

# **ROUND** **TABLE**

## **International Humanitarian Law: Modern Problems and Prospects of Development**

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## Formulation of the Problem

Regulating the limitation of means and methods of warfare and the protection of war victims, international humanitarian law has gone a long way of becoming. Key milestones in the emergence of modern international humanitarian law are the Battle of Solferino in 1859, witnessed by the Swiss citizen Henri Dunant, the adoption of the Geneva Convention for the Protection of the Wounded and Sick in the War of 1864 and the St. Petersburg Declaration on the Abolition of Explosive and Incendiary Bullets of 1868, as well as the Hague Conventions and Declarations of 1899 and 1907. Subsequently, military technologies, the nature of armed conflicts, their sides have constantly evolved, and at the same time, international humanitarian law has developed and it continues to develop.

The sources of modern international humanitarian law are international customs and international treaties, including a number of the Hague Conventions and Declarations of 1899 and 1907, the Geneva Conventions on the Protection of the Victims of the War of 1949 and the Additional Protocols to them, the Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to it, 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 of 1980 and Protocols to it, the Convention on the Prohibition of the Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 1972, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, 1993. They consolidate the principles of modern international humanitarian law: the principle of proportionality, the principle of distinguishing between civilians and combatants, civilian and military targets, the principle of military necessity, the principle of prohibiting unnecessary suffering that must be respected in all modern armed conflicts.

Most of the states are participants in many of these treaties. Undoubtedly, all these international treaties testify to the significant contribution of the world community to the prevention and alleviation of the horrors of war. These sources have been implemented in the legislation of many states, including the Russian Federation.

However, despite these achievements in international law and the national legislation of many countries, there are many problems in modern armed conflicts, associated with participants of armed conflicts not complying with the limitations of the means and

methods of war, established by international humanitarian law, as well as the rules for the protection of victims of war and civilian objects.

Failing to comply with the principles of international humanitarian law has led to a huge number of civilian casualties, the destruction of civilian objects, cultural values. These are irreplaceable losses for millions of people, individual states, and humanity as a whole.

There are acute problems with refugees and internally displaced persons, the protection of journalists, and the provision of humanitarian assistance in contemporary armed conflicts.

In connection with the development and use of new types of weapons, peacekeeping operations, the creation and involvement of private military companies, there are disagreements between states and experts on the interpretation and application of existing regulations. Unfortunately, non-compliance with the norms of international humanitarian law and impunity of violators is perceived by the general public as the inefficiency of the law itself. Of course, this is not so.

## Russia's Contribution to the Development of IHL

Russia has made a great contribution to the development of international humanitarian law. Adopted at the conference convened by Russia, the St. Petersburg Declaration on the Abolition of Explosive and Incendiary Bullets of 1868 was the first international treaty aimed at limiting the means and methods of warfare.

Another progressive and constructive initiative of Russia was the proposal to convene and hold a conference in Brussels in 1874, where the Brussels Declaration on the Laws and Customs of War on Land was drafted. The Hague Peace Conferences of 1899 and 1907, where the Hague conventions and declarations establishing the rules for warfare and the peaceful settlement of international disputes were also convened at the initiative of Russia and successfully conducted thanks to the Russian scientist, the world-renowned genius, Professor Fedor Martens. Conceived as conferences on disarmament, they turned into peace conferences.

Russia has consistently reaffirmed the importance and effectiveness of putting forward timely initiatives on common topical issues related to armed conflicts and proposals for their resolution based on the norms of international law. Russia's role is indisputable in putting forward its own initiatives and coordinating the positions of other states on the basis of the concept of the common good.

## Development of IHL: Agenda for Parliamentarians

The history of the development of international law in general and international humanitarian law in particular has shown, even in the most difficult historical periods, the need and the possibility of coordinating the positions of various states on the formation of the principle of abstaining from the threat or use of force on the one hand, and the principles of regulating war on the other. Despite the fact that it has not always been possible for states to immediately enact regulations of a binding nature; nevertheless, the basis for future international treaties was laid.

Today, against the backdrop of serious contradictions between participants in modern armed conflicts, awareness of the need to continue such work is in demand.

The most important task at the present stage is to combine the efforts of the entire global community to ensure compliance with the current norms of international humanitarian law and its progressive development.

It is necessary to use the competencies of national parliaments in order to objectively assess the existing

practical and legal problems of contemporary armed conflicts and to find ways to solve them. Parliamentary diplomacy can be an effective tool for developing and proposing initiatives aimed at solving these problems.

National parliaments have a special responsibility regarding the implementation of international humanitarian law in national legislation.

It is necessary to comprehensively analyze and compare the current norms of the national legislation of various states where the norms of international humanitarian law are implemented and to identify existing legal gaps and differences in approaches.

