his responsibility. Bugnion’s numerous publications also contributed to the promotion of IHL, none more so than his authoritative work on the protection of war victims.¹⁰⁰ And the Geneva Academy of International Humanitarian Law and Human Rights owes its existence in large part to Yves Sandoz.

The year 2000 and onward: integration and implementation of IHL

The attacks of 11 September 2001 in the United States had a profound impact on Western public opinion. The subsequent “war on terror”, the wars in Afghanistan and Iraq, and then the upheaval known commonly as the “Arab Spring” presented challenges that were made more complex by the instantaneous sharing of information around the globe enabled by the Internet. The ICRC met these developments head-on: it created the position of head of communications, trained specialists in operational communication,¹⁰¹ began monitoring exposure in the media, made use of new technologies (e.g. social media and blogs) and expanded its networking efforts, especially in the Islamic world. Internal restructuring highlighted the growing importance accorded to press-related activities between 2001 and 2010.

As it laboured to promote IHL, the ICRC faced an increase in the number of people and organizations interested in teaching IHL, invoking IHL, and prosecuting violations of IHL either domestically or through international courts. The ICRC was no longer the only entity to dialogue on this topic with arms carriers. It was no longer sufficient to replicate study courses in different

100 F. Bugnion, above note 1. This work is both theoretical and practical and takes a multidisciplinary approach (bringing together history, legal and political science). It is full of lessons on the relationship between the ICRC’s work and IHL. The author’s conclusions remain very valid today.

101 The critical situation in Darfur in particular restored interest in on-the-spot dissemination, with four Arabic-speaking operational communications delegates permanently assigned to the field starting in 2005. In 2010, however, following an internal restructuring, support activities for operational communications were sharply scaled back in favour of press-related actions.

countries. The ICRC therefore redoubled its efforts to refocus its work on the integration of IHL in courses of study – at the secondary and university levels as well as in the training of armed and security forces – and on the implementation of this body of law. A study conducted by the University of Geneva on the roots of behaviour in war also spurred the ICRC to change its focus. The organization adopted guidelines for some of its activities, carried out evaluations and ran perception studies. Let us look at these more closely.

Encouraging young people to explore IHL and focusing on children at risk

In 1997, drawing on the MINEDUC project (which would end in 2010) and the organization's experience in Guinea, Egypt, Somalia, Croatia, South Africa and Colombia, the ICRC commissioned the Education Development Center in Boston to develop a transnational educational programme for youth. The programme, called Exploring Humanitarian Law (EHL), would be less resource-intensive and, necessarily, less tailored to local cultures. The goal was for young people to become aware of the applicable rules (especially IHL) in situations of violence, as well as the similarities and differences between IHL and human rights law. They would also be encouraged to consider the human consequences of breaking the law and ways to prevent violations and reduce the resulting suffering.

The ICRC began the EHL programme in the early 2000s, with the aim of having it integrated into curricula and then continued by the educational authorities and/or National Societies. It added a virtual campus (a website for teachers) in 2006 and updated the programme in 2007–08. EHL was conceived as an interactive programme to develop critical thought and teach students the importance of maintaining a respectful dialogue with others. It had three positive outcomes: it developed operational communications with young people and their friends and family in a whole series of situations of violence, including in urban areas, such as certain favelas in Rio de Janeiro; it served as a springboard for access to communities, thanks to contacts established with families and teachers, such as Islamic intellectuals in Indonesia; and it helped spur an interest among young people for humanitarian work. Unfortunately the EHL programme struggled: the ICRC was not in a position to provide long-term support in terms of finances and human resources and, unfortunately, when it withdrew support the educational authorities in some countries did not continue the programme. The programme's demise was hastened by the opinion of some ICRC officials that, in conflict situations, human beings retain little of their free will as they become subjugated by a collective system of organized brutality. The resources allocated to this type of educational programme – considered an act of faith in human beings – were in their eyes put to better use elsewhere. Not everyone shared this opinion.

