

## **Meeting of experts on committees or other bodies for the national implementation of international humanitarian law**

**Geneva, 23-25 October 1996**

In the past few years there has been a growing awareness of the need to strengthen implementation of international humanitarian law. States thus have to create the means enabling them to fulfil their obligation to respect and ensure respect for humanitarian law. This requires them to take action in peacetime and to adopt national measures to guarantee compliance with the law in all circumstances.

A reading of the 1949 Geneva Conventions and their 1977 Additional Protocols shows the extreme diversity of the steps to be taken by States. Many spheres of government activity are involved. The cooperation of several ministries, public administrations, State entities and other institutions is needed in this ongoing process of implementation.

Several States have set up specific bodies to facilitate that process. National committees, interministerial working groups and advisory committees on humanitarian law have been established. Their general role is to advise and support governments on matters relating to adherence to the humanitarian treaties, the drawing up of implementation measures, the spreading of knowledge of the humanitarian rules, and humanitarian operations conducted by their respective States.

Because it is convinced of the usefulness of these bodies in ensuring effective application of humanitarian law, the ICRC has encouraged and supported their creation in every State party to the 1949 Geneva Conventions. Its efforts were endorsed by the Recommendations of the Intergovernmental Group of Experts for the Protection of War Victims (January 1995),<sup>1</sup> which were adopted in Resolution 1 of the 26th Inter-

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<sup>1</sup> *IRRC*, No. 310, January-February 1996, pp. 83-88.

national Conference of the Red Cross and Red Crescent (Geneva, December 1995), entitled *International humanitarian law: From law to action — Report on the follow-up to the International Conference for the Protection of War Victims*.<sup>2</sup>

Pursuant to the last paragraph of Recommendation V, the ICRC Advisory Service on International Humanitarian Law convened a *meeting of experts on committees or other bodies for the national implementation of international humanitarian law*, which took place from 23 to 25 October 1996. Over 70 States were represented, including some 40 which sent one or more experts from national committees, ministries or the judiciary in their respective countries. Representatives of 35 National Red Cross or Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies and the Standing Commission of the Red Cross and Red Crescent also took part. As the meeting was primarily an informal gathering focusing on technical matters, the intention was not to reach conclusions binding on the participants, or even to take decisions on matters of principle.

The proceedings were divided into plenary sessions and smaller working group sessions. They provided participants with an opportunity to discuss various issues arising in connection with national implementation bodies, e.g., the establishment of such bodies and their structure, legal status, composition and fields of activity. The topics covered also included the role which National Societies can play in this regard and forms of regional and inter-state cooperation.

#### *Establishment of implementation bodies*

According to the information available to the ICRC, 34 countries have set up national committees or similar mechanisms for the implementation of international humanitarian law;<sup>3</sup> several more have already taken steps to that end, or are considering the possibility of doing so.

The establishment of this type of mechanism is in no way a legal requirement. It is merely a means to an end, which is to achieve effective

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<sup>2</sup> *Ibid.*, pp. 58-60.

<sup>3</sup> Albania, Argentina, Australia, Austria, Belgium, Bolivia, Bulgaria, Cambodia, Chile, Colombia, Denmark, Dominican Republic, Finland, France, Germany, Indonesia, Israel, Italy, Korea (Republic of), Lithuania, Moldova, Namibia, New Zealand, Norway, Panama, Paraguay, South Africa, Sweden, Thailand, United Kingdom, Uruguay, Uzbekistan, Yugoslavia and Zimbabwe.

application of international humanitarian law. States may, of course, fulfil their obligations without setting up any formal implementation body. Most participants in the meeting emphasized, however, that the approach was much more systematic when there was an implementation mechanism.

The experts agreed that this mechanism should be of a permanent nature, as implementation was an ever-evolving process. Similarly, it should have general competence in its field and should be empowered to take initiatives to deal with any question related to its sphere of activity. Extending the mandate of a national human rights committee to matters pertaining to the implementation of international humanitarian law was generally not considered a satisfactory solution, since the objectives and working methods of the two branches of law were quite different.

