

Louise Doswald-Beck

How are International Humanitarian Law and Human Rights Law related to each other? This question has been at the center of Louise Doswald-Beck's (born in 1952) career. She started questioning the traditional separation between these two sets of rules while teaching international law at London university in the 1980s. While working for the Legal Division of the ICRC in Geneva (1987-2001), she constantly emphasized the need to introduce human rights law into the work of the organization, which saw itself as the guardian of humanitarian law. She then became Secretary-General of the International Commission of Jurists (2001-2003), an organization with a stronger human rights profile. In October 2003 she returned to academic life, becoming the first director of the Geneva University Centre for International Humanitarian Law, subsequently renamed the Geneva Academy of International Humanitarian Law and Human Rights.

Interview

The interview with Louise Doswald-Beck was organized by Sandra Krähenmann, who is Research Fellow at the Geneva Academy of International Humanitarian Law and Human Rights and former teaching assistant of Doswald-Beck. Krähenmann participated in the interview; most of the questions were asked by Daniel Stahl, coordinator of the Study Group Human Rights in the 20th Century. The conversation took place at the Villa Moynier in Geneva on October 18, 2017, between 2 and 6 p.m.

Stahl

Where did you grow up?

Doswald-Beck

I grew up in Birmingham, England. I had a British father and a Greek mother. I did all my schooling in Birmingham and went to university in Bristol, where I did a law degree. I did a postgraduate degree in international law at London University (University College, London). Then I did my bar exams and qualified as a Barrister, but I decided that I was not going to practice English law. I was far too interested in international law. I started teaching at Exeter University in 1975, teaching international law and a bit of English law.

Stahl

Were your parents politically involved?

Doswald Beck

No, not at all. In fact, what I ended up studying and doing was so different from what my parents and the rest of my family did, that I cannot honestly say that I was influenced. There's no lawyer in the family for a start.

My father worked in a bank. He finally ended up as bank manager. My mother was a housewife. She would've liked to work in social services as she was a person who was caring. For various reasons, it didn't work for her, which was a pity.

In other words, I was one of those which, in the late '60s, felt frustrated with the narrow options offered to women.

I would've liked to have studied medicine as I was interested in psychiatry. My last years at school were 1968 to 1970. In that era in Birmingham, England, open discrimination was just normal. They made it as impossible as they possibly could for women to get into medical school. The boys in the school next door to ours only had to get certain average grades to get into medical school. We girls had to get straight A's across the board. And somehow, for some reason, even the most outstandingly brilliant girls who got A's and AA's in maths, always got a really poor mark in physics. It was either because of our physics teacher was poor, or the outside examiner was biased against girls. In order to study medicine, we had to get an A level in physics as well. Discrimination against women in those days was completely normal, open, and obvious. The vast majority of people, including women themselves, just accepted it as normal.

So I realized that studying medicine was not an option. I didn't know quite what I was going to do. Then one day we were on the train on the way to Greece. There was a young American man on the train with us. We shared our food with him because he had put himself on the train with no money or food. It was a three-day journey. He was a law student in America. I didn't know that to be a law student in America, you had to have a first degree in something else first. But this young man seemed to know about everything. I was only 16 at the time, but that was the age when we had to decide which subjects to specialize in. I was just so impressed with his level of knowledge and with his outlook. I thought, he's doing law – okay, I'll do law. I just thought I'd end up becoming like him. Of course, in retrospect, it's ridiculous to think that a law degree can do that for you, but it's what made me decide to do law. I surprised everybody. At the school that I went to, a grammar school, no girl had ever done law before. It was considered a very strange thing to do. Girls did English literature or they might become a nurse.

Krähenmann

You were the first girl at the school who went on to study law?

Doswald-Beck

Oh, yes. For example, there was a careers discussion led by one of our teachers. She only talked about being a secretary, a nurse, or a school teacher. I said I didn't like the sound of any of those. She knew I was getting very good marks in everything at school. I said, "I don't want to be a secretary." The woman said, "Well, you could be a secretary to an MP." And I said, "Well, I'd rather be the MP." And she was just so shocked. In other words, I was one of those which, in the late '60s, felt frustrated with the narrow options offered. There had been a few feminist books written about that time, but which I hadn't read. The general understanding was still that a woman's life was to be married and have children and that was all.

Stahl

There were no feminist circles around?

Doswald-Beck

No, nothing. My mother and sister were extremely traditional. My father didn't offer a view. So I had no influence from anybody. It was just part of me.

Stahl

Did the student protests of 1968 have an impact on this situation?

Doswald-Beck

No, it wasn't like that in England. It was not like France. It wasn't what you had in America with the Vietnam War either. It was very different. The late 1960s in England was a period where there was a rejection of what the parents considered to be moral or immoral behavior. For them, morality only had to do with sexual relations. That was the only thing that was relevant.

It struck me then how absurd this was. At the time, you could see on television that England was rapidly improving its weapons capability, including nuclear weapons. There was a program which I still remember to this day. They were talking about Porton Down¹. It is a site in England where they did research and development of biological and chemical weapons. I remember they showed pictures of what they did to those poor rabbits. I can picture it still, I found it really upsetting. At the same time, people were only interested in which naughty girl got pregnant and how shocking it was. So nobody seemed to think it was remotely shocking that we had these nuclear weapons aimed at us and ours aimed at them and that we were creating these horrific chemical and biological weapons.

At the time, I just felt like I was alone in my outlook, as none of my fellow schoolgirls or family thought like me. When I arrived in Bristol University, which was a prestigious university, I realized that it was very conservative. I was surrounded by fellow students who mostly came from wealthy families and were conservative

I found the law degree unbelievably boring as it didn't go into any social issues. I stuck it out because I knew that it was the only possibility of having a career of my own; I knew that most women had rubbish careers that paid nothing.

I decided to do a postgraduate degree in international law. That was a one-year course between 1973-4. I really enjoyed that - it felt like a breath of fresh air. It was wonderful because my fellow students were more like me in character and interested in international affairs. This course wasn't just rigid law. There was policy involved and an analysis of how the world works and the influences involved.

I chose to specialize in human rights as part of the course. Again, I don't know why. As soon as I saw the list of possible courses, I thought, "That's it. Human rights, that's me." But I had to choose another three courses. I saw that another possible course was called the law of armed conflict and the use of force. It was really not me because I hated things to do with war. Yet I just felt that I had to do it. There's no logical reason that I can give you.

Stahl

Did you have any idea about human rights, anything you associated with this topic?

Doswald-Beck

No. It just felt right. It sounded right. I just associated it with caring for people or trying to make life better. And it was international, which I always liked.

Stahl

Was it new in English law faculties to do human rights law?

Doswald-Beck

It was very new. In 1970, there were hardly any universities teaching human rights law. For the human rights course, and the one on the law of armed conflict and the use of force, we were very few students. We had our classes in the teacher's office. For the armed conflict course there were just three of us, which became two during the year. I found the subject fascinating. There was something about it which resonated with me. It was a context I found interesting and important, even though at the time, in 1973-4, any indications that this law had any effect were virtually zero. Most people had never heard of this branch of law back then, which was still the case when I joined the ICRC in 1986.

I finished my bar exams in 1975.² By then, I was absolutely penniless, and so I had to start working. I could not work as a barrister, because as a young barrister in England, you could only get bits of jobs that were not enough to live on. You needed to have enough money to live on without payment for several years, or else continue to live with your parents, which was not an option for me as they did not live in or near London. In any event, it didn't matter as the bar training reminded me of why I didn't enjoy my first degree and that I really missed international law. So in 1975, I applied for a lectureship at Exeter University, which advertised for a lecturer in international law, amongst other subjects. I taught international law and some English law there for two years. I found it difficult because society in Exeter was very narrow, and there were no other teachers in international law.

Stahl

Let's talk about the cases that shaped international law during this time. Biafra was one of the international issues that had attracted much attention among international lawyers since the late 1960s.

Doswald-Beck

Yes, it was, definitely. We talked about Biafra with the professor in London. It had to do with the whole problem of self-determination. What does it mean? It was actually a big issue in the United Nations throughout the 1960s. And Biafra, of course, was one of those big non-international conflicts.

In that era, there was only Common Article 3 of the 1949 Geneva Conventions that applied, a very short article. Nobody had ever heard of it either in those days. Biafra basically showed the horrors of non-international conflict and the problem of decolonization. Those were the big issues at the time, the problems that arose as a result of decolonization and the difficulties of nation building and the fact that there were frequently civil wars. When peoples finally got rid of the colonizers, civil war often broke out, or there would be an invasion by a next-door neighbor, as it happened with Morocco in Western Sahara and with Indonesia in East Timor in the 1970's.

Of course, the developing world didn't want to talk about that then. According to them, it was only us northerners who were the nasty ones. Now I realise it was because they felt too wounded from the colonization, but in my view, everybody needs to respect everybody. At the time most people really didn't want to hear about that. It was too "us and them." It seems to be coming back, this "us and them", which I find alarming. "We're Catalans", and "we are Spanish", this and that, the "us and them." Collective identities were very strong in the 1960s because of decolonization. Then came the difficulties of the groupings within the former colonial areas. That's not over, as we know. Palestine and Israel are the most obvious example.

