



Interview with Franz Perrez

Director-General, Directorate of International Public Law, Swiss Ministry of Foreign Affairs*

Franz Perrez is Director-General of the Directorate of International Law at the Federal Department of Foreign Affairs (FDFA), Switzerland. He is responsible for the development and interpretation of international law and ensuring that Switzerland's strategic rights are respected abroad. As a member of the FDFA senior management, Mr Perrez is also jointly responsible for the FDFA's strategic approach and advises the Federal Council, Switzerland's representatives abroad and other Federal Administration offices on international law issues.

Prior to his new role Mr Perrez was appointed Switzerland's Ambassador for the Environment and Head of the International Affairs Division at the Federal Office for the Environment (FOEN) in 2010. In this capacity, he headed the Swiss delegations to international environmental and climate negotiations for thirteen years.

After studying law in Bern and Paris, Mr Perrez worked at the FDFA's Directorate of International Law from 1993 to 1995. He went on to study at New York University, where he gained a master of laws focusing on international law and completed a PhD thesis on the topic of sovereignty as a principle of cooperation. On returning to

* Interview conducted by Bruno Demeyere, Editor-in-Chief of the *Review*.

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Switzerland, he took up a position at the World Trade Organization (WTO) Division of the State Secretariat for Economic Affairs, before joining the FOEN in 2001.

Mr Perrez has proven expertise in international law. He has widely published in the area of international environmental law, international environmental governance, the relationship between trade and the environment, and public international law. Since 2008, Mr Perrez has also lectured on international environmental law at the University of Bern School of Law. He served as a panellist on the newest WTO tuna–dolphin dispute between Mexico and the United States, and as Switzerland’s Ambassador for the Environment and Chief Negotiator for Environmental Issues, namely climate change, biodiversity, chemicals and waste, he led the Swiss delegation to the Rio+20 conference and to the Paris Climate Change Conference in 2015. He was President of the Basel Convention (COP 11 in 2013) and President of the Rotterdam Convention (COP 8 in 2017) and facilitated the negotiations on mitigation of the Paris Agreement. Through his work within and outside of Switzerland, he has built strong networks around the world and within the Federal Administration.

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Switzerland has a long humanitarian tradition, and the promotion of international humanitarian law [IHL] around the world is one of the priorities of Swiss foreign policy. Switzerland is depository of and party to the Geneva Conventions and their Additional Protocols. What opportunities does the 75th anniversary of the Geneva Conventions present according to Switzerland?

The commemoration of the adoption of the 1949 Geneva Conventions seventy-five years ago is an opportunity to highlight their importance for humanity at a time when conflicts continue to cause so much suffering and so many victims. The year 2024 also marks the 160th anniversary of the first Geneva Convention, which aimed to improve the lot of the wounded on the battlefield. Universally ratified, the Geneva Conventions, negotiated in the aftermath of the Second World War, are the fruit of the political will of all States; all States have expressed voluntarily their willingness to respect them. It’s a unique and universal commitment by States to a common humanity.

The adoption of the Conventions was also a success for multilateralism. Building on previous treaties and work accomplished since the end of the Second World War in 1945, the 429 articles of the Geneva Conventions were adopted after only four months of formal negotiations. This cooperation between States that was at work in 1949 continues to inspire us today. This commemoration is a reminder of the importance of rallying our actions and obligations at the service of our common humanity. At this critical moment in time, marked by conflicts

that have brought a lot of suffering, respect for IHL must remain a ubiquitous political priority.

What do you mean by “political priority”?

This anniversary takes place in a complex and charged political context. More than 100 conflicts are taking place around the world. They are causing unimaginable levels of human suffering, with humanitarian crises on the rise. As representatives of States, we are all actors in this international framework, and we need to take action, which means first and foremost relaying the messages of the Geneva Conventions. Their message is clear: war has limits.

