Commentary

By V. Muntarbhorn★
Assistant Professor, Chulalongkorn University, Thailand

This commentary proposes to analyse some of the salient points arising from Professor Penna's paper on "Traditional Asian Approaches to the Protection of Victims of Armed Conflicts and their Relationship to Modern International Humanitarian Law: An Indian View". It does not purport to encompass the vast breadth of Indian history bearing upon principles of humanitarian law. It is but a point of departure for contemporary interest in Asian approaches to humanitarian law, of which India is an exemplary case in point.

Preliminary observations

Professor Penna's article can broadly be divided into two parts from a structural standpoint. In the first part of his article, he traces the history of humanitarian law in ancient India. In the second part, humanitarian law in modern times, especially with reference to the four Geneva Conventions of 1949 and the two Protocols of 1977, or "Geneva Law", is scrutinised in relation to Indian municipal law.

In examining Professor Penna's study, it is worth bearing in mind the following observations:

(a) Greater interest in traditional approaches in different regions is taking place not only in the area of humanitarian law but also in other areas of great diversity. Public international law, human rights, refugee law, and law and development are but some of the areas being reappraised as part of the crisis of conscience and self-examination which the international community is witnessing. In trying to concretise norms in such areas, the past tendency was to look towards the international, multilateral level for standard-setting, while neglecting the traditional principles that already existed at the national level, especially in the developing regions. Currently, the tide is turning and it is no surprise to find the call for greater attention to be paid to the roots of humanitarian law within Asia and other developing regions.

(b) There is no denying that in propounding principles of international humanitarian law, there is an element of mistrust, based perhaps on misconceptions, between the developed world and the developing world. In conflicts between "la sauterelle et l'éléphant"[1] (the grasshopper and the elephant), can

★ The author wishes to thank profoundly Dr Chai-Anan Samudavanija, Dr Somboon Sooksamran and Colonel P.J. Cameron for kindly providing some of the documents used in this article, and Chooi Fong for reading the draft of this article. All the views expressed are purely the personal views of the author.

1. Thai Quang Trung, "Le Droit International Humanitaire en Question", *Le Monde*, 20 May 1976, at 8.

rules of conduct in warfare satisfactorily be evolved bearing in mind the asymmetry of power between the parties? As has been stated by some observers:[2]

> "le droit humanitaire risque alors d'apparaître aux Etats en voie de développement, comme un luxe, ou un superflu de pays riches. Pour un Etat développé, c'est un standard minimum. Pour un pays sous-développé, c'est quelquefois une situation inaccessible."
>
> (Humanitarian law thus risks appearing to developing States as a luxury or a superfluity for rich countries. For a developed State, it is a minimum standard. For an underdeveloped State, it is sometimes an inaccessible situation.)

(c) In one's quest for the roots of humanitarian law, one must be wary of certain pitfalls of approach. On the one hand, there exist certain writers who espouse an approach based upon the moral and political norms of the West — "western-centred" or "eurocentric" by nature — in their treatment of the question of humanitarian law in Asia and other developing regions.[3] On the other hand, there are other writers who seek to claim that the developing regions are the cradle of humanitarian law and other fields of law for the sake of glorifying the achievements of such regions irrespective of the overall, international context. The latter approach can be christened the "apologetic",[4] and is liable to distort the reality of the situation as much as its "eurocentric" counterpart.

What is necessary to enable a balanced picture to be given is an iconoclastic approach, avoiding dogmatic tendencies. The time has come to realise that although, in some areas, legal principles in ancient India resemble modern concepts of international humanitarian law to a marked extent, in other areas there is admittedly a notable divergence between traditional Indian principles and modern humanitarianism. In this respect, on the one hand, one can find traces of Indian approaches more backward than the present stance of international humanitarian law. On the other hand, there are other areas of traditional Indian law which are more advanced than contemporary "Geneva Law". In so realising, one can circumvent "eurocentric" and "apologetic" tendencies — one does not need to be guided exclusively by the criteria of the developed world or the developing world in order to identify the real roots of humanitarian law. The truth of the matter lies in the fact that one should look at specific areas to assess similarities and differences between the developing world and the developed world with a view to fostering humanitarian law, discarding conceptual prejudices.