In the human rights class in 1973-1974, we were talking about the European Convention on Human Rights and also the United Nations Covenants, which we hoped would come into force soon. We also discussed the fact that the United Nations didn't seem to want to get involved in what happens within each country because their idea of promotion of human rights was to talk about it in general terms, but not to look at what was actually going on. The Inter-American system was still in its early stages. The treaty was only adopted in 1969. So that was a very new development. The African continent had no human rights system at that point. Anyway, they were just trying to make nations, so that's fair enough. The African Charter came much later.

Stahl

South Africa.

Doswald-Beck

Yes, apartheid and racial discrimination, were very present as serious problems in that context at the time. There was the new Racial Discrimination Convention of 1965 which had recently come into force. But you have to realize that all of that was very new in the early 1970's. The treaty developments were aimed at trying to make the Universal Declaration more precise and not just general statements that sound nice.

The idea that this could actually work was still uncertain at the time. There was still quite a lot of skepticism as to whether this is all just wishful thinking. So it really did depend on people being determined to make it work.

Stahl

Who were the people teaching human rights law in England at this time?

Doswald-Beck

Rosalyn Higgins.³ Later she became a judge at the International Courts of Justice. She wasn't teaching me personally. The person that taught me human rights law also taught humanitarian law. His name was Reg. Austin and he was active in trying to end white minority rule in what was still called Rhodesia at that time. Rosalyn Higgins taught at the LSE, London School of Economics, whereas I was being taught at University College. But I had quite a lot to do with her later, because when I started teaching myself in 1981, we were fellow teachers at the time. So, I had lots of chats with her and attended meetings with her, and so on.

The other person whom I met quite often in the 1980's was Christopher Greenwood.⁴ He also became a judge at the International Court of Justice after Rosalyn Higgins. He was teaching international humanitarian law (IHL) and the use of force at Cambridge University. We also met frequently in London at various meetings.

The wonderful thing about London was the fact that there were many meetings of people who came from different places. When I began teaching there in 1981, I wanted to teach human rights, but I was also asked to teach the law of armed conflict.

Christopher Greenwood came down, or Rosalyn Higgins would quite often organize meetings in international human rights law, and sometimes I was involved in the arrangement of those. Those years in London were just wonderful because we were many international lawyers who could get together, discuss issues and learn from each other.

As I was teaching IHL, I arranged meetings with various members of the military to talk about IHL. The funny thing is that when they talked about military tactics, it all seemed obvious to me. It was just like I already knew it all, not the law, but the way of thinking - strange in retrospect, but there it is. The military are very straightforward compared with others. They say what they mean. You ask something, and you may not like the answer you get, but at least you know what they tell you is what they mean. There's no dissembling involved. In that regard, I found them easy to speak with.

I think that the reason I find it comfortable to speak with people who say what they mean may have to do with my Greek mother. She was typical Mediterranean. They have this tendency to say what the other person wants to hear, or what suits them, whether it's true or not. That's something I always hated, that kind of an attitude. My father was very British, always straightforward, and I always liked that.

Back then, there were no clear job perspectives in the field of human rights law and IHL. I thought I might work for an international organization. I didn't have any idea as to how I was going to do it.

Stahl

If you compare the content of the classes back then to what is taught in these kinds of seminars today, where are the differences?

Doswald-Beck

Well, the most blatant difference is the fact that there's far more interest in it now than there was then and that there's far more to learn about human rights and humanitarian law these days. There is that much more practice, both in case-law and reporting. The motivation of students is much stronger as is their belief that they can do something that can have an effect.

Stahl

What was your motivation?

Doswald-Beck

I believed in it strongly because of its moral value.

Stahl

Which job perspectives did you have back then?

Doswald-Beck

None at all. I thought I might work for an international organization. I didn't have any idea as to how I was going to do it. There was no obvious possibility. I knew that the UN was working on this. So I thought maybe the UN.

Stahl

Were you following what the UN was doing at the time?

Doswald-Beck

I did because, of course, we were taught it. The UN at the time, back in the late 1960s and very early 1970s, hadn't got all the institutions it has now. The Covenants weren't adopted until 1966,⁵ and they had only just entered into force. At the time I was studying this, it was all very uncertain whether any of this would have any reality. The European Convention on Human Rights then had a number of cases, which were mostly done by the Commission. There wasn't much in the way of Court work by then. It was very much the beginning. I had a vague idea of maybe working in Strasbourg since it was doing something, but in those days it didn't have the huge office it's got now, with lots of lawyers working for it. So I had no real idea.

Stahl

And the other organizations, like Amnesty International, started growing at this time, the middle of the 1970s.

Doswald-Beck

Amnesty International was very narrow at the time. It was just letter writing to try and free political prisoners. Its focus was very narrow. I had my sights very much aimed at something international.

Stahl

Were you involved in some kind of activism?

Doswald-Beck

To be honest, no. I just studied very hard. It's not obvious now, and it's difficult to place yourself back in the 1970s. In order to get anywhere as a woman, you had to do at least double as well as any man. Your marks had to be considerably better than those of the men. You had to prove yourself much more. In the early 1970s it was still the case that if you went anywhere to talk to anybody as a female, and especially as a young female, as I was then, the assumption was one of stupidity. I swear to you that this is true. I'm not making it up.

So you had to prove that you actually had some intelligence. And in order to get any kind of

position or any kind of job or to be considered anywhere, you really did have to be that much better than anyone else. At the time, I just had the sense that I really had to study hard, which is what I did. I had to make sure I got good marks.

I had the sense at the time that I could not afford to mess around. Plus, you have to be aware of the fact that if you were involved in events of that sort – it's probably still the case now, but it certainly was the case then – you were automatically labeled as fringe, not serious, a troublemaker. I've talked about the discrimination that I already felt. To have that on top – it would have been disastrous.

Jumping to the 1980s, I realized the importance of the need to improve women's rights. But I knew at the same time that, if I showed any interest in that professionally, it would be professional suicide. I knew it because the women who did were just laughed at and not taken seriously. Now you can do it, but you couldn't then.

Stahl

Was it very unusual that a woman was teaching law?

Doswald-Beck

There were a few of us. We were very much a minority, there's no doubt about that. When I was teaching in London, between 1981 and 1986, there was only one female professor at University College. All the rest were male. So yes, it was unusual.

Stahl

So what was your experience when you applied for a job and went to Exeter in 1975?

Doswald-Beck

I said I wanted to teach international law and was accepted. I taught the law of torts and the general international law course. Unfortunately, they put international law as a first-year course, as they had done in Bristol, which I think is a major mistake. Most eighteen-year olds are far too immature. When I was trying to teach it, I thought that most students just didn't take it seriously. The usual argument was: is it really law? Where's the police force? Where's the army to implement it? Since there isn't an international police force and there wasn't an international army despite Article 43 of the UN Charter, you noticed their eyes glazing over.

Also, Exeter was a very parochial place. I was the only international lawyer. I didn't really enjoy myself there, to be honest. The only people I found myself getting on with well, which was inappropriate because I was one of the teachers after all, were the postgraduate students. There were some postgraduate students who were doing things like European law, things which were a little bit different. I got on perfectly well with them, as we were more or less on the same sort of wavelength. I was very young at the time, only 23. I did everything as quickly as possible. The law degree I finished at 21, then the postgraduate at 22, another year for the bar exams, then I started teaching when I was 23.

Stahl

This was very fast for the time, wasn't it?

Doswald-Beck

Not really, because it's possible in England to do things quickly. They like people to start working early. It's not like in Germany, where people take a long time to get their degree and then their doctorate, and afterwards their habilitation. England is very much based on practice. So as a lecturer, what they wanted and what they were interested in, was that I start writing articles, go to London to attend meetings and be involved in what actually was going on in law development. It was the practice that mattered for them, not the theory. It's a completely different mentality to what I found here in Geneva when I arrived.

I think each has its own value, of course. But it was very fast. In retrospect, starting to teach international law at age 23 was ridiculously young. And I felt it at the time. I think I did a better job when I started again in the 1980s, and even better in 2003 after eighteen years of practical experience.

Stahl

How would you describe your political convictions?

Doswald-Beck

I was never a member of a political party. First, I found that with every political party, there were always things I disagreed with. I was always, and still am, more left-leaning. So, I read the Guardian International because I do believe in international law and trying to get along. I don't believe in the attitude of just letting people sort themselves out and saying "who cares"? That's just not my approach.

But I never got involved in actual politics or political events. You have to remember another thing, and that is that I had two children, one born in 1979 and one in 1980. So, during the 1980s, as well as teaching, I had two children at home. I was not in a position to disappear off to political events on evenings and weekends. I tried to be a parent at the same time. Nevertheless, I still got complaints that I hardly gave them enough time.

Stahl

If you don't mind, could we briefly talk about your private situation? You talked about what it meant to study law as a woman. As a mother, how did you manage to balance your job and family life?

Doswald-Beck

Well, the time in Switzerland, 1977 to 1981, was extremely difficult. I just did what they call "mandates" there, little research projects. I'm just not a stay-at-home, be-happy-with-changing-nappies, do-the-shopping type, that's just not me, never has been. And at the time, I found it extremely frustrating.

So, I did what I could. I managed to get some little research jobs in general international law with the university there. There was a very nice professor, a really kind man who took pity on me. He'd been given a big mandate, and he gave me little bits of paid research to do for him, which gave me something to do, and which was better than nothing.

Once I earned a little bit of money that way, I was able to pay for somebody to come and do

the cleaning and for somebody to look after the children when I was out. That way I was able to go out a few afternoons for a couple of hours, in order to do this work in a quiet place. Then we had one of my husband's relatives, a young woman, to live with us to help with the children and housework.

