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HOUSE OF REPRESENTATIVES

PROOF

Main Committee

**60TH ANNIVERSARY OF THE FOUR
GENEVA CONVENTIONS OF 1949**

SPEECH

Wednesday, 19 August 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Mr SIDEBOTTOM (Braddon) (10.30 am)—I join with many others in speaking in support of the Attorney-General's motion on the 60th anniversary of the four Geneva conventions of 1949. I too want to pay my respects to and thank all those who support people who have suffered because of war. In particular I thank the International Red Cross for the excellent work that they do, but also I thank similar organisations throughout the world for their work.

What brought the Geneva conventions and protocols to my attention more than anything else was that, in the years between losing my seat in 2004 and then regaining it, I did a postgraduate diploma in international relations in which humanitarian law and international law played an important part. I really did get a keen appreciation of a world outside of my electorate of Braddon, where I happily live, and beyond our peaceful Australia. I was so looking forward to seeing that world improve and prosper and become one where we could protect each other, particularly with the end of the so-called Cold War. But what we have observed instead is a level of conflict difficult to monitor. The nature of conflict has ranged from transnational conflicts to internal conflicts and on to other things, called asymmetrical warfare, guerilla warfare, terrorism and so on. All I can say is: thanks for the Geneva conventions and protocols, because, in a world of so much turmoil and hatred, they are a beacon where people can seek refuge and that others can use to help give that refuge and to bring some to justice for the perpetration of the suffering that has been caused.

I notice that in 1862 Henri Dunant published his book, *Memoir of Solferino*, on the horrors of war. His wartime experiences inspired this great gentleman to propose a permanent relief agency for humanitarian aid in times of war and a government treaty recognising the neutrality of the agency and allowing it to provide aid in a war zone. The former proposal led to the establishment of the Red Cross and the latter led to the first Geneva convention. For both of these accomplishments Henri Dunant became co-recipient of the first Nobel Peace Prize—and what a very apt award, for someone who so richly deserved it.

When we consider the time of the 1949 Geneva conventions and the protocols that eventually emerged, we had a world recently reeling from a total war that affected just about everyone and everything. Over 100 million soldiers were mobilised, and over 70 million people died. Most of these were civilians. It was indeed a horror of the greatest proportions. Out of this grew a demand and a need for some form of conventions and agreements to protect those who could not, in any sense, protect themselves.

The Geneva conventions comprise rules that apply in times of armed conflict and seek to protect people who are not, or are no longer, taking part in hostilities. Examples are: wounded or sick fighters, prisoners of war, civilians, and medical and religious personnel. The first Geneva convention was for the amelioration of the condition of the wounded and sick in armed forces in the field. The second was for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea. The third related to the treatment of prisoners of war, and the fourth related to the protection of civilian persons in the time of war. Added to these conventions are the protocols relating to the protection of victims of international armed conflicts, to the victims of noninternational armed conflicts—so very relevant today—and to the adoption of an additional distinctive emblem for medical purposes.

These conventions have what are called common articles. I suppose these are the minimum basis upon which people seek protection, and they seek to measure those who do not comply with them. Common article 2 relates to international conflict, and common article 3 relates to events contained within the boundaries of a single country. Article 3 establishes fundamental rules—for instance, it requires humane treatment of all persons in enemy hands, without any adverse distinction. It specifically prohibits murder, mutilation, torture, cruel, humiliating and degrading treatment, the taking of hostages and unfair trials. It requires that the wounded, sick and shipwrecked be collected and cared for. It grants the ICRC the right to offer its services to the parties to the conflict. It calls on the parties to the conflict to bring all or part of the Geneva conventions into force through so-called special

agreements. It recognises that the application of these rules does not affect the legal status of the parties to the conflict.

The current Chairman of the ICRC, Mr Knut Dormann, made some very pertinent comments about the importance of the conventions, in particular about article 3. I think his views are very relevant to what is happening throughout the world today. Mr Dormann said:

The adoption of this article in 1949 was a breakthrough since previous IHL treaties had only covered situations of wars between States. As most of today's wars are non-international armed conflicts, Article 3 remains vitally important because it sets a baseline for the protection of people who are not or no longer fighting, to which all sides—State and non-State parties to conflict—must abide.

Most recently, we have unfortunately seen situations where international and humanitarian laws have really been stretched. I think of the reaction to Abu Ghraib and the procedures that were taking place there and, controversially, are taking place at Guantanamo Bay even to this day. There is the fact that what has been taking place there has been highlighted internationally. I might add that I do not wish to look as though I am anti the US or anti the alliance or whatever else you want to call it, but we know about the abominable practices by lots of different parties that take place throughout the world and, as part of a democratic country, we expect our governments to abide by the international rules that we have signed up to. It is an unfortunate example that has been publicly demonstrated, and we have to question some of the practices that we and our allies may be involved in.

Knut Dormann, in his summation of the importance of the conventions and knowing full well that a lot of this relies on the goodwill of people and on leadership, particularly by governments, had this to say:

... let's not forget that the Conventions have been hugely successful over the past 60 years, saving countless lives, allowing thousands of separated families to be reunited and providing comfort to millions of prisoners of war. In my mind, that's ample reason to celebrate. I dread to think how much more suffering there would be in the world if they didn't exist.

He went on to say:

Let's also not forget that international armed conflicts and occupation are by no means a thing of the past. Last year's war between Russia and Georgia is a recent example of an international armed conflict where all four of the Geneva Conventions were applicable.

Given the nature of the pain and suffering that we see on our television sets each night and the blatant abuses of international law that we see, I found a recent survey very interesting. Parts of it were published in the *Herald Sun* on 12 August 2009. They surveyed Australians about the effectiveness of laws of war. Maybe not surprisingly,

the survey was cold comfort to people who promote international law, particularly in this country. Some of the results from the June poll of 1,030 Australians are disturbing. The article reads:

While 88 per cent of Australians have heard of the Geneva Conventions, half the respondents believed they make no difference to the conduct of wars.

Again, it is very difficult to measure that. It continues:

Forty per cent of respondents, for example, thought captured soldiers sometimes deserved to die, while 60 per cent thought they never do.

Well, 60 per cent is better than 50 per cent.

A significant 43 per cent of respondents believed it was 'OK' to torture captured enemy soldiers in certain cases to obtain 'important military information'—

Indeed, that is a debate raised every time there is a terrorist attack. We have a public debate about whether you should be able to use measured torture in order to get information to be able to save many more lives in pre-empting an act—

while 57 per cent thought it should never happen.

Women were more likely than men to say torture should never be allowed.

More than a third of respondents—35 per cent—thought it was legal to torture a prisoner of war to obtain important military information.

Those respondents who had served in the military (134 out of 1030)—

or 48 per cent—

were more likely to say torture in such circumstances was legal ...

I would like to finish, if I may, by reading a brief extract from Philippe Sands' book *Lawless World*, published in 2005. I think it is a sobering reminder of the reality of war, pain and suffering in this world and the role of the Geneva conventions. He concludes his section:

It is frequently argued that the effect of these rules is to make offensive and inappropriate behaviour legitimate. But the rationale is that wars happen, whether just or unjust, lawful or unlawful, and there must be constraints on the actions of soldiers. This is part of law's function as a 'gentler civiliser of nations', as the Finnish academic Martti Koskeniemi has aptly put it.