(d) The relevance of "time" and actual "practice" should also be borne in mind in examining traditional principles relating to humanitarian law. In the case of India, the wars of the past, and rules concerning their conduct, should be seen in context: principles relating thereto are liable to change with the passing of time, all the more because India has, during different eras, been under such diverse influences as Buddhism, Hinduism and Islam. To search for the roots of

2. Furet, MF, Martinez, JC, Dorandeu, H, *La Guerre et Le Droit* (1979) 117 (Citations translated by V Muntarbhorn).
3. The difference between the "western-centred" or "eurocentric" and the "apologetic" is eloquently discussed by Yadh ben Ashoor, "Islam and International Humanitarian Law", extract from the International Review of the Red Cross, March-April 1980, at 1–2.
4. Ibid.

humanitarian principles in ancient India does not mean (even if one finds that they existed) that they were held in esteem by all, nor, indeed, that they were implemented in a continuum.

Moreover, even if such principles existed, this does not necessarily imply that they were effectively practised. For example, one traditional rule of law was based upon the concept that "Neither poisoned nor barbed arrows should be used. These are the weapons of the wicked."[5] Yet, there is evidence that poisoned weapons were used in warfare in the Epic age, in Mauryan times and afterwards.[6] The breaches mentioned paralleled breaches of other basic rules, such as: "when the antagonist has fallen into distress he should not be struck",[7] and "even a wicked enemy, if he seeks shelter, should not be slain."[8] Similarly, although there was differentiation between combatants and non-combatants within the army as follows: "car drivers, men engaged in the transport of weapons . . . should never be slain. No one should slay him who goes out to procure forage or fodder, camp followers or those that do menial service", the common practice was to kill personnel such as chariot drivers.[9] Likewise, other humanitarian principles which were often violated in ancient times included the general distinction between civilian non-combatants and the fighting forces; the prohibition against slaying animals employed in battle; and the prohibition against harming those suffering from mental and physical handicaps.[10]

(e) There is an additional problem as regards historical sources. Before the introduction of the written script, humanitarian principles were disseminated orally, a factor rendering authentication difficult. In this respect, the following comment, although directed at Africa, bears an element of truth as regards Asia also:[11]

> "Oral transmissions of traditions and frequent practice of customs, on and outside the battlefields, helped to determine the extent of humanitarian law in early . . . history and to trace its application and development. Equally, this situation made it difficult to discover other unwritten traditions which were inefficiently coordinated; an acute problem that must be borne in mind. Also, the multiplicity of entities, both small and large, hampered the systematic collection of vital information on this subject."

Even after the advent of the written script, one is faced with difficulties as regards the texts which can be cited as sources of Asian approaches. Ancient texts were written by hand, copied and recopied, often into different dialects. The margin of error of transmission and interpretation concerning such sources is, therefore, high. How to solve the dilemma of being confronted with two diametrically opposed propositions from the same text or texts drawn from the same original sources remains a challenge for the lawyer as a historian.

(f) The influence of religion on humanitarian principles in ancient India should not be underestimated. The waging of war was much inspired by ethical

---

5. Armour, WS, "Customs of Warfare in Ancient India", (1922) 8 Tr Grot Soc 71, at 73.
6. Ibid.
7. Ibid, 74.
8. Ibid, 75.
9. Ibid.
10. Ibid, 76.
11. Bello, E, *African Customary Humanitarian Law* (1980), 3.

principles and valour conditioned by various religions.[12] Moreover, rules relating thereto were often propounded by the priests themselves — the lawyers of the time, some of whom, no doubt, had never even seen a battlefield.[13]

This factor sheds light on the observance of such rules. There were strong religious sanctions for their observance. As a question of faith, penalties existed for the violators both in this world and the next.[14]

(g) No less important to one's consideration of humanitarian law in ancient India is the underlying structure of Indian society. From early times, a caste system has prevailed. At the summit of the social echelons was the class of warriors named the *Ksatriyas* whose role was embedded in chivalry and warfare.[15] One of their general duties was study of *adhyayanam*[16] which consisted, to a great extent, of rules of warfare. Such rules were intentionally aimed at this caste upon whom the burden of waging war was placed.[17] If such rules were broken or not observed, social ostracism would ensue as one of the punishments whereby the transgressors would be deprived of the social privileges due to a Ksatriya.[18]

However, the laws of war under such caste system were not as effective as they could have been for two reasons, On the one hand, because they intermingled so freely with the laws of chivalry, the laws of war sometimes became so complicated — even to the point of becoming merely rules of a tournament — as to lead to ineffective discipline.[19] On the other hand, the exclusivity of such laws — exclusive due to their affiliation with the Ksatriyas — impeded genuine appreciation of such laws by the general population lower down the social ladder, and thus weakened the overall application of such laws.