When we were in London, between 1981 and 1985, my husband was a Swiss diplomat based there. His profession helped because he had an allowance which allowed us to have a woman to come in to do the cleaning and a nanny to look after the children. My tiny academic salary would not have covered these expenses.

So, there was the teaching and research, being a mother to the degree possible, and also some diplomatic events I had to attend or be the hostess at. But, to be honest, national politics never really appealed to me, so I did not feel that I missed out on any of that sort of thing.

Stahl

After your time in Switzerland (1977-1980) you started teaching again in London.

Doswald-Beck

Yes, this was in 1981. By then the UN had developed further. It had created various treaty bodies. Everything was mushrooming at the UN, but in a fairly chaotic fashion, which made it difficult to know what to concentrate on when teaching.

Back in the 1980s, it was still possible to read about everything relevant, which is completely impossible today. In international humanitarian law, not only was it possible to be aware of anything that was going on, which wasn't very much, frankly, but it was possible to have read every single article that had ever been written by anybody on humanitarian law, which I did. It was easy to do because there were not that many in those days.

So, teaching it was actually not particularly difficult. But, trying to persuade anybody that this actually protects and prevents any deaths or injuries was a harder job, as there was so little interest in IHL then. And the ICRC had this habit of keeping everything secret, not just prison visits, which had to be secret, but everything.

The ICRC would never say publicly that something was a violation of international humanitarian law. That was, and remains, its policy. I'm talking about public events, bombardments, for example, or genocides, all this kind of thing that is not confidential. It's basically because for them, the main motivation was to have access to the prisons. They also want to have access to rebel forces, which the governments concerned just saw as a bunch of criminals, so it was not an easy exercise.

Stahl

How did this context affect your teaching?

Doswald-Beck

When I was teaching international humanitarian law in the 1980's, it was easiest to talk

about how the law developed based on different conflicts or the developments of various weapons. I still think that the historical context is the best way to teach IHL, as that way the purpose and reasoning behind the law is much clearer.

It was also possible to do this for human rights, but in addition there were public reports on the violations that took place. In this way we could discuss more easily what was or was not respected. By contrast, IHL was very frustrating because there were no evaluations of how well this was respected or not respected. I couldn't do anything about that. But I could see that the students found that frustrating. It did not help the credibility of the subject matter.

When it came to human rights, there was a lot more material, but there were no textbooks like there are now. Textbooks are useful because they contain an amalgam of the developments that have taken place in the treaty and non-treaty bodies, and a general overview of how human rights law is being implemented.

Back in the 1980s, the only books that existed talked about general developments up until then. There was a plethora of stuff going on at the UN, but there were just the original documents that were not that easy to get access to in London. There was no internet then. Unless you had actually worked in the UN, unless you had actually been there making sense of all of that in the context, it was necessary to find material or articles summarizing and explaining the developments. There were a few accessible reports on violations, especially regarding South Africa and Israel, but nothing like the situation now, with all the country reporting and thematic rapporteurs. I found it a frustrating era to teach human rights for that reason. I couldn't just throw various UN resolutions at students who are beginning to learn human rights and had never heard of it before, because they wouldn't fully understand the context. I know they teach this way in the United States, but I don't think it's a good way of teaching.

Stahl

What were the main topics of your research during this time in London?

Doswald-Beck

I researched concepts of the right to private life under the ECHR, but most of my research was on the use of force because it struck me as really important. It began with an article on the invasion of Grenada.⁶ I don't know if you remember the invasion of Grenada. Ronald Reagan⁷, was in charge at the time. He invaded Grenada under the pretext that the government had asked him to do so, which of course was ridiculous.

I remembered a similar situation when the USSR invaded Afghanistan.⁸ It also used the pretext that it was the government who invited it. The two justifications were obviously false because the invading forces promptly overthrew the government. I wrote a little article about Grenada which was sent to Ian Brownlie⁹ by one of his colleagues that I knew. Professor Brownlie wrote to me saying that the article was too short and too superficial, but, as it was genuinely analytical, he recommended that I write a bigger piece about this general problem. This really motivated me to go ahead and do it.

It involved a lot of research. In those days, there was no internet and so it was necessary to

go to various specialized libraries. It took a long time to research all the instances of when a State invaded another on the basis of having received an invitation. Then it required finding out how the invading State justified itself at the United Nations, and the reaction of the other States. But it was really interesting. What I saw was that the invading State always blamed somebody else for it. In other words, they argued collective self-defence because an outside power had supported rebels in the State that had asked for help. In the case where the invitation was genuine, the governments invited outside people to do their dirty work for them, in other words, to repress uprisings by their own people. They then always said that their people had been put up to it by outside forces, who had given the rebels weapons and support.

This research led to that article you were talking about.¹⁰ The result was that some academics suddenly noticed me. The same happened with an article on humanitarian law and human rights, but was later in time.

One thing that is important, and which I think it needs mentioning, is the fact that the concept of human rights law in armed conflict as such was not yet discussed in the late 1980s, and early 1990s. I knew, and I taught, that in 1968, the UN Conference in Tehran, adopted a resolution about human rights in armed conflict. But the substance of the resolution was about the Geneva Conventions and international humanitarian law. The idea that you have actual human rights law that applies in armed conflicts was not something that people had really thought about at that stage.

I encouraged Amnesty International and Human Rights Watch to get into IHL, and I think, honestly, that it did help.

Although there were NGOs that were working behind the scenes to help the development of various treaties that were adopted in the 1960s and the 1970s, the two worlds were very separate. The UN Charter only refers to the promotion of human rights. It doesn't mention international humanitarian law. And there's a good reason for that because the UN hoped that armed conflict would be a thing of the past. That was, after all, its main purpose

After the Second World War, the ICRC together, with governments, worked on the Geneva Conventions which were adopted in 1949. After that, the ICRC wanted to do further work on IHL, particularly on the conduct of hostilities. This was rejected by governments which didn't want anything to touch their right to use nuclear weapons.

By 1968, it became fairly obvious to the UN that we were still armed conflicts - unfortunately, a lot of them - and that they had to do something. The only rules that existed then were those of international humanitarian law. The only real overlap between this and human rights at the time were the rules that protected people in detention.

Despite the Protocols Additional to the Geneva Conventions that were adopted in 1977, it was still the case that most human rights organizations, and certainly the general public, did not know that there were rules that had to be applied during armed conflicts. It was a very niche thing. Virtually anybody who knew anything about this would meet once a year

at San Remo¹¹ and have a mutual chat about this branch of international law.

By way of analogy, it was the equivalent of a few scientific specialists who would get together and talk about superposition in quantum mechanics and the various theories that could to explain it. Only those in the know could discuss the obscure aspects of the mathematics involved. San Remo was like that, but for IHL. I found it kind of sad and shocking that they just carried on in that way.

One day – this was in the late 1980s when I was working at the ICRC – I got to hear that Christopher Hall¹² from Amnesty International was visiting the ICRC, because he went to see the director in charge of law and policy. At Amnesty, they never say who the authors of their reports are, but I can tell you now that Christopher Hall, who was a brilliant international lawyer, wrote most of their legal material in those days.

But the attitude of the ICRC at the time was very much one of, “We do not speak to human rights people because they publish stuff, and we don't want them to talk.” So I hung around in the corridor until I saw him leaving the office, grabbed hold of him, and introduced myself, asking “Would you like to talk about international humanitarian law?” He said, “Yes, but it's obvious that the ICRC considers it to be very much just their own territory.” And I said, “No, it shouldn't be like that at all. I think you should get to know about it and use it.”

Anyway, to cut a long story short, for a few years afterwards, I had these conversations with Amnesty International and later also with Human Rights Watch. I was basically helping their lawyers behind the scenes when they had difficulty in understanding the law, because IHL can be very obscure and unusual in places. I encouraged them to get into it, and I think, honestly, that it did help. They felt more confident then and started to write about it.

Then they did their own investigations, which I was not involved with, obviously, and they wrote their legal analysis themselves. Because they started writing about it and people got to know about it, we began to get this mix of reporting on human rights and humanitarian law violations in the same reports.

Stahl

How did you come to work for the ICRC in 1987?

Doswald-Beck

When my husband was due to be posted back to Berne, after our stay in London, I had a moment of panic. I thought, “What am I going to do?” It was really serious. At the time, my children were still very small. He was posted back in 1985, so they were five and six, respectively. I thought, “This time around, I absolutely have to find a job in Switzerland.”

I tried the UN, which was my first thought, as I wanted to work in human rights. I was told “no”. “Why?” I said, “I have read that you don't have enough women professionals, so here I am, a woman professional.” “Oh, no, but you're British. We've got far too many British.” “Yes, but you don't have enough women, do you?” “No, we don't. But you have to come from

another country.” And I said, “Yes, but you have the gender thing you have to correct, and I have a Greek mother. Does that help?” “No.” So that was very disappointing. I was not able to get a job there.

Then I tried the Graduate Institute. I said, “I’ve been teaching two postgraduate courses for the last four years at London University and these are my publications.” The Director asked, “Have you got a PhD?” I said, “No, because England doesn’t require a PhD. It’s actually almost dissuaded as a lawyer. They want you to teach and publish, which is what I did.” “No, you need a PhD.” I said, “Yes, but I have proof that I can research and write. I’ve got publications, including in the prestigious British yearbook of International Law.” He replied that without a PhD, I was not allowed to give even one class. I asked whether he considered London University inferior then. He said, “You have to decide which side of the Channel you belong.”

