Volume 91 Number 876 December 2009

INTERNATIONAL REVIEW of the Red Cross

Interview with Masood Khan*

Masood Khan has been Pakistan's Ambassador to the People's Republic of China since September 2008. From March 2005 to September 2008, Ambassador Khan served as Pakistan's Permanent Representative to the United Nations Office and other International Organizations in Geneva. As an official of Pakistan's Ministry of Foreign Affairs, he has served in Islamabad and abroad for thirty years. In 2009, he was promoted to the highest rank – that of Federal Secretary – in Pakistan's civil service. Earlier, among other functions, he worked as the Ministry of Foreign Affairs' Director-General for the United Nations and for Disarmament, and as its spokesman. Over the years, he has acquired expertise in multilateral diplomacy, security and disarmament issues, human rights, humanitarian diplomacy, and social development. He has also specialized in international conferences, having held several leadership positions, such as President of the Conference on Disarmament, President of the 6th Review Conference of the Biological Weapons Convention, Coordinator of the Group of the Organisation of Islamic States in Geneva, Chairman of the International Organization for Migration Council, Chairman of the International Labour Conference Reform Committee, and Chairman of the Drafting Committee of the 30th International Conference of the Red Cross and Red Crescent.

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You have been involved in many international conferences. How do you situate the International Conference of the Red Cross and Red Crescent?

It's a unique process. Of course, I have chaired many other conferences, but the International Conference of the Red Cross and Red Crescent is different because it brings together roughly three sets of stakeholders and constituents: the National Red Cross and Red Crescent Societies; the international components of the Red Cross and Red Crescent Movement;[1] and states. What you see here is an *interface*. The Movement's influence multiplies because of the 100 million

* The interview was conducted on 27 January 2010 by Toni Pfanner, Editor-in-Chief of the *International Review of the Red Cross*.

doi:10.1017/S1816383110000160

volunteers in the vast network of National Societies which work directly with populations.

Could it be categorized more as a state-oriented conference, or rather as a conference with greater importance for the non-state participants?
The International Conferences are important for states and the National Societies. When I chaired the Drafting Committee in 2007, there was a prior consultation with National Societies. One of the delegates from the National Societies stood up and said, 'Yes, we are going into the International Conference, but it will be dominated by the member states, and National Societies will not have an adequate voice.' And I replied, 'We will make sure – and you should make sure – that National Societies' points of view are heard loudly and clearly', and that's precisely what happened. I would say that, here, National Societies have an edge because they are interacting and working directly with the communities.

Is the added value of the International Conference the interaction between states and non-state entities in discussing humanitarian issues?
Absolutely. In one sense, the International Conference has a better structure, let's say, than the United Nations (UN). In the UN, you have the General Assembly and the subsidiary bodies of the UN. The relations between the UN and the non-governmental organizations (NGOs) are regulated by rules which were updated by the Economic and Social Council (ECOSOC) in 1996. These rules restrict NGO participation. But in the International Conferences there is direct and effective participation of National Societies. They also have their finger on the pulse of the people. National Societies are also much more than NGOs. They have the character and the orientation of civil society and interact with it, but they also have a semi-formal position in all societies of the world. The work that they do gives them prestige and respect in the national communities. In addition to National Societies, the consultations with the private sector, academic institutions, and media widen the Movement's horizons and sharpen its understanding of contemporary issues.

When participating in the International Conference, one has the impression that it's not so different from other state conferences, especially in the drafting committees where the states influence more than the National Societies do. National Societies are sometimes hesitant to address their causes.
The International Conference is a very good model for multilateral conferences, because here states do play their role but under some limitations. States play a pivotal part in the implementation of many of the decisions that the International Conferences take. At the same time, states must benefit from the background,

1 The International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (the Federation).

https://doi.org/10.1017/S1816383110000160 Published online by Cambridge University Press

feedback, perspectives, and contribution of National Societies. That's what happens not only in the International Conference plenaries but also in the restricted Drafting Committee sessions.