Inter-parliamentary cooperation should be aimed at developing common (harmonized) approaches within the implementation of norms of international humanitarian law and strengthening the role of national legislators in addressing pressing issues arising in connection with armed conflicts.

The activities of each parliament and inter-parliamentary cooperation open up unique opportunities for drawing attention to the problems, aims, and principles of international humanitarian law and mitigating the consequences of wars for peoples.

### Principles of International Law Recognized in the Charter of the Nurnberg Tribunal and in the Judgment of the Tribunal<sup>1</sup>

#### Principle I

Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment.

#### Principle II

The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.

#### Principle III

The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law.

#### Principle IV

The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him.

#### Principle V

Any person charged with a crime under international law has the right to a fair trial on the facts and law.

#### Principle VI

The crimes hereinafter set out are punishable as crimes under international law:

##### a) Crimes against peace:

i) Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;

ii) Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).

##### b) War crimes:

Violations of the laws or customs of war which include, but are not limited to, murder, ill-treatment or deportation to slave-labour or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war, of persons on the seas, killing of hostages, plunder of public or private

property, wanton destruction of cities, towns, or villages, or devastation not justified by military necessity.

##### (c) Crimes against humanity:

Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

#### Principle VII

Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.

<sup>1</sup> Text adopted by the International Law Commission at its second session, in 1950 and submitted to the General Assembly as a part of the Commission's report covering the work of that session. The report, which also contains commentaries on the principles, appears in Yearbook of the International Law Commission, 1950, vol. II, para. 97.

Source: Proceedings of the International Law Commission, 3rd edition, UN, New York, 1982. [http://www.un.org/ru/documents/decl\\_conv/conventions/principles.shtml](http://www.un.org/ru/documents/decl_conv/conventions/principles.shtml)

## Sources of International Humanitarian Law

1. Hague Convention (II) on the Laws and Customs of War on Land, 29.07.1899
2. Hague Declaration (IV,2) concerning Asphyxiating Gases, 29.07.1899
3. Hague Declaration (IV,3) concerning Expanding Bullets, 29.07.1899
4. Hague Convention (III) on the Opening of Hostilities, 18.10.1907
5. Hague Convention (IV) on War on Land, 18.10.1907
6. Hague Convention (V) on Neutral Powers in case of War on Land, 18.10.1907
7. Hague Convention (VI) on Enemy Merchant Ships, 18.10.1907
8. Hague Convention (VII) on Conversion of Merchant Ships, 18.10.1907
9. Hague Convention (VIII) on Submarine Mines, 18.10.1907
10. Hague Convention (IX) on Bombardment by Naval Forces, 18.10.1907
11. Hague Convention (XI) on Restrictions of the Right of Capture, 18.10.1907
12. Hague Convention (XIII) on Neutral Powers in Naval War, 18.10.1907
13. Hague Declaration (XIV) on Explosives from Balloons, 18.10.1907
14. Protocol on Asphyxiating or Poisonous Gases, and of Bacteriological Methods, 17.06.1925
15. Charter of the Nuremberg Tribunal, 08.08.1945
16. Convention on the Prevention and Punishment of Genocide, 09.12.1948
17. Geneva Convention (I) on Wounded and Sick in Armed Forces in the Field, 12.08.1949
18. Geneva Convention (II) on Wounded, Sick and Shipwrecked of Armed Forces at Sea, 12.08.1949
19. Geneva Convention (III) on Prisoners of War, 12.08.1949
20. Geneva Convention (IV) on Civilians, 12.08.1949
21. Additional Protocol (I) to the Geneva Conventions, 08.06.1977
22. Additional Protocol (II) to the Geneva Conventions, 08.06.1977
23. Additional Protocol (III) to the Geneva Conventions, 08.12.2005
24. Roerich Pact for the Protection of Artistic and Scientific Institutions, 15.04.1935
25. Convention for the Protection of Cultural Property, 14.05.1954
26. Protocol for the Protection of Cultural Property, 14.05.1954
27. Second Protocol for the Protection of Cultural Property, 26.03.1999
28. Convention Statutory Limitations to War Crimes, 26.11.1968
29. Convention on the Prohibition of Biological Weapons, 16.12.1971

Requests the Secretary-General to provide such assistance as the Committee may require for its work.

Fifty-fifth plenary meeting,  
11 December 1946.

At the same plenary meeting, the General Assembly, on the recommendation of the President, appointed the following States to serve on the Committee:

Argentina, Australia, Brazil, China, Colombia, Egypt, France, India, Netherlands, Panama, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom, United States of America, Venezuela, Yugoslavia.

