



Students at the Mindanao State University in Iligan read publications discussing international humanitarian law and the activities of the ICRC. The ICRC works to spread knowledge of IHL to students, arms carriers and members of civil society.

# NEWSLETTER

ICRC - June 2010

## ENHANCING PROTECTION THROUGH EDUCATION

The IHL Crimes Act:	2
HK Moot Court Competition	3
Changing lives in Antipolo City Jail	4
Vulnerable families in Mindanao hope for better future	6
ICRC in Thailand speaks on unrest in Bangkok	7
ICRC holds first media training	8

The ICRC thrives to foster an environment that promotes respect for the life and dignity of persons affected by armed conflict and other situations of violence. This is a key element of the mandate conferred upon the ICRC by 194 states, signatories to the Geneva conventions that contain the most important rules limiting the barbarity of war. It is an obligation of all state parties to disseminate the provisions of these instruments as widely as possible, both in times of peace and in times of armed conflict, so that they are known to the armed forces and to the population as a whole.

In the Philippines, the ICRC continues to foster awareness and respect for IHL through its interactions with mass media organizations at both the national and provincial levels; with academic circles such as law schools and political science, international relations and mass communication departments; with the military and police organizations as well as with other weapons bearers. Together with the Philippine Red Cross (PRC), it also cooperates on a shared program of IHL dissemination among chapter volunteers, and with community organizations. These public communication and education activities aim to contribute not only to the universal acceptance of IHL, but also to the ICRC's identity as a humanitarian organization that is neutral, impartial and independent, and one that upholds human dignity under all situations.

The ICRC also promotes the recognition of IHL among public authorities responsible for its application. R.A. 9851, a newly enacted Philippine penal law punishing serious violations of IHL, genocide, and other crimes against humanity fulfils the obligation of the Philippines as a state party to different IHL treaties to enable investigation, prosecution and punishment of perpetrators of war crimes within the national legal system.

It is clearly a major breakthrough in the implementation of IHL in the Philippines, and should help to ensure compliance and even deter violations. The ICRC has been active in providing technical advice to the executive and legislative authorities during the preparatory work leading to its passage. It must be stressed that the ICRC has no role in the implementation of the law and the actual investigation, prosecution and punishment of perpetrators of these crimes. Following its core mandate, it will continue to remind parties of their obligations under IHL, and now, RA 9851.

Thus, the ICRC works, not only during times of conflict but even before them, seeking to spread the knowledge that will minimize harmful effects on those who are most vulnerable.



ICRC





Ms. Enerva delivering a talk during a briefing session with members of the House of Representatives. The ICRC has provided technical support for the passage of the IHL bill.

# The IHL Crimes Act:

## Accountability for violators, protection for civilians

In December 2009, President Macapagal-Arroyo signed into law Republic Act 9851, the Philippine Act on Crimes Against International Humanitarian Law (IHL), Genocide and Other Crimes Against Humanity, a state instrument that seeks to punish those who violate IHL and, ultimately, protect those not or no longer fighting, who are most vulnerable during situations of armed conflict. Chamaine Enerva, legal adviser of the ICRC delegation to the Philippines, speaks of the particulars of this new law.

### *In a nutshell, what is R.A. 9851? How is international humanitarian law connected to this local law?*

It is a piece of penal legislation incorporating treaty provisions relating to serious violations of IHL and other international crimes into the national legal system. This was done by defining the crimes; by enabling national courts, particularly the regional trial courts, to exercise jurisdiction over these crimes; and by setting forth specific sentences or penalties.

R.A. 9851 also reinforces and puts into use legal principles specific to the prosecution and punishment of these crimes, such as jurisdiction regardless of where the crime has been committed, non-applicability of prescription in these crimes, responsibility of superiors for crimes committed by their subordinates, equal application of the law, and stricter conditions in availing the defence of following superior orders.

While R.A. 9851 penalizes serious violations of IHL, also known as war crimes, it does not provide sanctions for all other IHL violations. The less-serious violations of IHL have to be dealt with by other measures, either in the form of national legislation or administrative issuances.