I also tried the International Commission of Jurists, one of the very few human rights NGO’s at the time, and the only one based in Geneva that I knew of. There were no posts available.

So I had to consider what other options were available, and thought, “Well, I suppose there’s the International Committee of the Red Cross” as I’ve taught the law of armed conflict and have a Swiss passport through marriage. It was still the case then that employees had to be Swiss.

So I went to present myself. They didn’t have any openings at the time. But I was very lucky. The head of the Legal Division at the time was a man called René Kosirnik, who was very kind, and appreciated my previous experience. He said, “Unfortunately, we don’t have a post opening at the moment. But we do actually need somebody to check the English translation of our commentary to the Additional Protocols.” They had just been translated from the original French into English.

I thought to myself, “Never mind, this could be a foot in the door.” But that job was just part time, two days a week, and not that interesting. I was not going to go through the misery I went through when I was in Bern with no real employment, so I carried on teaching in England during that year. I flew to London on Tuesday morning, gave my classes and flew back on Thursday evening. And on Monday and on Friday, I was in Geneva to do the job.

Stahl

Nowadays many people do that, but in the 1980s?

Doswald-Beck

It was difficult then. There was no Easy Jet for a start. It was not common at the time. My father’s reaction was, “You can’t do that.” I said, “Well, yes, I’m going to, or else I’ll go mad.” So I did that, but I have to admit that, towards the end of the year, I was getting really tired. I thought, if they don’t find me a job at the ICRC, I don’t know what I’m doing to do.

My husband Joseph stepped in. Via his diplomatic contacts, a meeting was arranged for me with Jacques Moreillon,¹³ one of the main directors of the ICRC at the time. That meeting probably did help. René Kosirnik thought that I was definitely a good fit, and they created a

post for me. Isn't that brilliant? I think it was the combination of those two things that helped this come about. The ICRC back then was not like it is now. Everybody knew everybody else and there was a certain flexibility. I don't think that would have been possible now.

Stahl

How big was the staff in Geneva?

Doswald-Beck

Not as huge as it is now. I can't remember exactly how many there were back in 1986. But it was much smaller than it is now.

Stahl

And the Legal Division?

Doswald-Beck

The Legal Division was also much smaller than it is now. I think it had about 12 or 14 people. There were fewer than 10 lawyers. Now it's something like 30. The Legal Division grew so much that it had to be subdivided into separate units.

Stahl

Can you explain what the main work of the Legal Division was?

Doswald-Beck

When I arrived, the Commentaries to the Additional Protocols were still being finalized, and a lot of Legal Division work was interpreting the Geneva Conventions as needed for field work. Field workers are called "delegates". They are the ones that visit prisons, get families together again, do the medical work, and talk with the governments there in order to try and access the rebel forces to try and speak with them.

Stahl

Can you describe how the Legal Division worked in a little more in detail?

Doswald-Beck

The ICRC is a formal institution with a clear hierarchy. The Legal Division is subordinated to the Directors, who in turn need the approval of the all-Swiss members of the "Committee", who are lay people that meet regularly to discuss policy.

So, for example, the commentary to the Additional Protocols, that were being finalized at the time, needed to be approved by the members of the Committee that had a legal background. Each member of the Legal Division had written one or more chapters. Despite what is said in the introduction to the commentary, the authors were not given academic freedom. A joint formal approval was needed before publication was possible. Any public statement, including legal statements before international bodies, needed to be formally approved this way.

With regard to the work of the lawyers that advised the field delegates, they needed to

specify, first of all, if the situation was an international or non-international conflict, in order to know which rules applied. They would also be consulted with the drafting of the report to be submitted to the authorities. All this advice has to be given by the Legal Division. At that time the lawyers needed to be Swiss. Most of them had arrived at the ICRC having never studied IHL. They learned about the Geneva Conventions on the job. Since the all-Swiss rule was relaxed in the 1990's, there has been a lot more choice and more already-trained lawyers could be hired. Some of these lawyers work in the Legal Division; many others work in the field and now are not so dependent on the Legal Division for general legal advice. There's still a little group within the Legal Division advising the field, but it's actually a small minority of its staff now.

The other thing that the Legal Division was still doing in the 1980's had to do with the fact that the Additional Protocols had been recently adopted and so people needed to be sent out to try and persuade governments to ratify them.

And if there were events, such as San Remo, for example, or if there was a conference of some sort where there would be a discussion about the law applicable during an event, then somebody from the Legal Division would go to that, either give a talk or otherwise contribute to the meeting. There would also be the preparation and contribution to the International Red Cross and Red Crescent Conference. This took place every four years, and in addition to the National Societies, all States party to the Geneva Conventions took part. This is virtually every State. Anyone could bring up issues and the members of the Legal Division wrote preparatory reports and the final ones also. The same went for the biennial meeting of the National Red Cross and Red Crescent Societies.

The work of the Legal Division has grown considerably since I joined it. It added a unit to help governments implement their IHL obligations into their national law. There was also a unit added to deal with weapons issues. After IHL became more generally known, there were far more meetings and treaty negotiations that concerned it. This included not only all the new treaties on weapons issues, but also others such as a Protocol to the treaty on the protection of cultural property during war, the International Criminal Court and its additional interpretative documents, and certain human rights treaties, such as the Optional Protocol, which aimed at prohibiting child soldiers, that was added to the Convention on the Rights of the Child. Much more input was needed also to the very many UN meetings of all types that discussed and passed resolutions on situations of armed conflict. All these meetings required the active input of the members of the Legal Division both before and during negotiations. The Legal Division arranged many "expert" meetings (that inevitably included governmental lawyers) to work out the issues and establish how to pursue the work ahead. A lot of prior research was needed before these meetings took place. We also travelled a lot to meet the people who actually made the decisions in the relevant capital cities for the issues concerned.

The range of the Legal Division's work has also grown because it has become more aware of the amount of relevant law applicable in armed conflict situations. It was a very different situation in 1987. When I was working to correct any mistakes to the English translation of the commentary to the Additional Protocols, it became obvious to me that the authors were only aware of the Geneva Conventions and the discussions during the Diplomatic

Conference leading to the Protocols. As I was reading through the commentaries, I noticed inaccuracies because the authors obviously were unaware of relevant treaties other than the Geneva Conventions, and there was no mention of customary international law.

“Why don't we use human rights law which applies to non-international armed conflicts rather than IHL by analogy?”

They'd say, for example, that up until 1949, there was nothing regulating how people are treated during occupation, statements like that. I don't remember the exact details, to be honest. So, I would come along and say, “Listen, this is not right because there's the 1907 Hague Convention IV, which actually has got a section about occupation.” There were other statements like “the very first time that sailors had any kind of protection was the Second Geneva Convention of 1949.” And I'd say, “Well, that's not true because there's the 1899 Hague Convention which talks about warfare at sea.”

Where they could, they did actually make some adjustments to the English version of the text before it was published. Since then the knowledge-base widened considerably. As you probably know, at the request of governments, the ICRC did a huge study on the customary law of IHL, which I partly authored. In particular, I insisted at the outset that it would analyse real State practice which was the long and hard way of doing it.

The other thing that struck me when I was first at the ICRC was the fact that most of their work was taking place in non-international conflicts. They had Additional Protocol II of 1977,¹⁴ but the majority of states involved in a non-international armed conflict were not yet party to it.¹⁵ In other words, there was just Common Article 3 to the 1949 Geneva Conventions, which contains very little, just a few basic rules: Don't torture. Don't take hostages. Don't murder somebody in your charge. And don't execute people without having had a fair trial.

The ICRC staff were taught that when they talk with governments involved in such conflicts, they should try and persuade them to behave better towards people they captured using by analogy international humanitarian law applicable in international armed conflicts.

I said, “But these governments already have solid legal obligations, namely the human rights law that they're bound by,” because by then it was the late 1980s, early 1990s. As I said, in Latin America, for example, a lot of them or most of them by then were party to the American Convention on Human Rights, or at least the Declaration of the Rights and Duties of Man, which is considered binding by the Inter-American Commission, and was taken seriously.

The same thing goes for Africa and other countries. I said, “Why don't you use the law that applies rather than IHL by analogy?” “Oh, we can't do that,” they said, “because human rights is unpopular.” “If we mention human rights, then we're going to get thrown out.”

There was this overwhelming anxiety at the ICRC that if it said something to do with the law, even IHL at times, that would upset the governmental authorities. They feared they

would no longer allow the ICRC into the country in order to do its important work. There is no doubt about the fact that the work they do is extremely valuable. And of course, they need to carry on having access. However, I had the sense that the degree of anxiety was excessive, and that maybe it would be good to try and see which authorities would get angry, rather than just have the blanket idea that human rights was untouchable. After all, the authorities knew that the ICRC would stick to its absolute rule of confidentiality. Of course, in the mandate formally approved by States for the ICRC's work, only IHL is specified as such, but it is also given the right to work to improve the situation of people in other situations of violence. In my view, this gives more leeway.

In the policy division, someone was asked to do an updated analysis on whether the ICRC can use human rights in their discussion or not. She wrote an internal paper which was not bad, pointing out that, yes, the law does apply. She suggested that the head of delegation should get a sense of whether it would be appropriate or inappropriate to mention existing human rights law in that context. So, it was left basically to the Heads of Delegation to get a feel for the country and whether they could use it or not.

