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ICRC

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FOREWORD

There is much discussion in the world today around the many challenges to implementation and enforcement of International Humanitarian Law (IHL). Due to ongoing and new armed conflicts as well as the continued development of new weapon technologies criticism on the validity and sufficiency of the law is always at the center of any debate on IHL in particular and Public International Law in general. At the International Committee of the Red Cross (ICRC), we too remain concerned about these and other developments and engage with States at all levels to work towards enhancing respect for the law.

Yet, that is not all that has happened in the past year. Where developments in new means and methods of warfare are ongoing and we see increasingly protracted conflicts, the past months have also witnessed States reaffirming their commitment to IHL. After ratifying the Treaty on the prohibition of Nuclear Weapons (TPNW) in 2021, Philippines then ratified the Arms Trade Treaty and Protocol V to the Convention on Certain Conventional Weapons this year. Timor-Leste also acceded to the TPNW in June 2022 along with other States. This year also saw other initiatives that illustrate commitment to IHL such the first Meeting of State Parties to the TPNW, where States committed to advance universalization and national implementation of the TPNW, as well as the work done towards a political declaration on avoiding the use of heavy explosive weapons with wide-impact areas in densely populated areas, to name just a few. These advancements show what is possible when we are united in purpose. They show what we can achieve when we put our heads together and analyze the continued impact IHL has on the lives of people affected by armed conflicts and other situations of violence.

Of course, it does not mean that we should stop here or that our work as humanitarians and as citizens of the world is done. What it does mean is that not all hope is lost even when one may feel it to be so. What it also means is that there is a continuous need to demystify the law, to bring it to the masses and to the decision-makers. What is then needed is to focus on keeping the

momentum going and for proponents and advocates to become part of the debate on all these concerning developments.

At the ICRC, an integral part of our preventive work is to convene platforms for dialogue, discussions and peer-exchanges among practitioners and policymakers from around the world as such exchange is essential to enhancing understanding of IHL, to help clarify and develop it and thereby to strengthen this body of law and universal humanitarian principles.

One such platform, that we at the ICRC are proud to support is the Asia Pacific Journal of International Humanitarian law (APJIHL). Reinvigorated in 2020 and going strong into its third edition, the APJIHL focuses on pertinent contemporary issues in its aim to bolster voices from the region.

Through this edition, it is my personal honor to bring to you inspiring words from the ICRC's former Director for International Law and Policy, Dr. Helen Durham. There is nothing that I can say which will do justice to the reflections Helen shares in an interview with colleagues from the Philippines and transcribed in the opening piece. What I will say is how grateful we at the ICRC and especially at the Legal Division have been to have worked with and known Helen. For me, this goes even beyond and much before I started working for the ICRC six years ago. As someone who would be fascinated by the brilliance and foresight of humanitarians at the ICRC and having religiously followed numerous legal issues the ICRC has expounded upon, I recall meeting Helen for the first time before I had joined the ICRC and being completely awe-struck, not being able to say a word lest I make an impression I will later regret. To then sit on a panel that Helen was moderating and be guided by her reassuring attitude, her soft-spoken yet forceful reflections, her ability to speak from the heart, I still vividly remember thinking how she embodied all the ideals I had held the ICRC up to. To then have the privilege of working under her leadership, was indeed a dream come true – clichéd as that sounds. Thank you Helen, for everything that you do and hope you know the impact you have on the lives and the work of so many of us around the world.

Following this opening and inspiring piece, is another insightful article by Mr. Santosh Anand reviewing a leading manuscript titled “Revisiting the Geneva Conventions: 1949-2019” edited by Dr. Muhammad Jahid Hossain Bhuiyan and Dr. Burhan Uddin Khan. Reading Mr. Anand’s review, one realizes the many crucial contemporary topics that the authors have addressed in this work and opened the door for further deliberations especially from scholars within the Southern hemisphere.

A third article is then on an increasingly relevant and pertinent issue that looks at “Redefining Rescue Operations in Contemporary Naval Warfare: A Necessary interplay between Maritime Bodies in International Law”, authored by Alba Grembi. The author explains the importance of and proposes an evolutionary interpretation of the laws on naval warfare in order to better protect persons at sea.

The final piece in the 2022 Edition is on demonstrating the role of fact-finding commissions and similar mechanisms in strengthening criminal repression of violations of international law, including IHL. Titled “Commissions of Inquiry as Bulwarks against Impunity” and authored Mr. Sarthak Roy, the article is a timely analysis on the effectiveness of such mechanisms and the benefit to be had from their findings and reports.

Compiling these analyses, it is, thus, on behalf of the ICRC, my pleasure to bring to you this third edition of the APJIHL, and hope that it continues to be a platform for voices from the region to demonstrate your genuine interest in promotion of IHL and strengthening its respect.

This is indeed not the fruit of ICRC’s labor alone. I am privileged to have the guidance and support of a dedicated Board of Experts, of Professor Rommel Casis, of Ms. Georgia Hinds and the entire APJIHL team who have made this edition possible with their tireless efforts and commitment. Thank you!

SAHAR HAROON
Managing Editor

PREFACE

The Institute of International Legal Studies (IILS) of the Universities of the Philippines (UP) Law Center and the International Committee of the Red Cross is proud to publish the 2022 Edition of the Asia-Pacific Journal of International Humanitarian Law.

Now on its third year of publication, APJIHL continues to be at the forefront of IHL scholarship in the region. Exploring emerging and relevant thematic areas of IHL through peer-reviewed articles, the 2022 Edition builds on the successful publication of the inaugural 2020 Edition and the 2021 Edition – a feat achieved amidst the evolving challenges posed by COVID-19. Through the 2022 Edition, APJIHL also continues to be a platform for in-depth academic discussions on IHL from the inter-disciplinary perspective of scholars from the region, with and through the guidance of a Board of Experts comprised of some of the most important voices in international law.

For its part, UP-IILS has served as the research base for IHL, both prior to and through the publication of APJIHL, as part of its research and training mandate under Philippine law. Its long-standing partnership with ICRC has served as the foundation for the successful hosting of the Philippine National Moot Court on International Humanitarian Law and the five-volume publication of the Asia-Pacific Yearbook of International Humanitarian Law (APYIHL). In May 2019, this partnership was further strengthened, when a Memorandum of Understanding was signed, thus paving the way for APJIHL. Since then, APJIHL has been a key addition to the UP Law Center's roster of research and publications, contributing to the advancement of legal scholarship in the region, and being a springboard for legal reforms in rights protection, international relations, and rule of law. With the publication of the 2022 Edition and the Call for Papers for the 2023 Edition, APJIHL will continue to serve as an avenue for IHL scholarship in the Asia-Pacific, uniquely delivered from the voices of those from the region.

UP-IILS would like to thank the research and administrative staff of the UP Law Center who most kindly assisted with the editorial and

organizational needs of the Journal. This volume would not be possible if not for the continued hardwork and efforts of Associate Editor Atty. Maria Emilynda Jeddahlyn Pia Benosa, Assistant Editor Atty. Joan Paula Deveraturda, Assisting Lawyer Prof. Michael B. Tiu, Jr., Copy Editor Sheigne Alvir Miñano, Research Assistants Jasmin Althea Siscar, Marc Cedric Dela Cruz and Holden Kenneth Alcazaren, 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 continued support made this third volume possible.

ROMMEL J. CASIS
Managing Editor

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