On the other hand, R.A. 9851 also deals with non-IHL violations, particularly genocide and other crimes against humanity that may be committed both during peace time and in times of armed conflict. It must be recalled that IHL only applies in times of armed conflict.

### *Who will be affected by it?*

R.A. 9851 affects all individuals, whether civilians or fighters, whether belonging to a state or a non-state group, regardless of nationality, position or stature in life.

It affects only individuals because only individuals can be held criminally liable and punished by imprisonment. States cannot be held criminally liable (although under international law, they can be held liable under the doctrine of state responsibility, something R.A. 9851 does not deal with). Similarly, non-state groups cannot be held liable under R.A. 9851 – only their individual members. Since R.A. 9851 is a criminal legislation, it naturally affects actors in the criminal justice system, such as judges, prosecutors, investigators, defence lawyers, witnesses, victims and the accused. The law mandates judges, prosecutors, lawyers and investigators to be trained on IHL, human rights and international criminal law, and provides more protection for the victims and witnesses during investigation, prosecution and execution of judgment.

Those accused of violating this act are afforded their right to criminal due process of law. With this law, regional trial courts now have jurisdiction over such cases where either the accused or the victim is a Filipino citizen, and where the accused, regardless of citizenship or residence, is present in the Philippines.

### *What is the ICRC's involvement in this law?*

The ICRC supports the implementation of IHL in domestic law worldwide, including the adoption of measures penalizing violations of IHL such as R.A. 9851. The ICRC provided technical legal advice as early as the 12th Congress (2001-2004), when the very first draft of the IHL bill was filed. Following a series of meetings with executive agencies, the Executive Secretary requested the ICRC to brief its security cluster in early 2007, leading to the inclusion of the IHL bill into the President's priority bills.

It was in the 14th Congress (2007-2010) when the ICRC became more proactive

# Philippine team makes impressive showing at HK moot court competition

Ateneo de Manila University, last year's winner in the National Moot Court Competition on International Humanitarian Law, recently returned from representing the Philippines to the 8th Red Cross International Humanitarian Law Moot Court Competition held in Hong Kong. They emerged as one of the top five prosecution teams. Team member Michelle Suarez, who also won second best oralist in the competition, shares their experiences during the event.

The 8th Red Cross International Humanitarian Law Moot Court Competition held last March 5-6 was for our team, a culmination of almost seven gruelling months of research, training and writing.

The entire experience was surreal, to say the least. We arrived in Hong Kong on March 3, two days before the competition itself, allowing us to do some last-minute training and iron out a few administrative details

On competition day, the hotel lobby was filled with anxious law students and doting teacher-coaches from all over Asia and the Pacific. Most were talking amongst themselves, others concentrating, mooters were memorizing, and all were focused on the competition ahead.

The general preliminary rounds were held at Hong Kong University, its large campus nestled beside a hill, in the midst of winding turns and uphill roads.

During the general rounds, we went up against two Singaporean teams: National University of Singapore, known for their mooting skills and accomplishments;

and Singapore Management University, a new university with a promising mooting program. Being on the prosecution side proved beneficial to us since we were the first to present our case and leave an impression on our panel of judges.

Both rounds were extremely tough. One judge even asked our second speaker to explain the history behind the Red Cross, Red Crescent and Red Crystal emblems in the middle of his speech. The judges were direct and thorough, while our opponents were well-prepared and assertive as expected, leaving little room for us to predict the results.

At the end of the day, we were both exhausted and relieved. We introduced ourselves to the other teams and started talking about the competition and the preparations we made. Then came the good news—we ranked as among the top three prosecution teams, qualifying us for the semi-final round.

Off we went to the High Court of Hong Kong for the simultaneous semi-final rounds. Our team was randomly selected to go against Victoria University of Wellington from New Zealand.

