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”

Sanremo, 4-6 September 2019

Closing remarks

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We have come to the closure of this event. This is always a sad time as I do believe that the annual Round Table is a unique place in the international law landscape where, as Professor Pocar said at the start, we come together with different backgrounds, different experiences, different skill sets. We are drawn in by the Sanremo spirit and genuinely discuss issues that we need to move forward on. I have greatly valued the interventions from all experts and the audience. I think the multi-disciplinary nature of the subject we have been grappling with has been marking the last few days.

We started with a keynote address marking the 70th anniversary of the four Geneva Conventions. What we heard resonated throughout the rest of our sessions: the law is not a static object. International law – particularly IHL – has to be flexible in some ways to be able to absorb changes. Still, as our keynote speaker highlighted, there are foundational principles that have served the test of time and that need to be upheld. As the ICRC, as the guardian of international humanitarian law with that particular international legal personality and a mandate agreed upon by States, we are very clear and very aware that international law is owned and developed by States. If we look into the fascinating history of the Red Cross and Red Crescent Movement, we see that the ICRC and the Movement have had an influence on the development of the foundational principles of IHL. In the ICRC’s archives, we find the ICRC’s proposals that were submitted to the...
International Conference of the Red Cross and the Red Crescent in Stockholm in 1948. And some of these proposals were included, as few years later, in the Geneva Conventions. We have the 33rd International Conference of the Red Cross and Red Crescent this year and we must not forget that this is another place where ideas are generated and expertise is gathered.

After the keynote address, we started with three experts examining how international humanitarian law has reacted to changes in the nature of warfare in the past. Our experts did an excellent job in presenting a variety of options to address changes in warfare that may also inform our thinking on the way forward. These include the application and interpretation of existing treaties and IHL principles; the development of new treaties; the development of the law through courts; and the publication of academic manuals.

We then turned to our first panel on new technologies, which focused on cyber warfare. The panelists underlined very well the real threat to humans and civilian infrastructure that the use of cyber operations in armed conflicts can pose; the challenges that derive from the rapid development of cyber technology, the spread of this technology, and the difficulty of attributing cyber attacks. It became also clear that while IHL applies to and restricts cyber warfare, we need more debate among States on how existing rules should be understood in cyberspace.

In the next session, we had an excellent debate among two experts on the use of autonomous weapon systems in armed conflicts - and I must admit that having the format of a moderated debate between speakers is a very good way to go. The examination of concrete scenarios helped us to dig deep into the legal and ethical issues we need to consider on the use and regulation of increasingly autonomous weapon systems. What does autonomy in warfare mean? What are we really talking about?

Closely related to autonomous weapons, the next panel examined the use of artificial intelligence and machine learning in warfare. It was extremely interesting to hear from a technology expert what AI and machine learning can do today, and, importantly, what they cannot do. Likewise, it was great to have a military practitioner sharing how States are currently using AI in military operations. And of course, we had two lawyers presenting limitations that IHL provides for the use of artificial intelligence. I think one important message that came both from panelists and from the audience was that information provided by machines, be it on targeting or detention, needs to be considered with significant caution – machines cannot be followed blindly.
In the last panel of the second day, we turned to outer space warfare, learning about States’ outer space capacities and operations. It was fascinating to hear deep legal discussions on how outer space law, the United Nations charter, and IHL regulate the use of force in outer space, and to learn about some of the ongoing debates in these fields. And here, I saw some analogies to debates that we also have with regard to other technologies, such as what constitutes a ‘hostile act’, or which operations would amount to ‘attacks’ as defined in IHL.

This morning, we then turned the application of new tech technologies in urban environments. What I recall from the discussion are valuable insights on how new technologies will allow gathering more information, synthesize it and thereby allow commanders and soldiers to have better situational awareness and apply IHL. We also heard a very clear word of caution: new technologies are unlikely be the silver bullet to the various challenges of urban warfare.

After focusing mostly on military operations, we then turned to the prospects and challenges of using new technologies in humanitarian operations. In my view, the challenges related to innovation in the humanitarian sector warrant careful reflection. I would reiterate two points from our discussions: First, there is a great need to innovation in the humanitarian sector, but we should not solely focus on technology but on all ways in which we can assist affected populations. And second, if new technology is used, there are important data protection challenges. In fact, it appears that there is an important dilemma building up: The more data is gathered in operations, and the more systems are digitalized, the more they may become the target of hacking and vulnerable to it.

And finally, we had a significant and multidisciplinary conversation – with an eminent diplomat, an expert from the tech industry, and the ICRC’s Chief Legal Officer, on policy approaches going forward. I must say: much work lays ahead of us!

Until next year I wish that you all use and build upon the lessons learned, experiences shared and ideas discussed during this Round Table. I hope to see you all in 2020 to mark the 50th anniversary of the Institute and to continue our important conversations.