

*The Holy See and the
Promotion of International Humanitarian Law*

Rome, 18 September 2017

Your Excellencies,
Ladies and Gentlemen,

I wish to thank heartily MajGen Norbert Sinn, President of *Apostolat Militaire International* for kindly inviting me to participate in this General Assembly and to intervene on the subject *The Holy See and the Promotion the International Humanitarian Law*.

In the present geopolitical context, often described by Pope Francis as a 'third world war in pieces', the respect for International Humanitarian Law is crucial for the protection of the very dignity of both fighters and the civilian population.

As it is well-known, IHL includes a set of customary and conventional rules that aim at protecting on the one side those who *do not participate* in the conflict, as the civilian population or the medical personnel and the military chaplains and, on the other side, those who *do not more participate actively*, as the wounded and the prisoners. Moreover, IHL places limits on the means and methods of warfare, to the extent that it tends to ban certain types of weapons, including those that inflict unnecessary suffering to combatants, and to prohibit military conduct that may cause particularly serious damage to some facilities and sites and to the natural environment.

Consequently, the Holy See attaches great importance to this branch of public international law, as it is demonstrated by the ratification of a huge number of IHL agreements, both those concerning the protection of victims and of cultural property in armed conflicts, and those relating to disarmament.

Among these agreements, I wish to recall particularly the four Geneva Conventions of 1949, their two Additional Protocols of 1977 relating to the Protection of Victims of International Armed Conflicts (Protocol I) and to the

Protection of Victims of Non-International Armed Conflicts (Protocol II), and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 2000.

Furthermore, the Holy See has ratified all the agreements concerning the methods and means of warfare¹, and most of those protecting cultural property².

It is useful also to emphasize that the Holy See has not only ratified these treaties, but has also participated in the negotiations leading to the adoption of the final text of the agreements. In fact, the ratification of a treaty is normally the last act of a longer process, which includes negotiations that might be long and difficult.

The reasons why the Holy See, given its particular nature, decides to ratify an international agreement may vary, but I think that we can understand the ratification of IHL agreements as an encouragement to the international community in pursuing the aim of IHL, that is safeguarding the essential principles of humanity in the tragic context of an armed conflict, through the protection of human dignity and of some related assets, such as medical facilities and cultural and religious sites (including places of worship).

That said, I think that the endorsement of the principles and rules of international humanitarian law by the Holy See is grounded most of all on an ethical foundation.

In fact, in the perspective of the Holy See, International Humanitarian Law, because of the values that motivate it, should not be considered merely as a legal code, but first and foremost an ethical code³. According to the Holy See, the mission of safeguarding the essential principles of humanity and ensuring the respect for human dignity in the dramatic context of armed conflicts goes beyond the mere

¹ Geneva Protocol on Asphyxiating or Poisonous Gases, and of Bacteriological Methods, 1925; Convention on the Prohibition of Biological Weapons, 1972; Convention prohibiting Certain Conventional Weapons (CCW), 1980; CCW Protocol (I) on Non-Detectable Fragments, 1980; CCW Protocol (II) prohibiting Mines, Booby-Traps and Other Devices, 1980; CCW Protocol (III) prohibiting Incendiary Weapons, 1980; Convention prohibiting Chemical Weapons, 1993; CCW Protocol (IV) on Blinding Laser Weapons, 1995; CCW Protocol (II) prohibiting Mines, Booby-Traps and Other Devices, amended, 1996; Anti-Personnel Mine Ban Convention, 1997; Convention prohibiting Certain Conventional Weapons (CCW), amended Article 1, 2001; CCW Protocol (V) on Explosive Remnants of War, 2003; Convention on Cluster Munitions, 2008.

² Hague Convention for the Protection of Cultural Property, 1954; Hague Protocol for the Protection of Cultural Property, 1954; 2nd Hague Protocol for the Protection of Cultural Property, 1999.

³ Cf. John-Paul II, *Message to the Participants to the 1st International Course for the Formation of Catholic Military Chaplains to humanitarian Law – Rome, 25-26 March 2003*, n. 3

compliance with international agreements and practices, no matter how noble might be the goals that they pursue. It is rooted into man's conscience, which needs to be appropriately educated and accompanied.

According to the *Catechism of the Catholic Church*, «The Church and human reason both assert the permanent validity of the moral law during armed conflict»⁴. Echoing the II Vatican Council Pastoral Constitution *Gaudium et Spes*, the *Catechism* affirms: «The mere fact that war has regrettably broken out does not mean that everything becomes licit between the warring parties»⁵.