In the end, the University of Malaysia and the University of Hong Kong topped the semi-finals and advanced to the final round. Admittedly, we were disappointed in the outcome but we decided that we couldn't complain about anything. Although we hadn't made it to the finals, our entire experience had already become worth the seven long months of hard work and training. The knowledge we've gained on IHL and the camaraderie we've established within the team and with other teams, made the competition an experience of a lifetime.



*The ICRC endeavours to inform arms carriers, through print and discussion, of their responsibility to spare those not or no longer participating in hostilities.*

in supporting national authorities in their commitment to adopt the IHL bill. The ICRC organized several briefings for legislators and executive and legislative staff with the aim of increasing their understanding of IHL. It also sponsored specialized training of key legislative staff abroad.

After the enactment of R.A. 9851 on 11 December 2009, the ICRC was also instrumental in publishing the law in two newspapers of general circulation. The ICRC has also started integrating R.A. 9851 in its regular IHL dissemination to arms carriers, political authorities, civil society, academe, media and the general public.

The ICRC, however, has no role in the implementation of the law and the actual investigation, prosecution and punishment of violators. The ICRC has a clear and long-established practice of not becoming involved in judicial proceedings, as recognized by international law. The ICRC does not hesitate to remind those involved in armed conflicts – be they governments or non-state armed groups – of their obligations under IHL through regular and confidential dialogue.



*Michelle Suarez and teammate Inigo Varon with other participants at the competition. Competitions such as the Hong Kong Moot Court on IHL help promote the rules of armed conflict to future lawyers and lawmaker, preparing them to better defend those most vulnerable.*



# Changing lives in Antipolo City Jail

Overcrowding is a menace to health in many detention facilities in the Philippines. But a determined wardress, armed with support from her hierarchy and from the ICRC, shows that something can be done to uplift the dignity of inmates.



*Wardress Carolina Borrinaga accompanies ICRC staff around the Antipolo City Jail. The Antipolo City Jail is one of several jails the ICRC has been working in together with the BJMP within the framework of the Call for Action process.*

Clad in her gray uniform, Supt. Carolina Borrinaga smiled carefully upon entering the Antipolo City Jail (ACJ) in June 2009 as the male inmates peered at their new wardress.

But Borrinaga's smile slowly faded. When she began her rounds, she discovered sick inmates along the corridors and in dark corners of their cells. Hazardous smoke from burning firewood and cigarettes filled the air. The prisoners were unkempt and unreceptive to their new guardian.

"When I first arrived in Antipolo, my heart was breaking. There were many ill inmates. I'm used to jails – I used to inspect them – but this one was extraordinary because it was so overpopulated," she says, her voice cracking.

Overcrowding remains a serious concern for the Bureau of Jail Management and Penology (BJMP), which has administrative control over the country's 1,132 city, district and municipal jails. According to the Bureau, the jail population rose from about 35,000 prisoners in 2000 to more than 58,000 in August 2009.

## **High mortality rate**

Antipolo City Jail, which was built to hold 200 inmates according to international standards, had nearly 800. But unlike other jails, the ACJ had an alarming mortality rate that prompted the BJMP to assign Borrinaga. A later evaluation showed that about 100 prisoners had ailments ranging from tuberculosis to unattended gunshot wounds.

## ICRC detention activities from January-March 2010

The ICRC has been doing work in detention in the Philippines since 1959. It continues to be well-known for these activities. The ICRC visits persons deprived of liberty, in order to monitor their conditions of detention and treatment, focusing on those detained in connection with the country's internal conflicts and other situations of violence. It then shares these findings with the concerned authorities through confidential dialogue. From January-March 2010, the ICRC carried out visits to over 22,000 inmates held in 77 places of detention. It also supported over 200 families in visiting their relatives detained far away from home.

Last March, together with various national authorities, the ICRC held the Call for Action national conference to discuss the outcomes of more than two years of cooperation with various national agencies to address the causes of jail congestion and its consequences on health and living conditions of persons deprived of liberty. This process focuses on three main concerns of inmates: upgrading penal facilities, tuberculosis management in jails and prisons, and the need to improve the criminal justice process for inmates.



