



*Please check against delivery*

**United Nations, General Assembly, 69th session**

**Sixth Committee, item 79 of the agenda on**

**The Status of the Protocols Additional to the Geneva  
Conventions of 1949 and Relating to the Protection of  
Victims of Armed Conflicts**

Statement of the

International Committee of the Red Cross

Statement delivered by Joy Elyahou

New York, October 21 2014

Thank you, Mr Chairman.

In light of the forthcoming 32nd International Conference of the Red Cross and Red Crescent, we would like to focus today on the implementation of the outcomes of the 31st International Conference in 2011 by the International Committee of the Red Cross (ICRC). As you recall, the ICRC was invited to identify and propose concrete options and recommendations for enhancing the effectiveness of international humanitarian law (IHL) compliance mechanisms, and to work towards strengthening the legal protection of persons deprived of their liberty in relation to non-international armed conflict (NIAC). This work is proceeding on two tracks.

The first track, aimed at strengthening compliance with IHL, is a joint initiative with the Swiss Government. It is driven by the fact that the principal cause of suffering during armed conflict is not a lack of rules, but rather insufficient respect for the applicable rules. IHL currently lacks effective means of identifying, preventing and halting violations while they are occurring. The mechanisms that do exist are rarely, if ever, used. Moreover, they are only applicable in international armed conflict (IAC), whereas the majority of conflicts nowadays are NIACs.

The Swiss/ICRC Initiative focuses on the creation of a new IHL compliance system. Based on discussions with States so far, we are now able to ascertain the possible elements of such a system. A regular Meeting of States seems likely to emerge as its central pillar, to serve as an anchor for several compliance functions, including national reporting and thematic discussions on IHL issues. Up to now, States have indicated that the system should be voluntary in nature, as most are unwilling to amend the Geneva Conventions or to adopt a new treaty. Thus, a key challenge will be to ensure the system's effectiveness in improving IHL compliance on the ground. On the basis of upcoming consultations, the ICRC and Switzerland will propose options and recommendations for consideration by the 32nd International Conference in December 2015.

The second track, dealing with detention, arises from the recognition that existing IHL treaty rules on detention in relation to NIAC are inadequate, and that this leads to uncertainty about the source and content of these rules. There is thus a need to clarify and strengthen IHL standards, particularly in four key areas identified by the ICRC: conditions of detention; particularly vulnerable groups of detainees; grounds and procedures for internment; and transfers of detainees.

Following four regional consultations in 2012 and 2013, the ICRC is holding centralized thematic consultations to determine whether and how to strengthen the law to address these four areas. The first thematic consultation, on conditions of detention and particularly vulnerable groups of detainees, was held in January. Participating States generally agreed that it is possible to provide most of the IAC and human rights standards of protection to NIAC-related detainees, with certain exceptions and adjustments to take account of particular operational circumstances. The second thematic consultation, on grounds and procedures for internment and transfers of detainees, is occurring this week [20-22 October 2014] in Montreux, Switzerland. On the basis of forthcoming consultations, the ICRC will prepare its final report, presenting options and recommendations for consideration and further action by the 2015 International Conference. Following this, the ultimate aim is to produce

---

some form of outcome instrument that would strengthen IHL applicable to detention in NIAC.

The ICRC welcomes the constructive engagement of States and strongly encourages them to continue to actively participate in the ongoing consultations to strengthen IHL.

Mr Chairman,

These are but two of the many ongoing efforts by the ICRC to improve the protection of IHL in armed conflict. As you know, the protection of the wounded and sick was at the origin of the development of IHL. Yet today, violence against health-care personnel, facilities and transports is among the most serious issues of humanitarian concern and it is a complex issue that requires action by a variety of stakeholders. In carrying out its Health Care in Danger project, the ICRC has organized expert workshops on different themes all over the world: on military practices, national legislation, ambulance services in risk situations, to the security of health-care facilities, the challenges of violence on medical ethics, or the role of religious leaders. All of these expert consultations have identified recommendations and good practices. For instance, with regard to national legislation, States should review, and where necessary, revise their domestic normative frameworks to prevent or mitigate obstacles to the safe delivery of health care that may arise during violence and armed conflict. The ICRC is currently developing a set of practical and concrete recommendations to this end.

Mr Chairman,

The ICRC welcomes the recent accessions to the Geneva Conventions and their Additional Protocols, as well as the significant progress achieved by States in the national implementation of IHL, in particular through the 106 existing National IHL Committees. To facilitate these important activities, the ICRC is constantly developing new tools, and we draw States' attention in particular to the IHL National Implementation Database, which contains unique information on the national legislation and case law of 194 countries and was updated and modernized in 2013.

In conclusion, Mr Chairman, the ICRC would like to remind States that, as always, it remains fully committed to supporting them in their efforts to implement IHL.