In the meantime, far more important was the fact that there were human rights groups starting to talk about IHL. Of course, they had no problem writing about both human rights and humanitarian law that apply in all these various countries, including those where the ICRC had a delegation, or which they were visiting. In other words, ICRC exclusivity on IHL was eroding, which I consider to be a good thing.

Stahl

Were you in touch with them?

Doswald-Beck

Oh yes, very much so. I said earlier, I was initially in touch with human rights lawyers when they came to visit the ICRC. I encouraged them to get to know IHL and use it in their work. I helped them understand it. I didn't see myself as undermining the ICRC in any shape or form doing that, really not. On the contrary, it just made IHL far more known. And therefore, this whole area of what the ICRC was trying to achieve, mainly the respect of IHL, became more likely. This was my view, and I still think it's the case.

There was also a journalist who came to visit who wanted to know something about war crimes. He did not get very far because the ICRC was very wary of journalists due to their confidentiality rule. I took him into my office and gave him a quick summary of what IHL is about and encouraged him to get journalists to talk about IHL in their articles. He wrote a guide for journalists about what constitutes war crimes and I checked it for accuracy. Thanks to that journalists did start to talk about "atrocities" and unacceptable behavior in armed conflicts, which was not the case before. It struck me as really important that journalists be included in trying to get the public to know that there are legal limits to warfare.

But I must not give the impression that I did everything. In the late 1980s the ICRC was aware that nobody had heard of IHL. So, they made a film about how it's important to protect civilians during armed conflict. There are so many rules that it had to choose which

was most important one. There was also a small exhibition about international humanitarian law that I participated in creating. But to be honest, that would not have been enough to get the newspapers talking about it. It was the fact that there was a journalist who started talking about it and who then started giving courses to other journalists. And of course, the human rights groups started writing about it and their findings were widely published. That was very good.

My main motivation was to show that a strict distinction between IHL and human rights law is no longer suitable.

But I didn't stop there because international humanitarian law and human rights law were still seen as separate. The UN talked about human rights law in armed conflict, and the ICRC would talk about humanitarian law. I still wasn't happy with that. The thing is, the overlaps humanitarian law and human rights law were so obvious that I decided to write an article on the subject. The director for law and policy at the time allowed me to publish it in the *International Review of the Red Cross* in 1993.¹⁶ The reason I'm mentioning this is because I have been amazed at how this little article, only 10 pages long, became a seminal article – maybe because it's so short! It has been referred to many times.

In a nutshell, the article describes the background to humanitarian law, which is very different from the background to human rights law. The law of armed conflict, as it developed over the centuries, had at its base the principle that the military must be allowed to do what is necessary to win battles, but that it would not tolerate atrocities. “Dishonourable” conduct by professional armies was prohibited. With human rights law, it's not like that at all as the aim is to respect, to the degree possible, each human being. Before 1948, the only possible source of law in armed conflict was what is now called international humanitarian law. If you wanted to have any influence on preventing murder, torture, etc., you couldn't refer to human rights law.

When human rights law began to develop seriously, the overlaps began to be obvious. One also began to influence the other. In Additional Protocol II to the Geneva Conventions, there are parts obviously lifted from the UN Covenant on Civil and Political Rights. Somebody who went along to these meetings must have recognized that it was a good idea to use the human rights language in order to expand on what is meant by “cruel treatment” and “judicial guarantees” in Common Article 3. And you had the opposite happening as well. Since 1968 the UN increasingly started referring to IHL. When I wrote that article in 1993 it only took up a few pages because these mutual influences had only just begun to develop seriously.

I had only one weekend to write it, and so I didn't have time to write all of it. I co-opted Sylvain Vit   and asked him whether he would agree that weekend to write a section of it. I outlined to him my theory, and the material I'd collected, and asked whether that was OK with him. After agreeing, he did his part in French, I did mine in English, and both were then translated.

My main motivation was to show that a strict distinction between the two bodies of law is

no longer suitable, despite their different beginnings. In fact, we're looking at the respect of human beings in a context of armed conflict, which can be international or non-international, or in a situation not recognized as an armed conflict. Governments prefer to call rebels "terrorists" and not recognize the situation as an armed conflict. So of course, it's only human rights law that applies, but they don't like that.

Stahl

Was this only a new argumentation within the ICRC or was it also a new view in the academic field?

Doswald-Beck

As far as I understood, it was new in the academic world as well. I saw the NGOs as being more important because it was desperately important that we started getting some improvements in the field. The ICRC could not and would not publish anything about violations. On the other hand, the human rights groups are very happy to publish this, as you know. Of course, there was a backlash. The United States in particular, objected to human rights being used in armed conflict, saying that only the specialized IHL was applicable. But they've lost that argument. Virtually everybody's now gone along with the fact that human rights law applies in armed conflict and that there's a lot of overlap between the two branches of law.

The main point is how these rules can be implemented. The point is that there are no tribunals in humanitarian law that can hear cases brought by individuals because governments refuse to develop such tribunals. So if an individual wants to have a claim to get recognition that their house was bombed arbitrarily, that they need some kind of resettlement, or at least something done about this situation, then the only place they can go is to a human rights tribunal.

That's why it's so important that there is a realization that a lot of human rights law can apply in armed conflicts. And it can apply in a way which still makes sense, even in an armed conflict. And that's why when interpreting certain aspects of human rights law, you can see the same kind of concepts as in humanitarian law. Only the vocabulary is different.

Take the right to life, for example. In human rights law, you cannot kill anybody "arbitrarily". The European Convention is more precise as, it prohibits force that is "more than absolutely necessary." In humanitarian law, there is far more detail. It talks about the precautions you have to take when you're planning an attack to try and avoid civilians as much as possible. In human rights speak, it is "no more force than absolutely necessary". But the "precautions in attack" in humanitarian law are spelled out, and make sense in the context.

Human rights tribunals have to apply their law, the human rights law. They can't do any differently. But they can interpret a term in a way that makes sense in an armed conflict situation. And the degree to which they do that means that more and more people can actually have some kind of redress. Governments then realize that they can't get away with everything; they could find themselves before human rights tribunals looking at whether they attacked civilians and whether they took the proper precautions in preparing their

military operations to avoid or minimize such casualties.

Krähenmann

The duty to investigate.

Doswald-Beck

Exactly. The duty to investigate is not spelled out in the main human rights treaties, but their treaty bodies have stated that there is a duty to investigate any instance that could be a violation. Some governmental IHL lawyers are outraged at the idea that such a duty to investigate exists in IHL also. But it's obvious that such a duty is implicit. How can you possibly bring somebody before a war crimes tribunal or evaluate that they've committed a violation, in order to "suppress" that violation as IHL requires?

In other words, when it comes to stopping violations or preventing violations, each body of law uses own vocabulary, but the substance in this instance is the same. But in practice, it's only human rights tribunals that can actually hear individual cases.

Occasionally, a country can take another country to the International Court of Justice, of course. But that's the rare exception. The vast majority of these cases are brought by individuals before human rights tribunals.

Alternatively, there are the United Nations rapporteurs who are asked to investigate the human rights situation in let's say Somalia or Sudan. They have to apply human rights, but at the same time, they will interpret it in the light of humanitarian law where that makes more sense because it is more detailed and gives more guidance.

Stahl

Who else was important in implementing this approach?

Doswald-Beck

The other person that helped with that was Françoise Hampson.¹⁷ She's another of those whom I got to know well in the 1980s.

Stahl

Also at the ICRC?

Doswald-Beck

Not at all. She was a lecturer at Essex University, which is just north of London, in Colchester. She became a professor afterwards. We were referred to by somebody else as "birds of a feather", because at the time we were the only two female lecturers in the UK specialized in human rights law and humanitarian law.

She brought cases before the European Court of Human Rights relating to Turkish governmental behavior in the Kurdish region when there was an armed conflict there. Most of those cases had to do with arbitrary attacks on the various villages by the Turkish armed forces.

She was pleading on behalf of Kurdish people who lost houses and relatives who lost their lives. She gave a little lesson to the ECHR judges about how to interpret “not more than absolutely necessary” when evaluating a military attack. She described the IHL precautions in attack rules. The judgments actually used the words “precautions in attack” when evaluating whether the military had really used no more force than “absolutely necessary” to repel the rebel attackers. And that's thanks to her.

I also gave a talk, but much later while I was teaching here at the Academy, to the judges of European Court of Human Rights on how best to use IHL and which pitfalls to avoid. But Françoise Hampson was the one who first helped them realize that it was a good idea to be aware of IHL rules. Then the academic treatment of the two bodies of law together really got going.

Stahl

How did the ICRC react to this demand? How were human rights then implemented into its work? Could you see a significant change?

Doswald-Beck

Yes and no. Yes, in the sense that they became aware that human rights is relevant, that occasionally they were able to use it if they had a delegation who thought it was possible.

The ICRC became very much aware that it's an area which is completely unavoidable. From 1998 to 2001, I was Head of Legal Division. I hired a human rights specialist as one of the lawyers in order to include this where relevant. Funnily enough, although she had come from Human Rights Watch, she became a more determined IHL person than even the other colleagues. It's really very strange. Well, these things happen.

Stahl

As head of the Legal Division, were you able to give this approach more weight?