Specific influences

Two specific influences on traditional Indian approaches to the protection of victims of armed conflicts may be noted: i.e. the influence of Emperor Asoka[20]

12. Dikshitar, VR, *War in Ancient Inida* (1948), 58.
13. Armour, op cit, 79.
14. Ibid.
15. Dikshitar, op cit, 6–57.
16. Ibid, 43.
17. Armour, op cit, 78.
18. Dikshitar, op cit, 91.
19. Armour, op cit, 78.
20. See further: Amulychandra Sen, *Asoka's Edicts* (1956); Barua, BM, *Asoka Edicts in a New Light* (1926); Bhagvati-Prasada Fantheri, *Asoka,* 2nd ed; Block, J., *Les Inscriptions d'Asoka* (1950); Buhler, G, *The Pillar Edicts of Asoka,* Epigraphia Indica, vol II (1894); Eggermont, PHL, *The Chronology of the Region of Asoka Moriya: A Comparison of the Data of the Asoka Inscriptions and the Data of the Tradition* (1956); Filliozat, J, *Studies in Asokan Inscriptions* (1967); Kim An, *Histoire du Roi Asoka* (1957); Nikam, NA and McKeown, R, *The Edicts of Asoka* (1959); Przluski, J, *La Légende de l'Empereur Asoka, Asoka-Avandana, dans les Textes Indiens et Chinois* (1923); Radhagovinda Basak, *Asokan Inscriptions* (1959); Ram, Si, *Some Inscriptions of Asoka, the Guptas, the Maukharis and Others,* Part 1, (1960); Rawlinson, HG, *Buddha, Ashoka, Akbar, Shivaji and Ranjit Singh, a Study in Indian History* (1913); Sachchidananda Bhattacharya, *Select Asokan Epigraphs with Annotations* (1960); Sircar, DC, *Inscription of Asoka* (1959); Srinivasa Murti, G, and Krishna Aiyangar, AN, *Edicts of Asoka* (1959); Thapa, R, *Asoka and the Decline of the Mauryas* (1973); Wooher, AC, *Asoka Text and Glossary,* (1924).

who reigned in India between 273B.C.–232B.C., and the Code of Manu[21] circa 200B.C.

The former was particularly influential in introducing norms of humanitarianism into the warfare of that period. In effect, it was Emperor Asoka who rejected the barbaric practices of former times. In doing so, he promulgated certain Edicts which established the law of piety and non-violence, the most famous of which was the 13th Edict (circa 256B.C.), containing this perceptive passage:[22]

> "His Majesty . . . in the ninth year of his reign conquered the Kalingas; 150,000 persons were thence carried away captive, 100,000 there slain, and many times that number perished. His Majesty feels remorse on account of the conquest of the Kalingas, because during the subjugation of a previously unconquered country slaughter, death, and taking away captive of the people necessarily occur, whereat His Majesty feels profound sorrow and regret."

As a corollary, not only did he forsake violence, but he also disseminated Buddhism — a fervent advocate of humanitarianism — to countries beyond India, including present-day South-East Asia. Ironically perhaps, his efforts made many would-be soldiers turn to monkhood and, arguably, laid the seeds for the downfall of his own empire. Could such Empire continue to exist, inspired by non-violence as a principle, when it became increasingly surrounded by acts of aggression by barbarians?

The code of Manu established extensive rules of warfare, bearing great affinity with recent humanitarian principles for the protection of victims of war from the turn of the nineteenth century[23] until the two Protocols of 1977. To cite but some examples, the Code stated the following:[24]

> "91: Nor should anyone (mounted) slay an enemy down on the ground, a eunuch, a suppliant, one with loosened hair, one seated, one who says 'I am thy prisoner.'
>
> 92: Nor one asleep, one without armour, one naked, one without weapons, one not fighting, a looker-on, one engaged with another.
>
> 93: Nor one who has his arms broken, a distressed man, one badly hit, one afraid, one who has fled; remembering virtue, one should not slay them."