An important problem remained. Apart from child victims and child combatants (in the armed forces, militia groups or gangs), there was a new category of children at risk: street children, and children who had been

demobilized or had fled conflicts. The Children at Risk project,¹⁰² an ICRC initiative arising out of observations made in the Democratic Republic of the Congo and Nepal, was designed to prevent the recruitment, whether voluntary or forced, of young people into armed groups. Despite the interest it aroused, this concept was unfortunately not seen through. Still, in Nigeria, the ICRC partnered with the National Society and a local NGO called AVP to develop an extracurricular programme aimed at preventing youth violence, based on a methodology developed by AVP. Local communities were also invited to take part in this initiative.

“Influence research” into the origins of wartime behaviour¹⁰³

Research into the origins of human behaviour in war, conducted with the support of the Faculty of Psychology and Educational Sciences at the University of Geneva, led to the following conclusion: “supervision of weapons-bearers, strict orders relating to proper conduct and effective penalties for failure to obey those orders are essential conditions which must all be met if there is to be any hope of securing better respect for IHL.”¹⁰⁴ According to the study’s authors, morals and values have little sway on the behaviour of arms bearers. Violations of IHL are common owing to a moral disengagement made possible by the justifications one gives to these violations and by dehumanization of the enemy. It is also by virtue of belonging to a group that arms bearers can be led to carry out acts that they would never have done alone. The question is therefore not one of influencing autonomous individuals who are capable of discernment, able to decide freely and sensitive to ethical considerations, but rather one of influencing groups, which always have a structure even if it is not readily apparent.

Challenging the utility and appropriateness of an ethics-based discourse was a real reversal of course. For over a century, the ICRC had been convinced of the importance of orders, the chain of command and sanctions. It knew that the group sometimes overrode the individual, but until this study, it considered itself the bearer of a universal humanistic ethic based on the Movement’s Fundamental Principles and the principles underpinning IHL—an ethic that could inspire humanitarian action and reaction and was thus necessary to make known.¹⁰⁵ Without conforming to any particular mould or believing it was invested with a

102 Michele Poretti, “Preventing Children from Joining Armed Groups”, *Refugee Survey Quarterly*, Vol. 27, No. 4, 2008, pp. 123–141.

103 This research project was based on the People on War study, a survey of combatants in four of the ICRC’s areas of operation, a questionnaire submitted to the majority of armed and security forces delegates and communications delegates, and a review of the literature. The study and the survey were carried out with researchers at the University of Geneva.

104 Jean-Jacques Frésard, *The Roots of Behaviour in War: A Survey of the Literature*, ICRC, Geneva, 2004, p. 110.

105 Jean-Luc Blondel, “The Meaning of the Word ‘Humanitarian’ in Relation to the Fundamental Principles of the Red Cross and Red Crescent”, *International Review of the Red Cross*, Vol. 29, No. 273, 1989. In the author’s view, humanitarian work is driven by an ethic of dialogue.

moralizing mission, it was not afraid to talk about human values, which IHL embodies in legal form. The results of influence research modified this approach.

This very interesting study unfortunately struck a serious blow to a number of programmes. It only addressed the behaviour of arms bearers, but in the prevailing discourse – not completely devoid of dogmatism – its conclusions were applied to other areas. The end result was that the ICRC would focus only on teaching the rules of positive law to combatants. Little interest remained in searching for bridges between IHL and the values, traditions and codes of conduct which encourage, in different cultural contexts, altruism, compassion and behaviour that is respectful of the dignity of other people.¹⁰⁶ Preventive, long-term activities aimed at other “target groups” besides armed forces and political elites – for example, adolescents in school – veered too far from the narrow path recommended by influence research to merit a real investment in terms of financial and human resources.