In other words, that means that the compliance with humanitarian rules and principles is for the Holy See, as well as for IHL, independent of the reasons of the conflict, the rightness of the cause in whose name it is conducted, as well as of the legitimacy of the use of force.

The respect of the moral law during an armed conflict has three explicit implications in the *Catechism of the Catholic Church*: first non-combatants, wounded soldiers and prisoners must be respected and treated humanely⁶; second, practices deliberately contrary to the law of nations and to its universal principles are crimes⁷; and third, actions deliberately contrary to the law of nations and to its universal principles are crimes, as are the orders that command such actions. Blind obedience does not suffice to excuse those who carry them out. Thus the extermination of a people, nation, or ethnic minority must be condemned as a mortal sin. Moreover, one is morally bound to resist orders that command genocide⁸.

The duty to mitigate the inhumanity of the war is also recognized in the Pastoral Constitution on the Church in the Modern World *Gaudium et Spes* of 1965. This important document recognizes that the use of scientific arms is a threat that can «lead the combatants to a savagery far surpassing that of the past» and strongly calls for putting an end to arms race. It also recalls the permanent binding force of universal natural law and its all-embracing principles and encourages the

⁴ *Catechism of the Catholic Church*, n. 2312.

⁵ *Ibidem*; Pastoral Constitution *Gaudium et Spes*, 79 §4.

⁶ *Catechism of the Catholic Church*, n. 2313.

⁷ *Catechism of the Catholic Church*, n. 2328.

⁸ *Catechism of the Catholic Church*, n. 2313.

adoption of international agreements aimed at making military activity and its consequences less inhuman, while calling for further improvements of their provisions. Moreover, *Gaudium et Spes* clearly states that: «Any act of war aimed indiscriminately at the destruction of entire cities of extensive areas along with their population is a crime against God and man himself. It merits unequivocal and unhesitating condemnation»⁹. Finally, through this document «the bishops of the whole world gathered together, beg all men, especially government officials and military leaders, to give constant thought to their gigantic responsibility before God and the entire human race»¹⁰.

Among the tools through which the Holy See contributes to the promotion and development of IHL, I wish to recall its important diplomatic effort in some major challenges, namely the humanitarian aspects of migrations, disarmament, and particularly nuclear disarmament, and Lethal Autonomous Weapon Systems (LAWS).

Concerning the humanitarian aspects of migrations, the Holy See constantly stresses the right of each person to live in one's country, along with the fundamental right to leave it. At the same time, the Holy See strongly advocates for the full respect of all human rights of migrants, IDPs and refugees, including the right to family reunification and to education. On the other hand, the Holy See doesn't forget to advocate for the right of the refugees to return in their country of origin and to live there in peace, dignity and security.

Concerning disarmament, I just wish to recall the proactive role of the diplomacy of the Holy See in this field. In 2014, this has led to the publication, among other initiatives, of a document entitled *Nuclear Disarmament: Time for Abolition. A Contribution of the Holy See* drafted by the Holy See Permanent Mission to the IGOs in Geneva. Even if the stance of the Holy See in this field is well-known, it is worth reminding that, in the perspective of the Holy See, «Nuclear deterrence and the threat of mutually assured destruction cannot be the basis for an ethics of fraternity and peaceful coexistence among peoples and states. (...) Spending on

⁹ Pastoral Constitution *Gaudium et Spes*, n. 80.

¹⁰ *Ibidem*.

nuclear weapons squanders the wealth of nations. To prioritize such spending is a mistake and a misallocation of resources, which would be far better invested in the areas of integral human development, education, health and the fight against extreme poverty. When these resources are squandered, the poor and the weak living on the margins of society pay the price»¹¹.

Coming to the Lethal Autonomous Weapon Systems (LAWS), the Holy See is participating to the negotiating effort in Geneva, and in this context, its Permanent Mission to the IGOs in Geneva, in 2015, has drafted a publication on *The Use of Lethal Autonomous Weapon Systems. Ethical Questions*. According to the Holy See, «Autonomous weapon systems, like any other weapon system, must be reviewed and pass the IHL examination. Respect for international law, for human rights law, and IHL is not optional. (...) For the Holy See the fundamental question is the following: Can machines—well-programmed with highly sophisticated algorithms to make decisions on the battlefield in compliance with IHL—truly replace humans in decisions over life and death? The answer is no. Humans must not be taken out of the loop over decisions regarding life and death for other human beings. Meaningful human intervention over such decisions must always be present. Decisions over life and death inherently call for human qualities, such as compassion and insight, to be present. While imperfect human beings may not perfectly apply such qualities in the heat of war, these qualities are neither replaceable nor programmable. Studies of soldiers' experiences support that human beings are innately averse to taking life, and this aversion can show itself in moments of compassion and humanity amidst the horrors of war. (...) The human capacity for moral reasoning and ethical decision-making is more than simply a collection of algorithms. The human factor in decisions over life and death can never be replaced »¹².