The Geneva Conventions help to alleviate suffering, limit the devastating effects of war and facilitate the return to peace. Respect for the Geneva Conventions is in the interest of all, including those who respect them – even if the other party doesn’t. It is therefore incumbent upon all States to reaffirm their commitment to upholding the Geneva Conventions and to dedicate their efforts to promoting compliance with IHL. This year’s anniversary is an opportunity for all States to take concrete steps to renew their commitment, and to respect and ensure respect for IHL in all circumstances.

All States should seize the opportunity of the 75th anniversary of the Geneva Conventions to take concrete steps to renew their commitment in the name of a common humanity. Switzerland has been calling on all States and political leaders in the world to use their influence to prevent and put an end to violations of the Geneva Conventions and, more generally, of IHL. In line with its obligation to respect and ensure respect for IHL as a High Contracting Party, Switzerland has made the respect, promotion and implementation of IHL a constant feature of its foreign policy. This is what I mean by “political priority”.

Seventy-five years is a good time to take stock. What are your main concerns for IHL in general in contemporary armed conflicts? We sometimes hear that the Geneva Conventions are no longer adequate to regulate the behaviour of parties to contemporary armed conflicts; what is Switzerland’s take on that?

Let there be no mistake – it is not the lack of rules but a lack of their observance that is causing suffering in armed conflicts. The greatest challenge for IHL is to ensure that it is respected and implemented. Yet there are too many violations of IHL in armed conflicts around the world: executions of civilians, bombing of hospitals, torture, the use of famine as a method of warfare, and so on. These acts have unacceptable humanitarian consequences.

However, violations of IHL are not signs of the ineffectiveness of these legal rules, but reflect the actions of parties to conflicts. We know that if IHL were fully respected by all parties to conflict, many of today’s humanitarian problems would not arise. It is again a question of political will.

Despite the violations, I do not agree with those who claim that IHL is eroding. Daily reports of atrocities in conflict zones create the impression that the

rules set by IHL are being ignored. The focus of the media, nowadays, lays on violations of IHL; the many situations where IHL is respected every day do not appear in the headlines.

So you think we should change our perspective without turning a blind eye?

Indeed. Seventy-five years after their adoption, the Geneva Conventions continue to save lives, thanks in particular to the courageous actions of humanitarians. The Geneva Conventions are living instruments of international law, evolving with the nature of armed conflict and with new technologies such as cyber warfare, and are addressing emerging humanitarian challenges. As far as new means and methods of warfare are concerned, there is no doubt that IHL remains relevant to regulate them. It is our responsibility to ensure that the rules of IHL are sufficiently clear in light of the technology's specific characteristics. Switzerland advocates for more focused discussions clarifying how IHL applies to cyber warfare.

Over the course of the last seventy-five years, the Geneva Conventions have evolved into a comprehensive framework of IHL, comprising not only the four core conventions adopted in 1949 but also subsequent protocols and instruments aimed at enhancing the protection of people who are not taking part or are no longer taking part in hostilities. This evolution stands as a testament to the resilience and adaptability of the Geneva Conventions in the face of ever-changing geopolitical realities and emerging challenges.

My take is that IHL has stood the test of time. The Geneva Conventions remain as relevant as ever.

What efforts should be undertaken to further strengthen the Geneva Conventions, and what role can Switzerland play in this regard?

In my view, anticipation and prevention are key. Alongside the political reapropriation we have discussed previously, it is essential that States actively encourage a culture of respect for IHL, not only in times of war but also in times of peace and rising tensions. I think that promoting compliance with IHL well before the outbreak of conflict helps to establish a culture where there is a clear expectation that these rules will be rigorously observed from the very outset of hostilities, should the need arise.

What does this mean concretely?

Exchange of good practices between IHL experts is key in this regard. Switzerland, together with the International Committee of the Red Cross [ICRC], organized last year a meeting of IHL governmental experts on the protection of the environment in armed conflict. Some 380 experts from over 120 countries participated in the meeting and shared national experiences, challenges and good practices related to the protection of the environment in armed conflict. In 2020, Switzerland organized a first meeting on the protection of health care in armed conflicts.

