

Status of the Protocols additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Statement made by the representative of the ICRC at the United Nations General Assembly, 55th session, 2000

Universal adherence to the basic instruments of international humanitarian law remains an essential first step in ensuring compliance with that law. The *Geneva Conventions for the protection of war victims* have attained this universality, with 189 States now party to the Conventions — one more since the 53rd session of the General Assembly.

In order to improve legal protection of the civilian population against the effects of hostilities, it is essential that the *1977 Protocols additional to the 1949 Geneva Conventions* attain the same degree of universality. It is therefore encouraging to note that the number of States bound by the Protocols is increasing yearly. Since the last debate on this topic, five States have become bound by Protocol I, bringing the total of States party to 157. As far as Protocol II is concerned, six new instruments of ratification have been deposited, bringing to 150 the number of States party. The International Committee of the Red Cross (ICRC) supports these efforts and would like to take this opportunity to call on those States that have not yet done so to ratify these instruments as soon as possible.

The ICRC wishes to stress the importance of the International Criminal Court, as attested by the ratification of its Statute by 21 States so far. The aim of setting up the Court is to ensure more effective punishment of those who commit the most serious crimes, including war crimes, regardless of whether the conflicts during which they are committed are international or not. We therefore urge the States to ratify the Court's Statute and thereby to advance the cause of putting an end to impunity.

The ICRC also welcomes the latest report by the

Secretary-General regarding the status of the 1977 Additional Protocols, and congratulates those States that contributed. We are convinced of the importance of this initiative, and hope that as many States as possible will supply information regarding the implementation of humanitarian law by their relevant national authorities.

Humanitarian law plays an important role in today's world. The United Nations Decade of International Law provided an excellent forum for discussion on the subject. Now that the Decade has come to an end, we believe it to be essential that some forum for debate on humanitarian law be preserved. The ICRC therefore wishes to advance two proposals.

The first is to extend the scope of this agenda item to include instruments of humanitarian law other than the 1977 Additional Protocols, namely the 1949 Geneva Conventions, the *Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict* and its *two additional Protocols of 1954 and 1999*, and the *1998 Rome Statute of the International Criminal Court*. The other humanitarian law treaties concerning the conduct of hostilities are already dealt with by the First Commission.

The second proposal concerns the frequency of these debates. Given that protecting the victims of armed conflict is a matter of ongoing concern for the international community, the ICRC feels it would be appropriate to place this topic on the agenda every year.

To protect the victims of war, it is necessary in time of peace to take measures at a national level to ensure implementation of humanitarian law. That is why it is particularly important to enact national legislation to repress serious violations of humanitarian law, to establish regulations governing the use of the protected emblems and measures for the punishment of their misuse, and to protect cultural property. The States parties are also under an obligation to promote knowledge of the Geneva Conventions and their Additional Protocols among the entire population, especially those who bear arms.

The ICRC therefore takes this opportunity to welcome the pledges made by the States at the 27th International Conference of the Red Cross and Red Crescent. A large number of States undertook to ratify the instruments of humanitarian law and to take measures to implement that law at the national level. It is the ICRC's fervent hope that these pledges will be translated into concrete action and we wish to emphasize its willingness to provide any assistance that may be needed in *achieving this*.

One activity to which I would like to draw your attention is the meeting of experts on national implementation of the rules for the protection of cultural property during armed conflict. This meeting, which was organized by the ICRC's Advisory Service on International Humanitarian Law, with UNESCO participation, took place in Geneva on 5 and 6 October 2000. The discussions with these specialists will form the basis for drafting guidelines for national implementation of the 1954 Hague Convention and its two Protocols. These guidelines, which will draw together all the legal and practical measures that must be taken in this area, are intended to assist national authorities in discharging their obligations for the protection of cultural property in the event of armed conflict.

The creation by a State of a national commission to advise and aid the government in implementing and spreading knowledge of humanitarian law constitutes an important step towards ensuring effective implementation of this law. The ICRC congratulates the 61 States that have taken such an initiative and reiterates its willingness to provide legal advice and technical assistance in implementing humanitarian law.

Finally, we wish to take this opportunity to mention the major project on customary humanitarian law in which the ICRC has been engaged since 1996. This study is based on the practice of a large number of States and is quite unique in its field. The results of the study should be available in the autumn of 2001.

**Resolution of the United Nations General Assembly on
the 1977 Additional Protocols — A/RES/55/148, 12
December 2000**

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996 and 53/96 of 8 December 1998,

Having considered the report of the Secretary-General on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts,

Thanking Member States and the International Committee of the Red Cross for their contribution to this report,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I, and recalling that the International Fact-Finding Commission may, where necessary, facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and the Protocol,

Stressing also the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level and expressing concern about all violations of the Geneva Conventions of 1949 and the two Additional Protocols,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions of 1949 and the two Additional Protocols,

Recalling that the twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the recommendations of the Intergovernmental Group of Experts on the Protection of War Victims, including the recommendation that the depositary of the Geneva Conventions of 1949 should organize periodic meetings of States parties to the Conventions to consider general problems regarding the application of international humanitarian law,

Welcoming the adoption of a second protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, in The Hague on 26 March 1999,

Noting the celebration in 1999 at The Hague and at St. Petersburg of the centennial of the first International Peace Conference which highlighted the importance of the Geneva Conventions for the protection of victims of armed conflicts and their additional protocols,

Acknowledging the fact that the Rome Statute of the International Criminal Court, adopted on 17 July 1998, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for

the perpetrators of such crimes and thus to contribute to their prevention,

Noting that international humanitarian law has been an important topic in the United Nations Decade for International Law, which came to an end in 1999, 50 years after the adoption of the Geneva Conventions, and acknowledging the usefulness of discussing in the General Assembly the status of international humanitarian law instruments relevant to the protection of victims of armed conflicts,

1. *Appreciates* the virtually universal acceptance of the Geneva Conventions of 1949, and notes the trend towards a similarly wide acceptance of the two additional Protocols of 1977;
2. *Appeals* to all States parties to the Geneva Conventions of 1949 that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date;
3. *Calls upon* all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;
4. *Calls upon* all States which have not already done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;
5. *Calls upon* all States parties to the additional Protocols to ensure their wide dissemination and full implementation;
6. *Notes with appreciation* the Plan of Action adopted by the twenty-seventh International Conference of the Red Cross and Red Crescent, in particular the reiteration of the importance of universal adherence to treaties on humanitarian law and their effective implementation at the national level;
7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;
8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts undertaken by Member States to take legislative and administrative action to

implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. *Welcomes* the increasing numbers of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of such treaties into national law and disseminating the rules of international humanitarian law;

10. *Welcomes* the adoption of the Optional Protocol 7 to the Convention on the Rights of the Child on the involvement of children in armed conflicts;

11. *Requests* the Secretary-General to submit to the General Assembly at its fifty-seventh session a report on the status of the additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its fifty-seventh session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".