42nd ROUND TABLE ON CURRENT ISSUES OF INTERNATIONAL HUMANITARIAN LAW ON THE 70th ANNIVERSARY OF THE GENEVA CONVENTIONS

“Whither the human in armed conflict? IHL implications of new technology in warfare”

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Message

Peter MAURER
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Interview by Helen Durham

Helen DURHAM:
Distinguished Guests, I’m very pleased to be here with the ICRC President, Mr. Peter Maurer, to talk about the humanitarian implications of new technologies in warfare. New technologies, or digital transformation as we often say, are deeply changing our lives across the sectors and I am personally very fascinated in some of the new innovations that the humanitarian sector, and in particular ICRC, are doing in the space, for example virtual reality, where we have created all sorts of exciting opportunities to use this new technology, to train and engage on issues such as visiting prisons, training and first aid and forensics. In this sense, what implications do you see, Peter, for new technologies, specifically in the humanitarian sector?

Peter MAURER:
Let me first and foremost give a warm welcome to all the participants of this year’s Sanremo Conference. I find it really encouraging that such a topical issue will be given space for debate over the next few days. As you rightly say, Helen, it strikes me too that technological change changes the
humanitarian environment and humanitarian work quite fundamentally and this is not any different from any other part of society. While maybe a couple of years ago, when we spoke about technological change and technological transformation people thought: “it’s just yet another computer in your office”. You’ll realize that this is a fundamental societal change which changes the way we do things. And as you rightly say, we have to unpack a little bit to see what this really means. The edification of every aspect of life has a major impact on humanitarian work. Analytically, big data analysis changes the way we are able to do humanitarian work because we have a much more granular view on how needs are evolving, where needs are and where we have to focus our priorities. Technological change, that edification of our environment, also changes the relationship between us as humanitarian agents and agencies and beneficiaries of humanitarian assistance: Beneficiaries have a much more direct contact amongst themselves, towards donors, towards the world outside. So, the intermediation of the relationship between humanitarian agencies and humanitarian beneficiaries is happening as we speak. Then, when we deliver humanitarian assistance, and that was your example of virtual reality, it also changes the way we work, the way we deliver. If we didn’t have new technologies we would not be able to deliver cash services to people on cellphones; we wouldn’t be able to teach international humanitarian law (IHL) by creating virtual reality and by creating another atmosphere for teaching; we wouldn’t be able to use data in a much more computing way in order to reunite families. So, there are hundreds of applications now of technological change in humanitarian work, and it goes from law to operations to policy issues which we’re dealing with.

Helen DURHAM:

Yes, thank you Peter. As you have said so clearly, new technologies hold great promise, but I think we also need to acknowledge that they also pose a number of risks and I would say in particular perhaps that this seminar will focus on the risks around methods and means of warfare. From your point of view, what are the main issues and perhaps risks and challenges that we need to look at when it comes to new technologies and specifically warfare?

Peter MAURER:

Well, it strikes me when I talk to militaries around the world, at least in some countries, the first thing that comes to their mind is the huge advantage of technological change, as for militaries it holds the promise of targeting, of accuracy, of compliance with IHL. While of course it raises a lot of issues as
to whether this promise is really happening and how enhanced weapons technology is changing the humanitarian landscape in which we are. We know that this is a very ideological debate. It’s a substantive debate, it’s a polarizing debate because, wherever people come from, whether they are militaries, humanitarians, potential victims, they look at the risk landscape. When they see the autonomous weapons, they see the idea that human control is lost in the process of technological change and of the changing environment of warfare. This raises fears and it raises, of course, complicated legal questions, as we know, on how to frame human control that seemingly most of the participants in that debate wish to be maintained in the future. But what does human control really mean? And can we have accurate legal framing and accurate evidence that human control can somehow bring technological change to minimize risks and to maximize advantages?

Helen DURHAM:

There will be quite a lot of debate on this issue of autonomous weapons in the next few days at this seminar/workshop/round table. In just a few words, what is the ICRC’s position currently on autonomous weapon systems?

Peter MAURER:

Well, I think of critical importance, and I alluded to it before, is establishing what exactly autonomy is and where exactly human control comes in. It raises, of course, complicated legal issues on how to frame it but also ethical issues: If technology holds the promise of enhancing the accuracy of weapons and if elements of autonomy are now being introduced to weapon systems, where is the element of control and how do you frame that? It raises ethical issues: Should machines take decisions? And if so, what kind of decisions and who is ultimately responsible in that process? I think this is the crux of the matter and I think the critical issue is indeed to frame human control and to ask the ethical questions. Whether this should happen or not is not the legal question, this is a deeply political question which will be debated in the political environments. People will have opinions, not only with regard to international humanitarian law, as to whether machines should take decisions and be programmed in a way to take decisions autonomously. I think we have seen this, from autonomously driving cars to autonomously driven weapons, that these are very emotional, ethical and legal which need to be debated at the same time.

Helen DURHAM:
Thank you. It sounds like we’ve got a little bit of work ahead of ourselves but on a very interesting topic. Just finally, when we think about the governance structure for, for example, the development of new weapons and technologies and this area in the sense of today we have the 70th anniversary of the Geneva Conventions this year. What do you think, going forward, would be needed to make sure that IHL remains relevant in this newly digitized technological age?

Peter MAURER:

I think over the last couple of years I have really advocated that we take a proactive role in interpreting the Geneva Conventions so as to logically establish an adequacy between the Conventions and the reality in which we are. We have to get to grips with what the terms which were invented, defined, framed in the Geneva Conventions, mean in the cyberspace. I think this work brings us, to a certain degree, to ensuring that we build on the past and that we don’t sort of discuss artificial gaps which may not exist because through adequating the law with reality and by interpreting the law we can obviously do a lot to clarify what the situation today is. For me there is no question that the Geneva Conventions are and will be highly relevant if technological change comes and is paired with kinetic power in warfare today that the Conventions are applicable. But then there is this space where we see humanitarian impact outside traditional armed conflicts. This needs to be framed and the intersection of cyberwar and cybersecurity needs to be debated, clarified and also thought through to define which legal system we have to refer to for which kind of situation. At the end of the day, the core issue in these modern warfare and cybersecurity issues is attribution: if something happens and has humanitarian impact where is the origin of it and who is responsible for it? We all know that this is a critical issue which needs further debate, further framing and which is not once and forever written into law. I think the critical issue is to have this debate where we translate existing legal frameworks into new realities and we identify as precisely as we can the gaps and then we’ll have the complicated question as to who will sit at the table to discuss these issues. My sense is, contrary to 1949, we need to have other participants at the table as well, we will have to have tech companies informing the debate; we will have to have societies bringing ethical questions to the debate. Therefore, my preview is that international humanitarian law in cyber warfare cannot be debated as a specialist branch of militaries and humanitarians in the future, other people will have to and will raise their voices and we have accommodated them and be ready to listen

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to them and to see what is a reasonable development of legal frameworks in that new world.

Helen DURHAM:
   Thank you, Peter, thank you very much.

Peter MAURER:
   Thank you.