These meetings aim at contributing to achieving realistic and pragmatic progress on the national implementation of IHL.

Concrete actions must be taken at the national level. This includes the ratification of the Additional Protocols, the adoption of laws implementing the Geneva Conventions at the national level, and ensuring the dissemination of IHL within the armed forces and among the civilian population. Effective implementation also requires the establishment or reinforcement of national committees for the implementation of IHL, and the drafting of voluntary reports on the implementation of IHL, for example. Switzerland also encourages States that have not yet done so to recognize the competence of the International Humanitarian Fact-Finding Commission established under Article 90 of Additional Protocol I, for which my Directorate provides the Secretariat.

The 75th anniversary of the Geneva Conventions coincides with the 34th International Conference of the Red Cross and Red Crescent [International Conference] that will take place in Geneva in late October this year. What role can this Conference play in strengthening IHL?

States might, for example, make the best use of the pledges system at the 34th International Conference. Pledges are voluntary commitments to take concrete and measurable action on specific humanitarian issues. They can be made by all participants to the conference, members and observers. They are an interesting and important tool for initiating or advancing dialogue and cooperation among States and other members of the International Conference. Switzerland traditionally makes several pledges, notably to advance the implementation of IHL.

Can the International Conference work as an accelerator?

Of course, and we very much expect the Conference to do so! The International Conference will be a moment where political attention is focused on the Geneva Conventions – their achievements and successes, but also the challenges with regard to their implementation. It will provide space not only to celebrate the 75th anniversary of the Geneva Conventions and to acknowledge the important work of the ICRC, but also to draw public awareness to the critical importance of IHL and to reinforce States' commitment to this vital body of law. The International Conference will bring together diplomats and experts from all over the world to exchange experience, discuss difficulties in implementation and possibilities for overcoming them, and benefit from the insight of others. The Conference will also serve as a catalyst for voluntary reports. Switzerland, like other countries, published its first voluntary report on the implementation of IHL at the national level at the 33rd International Conference, and we are currently reviewing it. These reports provide an overview of IHL implementation and foster intergovernmental dialogue on good practices and the measures needed to improve IHL implementation and compliance. This strengthens IHL and, ultimately, provides better protection for the victims of armed conflicts. The Conference thus truly works as an accelerator.

Switzerland is a non-permanent member of the United Nations [UN] Security Council since 1 January 2023. What has Switzerland's experience been regarding IHL at the UN Security Council? What are your key takeaways during your seat, and what impact would you like to leave on the Security Council with regard to IHL specifically?

The protection of civilians in armed conflict is one of Switzerland's four priorities for its 2023–24 term at the UN Security Council. Since we joined the Security Council, we have noticed a certain relativization of international law – and of IHL in particular – in resolutions and presidential statements, as well as other communications of the Council. This trend is certainly not new, and it is also perceptible within other multilateral bodies or elsewhere. We note that appropriate language in IHL matters is not always a given, and that this can give rise to bitter negotiations.

As part of its commitment towards the promotion of and respect for IHL, Switzerland has been working to ensure that this body of law is reflected in the Security Council's products in an accurate and complete manner. In particular, it makes sure that the facts under consideration are correctly qualified; that all parties to a conflict, whether States or non-State armed groups, are called upon to respect IHL; and that the mandatory nature of IHL is not questioned. Our meticulous commitment to IHL relates to the applicability of this body of law, its addressees, and the very content of its rules.

Switzerland has also been particularly active in the protection of humanitarian personnel...

That's right. Switzerland has been particularly engaged in ensuring that IHL obligations relating to humanitarian access are respected, in order to preserve humanitarian activities. It has supported the implementation of humanitarian exemptions to UN sanctions regimes. It has also emphasized the link between violations of IHL and food insecurity, and has raised the issue of the protection of essential infrastructure and access to water. Towards this end, it has been engaged in efforts to ensure the protection of humanitarian personnel. In May 2024, the resolution proposed by Switzerland on this topic was adopted as Resolution 2730 by the Security Council after intensive weeks of negotiations. The resolution reaffirms the obligations of the parties to the conflict to respect and protect humanitarian and UN personnel, while placing a particular emphasis on the protection of national and locally recruited personnel, who are particularly vulnerable to violence.