Doswald-Beck

I hired her in order to write both for the field work and also in any other context where it was suitable to write what human rights law applied, because the ICRC was always producing documents in one form or another. I don't remember all the details. I probably sent her to various groups. For example, we had a group of armed forces people teaching IHL to the military. I must've sent her to them to teach them about basic human rights, especially for people in detention in non-international conflicts. I probably sent her to various conferences around the world where people were talking about the law applicable in various places. And I sent her off to educate them all about human rights law and how it applies in armed conflicts.

Stahl

Were there some other measures you took specifically to bring human rights law together with IHL?

Doswald-Beck

I don't remember, all of them. Certainly, when writing the customary international

humanitarian law study¹⁸, I referred to human rights standards to expand on the notions of fair trial and reparations that IHL requires. In the Chapter on Fundamental Guarantees, I refer extensively to the continued applicability of human rights law and how this has influenced customary international humanitarian law. In the reparations section I referred to international human rights case law requiring reparation for actions during armed conflict. The study also frequently refers to UN human rights resolutions that address violations in armed conflicts.

Stahl

During your time at the ICRC you participated in the negotiations of the Convention on Certain Conventional Weapons and of the Ottawa Convention on Anti-Personnel Landmines.

Doswald-Beck

Weapons was a subject which I'd been given. It's not a subject I knew anything about when I first joined the ICRC. I was kind of shocked that the 1977 protocols¹⁹ did not make any headway when it came to the prohibition of modern weapons. There was a new treaty in 1980 that had been taken over by the Disarmament Conference of the United Nations, which was the Convention on Certain Conventional Weapons (CCW).²⁰ The Disarmament Conference required consensus for everything, not only for matters of substance, but also procedure. This meant that just one State could stop anything from being talked about, let alone being adopted. So it was a very difficult context to work in.

I made the prohibition of blinding laser weapons one of my aims in life. I was going to get those weapons prohibited if it was the last thing I did.

Two major issues had cropped up. One was the problem of anti-personnel landmines. This issue became famous because lots of NGOs were working on it, and the President of the ICRC, Cornelio Sommaruga,²¹ decided to join the call for an outright ban. I was involved in this work, arranging expert meetings and speaking with governmental personnel around the world. We managed to get some restrictions under the CCW, but a total ban could not be adopted because of the consensus rule. In the end it was adopted in a separate procedure leading to the Ottawa Convention. I was involved in all this, but I don't see that as my main achievement. I think my biggest personal input was the eventual adoption of Protocol IV to the CCW²² which prohibited blinding laser weapons.

It was a subject which I felt very strongly about. I'd made it one of my aims in life that I was going to get those weapons prohibited if it was the last thing I did. The idea of deliberately creating a weapon to make people blind for the rest of their days just struck me as so grotesque. It really affected me emotionally, let's put it that way.

In fact, it was the Swedish government who brought it forward as a problem, with the support of the Swiss government, at the International Red Cross and Red Crescent Conference, in 1986 I think. It was just before I joined. But the issue did not receive support from others. The problem was that all the permanent members of the Security Council, as well as Germany and Israel were rapidly developing these weapons.

When I first joined the ICRC, it was not as robust in its efforts to limit particularly cruel and indiscriminate weapons as it became later. I was given the subject of blinding weapons to as an issue to follow, but frankly the ICRC leadership doubted that anything could be done. The Swiss government gave up. Only the Swedish government were still keen. They introduced me to a specialist on the effects of lasers on the eye working in London. He was outraged with the idea of these weapons and was very keen to do whatever he could to try and stop this happening.

I knew I needed somebody to help me with these weapons issues because I was already overwhelmed with work. Just after thinking, "I wish I could have somebody to help me with all these weapons things," I had a call out of the blue. Peter Herby,²³ rang me and said, "By the way, I have just finished working for the Quakers on weapons issues. Would you be interested in hiring me?" A gift from heaven! Thankfully I was able to hire him, and I also worked on this issue with another colleague at the ICRC, a technical expert, who was equally outraged by this development. First of all, it was a question of persuading the ICRC that this is worth it, and of persuading the Swiss government to take this up again.

Most thought the attempt hopeless. Well, I was determined that this was not hopeless. René Kosirnik, who was then head of the Legal Division, didn't have much hope either, but he said, "Okay, Louise, if you want, you do it". He just threw it in my lap to get on with as I saw fit, within reason, of course. So, I organized expert meetings on the effects of lasers, their military utility, and blindness compared with other wartime injuries. The results were published and then discussions were undertaken with governments. I also tried to get some of the press and NGOs interested.

The problem was that the press and human rights groups, right up until the last moment, were not interested because they hadn't yet seen any victims of these things. They had not yet been manufactured and used. And everybody was obsessed with the landmines issue, which was very important, and which I was also working on, as I mentioned. But in the end, we managed to get a ban on blinding laser weapons through sheer determination.

I was largely responsible for travelling to key countries to try to get their support, based on the research that we had already done. The funniest was my trip to Egypt because the foreign ministry and army people there kept on asking when my colleague would arrive. They couldn't believe a woman could be an expert on such issues! Meetings with other governmental personnel were also amusing because they tried to come up with reasons why the new weapons would not blind people. As I had learned the relevant science from our expert meetings, I was able to refute their specious arguments, much to their discomfort and amazement.

The most difficult country was the United States because the person responsible for vetting the legality of new weapons refused to engage in any discussion on the issue. We managed to get the issue discussed thanks to Peter Herby, who knew how the US political system worked. Peter and I went around and talked to Senators who may be interested in taking this up, which is not the way the ICRC normally works. But it was the only way because other people in the American government were not even aware that this was a potential problem. The White House then had some meetings about it, and we got the support of

President Clinton.²⁴ In the end, the Joint Chiefs of Staff actually created a new policy where they said that the US was not going to develop weapons in order to deliberately blind for life and that they would try to avoid this happening accidentally with laser range-finders.

There is a rule in international humanitarian law that says that weapons that cause unnecessary suffering or superfluous injury are prohibited. On the basis of this, things like dum-dum bullets were prohibited, as were biological and chemical weapons, weapons with bits of glass and some others. But most people didn't know about this rule. Certainly, most governments couldn't care less about it.

When I went to England, I spoke with the head of the Foreign Ministry at the time. I used all the legal arguments backed up by fact. I thought I'd made a perfectly good case, explaining the dreadful personal and social effect, and its limited military utility compared with existing weapons. After listening to me, he said, "All of this is irrelevant." I had such a shock! He added, "I don't see people outside with placards objecting to these weapons. I don't see any NGOs complaining about this, and we are not having any difficulty with our allies because of this." I left his office feeling really upset, really shocked. Later, I realized, "He told me what to do." The legal framework won't work. I needed to use arguments that worked with people. So, for example, in Moscow I put forward the argument that NATO countries are always developing new weapons, and it will be impossible to prevent anything at all in the future unless we put a stop somewhere. Until then the Russian officials had been dubious about our efforts, but after this they agreed to support us.

Stahl

And Russia really supported this?

Doswald-Beck

It did. We were lucky that the laser weapon Protocol was adopted in Vienna in October 1995, rather than the following year when the new Protocol on Landmines was adopted. In 1995, the Russians had sent a really nice group of people to the meeting. They were young, open-minded, and they didn't really mind one way or the other. They said, "Fine, what everybody else agrees with, we'll agree with." Just as well, as the following year a very different set of tough-minded men attended the final CCW meeting, and I don't know if they would have been so compliant on the laser weapon ban.

The other nationality which could have caused this to fail was China. A few months before adopting the new Protocol, the Chinese had put a blinding laser weapon on the market in one of the arms trade fairs. As the Americans had just decided that they weren't going to further develop these weapons, they persuaded the Chinese to accept the ban. So that took care of that, thankfully.

I also managed to get Human Rights Watch's support towards the end of all this effort, and its lobbying certainly did help in the last months before the diplomatic conference.

You could get the impression from this that once the diplomatic conference began, it was bound to be adopted without problem. This was not the case at all, and we could have lost it all at the last moment. As I said before, most of the CCW negotiations, which took place over

several sessions, were concentrated on the problem of anti-personnel mines, and most diplomats saw the laser weapon issue as a diversion that was a bit of a nuisance. Just two afternoons were set aside for the laser weapon Additional Protocol discussions and only about 40 State representatives were there, out of the more than 100 States present.

But I just had this intuition that something could go wrong. I asked the specialist, who was in London, to be ready to come to Vienna if necessary. I said to him, "Listen, there's this two-week conference in Vienna. Can you please not go anywhere, clear your diary, and be available if necessary to fly out at a moment's notice, just in case?" This was a lot to ask of such a busy and important person, and it shouldn't have been necessary, but I just had this feeling about it.

One day, in the second week of the conference, the US delegation announced one morning, "This evening at 6:00, there's going to be an informal meeting about the blinding laser weapons." So I rang the specialist: "Come out Now." When the meeting began he hadn't yet arrived. The Americans introduced their so-called expert, a young man. What I'm going to relate to you I swear to you is true. I am not making this up. Their young man started saying, "In fact, a laser weapon just concentrates the beam on a tiny spot on the eye," which is true, by the way, "but as you can imagine, if it's only one tiny spot, you're not going to be blind. You might lose a little bit, but you're not really going to be blind."