### 95 (I). Affirmation of the Principles of International Law recognized by the Charter of the Nuremberg Tribunal

The General Assembly,

Recognizes the obligation laid upon it by Article 13, paragraph 1, sub-paragraph a, of the Charter, to initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification;

Takes note of the Agreement for the establishment of an International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis signed in London on 8 August 1945, and of the Charter annexed thereto, and of the fact that similar principles have been adopted in the Charter of the International Military Tribunal for the trial of the major war criminals in the Far East, proclaimed at Tokyo on 19 January 1946;

Therefore,

Affirms the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the Tribunal;

Directs the Committee on the codification of international law established by the resolution of the General Assembly of 11 December 1946,<sup>1</sup> to treat as a matter of primary importance plans for the formulation, in the context of a general codification of offences against the peace and security of mankind, or of an International Criminal Code, of the principles recognized in the Charter of the Nuremberg Tribunal and in the judgment of the Tribunal.

Fifty-fifth plenary meeting,  
11 December 1946.

### 96 (I). The Crime of Genocide

Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence shocks the

<sup>1</sup> See page 187.

Invite le Secrétaire général à fournir à la Commission toute l'aide dont elle pourrait avoir besoin pour l'accomplissement de ses travaux.  
Cinquante-cinquième séance plénière,  
le 11 décembre 1946.

A la même séance plénière, l'Assemblée générale, sur la recommandation de son Président, décide de nommer membres de cette Commission les Etats suivants:

Argentine, Australie, Brésil, Chine, Colombie, Egypte, France, Inde, Pays-Bas, Panama, Pologne, Suède, Union des Républiques socialistes soviétiques, Royaume-Uni, Etats-Unis d'Amérique, Venezuela, Yougoslavie.

### 95 (I). Confirmation des principes de droit international reconnus par le statut de la Cour de Nuremberg

L'Assemblée générale,

Reconnait l'obligation qui lui incombe aux termes de l'Article 13, paragraphe 1, alinéa a, de la Charte, de provoquer des études et de faire des recommandations en vue d'encourager le développement progressif et la codification du droit international;

Prend acte de l'Accord relatif à la création d'une Cour militaire internationale chargée de poursuivre et de châtier les grands criminels de guerre de l'Axe européen. Accord signé à Londres le 8 août 1945, ainsi que du statut joint en annexe; prend acte également du fait que des principes analogues ont été adoptés dans le statut de la Cour militaire internationale chargée de juger les grands criminels de guerre en Extrême-Orient, statut promulgué à Tokyo, le 19 janvier 1946;

En conséquence,

Confirme les principes de droit international reconnus par le statut de la Cour de Nuremberg, et par l'arrêt de cette Cour;

Invite la Commission chargée de la codification du droit international, créée par la résolution de l'Assemblée générale en date du 11 décembre 1946,<sup>1</sup> à considérer comme une question d'importance capitale les projets visant à formuler, dans le cadre d'une codification générale des crimes commis contre la paix et la sécurité de l'humanité ou dans le cadre d'un Code de droit criminel international, les principes reconnus dans le statut de la Cour de Nuremberg et dans l'arrêt de cette Cour.

Cinquante-cinquième séance plénière,  
le 11 décembre 1946.

### 96 (I). Le crime de génocide

Le génocide est le refus du droit à l'existence à des groupes humains entiers, de même que l'homicide est le refus du droit à l'existence à un individu; un tel refus bouleverse la conscience hu-

<sup>1</sup> Voir page 187.

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## UN General Assembly resolutions

30. Convention prohibiting environmental modification techniques (ENMOD), 10.12.1976
31. Convention prohibiting Certain Conventional Weapons (CCW), 10.10.1980
32. Convention prohibiting Certain Conventional Weapons (CCW), Amended Article 1, 21.12.2001
33. CCW Protocol (I) on Non-Detectable Fragments, 10.10.1980
34. CCW Protocol (II) prohibiting Mines, Booby-Traps and Other Devices, 10.10.1980
35. CCW Protocol (II) prohibiting Mines, Booby-Traps and Other Devices, amended, 03.05.1996
36. CCW Protocol (III) prohibiting Incendiary Weapons, 10.10.1980
37. CCW Protocol (IV) on Blinding Laser Weapons, 13.10.1995
38. CCW Protocol (V) on Explosive Remnants of War, 28.11.2003
39. Convention on the Rights of the Child, 20.11.1989
40. Optional Protocol on the involvement of children in armed conflict, 25.05.2000
41. Convention prohibiting Chemical Weapons, 13.01.1993



## UN General Assembly resolutions

United Nations A/RES/60/147

 **General Assembly** Distr.: General  
21 March 2006

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Sixtieth session  
Agenda item 71 (a)

**Resolution adopted by the General Assembly on 16 December 2005**  
[on the report of the Third Committee (A/60/509/Add.1)]

**60/147. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law**

*The General Assembly,*

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,<sup>1</sup> the International Covenants on Human Rights,<sup>2</sup> other relevant human rights instruments and the Vienna Declaration and Programme of Action,<sup>3</sup>