---

21. See further: Aggarwale, VS, *India as described by Manu Varanasi, Prithini, Prakashan,* (1970); Banerhi, NM, *Manu and Modern Times* (1975); Buhler, G, *The Laws of Manu* (1886); Christian Literature Society for India, *The Laws of Manu* (1889); Das, B, *The Science of Social Organisation, or the Laws of Manu in the Light of Atma-Vidya* 2nd ed; *Institutes of Hindu Law, or the Ordinances of Manu according to the Gloss of Culluca, Comprising the Indian System of Duties, Religious and Civil* (1796); *Institutes of Manu* (1923); Jolly, J, *Manava Dharma-Sastra: The Code of Manu* (1887); Lall Doss, H, *Manava Dharma Sastra, or the Institutes of Manu, According to the Gloss of Culluca, Comprising the Indian System of Duties, Religious and Civil* (1888); Mannatha Nath Dutt, *Manusmriti, a Literal Prose English Translation* (1979); Motwani, K, *Manu Dharmàsastra, a Sociological and Historical Study,* (1958); Motwani, K, *Manu: The Origins of Social Thought* (1970); Patavardhana, MV, *Manusmriti: The Ideal Democratic Republic of Manu* (1968); Sharma, RN; *Ancient India According to Manu* (1980); Strehly, G, *Les Lois de Manou, traduites du Sanskrit,* Annales du Musée Guimet, tome 2.
22. Armour, op cit, 80.
23. Eg 1899 Hague Convention II Respecting the Laws and Customs of War on Land and 1907 Hague Convention IV Respecting the Laws and Customs of War on Land. See further, Roberts, A, and Guelff, R, *Documents on the Laws of War* (1980), 23–69.
24. Mouton, HW, History of the Laws and Customs of War up to the Middle Ages, *International Review of the Red Cross* 'English Supplement', vol XII, October 1959, at 182–890 and November 1959, at 198–205.

Such influences provide a clue to the long and extensive history of Indian humanitarianism, and it is to the context of such humanitarianism, gauged from Professor Penna's article, that one may now turn.

The Indian context

It was stated earlier that "eurocentric" and "apologetic" tendencies should be avoided in examining Indian humanitarianism. What is necessary, however, is to discern specific areas of similarities and differences between modern humanitarian principles inherent in much of the developed world, and traditional humanitarian principles drawn from many parts of the developing world, without conceptual prejudices.

In this respect, one can ascertain from Professor Penna's treatment of the Indian context certain areas of overlap between the old and the new which resemble each other. However, in other areas, one finds, on the one hand, certain elements of ancient India more regressive than modern humanitarianism, and on the other hand, facets of the Indian past more progressive than today's principles.

Concerning the areas of overlap between the old and the new, certain examples of note emerge from Professor Penna's article:

(a) Similar rules between ancient India and present-day humanitarian law can be found in the distinction between attacks on military objects and non-military objects. The analogy between ancient Indian law, requiring belligerents to distinguish between civilian and military objects and to confer general protection on civilians from military operations, and Articles 48 and 51.1 of Protocol 1 of 1977 is most fitting here.[25]

(b) Similar rules between ancient India and present-day humanitarian law can be found in the distinction between combatants and non-combatants. Again, this testifies to the suitable analogy between traditional Indian principles and Article 22 of the Hague Conventions of 1899 and 1907, Article 12 of the First and Second Geneva Conventions of 1949, Articles 32 and 68 of the Fourth Geneva Convention of 1949, and Article 35.1 of Protocol 1 of 1977.[26]

(c) Similar rules between India and present-day humanitarian law can be found in the prohibition against certain weapons of warfare. Hence, again the suitable analogy between traditional Indian principles, the Declaration of St Petersburg of 1868 prohibiting the use of Dum Dum bullets, and Article 23(a), (c) and (e) of the Hague Conventions of 1899 and 1907.[27]

(d) Similar rules between ancient India and present-day humanitarian law can be found in the treatment of protected persons and the sick and wounded. Hence, again the suitable analogy between traditional Indian principles, Articles 6, 9, 12, 13, 15, 18, 19, 33, and 46 of the First Geneva Convention of 1949, and Articles 6, 10, 12, 18, 21, 28, 30 and 47 of the Second Geneva Convention of 1949.[28]

Beyond such areas of confluence, divergences between ancient Indian principles and modern principles indicate varying degrees of progressiveness and regressiveness. One example where traditional rules of Indian society were less