¹¹ *Message of Pope Francis on the occasion of the Vienna Conference on the Humanitarian Impact of Nuclear Weapons*, 7 December 2014

¹² *Intervention of the Holy See at the Meeting of Experts on Lethal autonomous weapons systems of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects*, 13 May 2014

Alongside this diplomatic effort, the Holy See has a major role in the formation of the Catholic military chaplains to International Humanitarian Law.

As a State party to 1949 Geneva Conventions, the Holy See is a full Member of the International Conference of the Red Cross and Red Crescent – a unique global forum bringing together every four years the States Parties to the Geneva Conventions of 1949 and the International Red Cross and Red Crescent Movement, including the 190 National Red Cross and Red Crescent Societies, their International Federation of Red Cross and Red Crescent Societies (International Federation) and the International Committee of the Red Cross (ICRC). In this context, the Holy See regularly takes unilateral commitments for the promotion and development of IHL. The most important of these commitments is the organization of the *International Courses for the Formation of Catholic Military Chaplains to International Humanitarian Law*, which take place in the Vatican every four years since 2003. The first Course was held over the theme *Humanitarian Law and Military Chaplains*, while the following ones have been related to *Humanitarian Law and Religions, State and Non-State Subjects*, and finally *Non-International Armed Conflicts and 'New Conflicts'. The Protection of Human Dignity in Light of International Law*.

Among the «added values» of these Courses, I wish to stress the importance of the topics, which are among the most sensitive present challenges for the implementation and the development of IHL; the fact that speakers belong to very different legal and cultural backgrounds and are chosen among the scientific community, the humanitarian actors and the militaries; the fact that they gather military bishops and chaplains coming from very different countries, realities and military traditions, all continents being represented (e.g. *IV Course*: 108 participants coming from 32 countries).

The reasons why the Holy See has decided to organize such Courses could be understood as responding to the duty of disseminating IHL contained in several IHL agreements, among which the first and second Geneva Convention of 1949.

However, I believe that this idea responds to the will to promote an adequate formation of military chaplains, to help them to contribute to the application of humanitarian principles and rules, through the education of consciences, especially

the consciences of those who are called to apply concretely these rules and take choices that might have a strong impact on the lives of other human beings.

In fact, the mission of military chaplains consists in the spiritual accompaniment of members of the armed forces and their families, a mission that necessarily includes the formation of conscience. In this sense, military chaplains may have a role in fostering and spreading the values and principles that inspire humanitarian rules. Indeed, in the perspective of the Holy See, in order to be really implemented, the rules and principles of international humanitarian law must be first and foremost translated into the consciences of those who are called to apply them¹³.

To conclude, I would like to recall some encouraging words that Pope Francis addressed to the participants of the *IV International Course for the Formation of Military Chaplains to International Humanitarian Law*, which took place in 2015:

«Humanitarian law undertakes to safeguard the essential principles of humanity within a context — that of war — which is in itself dehumanizing. It aims to protect those who do not participate in the conflict, such as the civilian population or healthcare workers and religious personnel, as well as those who no longer take an active part in it, such as the wounded and prisoners. At the same time this law strives to ban weapons that inflict upon the fighters suffering as brutal as it is pointless, as well as particularly serious damage to natural and cultural environments. In order to be able to achieve its aims of humanizing the effects of armed conflicts, humanitarian law warrants being disseminated and promoted among all military and armed forces, including armed non-state actors, as well as among security and police personnel. In addition, it needs to be developed further to deal with the new reality of war, which today, unfortunately, has an “increasingly deadly arsenal of weapons available” (...)

¹³ Cf. Declaration made by the Holy See at the time of the ratification of the two Protocols Additional to the Geneva Conventions of 1949.

However, as Christians we remain deeply convinced that the ultimate aim, that most worthy of the person and of the human community, is the abolition of war. We must therefore always commit ourselves to building bridges that unite rather than walls that separate; we must always help to find a small opening for mediation and reconciliation; we must never give in to the temptation of considering the other as merely an enemy to destroy, but rather as a person endowed with intrinsic dignity, created by God in his image (...). Even amid the lacerations of war, we must never tire of remembering, “every person is immensely holy” (...)»¹⁴.

¹⁴ Pope Francis, *Address to the Participants of the IV International Course for the Formation of Military Chaplains to International Humanitarian Law*, 26 October 2015