One should not look at the two days of Drafting Committee sessions in isolation. In fact, a series of very hectic activities precede those two days. There are stakeholder consultations. For example, the ICRC or the Federation will go and talk to all the stakeholders, whether National Societies or the states concerned, or other international organizations. Only after completing that lengthy process, do you come to the Drafting Committee itself. A lot of work goes into the preparations before you get to the final setting. The ICRC and Federation officials regularly consulted states prior to the 2007 International Conference, and met with key ambassadors, either in one-on-one or group settings. As designated Chair of the Drafting Committee, I undertook many such consultations myself; but the ICRC and the Federation's consultations facilitated our task immensely.

The International Conference debates on humanitarian law and humanitarian action – topics which are also discussed in other fora, such as the Security Council debates on the protection of civilians, the Human Rights Council, the Third Committee and so on. How do you see the difference? Is there really an added value compared to the discussions which states already have in other contexts on very similar or even identical topics?

In fact, this subject came up for discussion amongst Geneva-based Ambassadors in 2007 in the run-up to the International Conference. Under the draft Declaration and Resolution on 'Together for Humanity', we were looking at measures to reduce vulnerability to environmental hazards and degradation, help vulnerable migrants, prevent or mitigate violence in urban settings, and facilitate access to public health. Of course, all these measures were being discussed in a purely humanitarian context. There are other agencies that are dealing with these issues – the United Nations Environment Programme, the International Organization for Migration, and the World Health Organization.

In the context of the International Conference, somebody used a very good expression: we were not looking at the 'science' or 'anatomy' of these issues; we were looking at the humanitarian dimensions of these issues. These dimensions are a legitimate area of interest for the International Conference and I don't think that the last Conference trespassed, in any sense, into the territory of any of the international organizations, including the UN.

In fact, the Conference produced good outcome documents. The Guidelines on the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted by the Conference, was one such document. We saw its relevance and value in Haiti recently. Initially, there were some apprehensions on the part of the governments whether the Guidelines would be a prescriptive, legalistic framework. However, it was clarified at that point that the Guidelines were non-binding. What I like most about this document is that it was a 'free gift' from the Movement to states.

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Towards the end of this consultative process, Ambassadors in Geneva were convinced that the attention given to these issues by the International Conference did not infringe on the mandates of either the UN or its specialized agencies.

The Conference should therefore address all main humanitarian challenges?
I would say, yes. For instance, when you're talking about humanitarian challenges, the border between human rights law and humanitarian law is thin. The two have never been distinctly separate, but in our times the distinction has become further blurred, particularly in areas of conflict and disaster. What we have seen is that a combination of organizations and actors deal with emergencies and conflicts by forming networks. Let me go back to a direct experience. When Pakistan was hit by an earthquake in 2005, the Red Crescent Society of Pakistan was one of the earliest respondents, and an effective one, I must say! It had the full support and weight of the ICRC and the Federation behind it. National Societies in general are one of the most effective participants in disaster response and management. Besides, their contribution is widely recognized. The National Societies have the necessary means and presence in communities to make a difference. The International Conferences act as a catalyst in bringing together all actors.

So the important part is that such a large gathering and a discussion takes place? Even if the Conference does not create hard law, it can nevertheless maybe influence humanitarian action and even state policies, as well as helping to put forward a humanitarian agenda?
Absolutely – I would say that raising these issues in a collective setting is important, and the International Conference provides that setting to the international community. After having reached some momentous decisions, the ICRC, the Federation, and the National Societies are not going to implement them all by themselves. They would work in close partnership with public authorities as well as other actors of national and international civil society. The Conference sets out the humanitarian agenda, defines moral imperatives, outlines social and legal responsibilities, and thus becomes a vehicle for influencing national and international humanitarian action. The Conference can at times be more productive than hard law, because the driving force behind it is *persuasive* rather than *coercive*.

