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FOREWORD

In accordance with our mission to spotlight voices from the Asia Pacific region and to encourage debate among young scholars, academia, and practitioners alike, the University of the Philippines Law Centre Institute of International Legal Studies (UP-IILS) and the International Committee of the Red Cross (ICRC) are delighted to have published the second edition of the Asia Pacific Journal of International Humanitarian Law (APJIHL). This edition is a result of the devotion and dedication of the entire team and scholars across the region amidst a global pandemic, for which I am sincerely grateful.

Since its creation, promoting respect and dissemination of international humanitarian law (IHL) is central to ICRC's mandate and mission and continues to be just as relevant today during the COVID19 pandemic where needs of people and populations affected by protracted armed conflicts are further aggravated. It reminds us of the critical need of respecting the laws of war and remembering that humanity must prevail.

Continuing our tradition of encouraging scholarship and providing a platform from debate and discussion, the first part of this year's edition features voices of practitioners, academics, and humanitarians from the Asia Pacific region. This edition's second part focuses on endeavors related to generating respect for and fostering understanding of international humanitarian law (IHL) among various audiences.

The opening piece where Judge O-Gon Kwon, a permanent judge at the ICTY till 2016 and former President of the Assembly of State Parties at the ICC, shares insights into his illustrious career in IHL and international criminal law, sets the tone for the rest of the edition. A career that spans over four decades, Judge Kwon, is an inspirational voice in the region. In discussion with the Journal team led by then-ICRC interns Romina Medina and Ann Clarice Opinion, he speaks about the effects of the Covid19 pandemic, challenges facing international criminal law and the significance of academic journals providing further motivation to many individuals involved in such endeavors, including myself.

In the next article, Dr. Ali Masoudi Lamraski highlights the challenges posed by lethal autonomous weapon systems to compliance with IHL rules. Through in-depth analysis, the author calls for limitations on autonomy and the need for humans to maintain "meaningful control" over the various functions of these weapon systems.

Following this cutting-edge piece is another article that also tackles an area of much interest in recent years, that is the need of humanitarian exemption clauses

in domestic counter-terrorism legislation. With a particular focus on the Philippines, Leandro Anton Castro delves into the interaction and inter-relationship between IHL and counter-terrorism laws.

The next article by Dr. Bingling Wei focuses on the rich history of the Red Cross Society in China. It traces a tumultuous period for the national society where it sought to maintain its identity as a neutral and impartial humanitarian organization during the Beiyang Government period from 1912 to 1928 while the government was interested in exerting more control over this auxiliary organization.

Using the 2011 East Japan earthquake as a case study, Yoshinori Kodama's contribution examines the challenges and possible prescriptions of operations by foreign military and civil rescue and relief assistance teams. It concludes by providing a framework for inter-State military and civil operation in civil rescue and relief assistance that would expedite such operations to the benefit of those most in need.

Authors Lucas Alcici and Saba Papia, in their article then present the differences and similarities in the two proceedings instituted at the International Court of Justice and the International Criminal Court on the situation in Myanmar and the treatment of the Rohingya population.

The final piece in part A of this edition is authored by Mary Flanagan, exploring the experience of Australia in prosecuting war crimes, with particular emphasis on the prospects of participation of victims and their families in investigations and criminal proceedings using the victim participation framework of the International Criminal Court.

Trained as a lawyer myself, and since then engaging in dialogue with and involved in disseminating the law to a wide array of audiences which mostly include non-lawyers, I firmly believe that law is not only for the lawyers. For adequate, comprehensive, and effective implementation of the law, it must be understood and respected by all segments of society.

As the ICRC, this multidisciplinary engagement is part and parcel of our dissemination activities and support to domestic implementation work. This is where Part B of this year's edition sheds some light, on some of the ways that the ICRC engages with all the different actors in the numerous contexts where we are present. These include, *inter alia*, the judiciary, the civil society, academia, members of armed forces, and national authorities.

The two reports featured in this section, the first authored by Christian Donny Putranto and the second by Azhari Setiawan and Dhani Akbar, present the objectives of the two activities, the format, and structure as well as the discussions that ensued. Ranging from the protection of cultural property in armed conflicts, to the protection of civilians, of medical personnel and healthcare, and the rules of war that apply during both international and non-international armed conflicts, the two

activities highlighted several pertinent topics that remain relevant to Asia and the Pacific region.

All of our work and all of these voices are aimed at advocating for strengthening respect for the law, to upholding humanity in war and respecting human dignity at all times. It is our hope that you will enjoy reading these articles that capture some of the most pressing issues of our time and that they will add to the existing scholarship and understanding of IHL.