Affirming the importance of addressing the question of remedies and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law in a systematic and thorough way at the national and international levels,

Recognizing that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms international law in the field,


Recalling the adoption of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law by the Commission on Human Rights in its resolution 2005/35 of 19 April 2005<sup>4</sup> and by the Economic and Social Council in its resolution 2005/30 of 25 July 2005, in which the Council recommended to the General Assembly that it adopt the Basic Principles and Guidelines,

1. Adopts the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law annexed to the present resolution;

<sup>1</sup> Resolution 217 A (III).  
<sup>2</sup> Resolution 2200 A (XXI), annex.  
<sup>3</sup> A/CONF.157/24 (Part I), chap. III.  
<sup>4</sup> See *Official Records of the Economic and Social Council, 2005, Supplement No. 3 and corrigendum (E/2005/23 and Corr.1)*, chap. II, sect. A.

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United Nations A/RES/66/99

 **General Assembly** Distr.: General  
27 February 2012

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Sixty-sixth session  
Agenda item 81

**Resolution adopted by the General Assembly on 9 December 2011**  
[on the report of the Sixth Committee (A/66/473)]

**66/99. Effects of armed conflicts on treaties**

*The General Assembly,*

Having considered chapter VI of the report of the International Law Commission on the work of its sixty-third session,<sup>1</sup> which contains the draft articles on the effects of armed conflicts on treaties,

Noting that the International Law Commission decided to recommend to the General Assembly that it take note of the draft articles on the effects of armed conflicts on treaties in a resolution and annex the draft articles to that resolution, and that it consider, at a later stage, the elaboration of a convention on the basis of the draft articles,<sup>2</sup>

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,

Noting that the subject of the effects of armed conflicts on treaties is of major importance in the relations of States,

1. Welcomes the conclusion of the work of the International Law Commission on the effects of armed conflicts on treaties and its adoption of the draft articles and a detailed commentary on the subject;<sup>3</sup>


2. Expresses its appreciation to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

3. Takes note of the articles on the effects of armed conflicts on treaties, presented by the International Law Commission, the text of which is annexed to the present resolution, and commends them to the attention of Governments without prejudice to the question of their future adoption or other appropriate action;

<sup>1</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10 (A/66/10)*.  
<sup>2</sup> *Ibid.*, para. 97.

11-46476

United Nations A/RES/67/154

 **General Assembly** Distr.: General  
13 March 2013

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Sixty-seventh session  
Agenda item 67 (a)

**Resolution adopted by the General Assembly on 20 December 2012**  
[on the report of the Third Committee (A/67/455)]

**67/154. Glorification of Nazism: inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance**


*The General Assembly,*

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,<sup>1</sup> the International Covenant on Civil and Political Rights,<sup>2</sup> the International Convention on the Elimination of All Forms of Racial Discrimination<sup>3</sup> and other relevant human rights instruments,


Recalling the provisions of Commission on Human Rights resolutions 2004/16 of 16 April 2004<sup>4</sup> and 2005/5 of 14 April 2005<sup>5</sup> and relevant Human Rights Council resolutions, in particular resolutions 7/34 of 28 March 2008,<sup>6</sup> 18/15 of 29 September 2011<sup>7</sup> and 21/33 of 28 September 2012,<sup>8</sup> as well as General Assembly resolutions 60/143 of 16 December 2005, 61/147 of 19 December 2006, 62/142 of 18 December 2007, 63/162 of 18 December 2008, 64/147 of 18 December 2009, 65/199 of 21 December 2010 and 66/143 of 19 December 2011 on this issue and resolutions 61/149 of 19 December 2006, 62/220 of 22 December 2007, 63/242 of 24 December 2008, 64/148 of 18 December 2009, 65/240 of 24 December 2010 and 66/144 of 19 December 2011, entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action",

<sup>1</sup> Resolution 217 A (III).  
<sup>2</sup> See resolution 2200 A (XXI), annex.  
<sup>3</sup> United Nations, *Treaty Series*, vol. 660, No. 9464.  
<sup>4</sup> See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)*, chap. II, sect. A.  
<sup>5</sup> *Ibid.*, 2005, Supplement No. 3 and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.  
<sup>6</sup> See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II.  
<sup>7</sup> *Ibid.*, Sixty-sixth Session, Supplement No. 53A and corrigendum (A/66/53/Add.1 and Corr.1), chap. II.  
<sup>8</sup> *Ibid.*, Sixty-seventh Session, Supplement No. 53A (A/67/53/Add.1), chap. II.