The participants stressed that implementation bodies should play a stimulating role as fora where the officials concerned gave regular reports on the headway they had made. It was also emphasized that National Red Cross and Red Crescent Societies had an important function to fulfil in encouraging the creation of national committees and in supporting the authorities' efforts.

### *Composition*

National implementation mechanisms are composed of officials or representatives from the relevant ministries. Ideally, the government representatives should hold positions senior enough to enable them to implement the measures recommended by the national committees.

Some National Red Cross and Red Crescent Societies have established their own bodies to monitor implementation issues. Their efforts should not, however, be restricted to those internal mechanisms. One or more National Society representatives may serve on national committees as *ex officio* members or permanent observers, or they may simply be invited to take part in their proceedings. The participants in the meeting considered that the cooperation of National Societies was crucial to the committees' work, by virtue of the Societies' mandate to spread knowledge of humanitarian law and of the experience they had acquired in matters relating to the law. On the other hand, during the discussion on the best way to establish such cooperation, some experts expressed concern that the fact of serving as an *ex officio* member on a national implementation committee might compromise a National Society's independence. They expressed particularly strong reservations in cases where controversial issues were being raised or where there were internal disturbances or conflict in the country.

National bodies often have experts serving as full members or assisting them in their activities. Other components of civil society, including non-governmental organizations, may also join in their work.

### *Activities*

The information provided by the experts showed that national bodies are engaged in a wide variety of activities — ranging from simple advice to the authorities on the ratification of international treaties to the more general task of drawing up lists of steps to be taken to adapt national legislation to the provisions of international law. Several of these bodies have drawn up bills or draft regulations and have proposed practical measures for the implementation of international treaties. National committees are also involved in spreading knowledge of humanitarian law and in training qualified personnel (medical, military or teaching staff) in areas relating to the Geneva Conventions and their Additional Protocols; this is mostly done in cooperation with National Red Cross or Red Crescent Societies. Some committees have become permanent advisory bodies for their governments, offering guidance on any issue pertaining to the humanitarian treaties, or even on humanitarian operations conducted by the State. One of the questions arising in this connection is the role that such committees could play in the event of internal violence.

### *Cooperation with the ICRC*

Paragraph 2 of Recommendation V mentioned above encourages States to facilitate cooperation between the national committees and the ICRC. This cooperation may take various forms and is only now beginning to take shape. The meeting held in October 1996 was one of the first international events that brought people involved in the national implementation of humanitarian law together to exchange views and share experiences in this field.

The participants discussed various possibilities for cooperation between national committees, e.g., sharing information, setting up joint activities, exchanging experts, and holding bilateral or multilateral meetings between bodies from countries in a given region or with a common legal system. For instance, a meeting of committees in Latin America is scheduled for the first half of 1997.

Much attention was devoted to cooperation with the ICRC, and in particular the Advisory Service on International Humanitarian Law, which has provided constant support to countries establishing national commit-

tees. Numerous seminars on implementation have been organized at the national and regional levels for the authorities of various countries. The presence of ICRC legal advisers in the countries or regions concerned helps to promote direct and in-depth dialogue with the officials in charge of implementation. The experts attending the October meeting expressed interest in the plan to set up a database on humanitarian law, containing information on national implementation measures and related case law. The ICRC urged them to contribute to this project by providing it with any relevant information they might have.

### *Future prospects*

The meeting did not attempt to define the future activities of national implementation bodies in any detail, for fear of placing artificial constraints on their development.

National committees will have to create their own working momentum as they evolve. It is not enough simply to establish a committee. Drawing up a list of measures to be taken is a step in the right direction, but the adoption of a law does not necessarily mean that its provisions will be applied.

The meeting clearly revealed a growing interest on the part of States in the creation of national mechanisms for the implementation of international humanitarian law. The contacts established during the proceedings bode well for the development of various forms of cooperation in this sphere. Each of the countries engaged in this process has thus undertaken a long-term task that reflects a new impetus towards full incorporation of the humanitarian treaties in the legal system of every State. That impetus marks a step forward in ensuring effective respect for humanitarian law. With its Advisory Service on International Humanitarian Law, the ICRC stands ready to support the efforts made by the national implementation bodies and will do everything it can to help them achieve their crucial objective.

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