

Australian Red Cross

70th Anniversary of the Geneva Conventions

Address by the Honourable Kim Beazley AC Governor of Western Australia

Friday, 16th August 2019

I would firstly like to acknowledge the traditional owners of the land on which we meet – the Whadjuk Noongar people – and pay my respects to their elders past, present and future.

Thank you Paul. It is an honour for me to open the Australian Red Cross seminar, commemorating the 70th Anniversary of the Geneva Conventions. This momentous occasion allows us time to reflect on the legacy of the Geneva Conventions, to celebrate all that has been achieved since their creation in 1949 and to evaluate the nature of international humanitarian law in a rapidly changing global environment.

Australian Red Cross

It is both humbling and a true honour to be a patron of the Western Australian branch of the Australian Red Cross. The Australian Red Cross here in WA undertakes tremendous work supporting and empowering people and communities in times of vulnerability' and through doing so, reducing suffering across the State.

The Australian Red Cross conducts this work on a national scale. I also acknowledge and appreciate the work of the Australian Red Cross who, as a Red Cross Red Crescent National Society, is part of the International Red Cross and Red Crescent Movement, working with the central purpose of; helping, without discrimination, those 'facing disaster, conflict and health and social problems.'

ICRC + Red Cross Red Crescent Movement

As well as through the contributions of the Australian Red Cross, Australia directly supports the work of the International Committee of the Red Cross (ICRC) and other global programmes. According to the Department of Foreign Affairs and Trade, "the reach, leverage, specialisation and other strengths of our global partners play a critical role in helping Australia to meet its international development objectives."

The Department of Foreign Affairs and Trade reports that, "in 2017-18 Australia provided \$27.5 million in core funding to the ICRC to:

- Protect and assist civilians affected by armed conflict and other situations of violence.
- Promote and strengthen adherence to international humanitarian law and universal humanitarian principles through training and advocacy.

- Support the ICRC to deliver emergency medical assistance, food, water and shelter for millions affected by conflict and violence.”

The key thing now is that nations, or at least some nations, care. The character of warfare is changing dramatically, both as to the nature of the forces – politically and culturally – that are conducting it. Civilians as direct targets, rather than as to be avoided collateral, is to the forefront. Weapons systems in lethality and in modes of control are introducing an entirely new battle field. Some of this I will discuss later but we are one of the few powers which reinforce global law favourably and do things about the legalities of weapons acquired and their use.

In 2013 and 2014 we led negotiations for the Arms Trade Treaty to encourage State Parties to trade conventional arms responsibly and transparently, helping to deter their diversion to the illicit market. This was a direct effort to limit the capacity for illicit transfers as a factor contributing to civilian suffering during and after armed conflicts.

Critical character of International Humanitarian Law (IHL) and the Geneva Conventions.

The international rules-based order and global security are underpinned by international law and global norms which help guide international cooperation and govern relations between countries.

International Humanitarian Law, as a major component of international law, is key to limiting the effects of armed conflict. The Law “encompasses the principles and rules that regulate the means and methods of warfare, as well as the humanitarian protection of civilian populations, sick and wounded combatants, and prisoners of war.”

The four Geneva Conventions of 1949 and their Additional Protocols reflect universal values of ethical behaviour and have been instrumental in codifying International Humanitarian Law following World War II.

How the international order evolves amidst a rapidly changing geopolitical environment, has important implications for Australia and the globe.

Fears that international law and global norms are being undermined

Despite the Geneva Conventions being seen as ‘universally ratified’ by 196 States, there are many examples of violations. These violations and several emerging challenges incite fear that international humanitarian law and global norms are being undermined. Emerging challenges include:

- **The sovereignty problem**

Whilst initially International Humanitarian Law was seen to regulate wars between States, the inclusion of Common Article 3 saw its application to both international and ‘internal’ armed conflicts, prompting for some a question of sovereignty.

Perspectives of internal sovereignty have been known to be problematic for International Humanitarian Law. This is due to the application of this Law in instances of non-international armed

conflict. Further, despite humanity being one of the key principles of International Humanitarian Law, many have viewed the application of this Law to internal or non-international armed conflicts as infringing upon a States' dealings with its own citizens.

For a contemporary example of this, conflict in Syria is throwing up a multiplicity of arguments about sovereignty principles as well as obligations on non-state parties. Syrian government endorsed attacks on rebel held centres with chemicals, barrel bombs, bombing and indiscriminate artillery assaults on civilians are examples against the defence of a response to a sovereign threat to an ostensibly legitimate government. It is clear civilians have been deliberately targeted for intimidation and revenge by many participants in the struggle, including by Syrian forces.

It should however be remembered that, enforcers of International Humanitarian Law operate only with regards to member states who have ratified the conventions. In this way, International Humanitarian Law may also be seen to reinforce State sovereignty. It is a good argument even if some states nevertheless ignore it.