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United Nations A/RES/72/121

 **General Assembly** Distr.: General  
18 December 2017

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Seventy-second session  
Agenda item 86

**Resolution adopted by the General Assembly on 7 December 2017**  
[on the report of the Sixth Committee (A/72/465)]

**72/121. Effects of armed conflicts on treaties**

*The General Assembly,*

Recalling its resolution 66/99 of 9 December 2011, in which it took note of and commended to the attention of Governments the articles on the effects of armed conflicts on treaties contained in the annex to that resolution, and its resolution 69/125 of 10 December 2014,

Recalling also that the International Law Commission decided to recommend to the General Assembly that it take note of the draft articles on the effects of armed conflicts on treaties in a resolution and annex them to that resolution, and that it consider, at a later stage, the elaboration of a convention on the basis of the draft articles,<sup>1</sup>

Emphasizing the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations,


Noting that the subject of the effects of armed conflicts on treaties is of major importance in the relations of States,

Taking note of the comments of Governments<sup>2</sup> and the discussion in the Sixth Committee at the sixty-ninth and seventy-second sessions of the General Assembly on this topic,<sup>3</sup>

1. Expresses its appreciation to the International Law Commission for its continuing contribution to the codification and progressive development of international law;

<sup>1</sup> *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 10 (A/66/10)*, para. 97.  
<sup>2</sup> See A/72/96.  
<sup>3</sup> See A/C.6/69/SR.18 and A/C.6/72/SR.17.

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## Reference materials

**Henry Dunant****8 May 1828 – 30 October 1910**

Henry Dunant (born Jean-Henri Dunant; 8 May 1828 – 30 October 1910), also known as Henri Dunant, was a Swiss businessman and social activist, the founder of the Red Cross, and the first recipient of the Nobel Peace Prize. The 1864 Geneva Convention was based on Dunant's ideas. In 1901 he received the first Nobel Peace Prize together with Frédéric Passy, making Dunant the first Swiss Nobel laureate.

During a business trip in 1859, Dunant was witness to the aftermath of the Battle of Solferino in modern-day Italy. He recorded his memories and experiences in the book *A Memory of Solferino* which inspired the creation of the International Committee of the Red Cross (ICRC) in 1863.

Dunant was born in Geneva, Switzerland, in 1828 as the first son of businessman Jean-Jacques Dunant and Antoinette Dunant-Colladon. His family was devoutly Calvinist and had significant influence in Geneva society. His parents stressed the value of social work, and his father was active helping orphans and parolees, while his mother worked with the sick and poor. His father worked in a prison and an orphanage.

Dunant grew up during the period of religious awakening known as the Réveil, and at age 18 he joined the Geneva Society for Alms giving. In the following year, together with friends, he founded the so-called "Thursday Association", a loose band of young men that met to study the Bible and help the poor, and he spent much of his free time engaged in prison visits and social work. On 30 November 1852, he founded the Geneva chapter of the YMCA and three years later he took part in the Paris meeting devoted to the founding of its international organization.

In 1849, at age 21, Dunant was forced to leave the Collège Calvin due to poor grades, and he began an apprenticeship with the money-changing firm Lullin et Sautter. After its successful conclusion, he remained as an employee of the bank.

In 1856, he created a business to operate in foreign colonies, and, after being granted a land concession by French-occupied Algeria, a corn-growing and trading company called the Financial and Industrial Company of Mons-Djémila Mills (*Société financière et industrielle des Moulins des Mons-Djémila*). However, the land and water rights were not clearly assigned, and the colonial authorities were not especially cooperative. As a result, Dunant decided to appeal directly to French emperor Napoléon III, who was with his army in Lombardy at the time. France was fighting on the side of Piedmont-Sardinia against Austria, who had occupied much of today's Italy. Napoleon's headquarters were located in the small city of Solferino. Dunant wrote a flattering book full of praise for Napoleon III with the intention to present it to the emperor, and then traveled to Solferino to meet with him personally.

Dunant arrived in Solferino on the evening of 24 June 1859, on the same day a battle between the two sides had occurred nearby. Twenty-three thousand wounded, dying and dead remained on the battlefield, and there appeared to be little attempt to provide care. Shocked, Dunant himself took the initiative to organize the civilian population, especially the women and girls, to provide assistance to the injured and sick soldiers. They lacked sufficient materials and supplies, and Dunant himself organized the purchase of needed materials and helped erect makeshift hospitals. He convinced the population to service the wounded without regard to their side in the conflict as per the slogan "Tutti fratelli" (All are brothers) coined by the women of nearby city Castiglione delle Stiviere. He also succeeded in gaining the release of Austrian doctors captured by the French.

After returning to Geneva early in July, Dunant decided to write a book about his experiences, which he titled *Un Souvenir de Solferino* (*A Memory of Solferino*). It was published in 1862 in an edition of 1,600 copies and was printed at Dunant's own expense. Within the book, he described the battle, its costs, and the chaotic circumstances afterwards. He also developed the idea that in the future a neutral organization should exist to provide care to wounded soldiers. He distributed the book to many leading political and military figures in Europe.

