



ICRC

The International Committee of the Red Cross (ICRC) presents its compliments to the Legal Counsel of the United Nations, and has the honour to refer to the letter (ref. LA/COD/2) dated 10 March 2016, regarding General Assembly Resolution 69/120 of 10 December 2014, entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

The ICRC is pleased to provide its contribution, enclosed herewith, to the report of the Secretary-General as requested in operative paragraph 14 of the above-mentioned Resolution. An electronic version of the ICRC's contribution has also been sent.

The International Committee of the Red Cross avails itself of this opportunity to convey to the Legal Counsel of the United Nations the renewed assurance of its high consideration.

New York, 1 June 2016  
NYC 16/00038 SOJ/kha



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Encl: ICRC submission

*Information on the Status of the Protocols Additional to the Geneva Conventions of 1949 relating to the protection of victims of armed conflicts, and on measures taken to strengthen the existing body of international humanitarian law, including with respect to its dissemination and full implementation at the national level*

**CONTRIBUTION BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)**

Period under review: June 2014 to June 2016

**Outcomes of the 32nd International Conference of the Red Cross and Red Crescent**

1. The 32nd International Conference of the Red Cross and Red Crescent (International Conference), held in Geneva in December 2015, adopted four resolutions on international humanitarian law (IHL):<sup>1</sup>

Resolution 1, “**Strengthening international humanitarian law protecting persons deprived of their liberty**” recommends that in-depth State-led work be pursued to produce non-legally binding ways of strengthening IHL protection of people deprived of their liberty in relation to armed conflicts, and invites the ICRC to facilitate States’ work and contribute its humanitarian and legal expertise.

Resolution 2, “**Strengthening compliance with international humanitarian law**”, was adopted following a consultation process that reviewed existing IHL compliance mechanisms and examined options for creating more effective ones. The facilitators – Switzerland and the ICRC – recommended that a regular Meeting of States be established, with two functions: holding discussions on IHL issues and receiving States’ reports on domestic implementation of IHL. The resolution recommends the continuation of a State-driven intergovernmental process based on the principle of consensus to find agreement on features and functions of a potential forum of States and to find ways to enhance the implementation of IHL using the potential of the International Conference and IHL regional fora.

Resolution 3, “**Sexual and gender-based violence: Joint action on prevention and response**”, jointly submitted by the ICRC and the International Federation of Red Cross and Red Crescent Societies, condemns sexual and gender-based violence and calls for a number of specific measures to prevent and respond to such violence.

Resolution 4, “**Health Care in Danger: Continuing to protect the delivery of health care together**”, provides a strong basis for continued cooperation to address the humanitarian consequences of violence against the wounded and sick, health-care personnel and facilities, and medical transport in armed conflicts or other emergencies. It also confirms key practical recommendations for preventing and addressing violence against the delivery of health care.

2. The ICRC published its fourth **report on IHL and the challenges of contemporary armed conflicts**.<sup>2</sup>

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<sup>1</sup> The full text of the resolutions is available at: <http://rcrcconference.org/international-conference/documents/>.

<sup>2</sup> *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, report to the 32nd International Conference of the Red Cross and Red Crescent, Geneva, October 2015, available at:

## Initiatives taken by the ICRC to reaffirm, clarify and strengthen IHL

3. In March 2016, the ICRC published a new **Commentary on the First Geneva Convention**, available on line.<sup>3</sup>
4. Switzerland and the ICRC convened a series of meetings that led to the establishment of the Montreux Document Forum in December 2014, which provides an informal platform for signatories to discuss and exchange information on challenges faced in regulating **private military and security companies**.
5. Recent armed conflicts have confirmed that the use of **explosive weapons** with wide-area effects in populated areas is a major cause of civilian death and injury, and damage to civilian homes and infrastructure, resulting in disruption to essential services and displacement of the civilian population. The ICRC made known its position that “due to the significant likelihood of indiscriminate effects, [...] explosive weapons with a wide impact area should be avoided in densely populated areas”<sup>4</sup>, and continued its documentation, dialogue with armed forces and awareness-raising of the effects of using explosive weapons in populated areas.
6. With regard to **robotic weapon systems**, the ICRC convened experts’ meetings in 2012 and 2014 to better understand technical and legal issues, contributed actively to ongoing discussions at the Certain Conventional Weapons (CCW), called upon all States to ensure that humans maintain control over weapon systems and the use of force, and urged parties to the CCW to set limits on autonomy to ensure that weapons systems can be used in accordance with IHL.