ICRC delegate speaking to an inmate during a regular jail visit. The ICRC conducts jail visits to improve treatment and living conditions of those detained in relation to the country's internal armed conflicts.

The situation was urgent – her most challenging assignment, as she said later. In a meeting with Antipolo Mayor Nilo Leyble and the ICRC, Borrinaga asked for help in providing medical assistance to the prisoners and renovating the detention facility.

The response was swift and effective, thanks to good coordination: the jail authorities established lists of sick inmates and obtained permits from the court for their transfer, the local government provided doctors, and the ICRC paid for X-rays, other diagnostic tests, and certain medicines.

At the same time, Borrinaga drew on lessons she had learned from being a member of three working groups of the “Call for Action” process launched by the ICRC in 2007 and endorsed by the BJMP.

### **Call for concerted action**

The “Call for Action” process aims to coordinate efforts of the executive, legislative and judicial authorities to identify and address both the causes of jail congestion and their consequences on inmates’ health and living conditions.

Jean-Daniel Tauxe, head of the ICRC delegation in the Philippines, says: “The ICRC saw the need to work with the authorities to tackle the situation in jails, focusing on three main concerns: upgrading penal facilities, tuberculosis management in jails and the need to improve the criminal justice process for inmates. The Call for Action is a pilot project that began here, but we believe it may be replicated in other countries.”

On 17 March 2010, top officials from agencies like the BJMP, Department of Interior and Local Government, Department of Health, Congress and Supreme Court gathered at

the “Call for Action” national conference to present the accomplishments of these initiatives, and to outline plans for future activities.

“These problems have long been identified but it’s a matter of putting solutions into action,” says Borrinaga. “The Call for Action process helped us refocus our energy and resources, and reminded us that our mandate is not only safekeeping but development as well.”

### **Implementing changes**

Armed with inputs from the “Call for Action”, and with full support of the BJMP, Borrinaga used Antipolo City Jail as a test site. She began overhauling the jail facility by purchasing a gas stove to eliminate smoke from firewood, and by designating areas for drying clothes and smoking.

“She prioritized the inmates’ health and she’s very particular on hygiene. She’s very active and dedicated in fixing the jail’s problems,” comments Juan Perfecto Palma, an ICRC nurse who has worked closely with the superintendent.

By the end of 2009, the wardress had made good on her promise to alleviate overcrowding with the inauguration of an annex. This extension, built through a local prison ministries group with support from the ICRC, meets international standards on conditions of detention. Around 120 inmates are held there in greater comfort.

The transformation of the jail became more than just a physical facelift as the inmates—and their guards – started raising their self-esteem and taking responsibility for themselves.

“I tell them to value themselves. You leave your cases to the judge but how about you? How do you prepare for your life outside jail?” Borrinaga says.

### **Second chance**

Inmates, she insists, deserve to be treated humanely and given a chance to live decently even behind bars.

“They are also human; they only live once. Those who have been there for years tell me it’s the first time they have experienced this. Their stay in jail is an opportunity for them to change their lives. I just tell them, let this be a wake-up call for you,” she remarks.

ICRC nurse Palma says: “Among the detention facilities I’ve been to, Antipolo is now one of the more progressive ones. We realize that the changes really depend on the dedication of the jail’s management and the full commitment of the detaining authority.”

Borrinaga believes she herself has been changed by her stint at Antipolo. “Touching the lives of these people also made me a better person. There are so many things you can do to help a lot of people. They just need someone to guide them,” she says.

- Allison Lopez





A child carries items he has received at an ICRC distribution in North Cotabato. While distributions ended in March, the ICRC prepares to provide targeted support to the most vulnerable families.

# Vulnerable families in Mindanao hope for better future

Christoph Gillioz headed the ICRC office in Central Mindanao over the past year. He talks about ICRC's response to the large-scale displacement of August 2008, how the situation differed from his first assignment in Mindanao three years ago, and the current challenges.

