

ICRC CONTACTS WITH THE UNITED NATIONS INTERNATIONAL LAW COMMISSION

Since 1981, the ICRC has maintained regular contact with the United Nations International Law Commission, a subsidiary body of the United Nations General Assembly. The Commission is composed of 34 members, elected from among the most eminent representatives of all the world's legal systems. Its mandate under the UN Charter is to work for the codification and progressive development of international law.

In view of the organic connections between general international public law and international law applicable in armed conflicts, this contact with the Commission is of great importance.

During the visit by members of the Commission to the ICRC on 30 June 1986, the President of the ICRC spoke to them about the principal concerns of the ICRC in the field of law, prior to the Twenty-fifth International Conference of the Red Cross.

The text of his speech follows:

"It always gives me great pleasure to welcome you to the ICRC for another of our traditional meetings.

We regard the immense task entrusted to you, namely to work for the codification and progressive development of international public law, as one of paramount importance to the international community, for it is primarily by the law in force that the many problems facing that community should be solved. More than ever, it is in your work that adequate means must be sought for international society to attain a state of law in which the ever increasing tensions of our time will find other solutions than recourse to force

and violence. As it has been for the past 123 years, the ICRC is present today on the international scene, encountering situations in which the parties resort to force, when attempts at peaceful settlement fail. As you are aware, our institution devotes itself to alleviating the suffering of the victims of armed conflicts. The principal objective of the rules of international humanitarian law is to protect those victims.

As you also know, the structure of international humanitarian law was completed some years ago by the Diplomatic Conference of 1974-1977, which led to the signing of the two Protocols additional to the Geneva Conventions of 1949.

Nine years after the entry into force of these Protocols, only 59 States have ratified the first and only 52 the second. These figures should be compared to the 164 States which are Parties to the Geneva Conventions and which, we may note in passing, thus constitute today the greatest community of nations bound by a common treaty.

The disparity between the level of participation in the Geneva Conventions and in the Additional Protocols—no matter what the reasons—is a matter of growing concern to us, as you will understand.

How can we best accelerate the ratification of the Protocols? We should be glad to have your suggestions on this question, suggestions of a general nature or suggestions relating to your own countries or other countries with which you are particularly well acquainted.

Apart from questions relating to ratification of the Additional Protocols, the implementation of the rules embodied in the Law of Geneva now in force has encountered serious difficulties in recent years. This trend is of great concern to us, for if the standards of our civilization are to be preserved, the rules of international humanitarian law and universally recognized humanitarian principles must be upheld and the ICRC must be able to carry out the humanitarian mandate entrusted to it by the international community.

The forthcoming International Conference of the Red Cross in Geneva this autumn, our twenty-fifth—at which 137 National Red

Cross and Red Crescent Societies, their international federation the League and the ICRC will assemble side by side with representatives of the States party to the Geneva Conventions—will have to discuss the primordial problem of respect for international legal commitments in the humanitarian domain, and in particular to recall to the States the importance of observing Article I, common to all the Geneva Conventions, specifying that “The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances”.

The ICRC is following your work closely, in full awareness of its direct impact on the development and implementation of international humanitarian law. We note with great interest that the present meeting of your Commission is dealing again with rules to punish crimes against peace and the security of mankind. This discussion is highly significant for us, all the more since the protection of conflict victims is the very purpose of our own endeavours.

Does the international law now in force actually correspond to the needs and demands entailed by modern forms of conflict? We raise this question especially in relation to the Law of the Hague, where a continuing effort at modernization appears to us to be one of the vital tasks in the development of international law.

Another problem of concern to us is that of the need for the international humanitarian law now in force to be known and understood by those responsible for putting it into effect—the armed forces, political leaders, lawyers and diplomats—indeed by everyone who may find himself in a situation calling for the application of this law. The obligations incumbent upon governments by virtue of the Conventions and Protocols are not being adequately assumed by the States which signed and ratified them.

Without this kind of education in international humanitarian law, the discharge of our mandate will inevitably continue to be seriously impeded, due to ignorance.

In this connection, we are glad to inform you of the publication this autumn of a Commentary on the Additional Protocols of 1977.

The ICRC asked several of its lawyers to continue in this way the work of the Commentary on the Geneva Conventions, as an essential part of its activities in interpreting and disseminating knowledge of the law for which it is responsible.

We are convinced that with your eminent command of international law you will be able to help us achieve this objective and contribute directly to it, both through your work and through the high places you occupy in international affairs.

I thank you for the honour you have accorded us in accepting our invitation and I ask you, Mr. President, Excellencies, Ladies and Gentlemen, to recognize in this invitation evidence of the great interest we have in your activities. May your work, one day, make the reign of law prevail throughout this troubled world, where violence and cruelty are increasingly depriving men and women of its protection.”