25. See p 185.
26. See p 187.
27. See p 191.
28. See p 192.

developed than "Geneva Law" can be found in the treatment of prisoners of war. It is true that there is some evidence to support the existence of humane treatment of prisoners of war in ancient Indian history.[29] Yet, there is also evidence that in such times, prisoners of war were reduced to the status of slaves and were held in this capacity until ransomed, although there is room for debate as to whether the slavery of ancient India can be equated to the modern conception of slavery.[30]

What emerges from the issue of slavery and prisoners of war is that the standards for treatment of prisoners of war in ancient India were not as elevated as those in the Third Geneva Convention of 1949, the latter establishing a wide range of principles concerning general protection, captivity, labour of prisoners of war, financial resources of prisoners of war, relations of prisoners of war with the exterior, and relations between prisoners of war and the authorities. Complementary modern developments which provide for an even greater protection of prisoners of war, by contrast with the uncertain nature of prisoners of war in ancient India, include Article 44 of Protocol 1 of 1977 whereby prisoner of war status is conferred upon those involved in national liberation movements if they fall within the following criteria for combatants stipulated by article 43:

> "1. The armed forces of a Party to a conflict consist of all organised armed forces, groups and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognised by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict."

On the other hand, ancient India was more progressive in its ideals of humanitarianism than current concepts, in other respects. For instance, the former upheld that "the purpose of war, which was righteous, was not territorial aggrandizement by annexing conquered lands: it was for mutual assistance, goodwill and gaining an ally".[31] This implied that the conqueror could be more magnanimous towards the vanquished than under present-day attitudes, and resulted in the ancient belief in the need to hold a plebiscite to ascertain the wishes of the vanquished as to the choice of government. However, by contrast, it cannot be said that "Geneva Law" and its aftermath aspire to such a lofty and perhaps impracticable ideal as the holding of a plebiscite in all instances of modern warfare.

Beyond the above, one is left with the following uncertainties in attempting to identify the areas of overlap and divergence mentioned. Were sanctions for breaches of humanitarian principles in ancient India more effective than now? In those early times, were religious sanctions, conditioned by faith and reincarnation, more acceptable or more credible than the secular sanctions of today? Was dissemination of humanitarian principles widespread or was it too hampered by

---

29. See reference to the *Mahabharata* in Professor Penna's paper (at p 194) embodying the principle that "enemies captured in war are not to be killed but to be treated as one's own children".
30. See pp 194-5.
31. See p 196.

the social stratification? Was too profound a belief in humanitarian principles in ancient India the reason for the decline of early civilisations, such as that of Emperor Asoka, due to the irreconcilable elements of State security and humanitarianism?

Such questions pose a distinct quandary for the lawyer-cum-historian.

One may end this section with a few further thoughts concerning the latter part of Professor Penna's article which touches upon humanitarian law in modern India. Although India is a State Party to the Geneva Conventions of 1949 and supported the drafting of Protocol I of 1977, Indian legal history of recent times attests to the difficulty concerning reception of international humanitarian law emanating from such instruments within the national system; an apt problem for adherents of "dualism" in international law. One need only glance at the case of *Rev Mons Sebastiao Francisco Xavier Dos Monteiro* v *The State of Goa*[32] to see facets of "dualism" protruding again in the sense that the Supreme Court of India there rejected the applicability of the said Geneva Conventions within Indian municipal law in respect of the rights of protected persons. The approach inherent in the following citation from that decision is self-evident:[33]

> "There is only an obligation undertaken by the Government of India to respect the Conventions regarding the treatment of civilian population but there is no right created in favour of protected persons which the Court has been asked to enforce."

Finally, it is interesting to note that, although India avidly supported the drafting of Protocol I of 1977 from the outset, it has not yet acceded to this Protocol nor to Protocol II of the same year. Does this stance indicate some *raisons d'état* common to many developing countries beyond the scope of this commentary?

Conclusion

In retrospect, the analysis above proffers a country case study of how Asian countries have been the genesis of certain humanitarian principles from past history. However, such principles do not necessarily correspond with modern humanitarianism in all its dimensions. It must be admitted that Asian countries, including India, enjoy particular characteristics — "specificity" — when one talks of humanitarianism. This "specificity" implies that although there are certain areas of overlap between ancient principles and modern humanitarianism, other areas also exist where the paths of the old and the new diverge. In the case of India, as has been witnessed, while some of her traditional principles were more regressive than present-day standards, other ancient ideals were more progressive than modernity. There is thus no clear-cut answer as to which temporal phase of human society — the old or the new? — is necessarily the more civilised from the angle of humanitarianism.

