

Follow-up to the International Conference for the Protection of War Victims

MEETING OF LEGAL ADVISERS OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

(Geneva, 12-13 September 1994)

Introduction

Wishing to associate the National Societies and the International Federation of Red Cross and Red Crescent Societies with the follow-up to the International Conference for the Protection of War Victims (August-September 1993) and with preparations for the meeting of the Intergovernmental Group of Experts to be held in January 1995, the ICRC convened a consultative meeting in Geneva on 12 and 13 September 1994 to which legal advisers and experts in humanitarian law from several National Societies and from the Federation were invited. This meeting was also in line with Resolution 2 of the October 1993 Council of Delegates, which urgently requested "the National Societies, the ICRC and the Federation to do everything possible, through their own action and by mobilizing governments, to ensure that the Final Declaration of the International Conference for the Protection of War Victims is followed up by tangible steps which lead to a substantial improvement in the situation of the victims..."

The National Societies of Bangladesh, Belgium, Bulgaria, Chile, Denmark, France, Germany, Iraq, Lebanon, Libya, Malaysia, the Netherlands, the Republic of Korea, South Africa, Sweden, the United Kingdom, the United States of America and Yemen, the Magen David Adom and the "Palestinian Red Crescent", the Federation and the ICRC were represented at the meeting. The Swiss Federal Department of Foreign

Affairs (DFAE) was also represented by a senior specialist in public international law.

The meeting, presided over by Mr Yves Sandoz, ICRC Director for Principles, Law and Relations with the Movement, addressed issues raised in a DFAE document summarizing the responses received by the depositary State from governments to a list of measures designed to promote respect for international humanitarian law (IHL) and relating to the universal applicability of IHL instruments, compliance with IHL and repression of violations.

Points raised during the discussions

A. Applicability of instruments of international humanitarian law

The delegates recognized that, although failure to become party to the instruments of IHL was in the case of some States due to political considerations, especially where Protocol I was concerned, it could often be attributed to the heavy workload of government departments or mere oversight on the part of the authorities concerned. These authorities had played and continued to play a vital role. Efforts to promote acceptance of the treaties of humanitarian law must be kept up and the ICRC was counting on the support of the National Societies in that regard.

Would it then be advisable to set minimum standards, as advocated by some? Such a course entailed the risk of weakening positive law, since those minimum standards might be regarded as maximum by others. The concept of minimum standards should nevertheless be retained for the purposes of dissemination of humanitarian law, which had to be "translated" into simple terms.

What was of primary importance was the full implementation of existing law. In that connection, it was considered vital to link promotion of accession to the humanitarian treaties with the practical measures required for their implementation. Attention was also drawn to the possibility of convening a meeting of the High Contracting Parties to consider general problems concerning the application of the Conventions and of Protocol I, in accordance with Article 7 of the said Protocol.

The participants generally recognized that the Movement was duty bound to contribute to the promotion of the instruments of humanitarian law, in the broad sense of the term, including the 1954 Hague Convention

for the Protection of Cultural Property in the Event of Armed Conflict and the 1980 United Nations Conference on Prohibitions or Restrictions on the Use of Certain Conventional Weapons. In this connection too, the National Societies could play a key role with respect to their own authorities.

B. Prevention of violations of international humanitarian law

The primary duty of National Societies to develop dissemination programmes was stressed. The meeting gave the participants an opportunity to describe their dissemination activities in detail. Some of them underlined the importance of interministerial commissions on IHL at the national level and the value of appointing legal advisers to the armed forces. The effectiveness of National Societies in this sphere depended, however, on their image and the influence they enjoyed in their respective countries thanks to their humanitarian and social activities. Hence the importance to be attached to the development of National Societies.

The delegates also considered proposals for setting up advisory services to support States in their efforts to implement and disseminate IHL and for establishing a system of reporting by States on national measures taken to that end. Some practical suggestions on the subject put forward by the Belgian Red Cross were well received. Although reservations were expressed as to the desirability of creating new bodies, the participants were unanimous in recognizing the importance of stepping up the ICRC's current efforts in that regard and of involving the National Societies as closely as possible.

The delegates also expressed the hope that at the meeting of the group of experts in January 1995 the special relationship between the Movement and IHL law would be reaffirmed and clarified.

C. Compliance with international humanitarian law and repression of violations

What should be the response in the event of large-scale violations of international humanitarian law? The importance of this question was recognized, as was the difficulty of finding an answer. The participants pointed out in particular that it could be an extremely sensitive matter for a National Society to intervene in case of violations by its own government. The political implications of such problems could not be disre-

garded. Hence the need for the Movement to alert the international community without, however, being in a position to propose specific solutions, especially if they involved the use of force. There too the advisability of setting up new bodies seemed doubtful, but it was felt that ways of making better use of existing institutions - and indeed the issue as a whole - merited examination by the Intergovernmental Group of Experts at its meeting in January 1995.

It was agreed that another meeting of legal advisers from National Societies would be convened by the ICRC in spring 1995 so as to prepare a united response on the part of the Movement to the proposals made by the Intergovernmental Group of Experts.