Originally the International Conference was much more linked to the Geneva Conventions and international humanitarian law issues and it gave an impetus for development in this area. Do you still see the International Conference as being important for the development or affirmation of international humanitarian law, which is nowadays also discussed in the Security Council, the Human Rights Council, the International Law Commission, and other fora?
International humanitarian law is the foundation of the humanitarian Red Cross and Red Crescent Movement in any part of the world, because it aims to ensure

https://doi.org/10.1017/S1816383110000160 Published online by Cambridge University Press

protection of human life and dignity in the worst circumstances, such as armed conflicts. The humanitarian movement has many manifestations, but international humanitarian law is the core of international humanitarian action. Humanitarian law also has to be responsive to new situations. At the same time, it has to remain relevant to traditional and non-traditional conflicts. In 2007, cluster munitions, for instance, were being discussed in other settings – CCW [the Convention on Certain Conventional Weapons] and the Oslo Process – but the Conference pronounced itself on this issue despite all the sensitivities involved. Reaffirmation and development of international humanitarian law by the International and Diplomatic Conferences have their own intrinsic and proven value. The Security Council, the Human Rights Council and the International Law Commission do not undermine or supplant the International Conference. On the contrary, their work creates an enabling environment for the Movement's humanitarian work.

While the International Conference may affirm international humanitarian law rules and push for some development, there is less discussion on the implementation of and respect for this law. There is perhaps a perception on the part of the participants that the International Conference may not be the right forum to address this politically loaded issue. Do you see the role of the International Conference as being a discussion of general issues of international humanitarian law rather than concrete situations? Should the latter rather be avoided for fear of politicizing the Conference, as sometimes happens in other fora?

The Conference is focused both on law-making and implementation. There should be more emphasis on implementation. The International Conference cannot dissociate itself from the concrete situations. Law-making and rule-setting are never done in an abstract environment. The discussions at the International Conference are correlated to real-life situations. The Conference can never be reduced to a discussion forum. Moreover, the work at the International Conference is supported by the strong sinews of National Societies. After setting the humanitarian agenda, the Red Cross and Red Crescent Movement has to step forward to solicit and enlist the support of public authorities and other actors to implement the measures it has adopted. I do not think that the International Conference should avoid pronouncements on emergent issues or implementation measures. Even if it attempted to do so, it would not succeed. The last conference could not have avoided the issue of climate change. Politicization is an altogether different matter. While addressing any issue, the Movement must make conscious efforts to maintain its neutrality, impartiality, and independence.

The Conference takes place every four years. Can it cope with all the emerging issues?

One of the weaknesses I identified was that, in this day and age, the gap of four years between the International Conferences is too long. Things are moving so rapidly. I can understand the conservative approach adopted by the ICRC and the

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Federation. My personal view is that there should be yearly meetings. You have referred to the Human Rights Council – that body practically meets throughout the year. I'm not talking just about the formal sessions but also the inter-sessional meetings. This also applies to the Security Council. When the Security Council is debating an issue, it is also simultaneously looking at the humanitarian dimensions and is practically meeting 24/7. I think that more Conferences would be useful for the Movement.

In the past, there were sometimes attempts to hold intermediary conferences, specifically on international humanitarian law and only with the participation of states. On the state level, a special Conference for the Protection of War Victims was held in 1993 after the Rwanda genocide, and there was a First Periodical Meeting of states parties to the Geneva Conventions in 1998. Could such meetings in between the International Conferences – possibly with the participation of the Red Cross and Red Crescent Societies and dealing with more specific, urgent problems – provide a solution?