The content of influence research should be given a new reading and put to better use. With the passage of time, the ICRC should be able to critically analyze the conclusions that it drew at the time – an analysis that has already begun outside the organization.¹⁰⁷ Within the ICRC, the pendulum appears to be swinging back. A first step was taken several years after the results of influence research came out, when the ICRC adopted an official policy on its mission and work that includes prevention among its four programmes (the other three are protection, assistance and cooperation), and which recognizes that prevention must generally be undertaken in a medium- to long-term perspective in order to create an environment that favours respect for IHL.¹⁰⁸ The policy also underscores the organization’s interest in combining the activities linked to these different programmes in a multidisciplinary approach; in this way, it brings prevention out of isolation. More recently, the ICRC’s ambition to curb violence against health-care workers served as a reminder of the effectiveness of medical ethics as a powerful tool for influencing behaviour.¹⁰⁹

Implementation: More specific instructions

The three International Conferences of the Red Cross and Red Crescent of the past decade (2003, 2007 and 2011) highlighted the importance of the effective implementation of IHL. What is different about the pledges made at these International Conferences? In 2007, the Conference asked that States, when they incorporate IHL into national legislation and practice, emphasize the need to

106 However, according to a psychology book that appeared at that time, humanity and justice can be found in all traditions (most likely owing to their importance for the survival of the species). See Christopher Petersen and Martin E. P. Seligman, *Character Strengths and Virtues: A Handbook and Classification*, American Psychological Association and Oxford University Press, New York, 2004, pp. 33–52.

107 See Dale Stephens’ criticism of the conclusions of “influence research” in this issue of the *Review*.

108 ICRC, *The ICRC: Its Mission and Work*, Geneva, March 2009, pp. 16–17.

109 Vivienne Nathanson, “Medical Ethics in Peacetime and Wartime: The Case for a Better Understanding”, *International Review of the Red Cross*, Vol. 95, No. 889, 2013.

adopt measures not only for the use and protection of the distinctive emblems and for the prosecution of serious violations of IHL, but also for “the protection of cultural property, the regulation of means and methods of warfare and the protection of the rights of missing persons and their families, among others”.¹¹⁰ The four-year action plan for the implementation of IHL resulting from the International Conference of 2011¹¹¹ highlights measures to be taken at the national level to protect women, children and journalists. States are encouraged to adopt legislation and make arrangements to allow families to participate in court proceedings. They must also redress violations of the law and put sanctions in place. The ICRC, for its part, will continue to “provide technical assistance for the incorporation of such crimes” into domestic law. Finally, the dissemination of IHL to “legal professionals, including prosecutors and judges”, calls for special attention.

Armed and security forces and the police: Strategic orientations

The ICRC adopted directives guiding its dissemination work with the police and the gendarmerie (in 2007) and arms carriers (in 2009). Recognizing that it had an extensive network,¹¹² it wanted to adopt a single framework in which to orient its dialogue with all categories of arms bearers, including non-State armed groups, and link this dialogue to its protection activities by spreading awareness of two main principles underlying its work: impartiality and neutrality. The ICRC sought to avoid diluting its efforts and was concerned about the fact that in some cases, it had developed more extensive contacts with governmental armed forces than with non-State actors. It then defined the type of dialogue that was to be established with arms carriers, the situations in which this dialogue should take place and the extent of its involvement, as well as guidelines and respective responsibilities (since this would be a multidisciplinary approach). This same approach was applied to the dialogue with the police and the gendarmerie. Since their role was to maintain order without violating human rights, the ICRC had to clearly identify whether these forces of order create victims or are victims themselves; are able to assist and protect victims; have influence over those who hold the fate of victims in their hands; and/or play a role in the ICRC’s work or the safety of its workers. The guidelines demonstrate the special nature of the role of the police and gendarmerie, who can stop, detain and search people and use both force and firearms. These strategic orientations are both a safeguard and a teaching tool for the delegates.

110 “Reaffirmation and Implementation of International Humanitarian Law”, Resolution 3, 30th International Conference of the Red Cross and Red Crescent, Geneva, 26–30 November 2007.

111 “4-Year Action Plan for the Implementation of International Humanitarian Law”, Resolution 2, 31st International Conference of the Red Cross and Red Crescent, Geneva, 2011.

112 This network includes armed forces, police, armed groups, and private military and security companies, which can be further divided into those that develop policy, those that give orders and those that carry out orders.