Dunant also began to travel through Europe to promote his ideas. His book was largely positively received, and the President of the Geneva Society for Public Welfare, jurist Gustave Moynier, made the book and its suggestions the topic of the 9 February 1863 meeting of the organization. Dunant's recommendations were examined and positively assessed by the members. They created a five-person Committee to further pursue the possibility of their implementation and made Dunant one of the members. The others were Moynier, the Swiss army general Henri Dufour, and doctors Louis Appia and Théodore Maunoir. Their first meeting on 17 February 1863 is now considered the founding date of the International Committee of the Red Cross.

From early on, Moynier and Dunant had increasing disagreements and conflicts regarding their respective visions and plans. Moynier considered Dunant's idea to establish neutrality protections for care providers unfeasible and advised Dunant not to insist upon this concept. However, Dunant continued to advocate this position in his travels and conversations with high-ranking political and military figures. This intensified the personal conflict between Moynier, who took a rather pragmatic approach to the project, and Dunant, who was the visionary idealist among the five, and led to efforts by Moynier to attack Dunant and his bid for leadership.

In October 1863, 14 states took part in a meeting in Geneva organized by the committee to discuss the improvement of care for wounded soldiers. Dunant himself, however, was only a protocol leader because of Moynier's efforts to diminish his role. A year later on 22 August 1864, a diplomatic conference organized by the Swiss Parliament led to the signing of the First Geneva Convention by 12 states. Dunant, again, was only in charge of organizing accommodation for the attendees.



Dunant's businesses in Algeria had suffered, partially because of his devotion to his humanistic ideals. In April 1867, the bankruptcy of the financial firm *Crédit Genevois* led to a scandal involving Dunant. He was forced to declare bankruptcy and was condemned by the Geneva Trade Court on 17 August 1868 for deceptive practices in the bankruptcies. Due to their investments in the firm, his family and many of his friends were also heavily affected by the downfall of the company. The social outcry in Geneva, a city deeply rooted in Calvinist traditions, also led to calls for him to separate himself from the International Committee. On 25 August 1868, he resigned as Secretary and, on 8 September, he was fully removed from the Committee. Moynier, who had become President of the Committee in 1864, played a major role in his expulsion.

In February 1868, Dunant's mother died. Later that year he was also expelled from the YMCA. In March 1867, he left his home city Geneva and would not return for the rest of his life. In the

following years, Moynier likely used his influence to attempt to ensure that Dunant would not receive assistance and support from his friends. For example, the gold medal prize of Sciences Morales at the Paris World's Fair did not go to Dunant as originally planned but to Moynier, Dufour, and Dunant together so that the prize money would only go to the Committee as a whole. Napoléon III's offer to take over half of Dunant's debts if Dunant's friends would secure the other half was also thwarted by Moynier's efforts.

Dunant moved to Paris, where he lived in meager conditions. However, he continued to pursue his humanitarian ideas and plans. During the Franco-Prussian War (1870–1871), he founded the Common Relief Society (*Allgemeine Fürsorgegesellschaft*) and soon after the Common Alliance for Order and Civilization (*Allgemeine Allianz für Ordnung und Zivilisation*). He argued for disarmament negotiations and for the erection of an international court to mediate international conflicts. Later he worked for the creation of a world library, an idea which had echoes in future projects such as UNESCO.

In his continued pursuit and advocacy of his ideas, he further neglected his personal situation and income, falling further in debt and being shunned by his acquaintances. Despite being appointed an honorary member of the national Red Cross societies of Austria, the Netherlands, Sweden, Prussia and Spain, he was nearly forgotten in the official discourse of the Red Cross Movement, even as it was rapidly expanding to new countries. He lived in poverty, moving to various places between 1874 and 1886, including Stuttgart, Rome, Corfu, Basel, and Karlsruhe. In Stuttgart he met the Tübingen University student Rudolf Müller with whom he would have a close friendship. In 1881, together with friends from Stuttgart, he went to the small Swiss resort village Heiden for the first time. In 1887 while living in London, he began to receive some monthly financial support from some distant family members. This enabled him to live a somewhat more secure existence, and he moved to Heiden in July. He spent the rest of his life there, and after 30 April 1892 he lived in a hospital and nursing home led by Dr. Hermann Altherr.

In 1901, Dunant was awarded the first-ever Nobel Peace Prize for his role in founding the International Red Cross Movement and initiating the Geneva Convention. By public and private means, Müller, and later Norwegian military physician Hans Daae (who had received a copy of Müller's book), advocated Dunant's case to the Nobel committee over the course of 4 years. The award was jointly given to French pacifist Frédéric Passy, founder of the Peace League and active with Dunant in the Alliance for Order and Civilization. The official congratulations which he received from the International Committee finally represented the rehabilitation of Dunant's reputation:

"There is no man who more deserves this honour, for it was you, forty years ago, who set on foot the international organization for the relief of the wounded on the battlefield. Without you, the Red Cross, the supreme humanitarian achievement of the nineteenth century would probably have never been undertaken."