In closing, my sincere gratitude to the Board of Experts for their continuous guidance, to the entire team at the UPIILS for their tireless efforts in producing this edition especially my co-Managing Editor Prof. Rommel J. Casis, and to Georgia Hinds for her invaluable support.

SAHAR HAROON

ICRC Regional Legal Adviser in Southeast Asia

PREFACE

The Institute of International Legal Studies (IILS) of the Universities of the Philippines (UP) Law Center, under Philippine law, is mandated to undertake research, training and extension services in various fields of international law, including international humanitarian law (IHL). Since its establishment, IILS has conducted research, publication, and training in the field of IHL, including hosting the National Moot Court on International Humanitarian Law in partnership with the International Committee of the Red Cross (ICRC). This partnership eventually led to the publication of the Asia-Pacific Yearbook of International Humanitarian Law (APYIHL). With five volumes published between 2005 and 2017, the APYIHL featuring peer-reviewed articles and book reviews on significant developments in IHL and related fields.

In 2018, ICRC and IILS took a step forward by reformatting the APYIHL from a yearbook into a journal, with a Board of Experts representing countries in the Asia-Pacific Region. With the goal of providing a platform for scholars from the region and building on the gains of APYIHL, the Asia-Pacific Journal of International Humanitarian Law (APJIHL) took off in May 2019, through a new memorandum of understanding signed between the UP and ICRC. The Journal, as an annual publication, is a platform for peer-reviewed scholarly articles, book reviews, and commentaries on significant developments in IHL, with special emphasis on the Asia-Pacific region.

After months of planning, meeting, and peer review, and amid the challenges posed by an ongoing global health emergency, the UP-IILS and ICRC proudly launched the first edition of the APJIHL in November 2020, available in print and online.

The APJIHL is critical addition to the UP Law Center's roster of research and publications that further advance legal scholarship and pathways for important legal reform, especially in the areas of civil rights protection, international relations, and law enforcement. The APJIHL's special emphasis on IHL issues that relate to the Asia-Pacific region, written by scholars who are from or are based in the region, is also critical as the region takes on new challenges and opportunities for collaboration on the humanitarian and security front.

Building on the successful launch of inaugural edition last year, the 2021 Edition continues to explore thematic areas of IHL articles that have undergone a rigorous peer review process, written by voices from the Asia-Pacific, under an interdisciplinary lens. At a time where the challenges posed by COVID-19 persist, the revamped APJIHL website serves as a platform not just for the free and public

distribution of all APJIHL Editions, but also the production of new media for online distribution such as podcasts and blog posts on the topics covered by the contributed articles.

UP ILS would like to thank the research and administrative staff of the UP Law Center who generously assisted with the editorial and organizational needs of the Journal. This volume would not be possible if not for the tireless efforts of Associate Editor Maria Emilynda Jeddahlyn Pia Benosa, Assistant Editor Joan Paula Deveraturda, Copy Editor Sheigne Alvir Miñano, Research Assistant Jasmin Althea Siscar, and Mr. Mario Dela Cruz who prepared the lay-out. We would also like to thank the ICRC, particularly Ms. Sahar Haroon and Ms. Georgia Hinds whose dedication made this volume possible.

ROMMEL J. CASIS

Managing Editor

TABLE OF CONTENTS

Foreword..... iii

Preface vii

PART I. VOICES FROM THE REGION

Interview with Judge O-Gon Kwon 1
International Committee of the Red Cross

Preliminary Remarks on Lethal Autonomous Weapon
Systems from an IHL Perspective 8
Dr. Ali Masoudi Lamraski

The Humanitarian Exemption Challenge:
Securing the Philippine Humanitarian Space in
the Anti-Terrorism Act of 2020.....31
Leandro Anton M. Castro

The Red Cross Society of China in the Beiyang
Government Period (1912-1928): A Civil Society
Organization Amidst Political Unrest66
Dr. Bingling Wei

The Use of Military Units and Personnel for International
Rescue and Relief Operations: Pertinent Issues Related to the
2011 East Japan Earthquake 84
Dr. Yoshinori Kodama

Displacement of the Rohingya Before the ICJ and the ICC:
Same Conduct, Different Crimes in International Law? 116
Lucas Alcici and Dr. Saba Papia

Prosecution of war crimes in Australia: prospects for victim
participation 143
Mary Flanagan

PART II. REPORTS AND DOCUMENTS

Promoting the Comprehensive Protection of Cultural Property: The 8 th Regional Conference on International Humanitarian Law in Asia-Pacific, 24-26 September 2019, Bali, Indonesia.....	173
<i>Christian Donny Putranto</i>	
Course and Meeting Report: International Humanitarian Law Course for Academicians and Practitioners 2019	188
<i>Azhari Setiawan and Dhani Akbar</i>	