The negotiations that led to the adoption of Resolution 2730 confirmed this trend. This development calls for increased vigilance, day after day, to preserve the integrity of IHL. We will hold on to this role until the end of our term on the Security Council, and hope to be able to pass on the torch to other members of the Council. It is essential that the Security Council lives up to its role as regards peace and security. The latter can only be achieved if IHL is respected, by all

parties to the conflict and in all circumstances, and if accountability for related violations is likewise secured.

How do you assess the link between IHL and peace, and what developments do you expect in this regard?

In 1945, at the end of the Second World War, States promised never again to resort to force in their relations by adopting the UN Charter. Despite this wish, the Geneva Conventions are sadly still relevant today. All the precautions taken over seventy-five years to prevent a repetition of the tragedies of the twentieth century seem to have been in vain. The international armed conflict between the Russian Federation and Ukraine, the conflicts in Sudan, Yemen, the Middle East – these are but a few of the current conflicts that neither multilateralism nor international law have been able to prevent.

IHL must not be seen in isolation. It is part of a broader legal architecture which was designed with peace at its centre. By limiting the effects of armed conflicts, the Geneva Conventions and IHL in general also facilitate a return to peace. This is the reason why I believe that IHL must become a political priority.

States therefore have a vital role to play...

It is the responsibility of each State to create conditions that are conducive to peace. Respecting IHL is in everyone's interest, including the interests of those who respect it. It is of utmost importance to remember that IHL must be respected in all armed conflicts, by all parties, regardless of who began the hostilities and even if the other party does not respect it.

States and other parties to armed conflict have an obligation to “respect and ensure respect for” IHL in all circumstances. This principle, articulated in Article 1 common to the four Geneva Conventions, means that they must not only refrain from encouraging violations by other parties but must also use their influence to prevent and end violations of IHL. Proactive steps must be taken to bring violations of IHL to an end and to bring an erring party to a conflict back to an attitude of respect for IHL. This obligation is not limited to stopping ongoing violations; it also includes an obligation to prevent violations when there is a foreseeable risk that violations will be committed and to prevent further violations where they have already occurred.

Switzerland is a strong supporter of the fight against impunity and of the International Criminal Court [ICC] in particular. What are your observations regarding the contribution of accountability to peace?

Ensuring accountability for international crimes is pivotal to achieving sustainable peace. The fight against impunity not only delivers justice but also fosters reconciliation, thereby stabilizing post-conflict societies. A holistic approach to dealing with the past, which includes truth-telling, reparations and institutional

reform alongside criminal accountability, is essential for comprehensive peacebuilding. For victims, accountability is a crucial step towards healing and restoring dignity, as it acknowledges their suffering and provides a measure of redress.

Holding the perpetrators of international crimes accountable is particularly important in this regard. That is why the fight against impunity is a priority for Switzerland. The primary responsibility lies with domestic courts. States have the obligation to put in place national legal frameworks to investigate crimes under international law, including war crimes, and to bring to justice or extradite those suspected of committing such crimes. However, international criminal tribunals, in particular the ICC, play a vital role in complementing domestic efforts and ensuring accountability where this would otherwise not have been possible. By prosecuting those responsible for genocide, war crimes, crimes against humanity and the crime of aggression in an independent and impartial manner, the ICC reinforces the rule of law globally, deters future violations and promotes justice for victims.

Switzerland has consistently supported the ICC as an independent and impartial judicial institution, recognizing its crucial role as an integral part of an international rules-based order. Universal support is essential to enable the Court to carry out its mandate successfully. Switzerland therefore calls on all States to ensure full cooperation with the Court and invites all States that have not yet done so to ratify the Rome Statute and its amendments. New ratifications will help to maximize the protection of victims and strengthen the preventive role played by the ICC, ensuring that justice serves as a foundation for a lasting peace.