



# NEWSLETTER

*Raising awareness of international humanitarian law to all parties in armed conflict helps to prevent or limit the excesses of war. Here, new CAFGU recruits in Mindanao learn the basics of IHL in a dissemination by the ICRC.*

Cynthia Lee/ICRC

ICRC - August 2011

## STRENGTHENING IHL IN THE PHILIPPINES

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Whether in a classroom or government office, community health center or jeepney terminal, a discussion about armed conflict in the Philippines is usually concrete and maybe even personal. The country is no stranger to the consequences of internal armed conflict, having witnessed two of the longest ongoing armed opposition movements in the region.

This is why the rules of international humanitarian law (IHL) are so important in this country—and in many others. IHL seeks to limit the human suffering and cost of armed conflict, by imposing limits on the ways the opposing sides wage war. But it isn't enough for IHL to exist. These rules must be followed if they are ever to improve the plight of the people they are designed to protect, such as civilians.

A recent ICRC study found that IHL will only be respected if three conditions are met: (1) fighters receive clear orders to obey IHL; (2) the society in general supports the rules of IHL; and (3) those who break the rules are punished.

The third condition is particularly important. It is why when Republic Act No. 9851 passed into law in late 2009, it was a breakthrough moment for IHL in the Philippines. R.A. 9851 takes many of the obligations found in international treaties and transforms them into domestic law.

This law gives IHL clarity and immediacy in the Philippines. It identifies specific violations of IHL—such as attacks on civilians or medical personnel assisting victims of armed conflict—and sets out corresponding fines and jail time. And it empowers local courts to hear cases involving IHL violations. It concerns both the armed opposition groups and the government forces.

That said, since this law officially took effect in March last year its impact has still been minimal. So far, no case based on R.A. 9851 has yet been brought before local courts. As a fairly recent law, there is a need to raise awareness about it.

To go beyond simple promotion of the law, the International Committee of the Red Cross is also supporting IHL training sessions for lawyers, prosecutors and judges in cooperation with the Integrated Bar of the Philippines, the Department of Justice and the Philippine Judicial Academy. It is clearly important for these pillars of the justice system to become more knowledgeable of this key piece of legislation.

But while the ICRC continues to support capacity building, it has no role in the actual investigation and prosecution of cases under R.A. 9851, in keeping with its fundamental principle of neutrality.

In addition, there is still work to do concerning other important pieces of

legislation that affect victims of armed conflict and that are pending before the country's lawmakers. These include the Emblem Bill, which seeks to strengthen respect for the distinctive Red Cross, Red Crescent and Red Crystal emblems that help protect the people and means bringing humanitarian assistance to those in need. Also of importance is the Internally Displaced Persons (IDP) Bill that is aimed at stronger measures to protect and assist individuals and families displaced by fighting.

Among the international treaties awaiting ratification by the government are Additional Protocol I of the Geneva Conventions and the treaty banning cluster munitions. Taking these steps, which the ICRC continues to support, will help to ensure greater respect for the full range of IHL obligations in the Philippines.

August 12 is IHL Day while August is IHL month. It is a good time to stop and take stock of how far the Philippines has come, and to reflect on what still needs to be done. R.A. No. 9851 is a concrete illustration of the country's efforts to fulfil its international obligations under IHL: the passage and eventual enforcement of such local laws contributes to legal developments that help ensure IHL is respected around the world. The fact that there has been progress should remain a source of inspiration while taking the next steps to ensure the law continues to enhance protection for those affected by armed conflict.



ICRC



James Nachtwey/ICRC

# IHL: KEEPING UP WITH CONTEMPORARY CONFLICTS

## Interview with Richard Desgagne ICRC Regional Legal Adviser, Southeast and East Asia

### What are some of the major challenges faced by IHL in contemporary conflicts around the world?

The single largest challenge faced by IHL is ensuring that it is respected in the midst of the fighting. Without compliance, the law cannot achieve its goals – of ensuring that civilians are spared the effects of the fighting to the greatest extent possible and that those who fall into the hands of the adverse party are treated humanely.

Another major challenge for IHL arises because civilians are closer to hostilities than before. Especially in non-international armed conflicts, the distinction between those who take a direct part in the fighting and those who do not is becoming blurred. Under IHL, civilians lose their protection from attacks if they directly participate in hostilities. The ICRC has made efforts through an expert consultative process to clarify this concept of “direct participation in hostilities” so that the principle of distinction is not unduly eroded.