Networking: The Islamic world

The ICRC established close contacts with institutions and scholars in the Islamic world well before 11 September 2001. Three observations led it to expand these contacts several years later, making an extra effort to listen to and dialogue with a wide range of people and institutions. First, although IHL has been universally ratified by governments, the increasing number of armed groups and the growing power of civil society – thanks to new information technologies – have made working with these actors essential. Second, the importance of religion in people's value systems and systems of thought is on the rise. Islam has a very sophisticated body of law that addresses relations between nations and behaviour in war (e.g. safeguarding human dignity, respect for women and children and the protection of cultural property). Finally, the emergence of new powers and new conceptions of the world represents a challenge to IHL. Some see IHL, just as they see the UN Charter and human rights, as a product of the West – which itself is sometimes guilty of violating the laws that it sets forth. IHL, which is a human construct, is now competing with other reference systems, like *Shari'ah*, which is considered by its followers to be of divine origin.

The ICRC, whose contacts with *madrasas* (Islamic schools) in Pakistan began in 1998, then decided to systematically approach scholars, social activists, humanitarian groups, religious notables and researchers from all strains of Islam to discuss IHL and its parallels in Islamic law. This dialogue did not replace the organization's relationship with governments, but supplemented it and enhanced it, leading to an improved mutual understanding. In 2004, the ICRC put together, with the University of Islamabad, the first major conference on Islam and IHL, a meeting attended by *ulema* (scholars in Islamic law) from Pakistan and scholars from Afghanistan and other countries in the region and the Arab world. In 2005, the Yemen Red Crescent Society and the University of Aden held a seminar on the protection of war victims under Islamic law and IHL. In November 2006, the ICRC organized a conference in Qom, Iran, on the same topic, which was attended by around 100 experts from the main universities in Iran and other countries in the region. This dialogue then expanded to include partners in North Africa (Morocco, Tunisia), the Sahel (Mali) and East Africa (Uganda). In 2013, a first workshop was held in Mombasa on people deprived of their freedom in armed conflicts, with reference to IHL and Islamic perspectives. Some Middle Eastern countries – Jordan, Iraq and Egypt – took part in this dialogue. In June 2013, in Jeddah, Saudi Arabia, the ICRC engaged in a joint effort with the Organization of Islamic Cooperation and the International Islamic Relief Organization to carry on the dialogue begun some ten years earlier with the Islamic world. The ICRC was also active in Indonesia and Thailand, where it launched a pilot project in Islamic boarding schools, based on the EHL programme. These few examples demonstrate the path taken by the ICRC.

Evaluations and perception studies

The effort to evaluate the ICRC's dissemination work has intensified since the start of the new century, but is in fact a long-standing concern. And it is a real dilemma: how can one know what atrocities were averted thanks to dissemination, since they were not committed? And how is it possible to measure the impact of efforts aimed at modifying attitudes and behaviour? The first guiding note titled "Planning and Evaluating Dissemination Activities at the ICRC", written in 1993, envisioned dissemination as a mainly operational tool. In the past fifteen years, the ICRC has systematically carried on this analytical effort by having external consultants evaluate several of its activities, including dissemination among the armed forces in Sri Lanka (1998), the MINEDUC programme (2001) and the domestic implementation of IHL (2008). In El Salvador, the ICRC and the country's armed forces carried out a joint evaluation of dissemination among the armed forces in 2009.

Initiatives were also taken in the area of communications. Between 2003 and 2010, the field-oriented communications unit conducted perception studies to better inform operational communication strategies, at the local and regional levels in particular, in the Democratic Republic of the Congo, Latin America and the Horn of Africa.¹¹³

Harnessing the Internet

Another major change between 1990 and 2000 was the development of the Internet, which had a major impact on the ICRC's global positioning and whose potential for the dissemination of IHL, for instance through electronically available dissemination tools and IHL-related material (e-books and e-learning, for example), remains to be fully unlocked.