Discussions on **new technologies of warfare** have highlighted the importance of establishing or improving national procedures for determining the legality of new weapons, means and methods of warfare, in accordance with Article 36 of Additional Protocol I. The ICRC is currently updating its “Guide to the legal review of new weapons, means and methods of warfare”, which will examine challenges posed by certain new technologies of warfare. The ICRC has also underlined the importance of assessing the lawfulness under IHL of cyber-warfare capabilities that States develop or acquire for offensive or defensive purposes.

7. The ICRC and the International Red Cross and Red Crescent Movement have continued to raise awareness about the humanitarian consequences of **nuclear weapons** and the difficulty of envisaging any use of nuclear weapons that would be compatible with IHL. In accordance with its 2011 resolution, the Movement has urged States to ensure that such weapons are never again used, and to negotiate a legally binding international agreement to prohibit their use and completely eliminate them, in accordance with States’ existing commitments and international obligations.

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<https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>.

<sup>3</sup> The ICRC Treaties, State Parties and Commentaries database, at: <https://www.icrc.org/ihl/full/GCi-commentary>.

<sup>4</sup> *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, report to the 31st International Conference of the Red Cross and Red Crescent, Geneva, October 2011, pp. 40-42, available at: <https://www.icrc.org/eng/assets/files/red-cross-crescent-movement/31st-international-conference/31-int-conference-ihl-challenges-report-11-5-1-2-en.pdf>.

## Legal advice and technical assistance for the national implementation of IHL

8. The ICRC has continued providing national authorities with **legal advice on and technical assistance with adopting the legislative, regulatory and practical measures** needed to ensure full implementation of IHL in domestic law and practice. The ICRC has also continued promoting adherence to and implementation of the 1949 Geneva Conventions, their Additional Protocols, and other IHL instruments.

The ICRC welcomes the following accessions: Palestine to Additional Protocol II of 1977; Belgium, Luxembourg, Palestine, Romania and Sweden to Additional Protocol III of 2005; the Bahamas, the Dominican Republic, Ghana, Guinea-Bissau, Kiribati and the Federated States of Micronesia to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 2000; and Ethiopia to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and its First Protocol, and South Africa to its Second Protocol. Furthermore, it commends the ratification of the 2013 Arms Trade Treaty by a further 50 States since June 2014.

66 pieces of national legislation have been adopted by more than 35 States to implement elements of IHL, including on weapons, missing persons, torture, and punishment of international crimes.

9. The ICRC has added about 380 laws and entries on domestic case law to its public **database on national implementation of IHL**.<sup>5</sup> The database contains up-to-date information on the national legislation and case law of 194 countries, and serves as a research tool for sharing best practices and facilitating the fulfilment of States' obligations under IHL.

In April 2016, the ICRC launched **IHL Databases Search**<sup>6</sup> – a single interface that searches the Treaties, State Parties and Commentaries database; the Customary IHL database<sup>7</sup>; and the database on national implementation of IHL.

10. The ICRC published an updated version of *The Domestic Implementation of International Humanitarian Law: A Manual*<sup>8</sup> (2015), as well as a *Model law – Protection of cultural property in the event of armed conflict* (2014)<sup>9</sup>. In addition, the ICRC continued to develop thematic tools and factsheets on sexual violence, use of force in law enforcement, and missing people.<sup>10</sup>

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<sup>5</sup> ICRC database on national implementation of IHL, available at: <http://www.icrc.org/ihl-nat>.

<sup>6</sup> ICRC IHL Databases Search, available at: <https://www.icrc.org/applic/ihl/ihl-search.nsf/home.xsp?lang=EN>.

<sup>7</sup> ICRC Customary IHL database, available at: <https://www.icrc.org/customary-ihl/eng/docs/home>.

<sup>8</sup> ICRC, *The Domestic Implementation of International Humanitarian Law: A Manual*, 2015, available at: <https://www.icrc.org/eng/resources/documents/publication/pdvd40.htm>.

<sup>9</sup> ICRC, *Protection of cultural property in the event of armed conflict - Model law*, 2015, available at: <https://www.icrc.org/en/document/protection-cultural-property-event-armed-conflict-model-law>.

<sup>10</sup> These documents are available at: <https://www.icrc.org/en/war-and-law/ihl-domestic-law/documentation>.