Dunant himself never spent any of the part of the prize money during his lifetime, continuing to live simply and reserving it for bequests in his will to those who cared for him and charitable causes.

Among several other awards in the following years, in 1903 Dunant was given an honorary doctorate by the medical faculty of the University of Heidelberg. He lived in the nursing home in Heiden until his death.

According to his wishes, he was buried without ceremony in the Sihlfeld Cemetery in Zurich. In his will, he donated funds to secure a "free bed" in the Heiden nursing home always to be available for a poor citizen of the region and deeded some money to friends and charitable organizations in Norway and Switzerland.

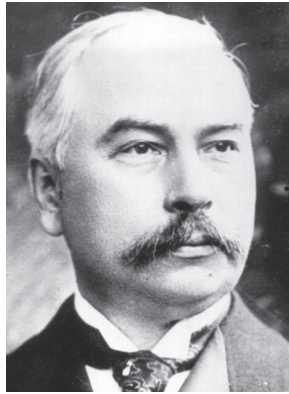
His birthday, 8 May, is celebrated as the World Red Cross and Red Crescent Day. The former nursing home in Heiden now houses the Henry Dunant Museum. In Geneva and other places there are numerous streets, squares, and schools named after him. The Henry Dunant Medal, awarded every two years by the standing commission of the International Red Cross and Red Crescent Movement is its highest decoration.

His life is represented, with some fictional elements, in the film *D'homme à hommes* (1948), starring Jean-Louis Barrault, and the period of his life when the Red Cross was founded in the international film coproduction *Henry Dunant: Red on the Cross* (2006). In 2010 the Takarazuka Revue staged a musical based on his time in Solferino and the founding of the Red Cross entitled *Dawn at Solferino, or Where has Humanity Gone?*

In honour of Henry Dunant, the second highest peak in Switzerland was re-named to *Dunantspitze* (Peak Dunant) by Swiss Federal President Didier Burkhalter on 6 October 2014.

**F.F. Martens****Russian professor, international lawyer  
(1845-1909)**

Fedor Fedorovich Martens was a professor at the University of St. Petersburg, the author of the unique work "Collection of Treaties and Conventions Concluded by Russia with Foreign Powers," dedicated to the relations of Russia with Austria, Germany, England, and France (15 volumes of 1874-1909), and also the widely known two-volume course entitled "Modern Law of Civilized Peoples," published in 1882-1883 and translated into many foreign languages. This course was evaluated as the first fundamental work that embraced the entire system of existing international law.



F.F. Martens also published an enormous number of essays. As a member of the Russian Imperial Historical Society, he believed that only history can serve as a solid foundation for international legal concepts. The Russian scientist V.V. Pustogarov, a well-known researcher of the life of F.F. Martens, pointed out: "Martens' publicism was distinguished by a combination of the acute problems of current policy with scientific concepts in the field of international law... In general, the lawyer Martens appears as a major and original publicist of his time. His journalism influenced the development of the science of international law and the formation of a legal consciousness in many countries."<sup>1</sup> V.V. Pustogarov also distinguished an extremely rare feature inherent in Martens' essays, which made him famous in Europe as a professor — "a view of world events and foreign policy from the standpoint of international law."<sup>2</sup>

F.F. Martens believed that "the actual, real life relations between peoples at the given time is the foundation of international law, and from this point of view, the basis for and the right to exist of each international law is reasonable, insofar as it corresponds to real, reasonable life relations between nations."<sup>3</sup> Martens was convinced that international communication is the main idea in that it concentrates the most important interests of all civilized states.

F.F. Martens was the author of the Brussels Declaration of 1874, which was the basis for drafting the Hague Convention with Respect to the Laws and Customs of War on Land in 1899. Since 1884, he had become a permanent representative of Russia at the Red Cross conferences. F.F. Martens was sent to the first (1893) through fourth (1904) Hague Conferences on Private International Law, took an active part in the preparation of the Berlin Conference on Africa (1884-1885). In addition, F.F. Martens won great authority as an arbiter in interstate disputes. In 1874, Martens was elected a member of the Institute of International Law, established in Ghent in 1873.

F.F. Martens is rightfully considered "the soul of the Hague Peace Conferences" of 1899 and 1907. The Hague conferences were successfully prepared and conducted, largely thanks to the professionalism, genius, authority, and diligence of F.F. Martens, who compiled the programs of the Hague Conferences. They were conceived as disarmament conferences, but turned into peace conferences. F.F. Martens looked at the possibilities of these forums realistically, taking into account the positions of states, and believed that the purpose of the Hague Conferences should be to reduce the danger of war, to alleviate its horrors, and to strengthen international legality by reaching the broadest consent of states.