The challenges of tomorrow: Balancing short- and long-term objectives, and taking a holistic approach to prevention

In view of the foregoing, three challenges merit reflection. The first is to strike the right balance between two aspects of the ICRC's interaction with its interlocutors. The first aspect of the ICRC's dealings with the outside world consists of promoting IHL, reminding interlocutors of their obligations, informing specific "target groups" of specific legal topics and helping change attitudes and behaviour. Promoting IHL is part of a long-term strategic and comprehensive vision but requires a judicious dose of contextualization (Paris is not Pretoria, and Damascus is not Tashkent). Those who promote IHL explain the ICRC's mandate and the tasks incumbent upon the organization under this body of law,

¹¹³ At the time, the ICRC adopted a strategy (2006–2010) aimed at improving the hiring, training and professional development of both local and expatriate communications staff.

but they focus on the substance of the law. The second aspect of the ICRC's dealings consists of affirming and clarifying the organization's identity through "branding". This is important for gaining safe access to victims, defending the organization's reputation, positioning the organization on certain themes and conflict situations, influencing the humanitarian debate, responding to media inquiries on the current status of situations of violence in which the organization is working, and improving the organization's ability to generate the resources needed to fund its operations. In this role, the ICRC can refer to the core rules of IHL and its role in their implementation, but it is really the organization's work on the ground and its methods that it endeavours to highlight.

In the ICRC's efforts to address this challenge, two temptations must be resisted. The first is to focus on the short term at the expense of long-term objectives—the lack of resources that the organization currently devotes to promoting IHL among young people is, in our view, an unfortunate example of this. The second is to conflate all these dimensions of the ICRC's work without understanding or respecting their differences, which is easy to do given their overlap. Operational communication can indeed be used to spread awareness of the law, and the implementation of the law can certainly go some way towards building up networks likely to serve operational purposes, and that is good. However, these are fundamentally different roles that require distinct skill sets.

The second challenge, linked to the first, is structural. When different organizational units at headquarters are responsible for these two roles, which is not a problem in itself, three traps must be avoided: favouring only one of these organizational units rather than using all of them (depending on the environment and the humanitarian problem at hand); a lack of coordination among the units; and staff members identifying more with the organizational unit than with the overall mission. In the field, the situation varies across delegations. Most delegations have a limited amount of staff who must therefore be versatile in terms of communications and dissemination, while others employ both generalists and specialists as a function of the target groups (e.g. armed forces, police and universities). Orchestrating these disparate forces is not always easy and requires sufficient knowledge of the areas in which the specialists work, if only to ensure efficiency among everyone's efforts. Greater access by specialists to positions of operational oversight would be a step in the right direction.

The third challenge is more fundamental and should be reflected in the organization's 2015–18 Strategy. The ICRC must decide how to implement its prevention policy. The policy, in a shift away from a programmatic approach, is based on the idea that it is necessary to unite internal and external forces to create—in a multidimensional and contextualized way—an *environment* that favours both respect for human life and dignity and the organization's work. To accomplish this, the organization must focus its work on individuals and entities in a position to influence structures and systems (including legislation, military doctrine and sanctions) that can help resolve identified humanitarian problems. The prevention policy includes criteria for involvement and calls on the

organization to develop partnerships and combine its approaches,¹¹⁴ including in particular *persuasion* and *mobilization*.

So what is the problem? In some conflict situations, the operational surface area is shrinking; in such cases it is not easy either to get the parties to the conflict to take responsibility and comply with IHL or to find influential people or entities that could help the ICRC do this. In other conflict situations, where the ICRC has long been active, the interlocutors it works with locally know IHL and even espouse it to a certain extent; the organization has carried out a confidential, bilateral dialogue to convince them to comply with the law, but the parties have decided to neglect or violate obligations with which they are very familiar. If the ICRC decides for strategic reasons to carry on its prevention work in this type of conflict situation, what services can it deliver? Given the fact that in such environments it may face constraints (it may, for example, be authorized to promote IHL in academic circles but not in the governmental sphere) and that other organizations refer to the Geneva Conventions as well, where is its added value? Engaging in a more technical dialogue on methods or tactics, such as in specialized areas like arrest? Providing training that the authorities should have provided—an approach the ICRC is not partial to? Reconciling the promotion of IHL with that of the Fundamental Principles of the Movement, together with the National Societies and/or the IFRC? There is no one answer to these questions.