Yes, absolutely. Inter-Conference meetings led by the ICRC and the International Federation will be helpful in promoting the humanitarian agenda. In 2008, there was an international financial crisis. I don't know to what extent this development influenced the calendar of the ICRC and the Federation, but that crisis had huge humanitarian repercussions, particularly in the developing countries. The indigent segments of society didn't know where to go. Other fora did address the crisis, but I do not know how much time the Red Cross and Red Crescent have been able to devote to this problem. There were many other issues, such as the hike in oil prices and food insecurity in 2008, which had huge humanitarian costs. I'm not saying that each and every issue should be taken up by the Movement; but many of the pressing problems which are addressed by National Societies in national contexts could be deliberated by the ICRC and the Federation in a collective setting on a real-time basis.

Where one region is particularly affected by a specific problem, could you imagine supplementing the International Conference with regional conferences, or do you feel it is better to work at the global level?

There could be issue-specific conferences, as well as region-specific conferences, depending on the issue. This is a good idea.

Are large-scale problems better dealt with in informal or formal conferences?

This will be determined by the nature of the problem. If it is a problem affecting all humanity, then probably a formal, general conference would be good. Informal meetings are good for resolving a specific problem. The results of an informal process should be brought before a formal body or plenary in the interest of transparency and legitimacy. Informal meetings are excellent tools for the preparatory processes.

https://doi.org/10.1017/S1816383110000160 Published online by Cambridge University Press

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International Conferences are costly and entail long preparation. At the same time, states and National Societies are already engaged in a lot of other work. Couldn't a proliferation of meetings make the way forward very difficult?

Proliferation of meetings should be avoided at all costs. That said, there are humanitarian costs that we must bear in mind. Other organizations are meeting all the time to respond to crises. For instance, I know that, in the aftermath of the international financial crisis, the International Labour Organization responded specifically with regard to the concerns for labour, and gave an assessment on labour conditions and labour productivity affected by the crisis.

I think that the international components of the Red Cross and Red Crescent Movement will have to make an assessment in consultation with states and National Societies with regard to the financial costs for holding frequent conferences. There would be costs involved, and that's why one would have to weigh very carefully the pros and cons of coming up with a new calendar of conferences. On the 'pro' side, the Movement would be more responsive to international humanitarian challenges. On the 'con' side, I would say that there would be proliferation and waste. One would have to resolve the tension between these two pulls and see where the equilibrium lies. What is clear is that the Conferences should not duplicate what National Societies are already doing. Their function is to synthesize and guide. Therefore, rigorous self-discipline and institutional introspection must be exercised in taking decisions about convening a conference.

What issues do you see as being proper to the International Conference? As mentioned, international humanitarian law was traditionally the major issue; now other humanitarian issues such as climate change and natural disasters are becoming very important, also on the political agenda.

My immediate response to this question is that hard international humanitarian law should be the basic anchor, backed up by emerging soft law. Its genesis can be traced back directly to the humanitarian concerns of the late nineteenth century, and it is directly relevant to situations of armed conflict, whether between states or armed groups.

However, more and more calamities are now taking place in other spheres, for instance disasters, climate change, implosion in dysfunctional societies. Migration, which is not in itself an illegal or unusual activity, also throws up many new challenges. Prevention of disease and improvement of health, which have long been a concern of the Red Cross and Red Crescent Movement, still sit at the centre of the international community's agenda. It covers health promotion and curative care. It would be myopic for the Movement to be oblivious to the effects of climate change on vulnerable populations. The foundation should remain international humanitarian law, which should continue to evolve. However, other soft law provisions must apply to diverse situations around the world where the Movement has to respond effectively.

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To broach one specific international humanitarian law issue: there has been much debate recently about the proliferation of nuclear weapons, a highly politicized issue which is likely to have a tremendous humanitarian impact if these weapons are used. Should such issues of nuclear non-proliferation and disarmament, in your opinion, find a place at the International Conference of the Red Cross and Red Crescent? Or should they simply be left to the Disarmament Conference here in Geneva?