- **Rogue states**

Rogue states act in direct contradiction to global norms and international law. "Rogue states are defined as those which systematically violate accepted international human rights norms of gender and ethnic non-discrimination and protection from state repression."

- **Disrespect of international humanitarian law**

According to the ICRC, "the single most important challenge to International Humanitarian Law continues to be that it should be better respected."

- **Non-state actors**

The nature of armed conflict has shifted from conventional, interstate wars to predominantly *intrastate* conflicts involving an increasing number of non-state actors (terrorist organisations, rebel groups, mercenaries and other actors).

Whilst some may see no direct application of International Humanitarian Law to non-state actors or non-state armed groups, customary international law, through Common Article 3 to the Geneva Conventions and Additional Protocol II adopted in 1977, applies.

The key sections which apply to non-state actors are principally; "the distinction between civilians and combatants; the distinction between civilian objects and military objectives; the prohibition of indiscriminate attacks; the obligation to respect and protect medical and religious personnel and units; the obligation to protect enemies who are no longer engaged in combat; and the prohibition on attacking objects that are indispensable to the population."

Argument about the criminality of the governing character of ISIS' so-called caliphate rests heavily on these obligations. Breaches of these obligations were clearly routine for that entity.

Changing nature of armed conflict

The changing nature of armed conflict and new means and methods of warfare are challenging International Humanitarian Law and global norms. These challenges include:

- The rise of non-state armed groups;
- The increased use of private militaries;
- The use of weapons which are “of a nature to strike military objectives and civilians or civilian objects without distinction.” For example, nuclear weapons and chemical and biological weapons; but conventional weapons as well.
- Ensuring that autonomous weapon systems can be used in compliance with International Humanitarian Law will be a formidable technological challenge;
- Emerging methods of warfare such as asymmetric and cyber warfare are posing challenges for enforcers of International Humanitarian Law; and
- Attacks on critical civilian infrastructure such as health facilities and resource exploitation.

Dr Hugo Slim, head of policy for the ICRC gave a seminal lecture on all of this at the ANU in May this year. Among many things he said weapons technology was developing very quickly but weapons diplomacy very slowly. “Alarmingly but not surprisingly, the hot new arms race is accompanied by a negotiations freeze as several states want to get ahead before negotiating.”

When it comes to impacts on civilian infrastructure, wars can last for decades with the ebb and flow leaving large swathes of population mired in horrific humanitarian circumstances. The ICRC, he felt though, was getting better and better at managing these crises.

I should divert here to point out a very nasty habit is developing among state and non-state entities to target aid workers struggling in the midst of chaos. Humanity owes them a debt of gratitude in the face of this evil. In the rules and laws in treaties we sign up to prohibiting this behaviour needs more prominence.

Future role of conventions in minimising suffering in armed conflict

At the core of International Humanitarian Law are the basic principles of:

- “The distinction between civilians and combatants;
- The prohibition to attack those *hors de combat* (out of combat);
- The prohibition to inflict unnecessary suffering;
- The principle of necessity; and
- The principle of proportionality.”

To quote Peter Maurer, President of the International Committee of the Red Cross, “continued violations of the law do not mean that the law is inadequate, but rather that efforts to ensure respect [and respect of International Humanitarian Law] are inadequate. We can – and must – do more.” It is important that we continue to uphold the principles of, and advocate for, for this Law.

Role of everybody

Indeed, it is our collective responsibility to increase awareness, understanding of and respect for International Humanitarian Law, the Geneva Conventions and their additional protocols. As the Australian Red Cross' Handbook for Parliamentarians states "For International Humanitarian Law to be useful in times of war it must be understood and respected during times of peace."

I commend the ICRC, the Australian Red Cross and all National Societies of the Red Cross for their extensive work aiding those affected by armed conflict and championing the importance of International Humanitarian Law.

I was particularly moved by Hugo Slim's estimates of us. He said we, along with many Asian states, were becoming experts in disaster risk reduction. The crossover of war caused and natural disaster effects as a product of climate shocks was expanding that expertise. He also saw us as sensitive to the need to see a change in attitude away from a colonial era tendency to concentrate on the advanced power for delivery to one which enhanced and respected local authority. He believed Australia showed consciousness of the obligations which while recognising as the Geneva Conventions did, a nation's right to win a war, nevertheless humanity needed to be imbibed and believed as a virtue of war by those who fight them.

In weighing difficult struggles with these issues Slim says "In this, Australian military training and reflection is some of the best in the world and has informed and improved the ICRC's own understanding of how to develop the virtue of humanity in military forces."

Conclusion

As indicated in the 2017 Foreign Policy White Paper, "it is strongly in Australia's interests to seek to prevent the erosion of hard-won international rules and agreed norms of behaviour that promote global security."

International Humanitarian Law and the Geneva Conventions, to quote Nelson Mandela, "continue to remind us most forcefully of our common obligation to care for each other even, and particularly, in conditions that foster behaviour to the contrary." Congratulations to the ICRC for their work these 70 years on upholding the standards of the Geneva conventions.