Conclusion: Looking ahead

The ICRC has done an enormous amount of work to ensure that States put in place the needed rules and laws and update them as the nature of armed conflict evolves. It has supported IHL awareness-raising by creating entities and training people; it has facilitated the incorporation of IHL into the law, the application of IHL and evaluations of its effectiveness by developing methods and tools; it has carried out research by teaming up with prestigious universities to assess the relevance of the chosen approaches; and it has contextualized its efforts in respect of cultural diversity. It has adapted its work in promoting the law to help achieve the organization's operational objectives, such as strengthening links with decision-makers and opinion leaders and with communities that give priority to traditional Islamic law.

Today the ICRC faces new challenges, three of which will be mentioned here. The first relates to changes in the nature of violence. When violence takes the form of an armed conflict between organized parties (States, armed groups) engaged in collective action, it is regulated by IHL. Today, however, many regions in the world are caught up in chronic, low-intensity violence that does not always amount to armed conflict. Other regions experience outbreaks of chaotic violence,

114 The ICRC's strategy is built around a combination of modes of action: raising awareness of responsibility (persuasion, mobilization and denunciation), support and substitution (or direct provision of service). ICRC, above note 108, pp. 19–20.

where crowds are ignited and fill the streets, sometimes taking their lead from social media. These crowds, unstructured, are spurred on by charismatic speakers. In such cases, human rights—especially inviolable ones—provide the legal framework. Does it always make sense to promote IHL in such situations? Yes, insofar as a situation of violence can evolve into a non-international armed conflict. And it is true that in some cases fighting in one part of a country will be considered an armed conflict while fighting in another part of the country will be considered domestic unrest. It would nevertheless be desirable to train all delegates in human rights law—particularly regarding the use of force and firearms—for just such situations, while recognizing the operational limits on the ICRC invoking this body of law.

The second challenge is related to the choice that the ICRC made, in view of the results of influence research, to direct its efforts at the military high command of States and of non-State armed groups so that instructions will reach arms carriers via the chain of command. For the ICRC, this implies the need for sanctions in the event of violations of IHL. In many contemporary situations of violence, however, a growing number of armed groups are led by individuals who prefer to remain hidden, especially if they have criminal connections. In addition, some groups do not have a chain of command—at least not one that is easily identifiable. Sometimes a group may even have leaders who have no authority over the group. In the worst-case scenario, the groups' strategy is to terrorize people and/or strip them of their belongings, in deliberate violation of IHL. In cases where courts apply sanctions, this can lead to reprisals against civilians. Does this mean the ICRC has erred in its choice of strategy? Certainly not. The strategy is very effective in those situations for which it was designed, but it is not enough: the ICRC needs to add a large dose of pragmatism, go back to its roots, and innovate.

Let us look at pragmatism first. It is important to work with the interest of the individual—that is, what that person stands to gain by behaving properly when the law and morals have little traction. In this case the individual is the arms carrier, whose interest is well understood. To this end, two initiatives could be useful: first, analyzing the factors contributing to violations of IHL in very specific conflict situations, drawing on influence research, in conjunction with specialists from academia and research centres. Such an analysis would allow the ICRC, together with its partners, to create strategies to prevent violence from spinning out of control and deteriorating into open conflict, with the tasks inherent in the strategies assigned to the partners in accordance with their respective mandates. Resources would need to be channelled into this area. Second, it would be useful to further explore practical arguments that could encourage respectful behaviour towards others (e.g. complying with IHL makes it possible to avoid penalties and prevent reprisals; violating IHL creates antagonism between coexisting communities and makes post-conflict reconstruction extremely difficult after the guns have fallen silent). Based on this, the ICRC could create the appropriate tools for its delegates, an initiative that was begun in the past but not followed through. Such tools could be adapted to each conflict situation, taking into

account the particularity of the conflict dynamic as well as the nature, objectives and organization of the belligerent parties.¹¹⁵

