



ICRC

**United Nations General Assembly, 73rd session, Sixth Committee, Report of the
International Law Commission on the work of its seventieth session (A/73/10)
October 2018**

Mr / Madam Chair,

The International Committee of the Red Cross (ICRC) expresses its sincere appreciation to the Commission for the report of its seventieth session and congratulates all members of the Commission for their important work. The ICRC also once again offers its warm congratulations to the Commission for its 70th anniversary.

The ICRC follows with great attention the work of the Commission on the progressive development and codification of international law. We would like to offer comments on three topics of particular interest to the ICRC in its work on international humanitarian law (IHL).

The first is "Subsequent agreements and subsequent practice in relation to the interpretation of treaties". The ICRC commends the Commission for the adoption, on second reading, of 13 draft conclusions on the topic, together with commentaries. We also commend Special Rapporteur Mr. Georg Nolte for his commitment to this topic, and for the results achieved.

The ICRC is currently undertaking an ambitious project to update the Commentaries to the 1949 Geneva Conventions and their 1977 Additional Protocols. This work seeks to provide up-to-date legal interpretations based on the latest practice of States, case law, academic writing and ICRC experience. The Commission's work on the use of subsequent practice in treaty interpretation has greatly assisted the ICRC in the development and application of its methodology for the interpretation of the Geneva Conventions, and we are pleased to note parallels in the Commission and the ICRC's approaches.

The ICRC further congratulates the Commission for the adoption, on second reading, of the 16 draft conclusions on the identification of customary international law, with commentaries. We commend the Special Rapporteur, Sir Michael Wood, for his dedication to the topic, and for the results achieved.

The “way in which the existence and content of rules of customary international law are to be determined” is of great importance to the ICRC, notably as concerns customary IHL. While the main IHL treaties enjoy wide – and, in the case of the 1949 Geneva Conventions, universal – support, customary IHL remains vital in the regulation of many armed conflicts today.

In 2005, mandated by the 26th International Conference of the Red Cross and Red Crescent, the ICRC published its Study on customary IHL. This Study required the ICRC to consider many of the questions the Commission has now addressed in the draft conclusions and commentaries. Again, we are pleased to note the parallels between the Study and the Commission’s approach.

The third topic is that of “protection of the environment in relation to armed conflicts”. The ICRC commends the International Law Commission for its continued commitment to the topic and looks forward to engaging with the work of the Special Rapporteur, Ms. Marja Lehto. We would also like to express our appreciation to her predecessor as Special Rapporteur, Ms. Marie Jacobsson, for her work on the topic in the past.

The “protection of the environment in relation to armed conflicts” is, by its nature, of great interest to the ICRC, and we recall the importance of ensuring that the Commission’s work on this topic remains in line with existing rules of IHL. The Commission’s work can also contribute to increased dissemination of existing rules, including of IHL, which together with increased implementation and enforcement are needed to ensure protection of the natural environment during armed conflicts.

We will continue to follow the Commission’s work and we reaffirm our commitment to contribute to the work of the Special Rapporteur, including on issues related to the protection of the natural environment during non-international armed conflicts and the role of non-state armed groups.

Thank you Mr / Madam Chair.