

REGIONAL MEETINGS

ON INTERNATIONAL HUMANITARIAN LAW

Regional Seminar on national measures to implement international humanitarian law

(San José, Costa Rica, 18-21 June 1991)

The International Committee of the Red Cross (ICRC), which has played a key role in forging the rules of international humanitarian law (IHL), is aware of the fact that the 1949 Geneva Conventions and their 1979 Additional Protocols, although formally adopted by the majority of States, are in danger of remaining a dead letter unless legal and practical measures are taken at the national level to ensure that they are applied.

The ICRC has long encouraged States to adopt, in peacetime, *national measures to implement IHL*, and the matter has been placed on the agenda of several International Conferences of the Red Cross. After considering a report and two draft resolutions on the subject, the 25th International Conference (Geneva, October 1986) adopted by consensus Resolution V reminding States of the fundamental importance of introducing national measures to implement IHL and of the responsibility of governments, National Societies and the ICRC in that respect.

Pursuant to Resolution V, the ICRC wrote several times to governments and National Societies requesting information on the measures they had adopted or were planning to take to meet their obligations under IHL.¹

¹ See *IRRC*, No. 263, March-April 1988, pp. 121-140 and No. 281, March-April 1991, pp. 134-139.

The ICRC also organized regional seminars for national experts. The first of these (Seminar on the implementation of international humanitarian law, Sofia, 20-22 September 1990)² was considered by participants to be a necessary follow-up to the written requests. Such seminars enable those concerned not only to exchange opinions and experiences, but also to establish contacts and report on progress.

The second seminar — the first to take place in Latin America — was organized by the ICRC in cooperation with the Inter-American Institute of Human Rights (IIDH) in San José, Costa Rica, on 18-21 June 1991.³ This event, planned by the ICRC in follow-up to aforementioned Resolution V and coinciding with the IIDH's tenth anniversary, further strengthened the close ties between the Institute and the ICRC in the area of dissemination of human rights and IHL.

Over 40 government officials, parliamentarians, academics and National Society representatives from 18 Latin American countries attended the San José seminar. Their active participation led to productive discussions on selected topics and an in-depth analysis of the problems connected with the adoption of national measures to implement IHL in the region.

The seminar focused on the following subjects: the global strategy to implement international rules protecting the individual; ICRC efforts to promote the adoption of national measures to implement IHL; ratification and the political will to implement IHL; the relationship between international law and domestic law; the problems and priorities of enforcing national measures to implement IHL; national mechanisms for the adoption of such measures; necessary legislative, administrative and other measures; the relationship between human rights and humanitarian law; and the measures needed to implement the rules of IHL applicable in situations of non-international armed conflict and the relationship between those rules and fundamental human rights guarantees.

The papers and proceedings of the seminar will be published separately.

The seminar participants adopted the following document:

² A report on this seminar was published in *IRRC*, No. 281, March-April 1991, pp. 223-233.

³ Similar seminars were organized at the national level, in cooperation with the ICRC, by the Ministry for Foreign Affairs of Uruguay (Montevideo, 6-8 September 1989) and the Romanian National Red Cross Society (Bucarest 4-5 June 1991).

Conclusions and recommendations of the Regional Seminar on national measures to implement international humanitarian law

“The participants of the Regional Seminar on national measures to implement international humanitarian law, organized in San José, Costa Rica, on 18-21 June 1991 by the International Committee of the Red Cross (ICRC) in cooperation with the Inter-American Institute of Human Rights, adopted the following major conclusions and recommendations:

- I. If the international system for the protection of the individual is to function, implementation of the relevant rules should be coordinated at every level.*
- II. The government authorities concerned are under an obligation to introduce into their national legislation the measures necessary to implement the provisions of treaties protecting the individual, which, by their very nature, are directly applicable.*
- III. State legislative bodies should take the necessary steps to ensure that the treaty provisions effectively protect the people for whom they are intended.*
- IV. The legal authorities should receive further training in application of the international rules in force.*
- V. To achieve these aims it is essential to:*
 - (a) step up the dissemination of IHL, in particular by including it in the training of the armed forces, the police forces and government officials responsible for its implementation;*
 - (b) urge the appointment of a national body to coordinate and advise the public authorities on the implementation of IHL in cooperation with the National Red Cross Society and, if possible, with the organizations responsible for promoting and defending human rights;*
 - (c) raise public awareness of the need for the promotion, adoption, ratification and implementation of IHL by the relevant legislative authorities and State bodies;*
 - (d) pass on to the international institutions concerned information on national measures to implement IHL, provide mutual assistance by exchanging data and ensure that appropriate documentation is made available for training and dissemination purposes;*
 - (e) urge States to adopt international preparedness and monitoring mechanisms and, in particular, to recognize the competence of*

the International Fact-Finding Commission provided for in Article 90 of Protocol I of 1977;

- (f) encourage States to revise their penal legislation to provide for the punishment of non-compliance with and violations of IHL;*
- (g) extend and develop cooperation with the international organizations working to protect the individual so as to enhance coordination and harmonization of all activities to promote human rights;*
- (h) promote studies at the national level to determine the most appropriate implementation measures and detect any shortcomings in those already existing.*

VI. The role of the armed forces and the police in efforts to eliminate drug trafficking should be assessed in relation to IHL and human rights.

The seminar also underscored the importance of regional contacts in identifying common problems and promoting the harmonization of measures to implement IHL.

The participants expressed their gratitude to the organizers of the seminar, namely the ICRC and the IIDH, for having given them the opportunity to share their experiences, and to the authorities of Costa Rica for having hosted the event.”

María Teresa Dutli