July last year, however, thousands of families remain very vulnerable.

## *What makes their situation difficult?*

Some people have lost everything, and simply have nothing to go back to. Others have obtained better access to basic services, such as healthcare, water, sanitation, and schooling for their children. In addition, they may have found better markets for their products and services they can provide. Therefore, they have integrated better with the hosting communities.

However, the lack of security is a factor for many people. They are unsure of their safety as the clashes between government troops and the arms carriers may spark at any given time. Proliferation of weapons in the region, complex land disputes and other local issues contribute to the general state of fear and instability.

Of course they are hoping for a better future. Stability, safety and development—these are what civilians, who have been affected by cycles of endless violence in the region, need.

## *Do you think regular humanitarian assistance may contribute to prolonged dependence?*

Our position in the ICRC has always been clear: we do not want to keep the IDPs in evacuation centres. At the same time, people are displaced, and this creates vulnerability. Therefore, they are entitled to receive assistance, which we carefully identify while working directly at

the evacuation centres and with hosting communities.

The ICRC, with the support from the Philippine Red Cross, distributed over 270,000 food parcels and 52,000 essential household kits to IDPs in Central Mindanao over a period of 18 months. We concluded the last distributions in March. Currently, we are finalizing the comprehensive assessment to find the best way of supporting the most vulnerable families.

## *What are the main challenges for the ICRC in this situation?*

Security and safety of our staff remains the primary factor that we have to consider in our Mindanao operations. Following the kidnapping of our colleagues last year and other tense situations, we made some adjustments.

We have to ensure on a daily basis that we are accepted by all weapon bearers. We conduct daily assessments on security and receive guarantees from all actors in the area of operations.

Overall, I would say that ICRC's security and acceptance in Central Mindanao has improved over the past year. Through continuous presence in the field and dialogue with all parties, we promote respect for the civilian population and gain acceptance for neutral, impartial humanitarian action.

- Allison Lopez

## Recent ICRC activities in Central Mindanao

Between August 2008 and March 2010, the ICRC, with support from the PRC, distributed over 270,000 food parcels, and 52,000 kits containing household essentials to people displaced by fighting between the Armed Forces of the Philippines and the Moro Islamic Liberation Front in Central Mindanao. A ceasefire, in place since July 2009, has been holding. However, lack of security remains a concern for the population. Although most displaced people there have returned to their homes over the past year, thousands still remain displaced.

While the last distributions it conducted took place in March, the ICRC continues with other activities in the area and is now preparing a response to further support the most vulnerable people affected by the conflict. This includes promoting income-generating activities, through provision of agricultural and fishing materials to vulnerable populations, starting June.



Women visiting a health center in Libungan Torreta, where thousands of internally displaced people fled from hostilities in 2008. The ICRC renovated the premises of the health center, brought in essential medicines and supported staff in their daily activities.



# ICRC in Thailand speaks on unrest in Bangkok

The ICRC has been present in Bangkok, the site of one of its regional delegations for South East Asia, since 1975. Christian Brunner, who spent more than 10 years working with the ICRC in the region and heads the regional delegation in Bangkok, explains the activities carried out by his staff as well as their activities during the demonstrations in that city.

***What was the ICRC's role during the turbulent days in Bangkok when demonstrations were held?***

As a non-political and independent humanitarian organization, the ICRC focuses on the humanitarian consequences that might result from a crisis. Our main task is to cater to the needs of people adversely affected by violence.

We monitored the situation on the ground and consulted with different sides to discuss the humanitarian consequences of the situation and any potential needs to be addressed. We have had regular contact with the Thai Red Cross in order to support their humanitarian task in preparing for emergencies and, when necessary, responding to them.

In such situations, all sides involved must respect human life and dignity. Furthermore, humanitarian principles to minimize injuries and loss of life must be upheld. It is important that law-enforcement operations are conducted with restraint and in conformity with international standards.