F.F. Martens viewed the Hague Conferences "solely as governmental attempts to organize and order the mutual relations of peoples for the benefit of peace and a better mutual society," but he did not think that "any international conference will manage to establish eternal peace and lead to disarmament."<sup>4</sup>

Martens prevented the failure of the First Hague Conference by "proposing a new program, instead of the untenable initial one ("to put a limit on continuous armaments"), in which arms reduction was only one of the eight points that outlined the revision of norms of the law of war and the regulation of peaceful means for resolving disputes. And Martens initiated the creation of a new institution of international law — international investigative commissions."<sup>5</sup>

It is known that to prepare the second Hague Conference, F.F. Martens and Baron Nolde made a European tour, during which they held the most important negotiations with heads of state and governments, foreign ministers and other official and unofficial persons in Berlin, Paris, London, the Hague, Rome, Vienna, which made it possible

to understand the positions of leading countries on the upcoming agenda.

The unique contribution of F.F. Martens to the development of international humanitarian law and international law in general was the Martens Clause. Due to the fact that at the first Hague Conference, the states could not agree on all the issues, F.F. Martens proposed for the preamble of the Convention (IV) of 1899 to include a provision according to which "in cases not provided for by the regulations they adopted, the population and the combatants remain under the protection and action of international law insofar as it proceeds from the established customs between nations and the laws of humanity and the demands of social consciousness." Confirming the unique role of the international custom, this provision was also included in a number of subsequent international treaties (preamble to the Convention (IV) of 1907, Articles 63, 62, 142, 158 of the Geneva Conventions I-IV of 1949, respectively, Article 1 of Additional Protocol I of 1977, preamble to Additional Protocol II of 1977, preamble to the Convention prohibiting Certain Conventional Weapons (CCW)).

Martens believed that "international law will stand on a firm foundation, only when the natural and historical laws of the development of nations will be clarified;" "only then will international relations cease to be shaky, and nations will not be forced into treaties which can hinder natural and irreversible development. International treaties, consistent with the conditions of the cultural development of nations, will not contain the premises of their imminent violation and elimination."<sup>6</sup>

It's also noteworthy that Martens and the American ambassador in St. Petersburg and Berlin, E.D. White, came up with the idea of constructing the Peace Palace in the Hague. The American "steel king" E. Carnegie, who was friends with E.D. White, made a major donation in support of the idea of peace among nations<sup>7</sup>.

Currently, this building houses the International Court of Justice of the United Nations and the Permanent Court of Arbitration, as well as the Hague Academy of International Law, the idea of which was established during the 1907 Hague Conference. Subsequently, the Dutch lawyer, the Nobel laureate of 1911, T.M.C. Asser, donated a part of his award toward the creation of the Academy, which began its work in 1923. Now, it's an international center for training and conducting research on international public and private law.

At the end of his life, F.F. Martens wrote in his diary: "I am proud that to the greatest extent possible, I helped create the basis for the common life of nations. I can calmly close my eyes. Neither in Russia, nor in the rest of the world will they forget me after my death, and my activity for the benefit of the development of international law will not be forgotten."<sup>8</sup>

Today, every international law course in world leading universities mentions the name of F.F. Martens, and the Martens Clause created the foundation of international humanitarian law.

<sup>1</sup> V.V. Pustogarov F. F. Martens, the creator of international law // State and Law. 1995. No. 11. P. 108.

<sup>2</sup> V.V. Pustogarov Fedor Fedorovich Martens, Lawyer and Diplomat. — 2nd ed., Ext. — Moscow: International Relations, 1999. P. 34.

<sup>3</sup> F.F. Martens Modern international law of civilized peoples. V.1. — St. Petersburg., 1887. P. 16.

<sup>4</sup> V.V. Pustogarov Fedor Fedorovich Martens, Lawyer and Diplomat. — 2nd ed., Ext. — Moscow: International Relations, 1999. P. 242.

<sup>5</sup> V.E. Grabar Materials on the history of the literature of international law in Russia (1647-1917) / Scientific editor, author of the biographical essay and compiler of the bibliography is U.E. Butler. Editor-in-chief and the author of the preface is V.A.Tomshinov. Moscow: Zertsalo, 2005 P. 399.

<sup>6</sup> ibid. P. 402.

<sup>7</sup> Eyffinger A. The Hague International Center of Justice and Peace. The Hague. Jongbloed Law Booksellers. 2003. Pp. 27 — 37.

<sup>8</sup> V.V. Pustogarov Fedor Fedorovich Martens, Lawyer and Diplomat. — 2nd ed., Ext. — Moscow: International Relations, 1999. P. 3 and 266.