Better implementation and enforcement of IHL remains an ongoing challenge. Implementation presupposes access to and understanding of the law, as well as proper training and command supervision.

It also means that sanctions, including criminal ones, must be applied against those who violate the rules. Important strides have been made through the creation of international mechanisms to

fight impunity, such as ad hoc tribunals and the permanent International Criminal Court. More and more states have passed domestic laws which enable national courts to enforce IHL—Republic Act 9851 in the Philippines is a telling example.

### What does IHL say about terrorism?

IHL prohibits most acts committed in armed conflict which would commonly be called “terrorist”. A basic principle of IHL is that the parties must at all times distinguish between civilians and combatants, and between civilian objects and military objectives. IHL prohibits direct, as well as indiscriminate attacks on civilians or civilian structures. IHL also prohibits acts committed to spread terror among the civilian population.

In situations of armed conflict, there is thus no legal significance in describing acts of violence against civilians as “terrorist” because these would already constitute war crimes. But IHL does not apply when terrorist acts are perpetrated, or persons suspected of terrorism are detained, outside an armed conflict.

### How about new cutting-edge technologies like cyber warfare and drone attacks?

Since the birth of modern IHL, it has constantly been adapted to meet new conditions and technological

developments in warfare. This is done either through evolving interpretations of existing rules or through the adoption of new rules.

The fundamentals of IHL have nonetheless remained relatively stable. The principle of distinction, for instance, remains inviolable. It must be applied, even though a particular means of warfare is “new” and was not foreseen when the rules were adopted. Certain developments, however, do represent challenges to existing rules.

For instance, in the case of cyber warfare, an attack may come from distant and diverse sources or may even use the territory of states which are not parties to the conflict. It may even more fundamentally call into question the definition of an “attack” if no kinetic force is involved.

IHL should be able to address new developments within its established framework or through the development of new rules, if need be.

### What is the ICRC doing to strengthen IHL and fill in the gaps, particularly in non-international armed conflicts?

As guardian of IHL, the ICRC has used different procedures to promote implementation of the law and ensure its adequacy. It organizes consultations aimed at reaching agreement on new rules and prepares draft texts for submission to diplomatic conferences that can result in new international treaties related to IHL. It also conducts studies on the content of the law (for example, the 2005 study on customary law) as well as expert consultations to seek clarification on certain concepts (for example, guiding principles on direct participation in hostilities).

The ICRC recently completed a study on the current state of IHL, which was aimed at identifying and understanding, more precisely and clearly, the humanitarian problems arising from armed conflict and devising possible legal solutions to them. A main conclusion of the study is that IHL remains an appropriate framework for regulating armed conflict. However, the study also showed that IHL, especially in non-international armed conflict, does not always offer satisfactory legal responses. Four areas were identified that should be strengthened: the protection of persons deprived of liberty in non-international armed conflicts, internally displaced persons, the natural environment, and enforcement of IHL and reparations. The ICRC is now conducting consultations with states to seek their views on the study and the appropriateness of developing IHL in those areas.

# HOW A LITTLE BOY LEARNED TO SMILE AGAIN

**Mariel Garcia Montes, a 20-year-old philosophy student from Mexico, spent a week in the Philippines as one of the winners of the ICRC Young Reporter competition. During her trip, she spoke to young people affected by internal armed conflicts, and visited ICRC-supported projects like those at Davao Jubilee Foundation. Here she tells us how the center has helped the war-wounded, including a 5-year-old amputee.**

The wooden walls of Davao Jubilee Foundation store more life stories than one can appreciate at first glance. The workshops are inhabited by a handful of prosthesis technicians, bolstered by a few therapists who help beneficiaries get back on their own feet.

The waiting area could be easily filled up if two patients brought their families with them. However, an information board lets one visualize the number of people who pass by. After all, 25 years—which Jubilee is marking this month—are enough to create fame in a community where the need for their services is endless.

Jubilee assists people with disabilities in different ways: they provide ear and eye screening, general medical services, and physical rehabilitation for amputees. While it's not technically listed as a program objective, they give beneficiaries hope. Successes at Jubilee aren't measured only in the numbers of prostheses or rehabilitations provided; they are also appraised by testimonials from beneficiaries who have renewed faith in becoming self-sufficient again.

The day we visited Jubilee, we spoke with Chona Serra, coordinator of the physical rehabilitation program. While telling us about different achievements, she helped us understand some personal stories behind their efforts.