Of course, all the diplomats present hadn't read our expert meeting reports. They didn't know the science of it and they began to believe him. And I thought, "Oh, no." And as this young man was in the middle of saying this, our specialist walked in. He looked at the young man and said "Oh, hello", and turning to the diplomats said "He is my PhD student"! So our obviously superior expert explained the fact that blindness would be caused and the treaty banning these weapons was adopted a few days later. All relevant States have become party to this treaty.

Is rape really a war crime?

Stahl

Which role did women's rights play in your work at the ICRC?

Doswald-Beck

I'm very sorry to say the ICRC was not sympathetic to women's rights. I won't name names because it's not fair to do so. But there was zero sympathy at the ICRC for the victims of all the rapes in Yugoslavia. In fact, one of the people, who jolly well should have known better, just said to me, "Oh, well, it's a problem that's been going on for ages. And it's not an issue."

I even got a phone call from a diplomat, I'm sorry to say, a Swiss one, who rang me up saying, "Louise, why are all these women's groups going on about it – is rape really a war crime? It's so common." I said, "It's not listed as a war crime for the time being, unfortunately, but I can assure you it is. It's inhuman treatment." But I'm sorry to say the attitude was not good at all at the ICRC. Hopefully it is better now. At the time it was left to the human rights organizations, which by then thankfully were onboard when it came to

looking at human rights in armed conflict.

Stahl

You couldn't change the mind of the ICRC?

Doswald-Beck

Oh, that's not easy. It's a huge organization. When the ICRC finally realized that they looked really bad for not doing anything about women's rights in armed conflict, they actually gave a woman a job to look at the issue of how to improve the situation of women in armed conflict. Notice a woman was given the role to write this.

She came into my office on a few occasions and once literally burst into tears saying that she'd been treated really badly by the directors. She would go in to see them and they would just say, "Oh, here's the feminist coming along again." She had a horrible time.

Although the ICRC did publish a report on the problem of women in armed conflict, I know the reality of the background to this. They had to be really forced into it. Really, they were not a woman-friendly, feminist organization, I can assure you. I think they're better now, or at least I hope so!

Stahl

So how long did it take you to give up?

Doswald-Beck

Well, I knew there was no point in even trying to work on this issue personally. I supported the woman who was working on it and helped her. I gave her moral support when she came into my office. We also talked about some of the substance. I was not yet head of the Legal Division. I was deputy at that point.

When it came to the war in Yugoslavia, the ICRC was more interested in doing its usual stuff, visiting prisoners, which was important with the concentration camps and the like, trying to get family members together, trying to prevent starvation, which was going on, and there was also the problem of the weapons that were being used, especially cluster munitions.

Stahl

What role did the ICRC play in the process that led to the creation of the International Criminal Court?²⁵

Doswald-Beck

It gave advice on the list of war crimes that should be included, and on some jurisdictional issues. When the ICC began to be negotiated in 1996, I was deputy head, and I wasn't allowed to be involved in it. I was there at the last meeting in Rome. There were a few things I was able to do at that late stage on behalf of the ICRC. Some things would have been drafted worse if we hadn't been there.

Stahl

Can you mention just one example?

Doswald-Beck

This is an extraordinary example, which is probably why I remember it so well. Many western nations refused to have the use of nuclear weapons listed as a war crime. So the Arabic states said, "Well, if it's like that, we're not going to have biological or chemical weapons in either." I thought, no, this is just not possible. In the end, I managed to persuade them in a way that they didn't quite realize what they were doing. I said, "Perhaps you've got no problem with putting in some wording from the Geneva Gas Protocol of 1925." "What's that about?" "Well, that's just an old thing which had to do with use of gas in the First World War." "Well, yes, that's all right then." So through the back door, I managed to get in the use of chemical weapons at least.

Until the final Rome Conference, the ICRC only worked on the list of war crimes. But I said, "No, it's not just the list of war crimes. We also have to try to make sure that jurisdiction is not so restricted that you end up with nobody ever finding themselves before the court." So we supported the NGOs who wanted more robust jurisdiction, which I think did help.

I was very much involved with the Elements of Crimes. This is a document that came afterwards, which describes what each crime means and what needs to be proved. Actually, these are crucially important from the point of view of the Court. You can say something is a crime. Murder is a crime, fine. But the point is, what do you mean by that? What actions have to be carried out, in what context? What has to go through the person's head? What do you have to prove? What defenses are there? And that makes it real. Otherwise, it just remains a piece of paper.

I hired Knut Dörmann, who's now head of the Legal Division at the ICRC, to thoroughly research how those crimes had been interpreted in the past, including the more recent Yugoslav Tribunal.²⁶ I also gave Robert Kolb, a Swiss academic, a short mandate to help Knut with finding the material. On the basis of this work, the ICRC submitted a formal document explaining the results of this research and suggesting how the Elements of Crimes should be drafted.

Of course, the Americans and a few other States came with their suggestions, but none of them were based on the wealth of research that we had done. However, in order for our suggestions to be formally used by the conference, one or more States had to submit them as a working paper. I was able to get Switzerland onboard fairly quickly, and they found other countries to jointly submit the document to the Conference. So in due course it became the primary working document of the Conference. Knut and I were involved in all the formal and informal meetings that worked out the final language. In the end, it was very similar to our original suggestions.

The other thing I did, I have to admit I was not comfortable with. But I had to do it as it was part of my job. The ICRC did not want to have to be a witness at any of these trials because of their strict confidentiality rule when visiting prisons. So it was my job to get the ICRC an exception, which was not that easy because the Vatican wanted the same thing.

Stahl

An exception to what?

Doswald-Beck

For the Court to be able to insist that certain people be called as witnesses. This was in the Rules of Procedure, which was another document being negotiated at the same time. And of course, normally, you'd want as many witnesses as possible at a criminal trial. And it was my job to get that exception, which as I said is a job I didn't particularly enjoy doing because I believed in the creation of the International Criminal Court. But I managed it for the ICRC.

Stahl

Why did you leave the ICRC in 2001 in order to join the International Commission of Jurists?

Doswald-Beck

There were two reasons actually. One was that I had been working primarily in international humanitarian law for almost fifteen years, and I was beginning to get a bit fed up. I felt like I was learning nothing new and I needed a change of scene. I wanted to do more work on human rights law, which had always been what attracted me most anyway.

The other thing was seeing that the post of Secretary General was available. This coincided with a major internal argument at the ICRC about publishing the results of the effects of cluster munitions as used by the Americans and British. They were published in the end, after I left. It was all these factors put together that decided me.

When I got to the International Commission of Jurists (ICJ) I realized that trying to be head of a human rights organization was very different from being head of the Legal Division of the ICRC. On average, the staff of the ICRC are very dutiful people. There were certain rules involved. Issues were open to discussion amongst the staff, of course, but once a decision was made, they obeyed. The ICRC is too big an organization to allow complete freedom, otherwise, it would become chaotic, and we would have lost the trust of States. The ICRC also had an entire unit responsible for organizing its budget.

I started with the International Commission of Jurists when it was in a very bad way, unfortunately. The previous Secretary General was excellent at giving talks about human rights, but he had no interest in management. It was a small organization at that time, and everyone was just doing their own thing in their own corner. Most funders had begun to withdraw or had already withdrawn completely. The main funder, which was a Swedish one, and the Ford Foundation, were the only ones left. A few days after I started, the Swedish one said, "We want to cut down dramatically, to about a quarter of what we have been giving so far." That was dreadful.

Instead of doing what I really would have loved to do, which was spending my time talking with governments about human rights, being involved in negotiations, discussing issues with human rights organizations and planning research documents, my time was mostly spent trying to get money, keeping the place together, and trying to create some kind of

order. It was very difficult. I realized at that point that being a manager is not my real forte. It's just all high-level administration. That is just not me. I'm a substance person.

Nevertheless, we did a couple of things which I thought were really important. We contributed very well to two treaties. I put one person on the file that had to do with the Optional Protocol to the Convention for the Prohibition of Torture.²⁷ The Convention needed a visiting system to try to ensure compliance. I was involved with some of that and I enjoyed that part.

Then there was the Convention for the Prevention of Disappearances,²⁸ which was in the process of being negotiated at that point. There was a very competent man at the ICJ working on that. I gave him whatever support was needed. We also contributed to General Comment 29.²⁹ It's an explanation by the UN Rights Committee on derogations to human rights in states of emergency. It was adopted shortly before 9/11, and became extremely relevant.

Apart from these legal aspects, I was not happy with what most of being Secretary-General entailed, as I said before. Normally job postings elsewhere did not appear on my desk, but just as I was feeling really despondent, a job offer at the Graduate Institute appeared there. It was a professorship, supposedly half time, at the University Centre for International Humanitarian Law (CUDIH)³⁰ which also required contributing to the management of this new centre. It had been created, as a shared centre, between the Graduate Institute and the University of Geneva. I really didn't want to go back to international humanitarian law, but when I investigated a bit and realized that human rights law was being taught as well, I thought, "If it's like that, then okay, I'm not going backwards." So I applied for it and thankfully got it.

I had resigned as Secretary General before I was informed that I had been accepted for the post. I thought, "If I get this job, fine. If not, never mind, I'll join my husband in Spain, learn Spanish and see what else might be possible." My husband was Swiss Ambassador there at the time. After his posting in London between 1981-1986 he stayed either in Bern or Geneva so that I could establish my own career. It was very kind of him – he knew how important my work was for me. So his first real posting abroad, after that initial one in London, was in Spain in 2001. By then, our children were grown up, and, when he was abroad my husband and I saw each other every other weekend and holidays.

