

THE LAW AND LEGAL CONSIDERATIONS

In accordance with its mandate, the ICRC continued to monitor respect for and full implementation of international humanitarian law and to work to promote and develop that body of law in the year under review.

Although international humanitarian law requires further adaptation and development, it remains one of the most complete branches of international law. The ICRC's primary concern in 1990 was therefore to ensure acceptance of and respect for all its provisions by all parties concerned.

Alongside its field operations, the ICRC pursued the following objectives:

- to promote the treaties of humanitarian law, particularly the Additional Protocols of 1977, in order to bring about their acceptance throughout the world;
- to persuade States to enact domestic legislation or adopt practical measures to implement international humanitarian law and ensure its application;
- to foster greater knowledge and understanding of international humanitarian law through teaching and dissemination;
- and to contribute to its development in order to remedy any omissions and adapt it to new requirements.

Promotion of the Conventions and Protocols

Ratifications and accessions

In 1990, the following States became party to the Protocols:¹ Barbados, Canada, Czechoslovakia, Paraguay, Romania, Ukrainian SSR and Yemen.

The President of the ICRC regularly broached the subject of ratification of the Protocols, both in discussions with visitors to Geneva and during his own visits elsewhere. The ICRC also often approached the authorities of the countries in which it has a delegation and its legal adviser responsible for the matter in Geneva continued to encourage those States not yet party to the Protocols to ratify or accede to them.

International Fact-Finding Commission

On 20 November 1990, the optional declaration provided for by Article 90 of Additional Protocol I of 1977 was made by the twentieth State² recognizing the competence of the International Fact-Finding Commission. With this declaration, the conditions for establishment of the Commission have been fulfilled.

The Commission will be competent to enquire into any facts alleged to be a grave breach as defined in the Geneva Conventions and Protocol I or other serious violation of the Conventions or that Protocol, and to facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and Protocol I.

As the depositary State for the Geneva Conventions, Switzerland has the task of convening a meeting of representatives of the States that have made this declara-

¹ The complete list of States party to the Geneva Conventions of 1949 and their Additional Protocols of 1977 appears at the end of this Report.

² The 20 States that have now recognized the Commission under Article 90 are Algeria, Austria, Belgium, Byelorussian SSR, Canada, Denmark, Finland, Iceland, Italy, Liechtenstein, Malta, Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, Ukrainian SSR, Uruguay and USSR.

tion, for the purpose of electing, by secret ballot, the fifteen members of the Commission. Those members, who must possess the necessary qualifications and be of high moral standing and acknowledged impartiality, will serve in their personal capacity.

Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons

The year under review marked the 10th anniversary of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects. This Convention, with its three Protocols, prohibits weapons whose primary purpose is to cause injury by non-detectable fragments (Protocol I) and restricts the use of mines, booby-traps and other devices (Protocol II) and of incendiary weapons (Protocol III). These texts contain detailed provisions relating to specific weapons and thus serve as an elaboration of the general rules, set forth in Protocol I additional to the Geneva Conventions, which prohibit weapons and methods of warfare of a nature to cause superfluous injury or unnecessary suffering or to have indiscriminate effects. The 1980 Convention restates the principle reaffirmed by Additional Protocol I that the right of the parties to a conflict to choose methods or means of warfare is not unlimited.

The ICRC addressed the forty-fifth session of the United Nations General Assembly to stress the Convention's importance in terms of international humanitarian law and to appeal to those States which had not yet done so to become party to it.³

Attention was also drawn to this Convention during activities to promote knowledge of international humanitarian law.

Respect for international humanitarian law

Implementation measures at the national level

Resolution V of the 25th International Conference of the Red Cross (Geneva, 1986) asked the ICRC to gather and assess information on legislation and other measures, either already taken or being considered, to implement international humanitarian law.

The ICRC continued to urge the States party to the Geneva Conventions and the National Red Cross and Red Crescent Societies to take the necessary measures and to provide it with all relevant information. To this end the ICRC, together with the International Institute of Humanitarian Law and the Bulgarian Red Cross, held a regional seminar in Sofia from 20 to 22 September. This seminar — the first of its kind — was attended by over 50 representatives of governments, academic circles and the Red Cross from 11 European countries. The ICRC presented the results of its efforts hitherto and exchanged views with the experts present as to the future course of action to be adopted. The seminar, which the participants found very productive, will be repeated in other regions.

Consultation of experts

As it has done since 1984, the ICRC once again benefited from the advice of out-

³ As at 31 December 1990, the following States had ratified (or acceded to) the Convention: Australia, Austria, Benin, Bulgaria, Byelorussian SSR, China, Cuba, Cyprus, Czechoslovakia, Denmark, Ecuador, Finland, France (the first two Protocols), German Democratic Republic, Guatemala, Hungary, India, Japan, Laos, Liechtenstein, Mexico, Mongolia, Netherlands, Norway, Pakistan, Poland, Sweden, Switzerland, Tunisia, Ukrainian SSR, USSR and Yugoslavia.