Next, going back to the organization's roots. After its experience with influence research, the ICRC became very reluctant to talk about ethics; only the law could be mentioned. But does that not overlook the fact that humanitarian action is universal and existed well before the ICRC and IHL? And the fact that in some societies, particularly in the Islamic world, law and morals cannot be separated? One option is to emphasize humanistic beliefs, which, in all cultures, are the soil in which the rules of positive law¹¹⁶ take root. Of course, these beliefs are manifested differently from one society to the next, but it is in seeking the common core of human dignity – whether in the village, the region, the country or the world – that there may be a chance to restore in people a sense of responsibility towards others.

Finally, innovation. If the upper echelons of armed groups are hard to reach or their behaviour does not change, why not develop networks of women – whose influence, while not always obvious, is undeniable – to promote IHL? In regions where its access to women and girls is limited by cultural obstacles, the ICRC could work together with the National Red Cross or Red Crescent Society or women's associations to raise awareness among women and girls about IHL, a body of law that protects them, just as it protects male civilians, in conflicts that are mainly planned and carried out by men. Their help in encouraging respect for this body of law would be a highly valuable asset.

The final challenge is the connectedness created by the Internet, a space in which anyone can find and provide information instantaneously, without mediation, and in their own way learn about IHL via new tools (like video simulations) and create support platforms. The ICRC puts this connectedness to good use: it has accounts on Facebook and Twitter; the ICRC president, some high-level officials and its public relations officers send out tweets reminding people of the rules of law or seeking access (e.g. to Syria); and the organization is able to rally virtual communities. In the context of its Health Care in Danger campaign, the ICRC is interacting online with specific people and entities that share its concerns (e.g. legal experts, doctors, authorities, medical associations and military experts). It enters into dialogue with them on steps that could be taken to enhance respect for the rules protecting medical staff and infrastructure (e.g. hospitals and ambulances). These virtual communities of interest, drawing from numerous countries, are able to influence public opinion and, indirectly, the diplomatic community in multilateral fora. Nevertheless, while it benefits from connectedness, the ICRC must also remain aware of the vulnerability to which that connectedness leaves it exposed. This risk stems from rumours, propaganda,

115 Olivier Bangerter, "Reasons Why Armed Groups Choose to Respect International Humanitarian Law or Not", *International Review of the Red Cross*, Vol. 93, No. 882, 2011.

116 Beliefs such as respecting the dignity of others, accepting difference, compassion in the face of suffering, non-exclusion, solidarity in distress and impartiality in providing a helping hand to ease the most grievous wounds. The fact that these beliefs are not shared by all individuals or groups does not undermine their acceptance by the broader community in any way.

leaks and the manipulation of information, now that the battlefield of armed violence has spread from the physical to the virtual world.

Let us hope that the ICRC can meet these challenges with determination and single-mindedness. The objective is clear: “We need to encourage a humanitarian reading of events, instil a sense of responsibility towards others in distress, and support the setting of modest goals and reaching them rather than succumbing to a feeling of powerlessness. In the end, we need to give individuals the ability to make decisions on the basis less of economic criteria than of the inalienable dignity of human beings.”¹¹⁷ Nothing more, nothing less.

117 ICRC translation. Original French text: “Il s’agit de susciter des réflexes humanitaires dans la lecture des événements, un sentiment de responsabilité par rapport à la détresse de l’autre, la capacité de viser des objectifs à sa portée et de les atteindre, plutôt que de céder à un sentiment d’impuissance. Il s’agit, en fin de compte, de donner aux individus l’aptitude de se déterminer moins en fonction de critères économiques que par rapport à l’inaliénable dignité de l’être humain.” Marie-José Domestici-Met, “Cent ans après la Haye, cinquante ans après Genève: Le droit international humanitaire au temps de la guerre civile”, *International Review of the Red Cross*, No. 834, June 1999, p. 300.