One may conclude with the following reflections as food for thought for the future.

First, there are still three Asian States which are not parties to the four Geneva Conventions of 1949 at all, i.e. Burma, Bhutan and the Maldives. Should not

32. AIR (57) 1970 SC 329.
33. At 334, see p 203.

greater efforts be made to influence them into participating in what the rest of the international community acknowledges to be constructive norm-creation at the conventional level?

Moreover, only six Asian States have signed or acceded to Protocol I of 1977, i.e. Iran, the Republic of Korea, Laos, Pakistan, the Philippines and Vietnam, while only four have signed or acceded to Protocol II of 1977, i.e. Iran, the Republic of Korea, Laos and Pakistan. Complementary to these, only three Asian States are Parties to the Refugee Convention of 1951[34] and its 1967 Protocol,[35] i.e. China, Japan and the Philippines. Moreover, it is significant that there is at present no Asian Convention on human rights. The wariness of Asian States in acceding to international instruments on human rights and humanitarianism is worth further investigation. Is this lack of participation by Asian States due to excessive attachment to sovereignty and national security? Is it, by any chance, due to the lack of homogeneity within the Asian region? Or are there other extraneous factors beyond the ambit of this commentary?

However, one must realise that the mere fact that the Asian States have failed to accede to such instruments at the multilateral level *en masse* does not necessarily imply that they fail to adhere to humanitarian principles in practice. On the contrary, they could, in fact, be abiding by these principles more seriously than those States which have acceded, especially if one bears in mind the limited material resources of contemporary Asia, the greater part of which falls under the rubric of "developing" nations.

Secondly, it should be pointed out that Protocol I of 1977 has introduced another category of personnel who can be instrumental in facilitating the application of rules of humanitarian law embodied in the four Geneva Conventions of 1949 and the two Protocols of 1977: i.e. "qualified persons".[36] Such persons are to be recruited and trained within the relevant domestic jurisdiction, and it is this category to whom the International Committee of the Red Cross can resort to help create a better understanding of international humanitarian law at the municipal level. Potentially, these "qualified persons" have an important role to play in channelling knowledge and information on humanitarian law to and from their respective countries. Has the potential of such catalysts been capitalised upon to advance national appreciation of international humanitarian law, and conversely, international appreciation of national humanitarian law?

Thirdly, consonant with the belief that ignorance is the worst enemy of international humanitarianism, one may end with this special emphasis on dissemination of such law. This has received added exhortation from Article 83 of Protocol No. I of 1977[37] whereby:

---

34. 189 UNTS 137.
35. 606 UNTS 267.
36. Article 6 of Protocol I of 1977. See also Bothe, Partsch and Solf, *New Rules for Victims of Armed Conflict*, 81–4.
37. Ibid, 501–4. See also Resolution X on Dissemination of Knowledge of International Humanitarian Law and of the Red Cross Principles and Ideals, XXIV International Conference of Red Cross in Manila 1981, reprinted in "Resolutions and Decisions of the International Conference and of the Council of Delegates", *International Review of the Red Cross*, November-December 1981, at 12; and Moreillon, J, "The International Committee of the Red Cross and the Manila Conference: Evaluation and Prospects", ibid, January-February 1982, at 10–1.

> "1. The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate the Conventions and this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that those instruments may become known to the armed forces and to the civilian population".

The importance of dissemination as the *sine qua non* for preventing violations of humanitarian principles cannot be underestimated.[38] Yet, there is also a need for a novel kind of reciprocity in dissemination. It may be submitted here that, in the past, too great an accent was placed upon disseminating international norms to national fora. What has been sadly lacking is dissemination and feedback from the latter to the international spectrum. If this element of reciprocity in dissemination can be fostered, it will lead to greater empathy on the part of all concerned, in matters of humanitarianism, whether at the international or national level.

It is this element of reciprocity which holds the key to mutual perspective in humanitarianism.

38. Alston, P, "Prevention Versus Cure as a Human Rights Strategy", published in *Development, Human Rights and the Rule of Law*, International Commission of Jurists, 1981, at 31–108.