A lot of our former students have been hired at the ICRC.

During my first four years, 2003-2007, at the University Centre for International Humanitarian Law, I found myself, again, facing some of the same problems as at the ICJ. The advert for the post had said that I was to "contribute" to its management. In practice I was its only Director. The authorities of the two institutions had created this new centre with only 1.5 years of money available. The centre had already been running for one year, so most of the money had been spent. So I was right back to fundraising, and trying to get the place to function. Nobody wanted to pay for it. The central government said the canton had to pay for it, and the canton said, "No, the central government has to pay for this."

In the end, I hired somebody who was a financial specialist to try and figure out how we could make it work. He said, "Well, you need to charge fees." But I said, "Listen, this is humanitarian law or human rights. Lawyers don't make money from this. We cannot charge the kind of fees they have in the United States and other places." So he did a careful analysis of the minimum indispensable to be able to continue this course. He worked out it was 15,000 francs per person per year. We managed to get a few scholarships for students from developing countries. In the meantime, the University topped up what was missing.

The other main problem was that, although the teaching was supposed to be in both English and French, in practice everything was mostly in French. I said to the Governing Board, "This is no good. If you want to have more students from abroad, we need to teach in English. And not only that, people who only have English as a second language need to be able to do this course." For students who can also speak French, we must have options available. I will say it was very much my effort that it's taught in such a way that people who don't have excellent French, or even no French, are able to do the course. Otherwise, we would never have had the range of people that we have for this course. It's become quite well known.

I have to admit I was relatively strict as Director. I said, "I'm not going to behave like some other universities where people automatically get their Masters' degree because they had paid so much money for it." I refused to accept that approach because I had been an employer at the ICRC and at the ICJ. I knew that, when you're choosing whom to hire as an employer, you expect the qualifications of applicants to mean that they know the substance and that they understand it. So some people did fail each year. But we did our best to prevent this. I introduced a system of tutorials, which was unheard of here in Geneva. It was a bit of a battle as usual with the Governing Body, but they grudgingly accepted.

The effect was that these students didn't just get lectures or seminars, with all 40 of them together. I hired teaching assistants who gave tutorials to smaller groups. The tutorials required students to try to apply the law to practical situations. They were able to discuss the issues between themselves and with the teaching assistant. The tutorials were, and still are, very popular. A lot of the students came from countries which were not used to this kind of teaching; they were used to only being taught by a professor, a little dot at the front in some huge auditorium, and they just learned everything by heart and reproduced it in their exams. But our teaching is not like that.

I taught the main human rights course, and Marco Sassòli, who had taught at a Canadian University, gave the main humanitarian law course. He and I both agreed that when people finished this course, they should be able to apply our teachings in real life. The exams they had to do in the end were quite complex case studies. At the end of the day, people only get this degree if they can actually act as a lawyer evaluating what's a violation, what's not a violation, what should have been done, etc. A few students never managed to cope with that. But those who were able and willing to learn this different way of thinking did well in the end. As a result, I think we created a standard of teaching at the Academy which is really respected.

A lot of our former students have been hired at the ICRC. I've been told it's filled with

people who graduated from here. Many of our alumni also got very good responsible posts in various places, particularly in human rights international or non-governmental organisations. I was the only Director for four years, even though it was supposedly a half time post. Anyway, if you're committed to something, you do it, even when it's paid badly. For me, it really mattered that it worked, and on average, I think the result is very good.

Krähenmann

If I may tell an anecdote: I talked with Christina the other day who took the entry exam for lawyers at the European Court of Human Rights. She did not have time to prepare, but she said, "Louise's class is totally sufficient," because I think you really explained the system and the technique involved in judicial reasoning. The students also know how the European Court reasons. Christina was there with people who had studied for years just for this entry exam. She got in because she knew the most important cases, and she knew the technique. Because we really learned how to apply it without losing the underlying objective, which is why do we do what we do in human rights law.

Doswald-Beck

I did not wish a second term as Director. I didn't like the management side much, and I had overworked for years and years. I also had had difficult family issues, which I don't want to talk about here. By 2008, I had become over-exhausted and I suffered a burn-out. From one day to the next, I simply couldn't continue. I took almost a year off, which I was able to do, thankfully, and then started up again bit by bit.

My main motivation then was to write this book, "Human Rights in Times of Conflict and Terrorism" (2011). I absolutely wanted to make sure that before I leave here, there will be a book that describes how international human rights law applies in times of armed conflict and also to counterterrorism. Many non-international armed conflict situations are labeled as terrorism, and some are genuinely terrorism. In any event, for human rights law this distinction is irrelevant, which is the beauty of it.

So I put all my energies into that as well as carrying on with the teaching. I'm thrilled that Sandra agreed to update the book. Once I finished writing it, I thought I'd carry on teaching, but then suddenly I didn't want to do it anymore. I retired a few years early and since then have taken up different interests.

Stahl

Thank you very much.

Fußnoten

1. The Defence Chemical, Biological, Radiological and Nuclear Centre is a United Kingdom military facility, south of Porton Down. It is responsible for all training issues relating to chemical, biological, radiological and nuclear defense and warfare for the UK's armed forces.
2. Examination to qualify as a barrister.
3. Dame Rosalyn Higgins (born in 1937), 1981-1995 Professor of International Law at the London School of Economics, 1995-2009 Judge at the International Court of Justice.
4. Christopher Greenwood (born in 1955), 1981-1984 Assistant Lecturer in Law and 1984-1996 Lecturer in Law at the University of Cambridge. Since 2008 Judge at the International Court of Justice.
5. The two pacts, on civil and political rights and on economic, social and cultural rights, were passed by the UN General Assembly in 1966 after many years of negotiations and came into force in 1976.
6. In 1983, US-led forces invaded the Caribbean island Grenada after a Revolutionary Military Council had taken power. The Council was deposed and in 1984 democratic elections took place.
7. Ronald Reagan (1911-2004), 1981-1989 President of the United States.
8. Between 1979 and 1989 Soviet forces were fighting in Afghanistan against different Groups of mujahedin.
9. Ian Brownlie (1932-2010), 1980-1999 Chichele Professor of Public International Law and Fellow of All Souls College at Oxford University.
10. "The Legality of the United States Intervention in Grenada", *Netherlands International Law Review* 31 (1984), 355-377; "The Legal Validity of Military Intervention by Invitation of the Government", *British Yearbook of International Law* 56 (1986), 189-252.
11. The International Institute of Humanitarian Law in San Remo, Italy.
12. Christopher Hall (1946-2013), Principle Legal Advisor at Amnesty International.
13. Jacques Moreillon (born in 1939), Director General at the ICRC.
14. Protocol II is a 1977 amendment protocol to the Geneva Conventions relating to the protection of victims of non-international armed conflicts.
15. In 1977, two additional Protocols to the 1949 Geneva Conventions were adopted: 1977 Additional Protocol I to the 1949 Geneva Conventions in relation to international armed conflicts included rules governing the conduct of hostilities. 1977 Additional Protocol II to the 1949 Geneva Conventions in relation to non-international armed conflicts significantly expanded the rules governing non-international armed conflicts as before there was only common Article 3 in Geneva on non-international armed conflicts.
16. "International Humanitarian Law and Human Rights Law", *International Review of the Red Cross* March-April 1993.

17. Francoise Hampson, School of Law of the University of Essex since 1983.
18. Jean-Marie Henckaerts and Louise Doswald-Beck: Customary International Humanitarian Law, Volume I. Cambridge 2005.
19. See footnote 15.
20. The Convention on Certain Conventional Weapons (CCW or CCWC), concluded at Geneva on October 10, 1980, and entered into force in December 1983, seeks to prohibit or restrict the use of certain conventional weapons which are considered excessively injurious or whose effects are indiscriminate.
21. Cornelio Sommaruga (born in 1932), 1987-1999 President of the ICRC.
22. The Additional Protocol 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 was adopted on October 13, 1995, and entered into force on July 30, 1998.
23. Peter Herby, 1983-1993 Director of the disarmament and arms control program of the Quaker United Nations Office in Geneva, from 1994-2012 he represented the ICRC in all arms-related negotiations.
24. Bill Clinton (born in 1946), 1993-2001 President of the United States.
25. The International Criminal Court was established by the Rome Statute in 1998 and began functioning in 2002.
26. The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established in May 1993 by the UN Security Council to prosecute crimes committed during the wars in the former Yugoslavia.
27. The 2002 Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment provides for a visiting mechanisms, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
28. The International Convention for the Protection of All Persons from Enforced Disappearance was adopted in December 2006 and entered into force four years later.
29. General Comment 29: Article 4: Derogations during a State of Emergency, adopted on 31 August 2001. Human rights treaties allow for so called derogations during states of emergency, but such derogations are not suspensions. General Comment 29 seeks to clarify how human rights apply during states of emergency.
30. In 2007 renamed and restructured as Geneva Academy of International Humanitarian Law and Human Rights.

Zitation

Lebensgeschichtliches Interview mit Louise Doswald-Beck, 18.10.2017, in: Quellen zur Geschichte der Menschenrechte, herausgegeben vom Arbeitskreis Menschenrechte im 20. Jahrhundert, URL: www.geschichte-menschenrechte.de/louise-doswald-beck/