As the daughter of a polio victim who worked to create opportunities for the disabled, Chona became interested in physical therapy and took a path that led her to Jubilee.

"Words cannot explain what it's like to see happiness after sorrow," said Chona as she told us about a 5-year-old boy who has experienced more hardship than some people do in their entire lives. An orphan, he survived a conflict-related fire but unfortunately lost both his legs. His face bore scars from the burns.

This little boy was initially reluctant to undergo treatment, she said. Prosthesis

training is physically demanding for those who receive it.

Supported by the ICRC, the boy was fitted with two artificial limbs, and one day started walking around Jubilee—a foot taller with his new legs. It was then, said Chona, that the boy started to smile again.

Aside from assisting war-wounded people in need of prostheses, the ICRC has been helping Jubilee enhance their prosthetic services—this being one of the main needs of those affected physically by conflict. In December 2010, the humanitarian organization built a gait-training area where beneficiaries learn how to use their new artificial limbs in their daily lives.

"Jubilee reassures people that there are ways back to life," Chona said, explaining the child's change in behavior. She thinks the opportunities people receive at the center help them value their lives.

The child was happy by the end of the treatment—perhaps because he realized that it was not the end of the road, she said. Apart from helping patients to stand on their own feet, maybe Jubilee should start listing "teaching beneficiaries how to smile again" as one of its achievements.

The ICRC also provides specific technical know-how to Jubilee's staff. One of them—Glorycel Lasquite—attended a three-year formal training course at the Cambodian School of Prosthetics and Orthotics and graduated successfully as an orthopaedic technologist, while two physiotherapists have benefited from short practical courses in ICRC-supported centers abroad.

Early this year, the ICRC and Davao Jubilee Foundation formally extended their partnership until 2014. The focus of the renewed cooperation is on improving the quality of physical rehabilitation services and providing key personnel with specialized training abroad. This year, the ICRC will build a new orthopaedic workshop while plans to modernize the technology are underway.

Chona beamed when she talked about the changes in Jubilee's capability—they can now accommodate more patients and provide better services.

"I want everyone in the region to know about the center. I want all people with disabilities to gain from our enhanced capacity," she said.



*A 5-year-old amputee—a victim of conflict in his hometown—is able to walk again with the help of artificial limbs. The boy was supported by the ICRC for his rehabilitation at Jubilee.*

# ASSISTANCE TO MINDANAO FLOOD VICTIMS

Thousands of families in Central Mindanao were affected by flooding last month. With support from the ICRC, the Cotabato chapter of the Philippine Red Cross (PRC) distributed relief items to 2,600 households in evacuation centers in Cotabato City. The packages consisted of rice, sardines and jerry cans, while more than 500 mosquito nets were given to selected areas.

The ICRC also donated an emergency basic health kit to the Cotabato Regional Medical Center in support of its efforts to assist flood victims. Included in the kit are medicines such as antiseptics, antibiotics, eye ointments, as well as supplies such as bandages, thermometers, needles, syringes, delivery kits, instruments and an autoclave sterilizer.

In addition, nearly 3,000 families in two barangays affected by flash floods in Davao City received household items from the ICRC through the PRC Davao City chapter. The packages, which were given to families living near riverbanks in Matina Pangi and Matina Crossing, contained hygiene essentials and cooking utensils, as well as blankets, sleeping mats and mosquito nets.

*A man affected by flash floods in Matina, Davao City, receives a package of essential household items to help his family cope with the disaster.*



PRC Davao



Chiara de Leon/ICRC

## INMATES RECEIVE HYGIENE KITS

To help improve living conditions for detainees, the ICRC distributed 1,000 hygiene kits in three jails in the National Capital Region last month. The inmates at the CRADLE in Bicutan, Navotas City Jail and Valenzuela City Jail, each received a personal hygiene package of sulphur soap, laundry soap, toothbrush and toothpaste. Brooms and toilet brushes were given to each jail cell to promote cleanliness.

The ICRC plans to distribute hygiene kits to 15,000 inmates in the Philippines this year as part of efforts to help authorities and detainees alike to promote health in jails.

Recreational games like Scrabble, chessboards, basketballs, and books on general knowledge were also provided to the inmates.

*ICRC health staff answers questions from Valenzuela City Jail inmates during an activity to encourage good hygiene practices. A basic hygiene promotion session is held to complement the distribution of hygiene items.*

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