Let us hope that nuclear weapons are never used. If they are ever used, deliberately or accidentally, humanitarian costs will be huge. For this reason preparedness and response are such an important part of the international agenda. The General Assembly, the Security Council, the Conference on Disarmament, the International Atomic Energy Agency, and a host of national agencies are dealing with these issues. As a standing invitee at the UN Inter-Agency Standing Committee, the ICRC and the Federation can monitor developments in this regard and contribute to decision-making. Right now, the space allowed to NGOs at disarmament fora, as compared to other fora such as the Human Rights Council, is limited. The ICRC, however, enjoys a special status, which it can fully utilize. For years, the ICRC has been discussing the disastrous effects of conventional weapons. After internal deliberation, the Movement may well focus, on a more substantive basis, on the consequences of the possible use of weapons of mass destruction.

Many international conferences are highly politicized, and very contentious political issues seem to be ruled out at the International Red Cross and Red Crescent Conferences to avoid confrontations.

If you have an international setting with different issues on the table, then differences are bound to crop up. This is natural and healthy. It should not always be called 'confrontation', a word which has negative connotations. Whether it is the United Nations Security Council, the General Assembly, or the Human Rights Council, states (and NGOs) will come to these fora with different perspectives. Engagement to aggregate their interests should not be perceived as confrontation. What is important is that the Chairs and their associates should employ effective methodologies to reach decisions.

There are situations where consensus cannot be reached, even if all the efforts in the world have been made. If consensus is not an absolute requirement under the rules of procedure, the other course of action would be to go to a vote and see what the majority wants. Then go ahead and take a decision. The minority should respect that decision.

Consensus is important especially for the Movement, because the wider the participation in decision-making, the more effective its implementation will be. Therefore, due diligence should be done to reach consensus. Failing this, instead of delaying the decision indefinitely, the best course of action is to go to a vote and come to a closure.

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You experienced this yourself at one Conference, where a vote was taken with regard to the adoption of the third emblem. When trying to reach a consensus, there is a danger of watering down the rule or the resolution. How do you reconcile the tension between trying to achieve consensus while ensuring that the content of a resolution is still meaningful?

There were two such instances – first the Diplomatic Conference on the adoption of an additional distinctive emblem, the red crystal, alongside the red cross and red crescent in 2005; and then the 29th International Conference of the Red Cross and Red Crescent in 2006 on the same subject. There were differences of opinion that could not be reconciled. The way out was a vote.

The decision taken by the majority has been implemented since then. There are some residual problems in implementation but, if the vote had not been taken, there would still be no decision. When there is a clear difference of opinion which cannot be reconciled, go through the voting procedure.

The second example is the consultations in 2007 for the 30th International Conference, when I was Chair of the Drafting Committee. One declaration and four resolutions were adopted by the Conference. We adopted these resolutions by consensus, but they did not reflect the lowest common denominator. We worked for value addition. We achieved it. We discovered the 'median point' that suited all. To add value, one had to work with stakeholders and not try to walk past them. This approach worked.

The question of participation of states or even National Societies in the Conference has often been heavily debated. It even prevented a Conference from taking place when the 1991 Conference in Budapest was cancelled because of a dispute over the participation of Palestine. How can one deal with such a problem which might overshadow the whole Conference?

These are difficult situations and there are no easy answers. You can't have any neat prescriptions for such a situation. What can be done is to take well-thought-out diplomatic initiatives and use the clout of some of the member states, as well as influential National Societies, to resolve the issue. It works if you work behind the scenes, and if you work with sincerity and integrity. Sincerity and integrity are abstract terms, but they can be sensed instantly and work miracles in building trust. Interlocutors would hear each other out and explore ways to accommodate the concerns of the main actors who are driving a divide. In such a situation, there are facilitators who can help out in good faith. It is always prudent to use their good will and skills for building bridges.

Normally the International Conference takes into account the policies followed by the UN or other fora on questions of participation. Should there be the same policy which is followed in all fora, or could there potentially be flexibility taking into account the special character of the Red Cross and Red Crescent Conference? Could, for instance, certain non-state actors which are

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very influential on the humanitarian agenda be invited in some capacity? Or would this in your view cause undue politicization?