***You head the regional delegation in Bangkok covering Thailand, Cambodia, Laos and Vietnam. What is the reason for the ICRC's presence in Thailand?***

To answer your question I need to go back to the 1970s when most of Thailand's neighbouring countries suffered from conflicts. Being stable at the time, Thailand was where thousands of refugees fleeing Cambodia and Vietnam found a safe haven away from violence and war. We opened our first office in Thailand in 1975 to assist those refugees. Later, we focused on medical programmes and enabling people who had lost contact with family members get back in touch with them.

Nowadays, the ICRC's humanitarian work in those countries involves different projects and activities to alleviate the suffering of vulnerable groups, such as disabled people and minorities. Furthermore, the ICRC focuses on capacity building in different fields and with various local partners to increase their ability to respond to humanitarian needs.

Our delegates in Thailand strive to ensure that international humanitarian law is integrated into the curricula of training and educational institutions of the Royal Thai Armed Forces. They help organize workshops to enhance the capacity of instructors to teach humanitarian law. Officers from the army's legal and operational branches are also being sponsored by the ICRC in law-related programmes and courses in the region and overseas.

***What is the ICRC doing to help vulnerable groups in the countries your regional delegation covers?***

This region has witnessed several wars, and explosives remnants of war and land mines have killed and injured thousands of people there. Many of those who luckily survived were left with life-long disabilities. The ICRC has assisted centres in Cambodia and Vietnam to provide physiotherapy and produce prostheses, orthoses, crutches and wheelchairs, to help physically disabled people regain some mobility and economic and social independence.

In these types of projects, the ICRC takes special care to work closely with local partners, to use appropriate materials and to train national staff. In the longer term, this makes it easier for national partners to take over the running of these fully equipped and staffed workshops.



# ICRC holds first media training on IHL and reporting of conflict in Visayas



On 12 August, the anniversary of the Geneva Conventions and IHL Day in the Philippines, the ICRC plans to launch a media contest for “the best peace and conflict reporting.” The competition seeks to recognize well-written, in-depth stories on the humanitarian consequences of armed conflict. The results of the contest will be announced on the Red Cross Day, 8 May 2011. More details will be given later.

Recognizing that the media could become valuable partners in promoting international humanitarian law in the Philippines, the ICRC conducted its first Visayas media training on IHL and reporting on conflict on March 16.

Around 25 journalists from print, radio and television in Tacloban and Samar joined the whole-day seminar at the Leyte Park Hotel. The event, organized by the ICRC Delegation in Manila and the ICRC Tacloban Office, aimed to equip journalists with knowledge on IHL to develop their coverage of conflict and humanitarian situations.

"We realise that it is important to work with the media to effectively increase awareness on IHL, not only among weapon bearers but the general public. When we reach out to the media, it is like we are reaching out to the public," said ICRC communication delegate Giuseppe Pogliari.

The journalists engaged the speakers from ICRC in lively discussions on topics related to armed conflicts. The massacre of their colleagues in Maguindanao, the kidnapping of three ICRC workers, and queries on ICRC's humanitarian activities in the Philippines were among the issues raised by junior and veteran members of the press.

Dr. Rene Guiguio, ICRC's political and communication adviser, stressed in the training how the media could become a tool of peace instead of a weapon of war.

"A responsible media can give a voice to the victims of armed conflict by highlighting their plight and concerns, instead of focusing only on the conflict itself," he said.

Meanwhile, useful tips on how to avoid danger when covering conflict situations were imparted by guest speaker and veteran journalist Red Batario of the International News Safety Institute (INSI).

Four more media trainings will be conducted by the ICRC in 2010, targeting Bacolod, Davao, General Santos and Zamboanga cities; while an award that will recognize efforts to promote peace through journalism will be launched in August.

"We are looking forward to building stronger ties with the press. The media helps shape society, so it is crucial to collaborate with them in bringing humanitarian issues to the forefront," said Pogliari.

- Allison Lopez

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