

OPINION

Yemen: Where Humanity is Flaunted

Rene Wadlow*



In an exceptional presentation on 31 October 2015, at the United Nations headquarters in Geneva, Secretary-General Ban Ki-moon and the President of the International Committee of the Red Cross (ICRC), Peter Maurer presented an unprecedented joint warning. It is very rare that the ICRC makes public criticism of governments, in part because of the fear that a criticized government would cut off relations and thus end the ICRC efforts to help the wounded, prisoners of war, and others covered by the Red Cross mandate. Thus the public and high-profile statement alongside Ban Ki-moon is an indication of wide-spread fears that the recent attacks against hospitals in Afghanistan and Yemen could weaken, and perhaps destroy, the prohibitions and restraints in war which are now called "humanitarian law." These restraints used to be called "the laws of war", but since

formal "Declarations of War" have gone out of diplomatic style and many conflicts are within the still-existing boundaries of a State, the term "humanitarian law" has become widely used.

Saving the Humanity

Peter Maurer, standing next to Ban Ki-moon, said

"If States, other actors in conflict, and the international community as a whole do not act responsibly now, there will be millions more victims. Acting responsibly means redoubling efforts to achieve political solutions and, pending such achievements, ensuring that humanitarian principles and law are respected. Hospitals are being attacked, patients, doctors, nurses and humanitarian workers killed. When humanitarian law and principles are disregarded, when humanitarian needs are trumped by political agendas, when access to the wounded and sick is denied, and

**Rene Wadlow is President and Representative of the Association of World Citizens to the United Nations in Geneva.*

when security concerns lead to a suspension of operations, people are abandoned, the notion of protection loses its meaning, and humanity is flouted.”

The Legal Position

International humanitarian law (the laws of war) prohibits deliberate attacks on civilians not taking a direct part in hostilities and in attacks which do not distinguish between civilians and combatants. The essential core of humanitarian law is the prohibition on attacking hospitals, medical personnel and the wounded unable to continue fighting. These prohibitions go back to the early Geneva Conventions of July 1906 and were then updated in July 1929 in light of the experiences of the First World War. The Geneva Conventions were renegotiated in the light of the experience of the Second World War leading to the Four Geneva Conventions of August 1949. In light of the experiences of the wars in Nigeria-Biafra and Vietnam, new negotiations were held in Geneva leading to the Two Additional Protocols of 1977. As I had been a member of a working group of the ICRC during the Nigeria-Biafra war, I followed closely the efforts to adapt humanitarian law to internal “non-international” armed conflicts.

In addition to the Geneva

Conventions (sometimes called the Red Cross conventions as the ICRC is the guardian of their respect), there is a second avenue of humanitarian law, usually called The Hague Laws arising for The Hague Conventions of 1899 and 1907 where the emphasis is on banning the use of certain weapons that cause irreversible damage. “Dum Dum” exploding bullets were the first banned weapons. The most important was the ban in 1925 against poison gas as a result of its very destructive use during World War I. The ban against cluster munitions is the most recent ban within this “Hague Law” avenue. Unfortunately, none of the weapons bans has an inspection-dispute settlement mechanism except for the much more recent ban on chemical weapons.

The Case of Cluster Munitions

The Association of World Citizens (AWC) was active in efforts which led to the treaty on the ban of cluster munitions. In a narrow sense, treaties are only binding on the States which have ratified the treaty. The USA, Saudi Arabia, Yemen, and Russia have not yet ratified the cluster munitions ban. Thus, Saudi use of USA-made cluster munitions in Yemen is “legal” as is Russian use in Syria. However, the world citizen position is that when a large number of States ratify a treaty

and that the treaty is constantly used as a standard in the UN – as is the case of the cluster munitions ban – then the treaty becomes world law. Thus the cluster munitions use in Yemen and Syria is a violation of world law.

The essential character of world law is that it is the broadly-agreed upon rule of moral conduct. Although no significant revision of international humanitarian law is envisaged at the present, there is a constant need to reflect upon what actions are needed to adapt, promote and implement humanitarian law in the face of the changing realities of armed conflict. Above all we need to look at what we can do when there are violations of humanitarian law by State military or by non-State agents such as ISIS in Syria and Iraq.

The Gross Violation

For the moment, the most direct and open violation of the core elements of humanitarian law – the protection of hospitals, medical personnel and the wounded – has been by State actors – the USA in Afghanistan and the Saudi-led coalition (Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Sudan, and the United Arab Emirates) in Yemen. There is an obvious lack of political will to deal with violations of humanitarian law. The USA is powerful, and most of the

Saudi-led coalition is rich and active buyers of weapons. For the moment, strong protests can come only from non-governmental organizations, though there is little coordinated effort to protest against violence.

The hospitals attacked in both Afghanistan and Yemen were organized by the Médecins Sans Frontières (MSF), the original “French Doctors” created in 1971 out of the experience during the Nigeria-Biafra war when the International Committee of the Red Cross did not speak out against the Nigerian policy of starvation as a war weapon for fear of no longer being able to carry out its relief work. The “roving ambassador” of Biafra to Europe was one of my former students who, when he was in Geneva, would stop by to see me and update me on events. Thus I knew the difficulties in getting the media to focus on starvation as a deliberate policy of war and not as unfortunate “collateral damage.” Thus, we must agree with the remarks of the then President of MSF, Dr James Orbinski, when the organization received the Nobel Peace Prize “Silence has long been confused with neutrality, and has been presented as a necessary condition of humanitarian action. From its beginning, MSF was created in opposition to this assumption. We are not sure that words can always save lives, but we know that silence can certainly kill.” ■