I can understand the compulsions of the Movement to bring such entities in, but one has to be careful. I have listened to the debate in many settings on involving non-state actors. 'Non-state actor' is a broad-ranging euphemism, as a matter of fact, and one has to define it and deconstruct it. If there are terrorist outfits, determined as such by international law but masquerading as respectable organizations, don't legitimize them. I've seen many situations where a terrorist group strives to associate itself with the ICRC or the Federation to gain recognition and respectability. This should be avoided.

The ICRC and the Federation may have to transact with such organizations in conflict situations – but transaction is one thing, and recognition quite another. One has to strike a balance. This issue requires more debate to acquire greater legal clarity.

The International Conference is a huge gathering of more than 2,000 delegates over three days. You emphasized in the beginning that the process as such, as well as the preparation of the Conference, is very important. Many participants feel that everything is already decided beforehand in the consultation process. Could the International Conference be a more dynamic gathering, or is it in the nature of the Conference itself that it may only be the tip of the iceberg of the preparation process?

Looking at the last Conference, I know that the ICRC and the Federation had started the preparatory process much earlier. To set out and refine conference priorities, they had consulted with National Society staff, research institutes, academic institutions, NGOs, National Societies, and related international organizations, such as UNHCR [The Office of the United Nations High Commissioner for Refugees], IOM [the International Organization for Migration], and WHO [the World Health Organization]. In Geneva itself, I know that ambassadors were consulted a number of times. If the ICRC or Federation knew that a country was interested in a particular issue, there would be one-on-one or group consultations.

Even if the decisions are pre-cooked – and I don't say that they are – the stakeholders have already taken part in decision-making in one form or the other in a much more extensive way than just being in a conference hall. I call this consultative process unique and effective, because this is different from the way we make decisions in the UN General Assembly. In the General Assembly, we make statements and people draft resolutions and then discuss them, either in open settings or behind the scenes, and come to an understanding. In the International Conference, on the other hand, you hold wider consultations – not just in Geneva during or prior to the Conference but in capitals and in many locations all around the world.

So, on the one hand there is this model, unique to the International Conferences of the Red Cross and Red Crescent. On the other hand, there is the familiar Human Rights Council or General Assembly model, where there is an

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emphasis on formal meetings lasting for weeks or months. Here again, one would have to weigh carefully pros and cons, but I don't think that simply because the International Conferences have a short duration, their decision-making process is less efficacious.

The International Conference has taken place in many countries around the world – for example, in the Philippines, Romania, Iran, Turkey, India, and Canada. In recent years, the Conference has been held in Geneva, mainly because the diplomats here deal with the same issues and are used to the international fora in Geneva. Would you favour once again reaching out to different regions in order to strengthen the Movement's universality, or rather concentrating on the diplomatic decision-making process, which is somewhat Geneva-oriented?

I clearly prefer Geneva. I think Geneva is the best location in the world for conferences because of its ambience, conference facilities, access, security, and ease of doing business. Geneva has its own unique symbolism, particularly for the Red Cross and Red Crescent Movement. When you go to a new location, you have to go through the hassle of negotiations with the host government, selecting the venue, arranging conference facilities. Invariably, a lot of time is wasted in such efforts.

That said, from time to time it might be prudent to take the Conference to different parts of the world for wider ownership, if for no other reason. That decision would depend on a number of factors: the added value that such a location can bring; the profile that you want to give to this Conference; and whether it should be in a developed country, a developing country, or a middle-income country. I have participated in many conferences in Geneva and in other parts of the world. Being based in Geneva, I was familiar with the entire city and hence felt most comfortable. When you go to a new location, it is always disconcerting for delegates, as they try to rearrange their briefs and lives for seven to eight days. For the sake of political symbolism, however, it may occasionally be beneficial to take the International Conference to new locations.

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