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31st International Conference of the Red Cross Red Crescent
Geneva, 28 November–1 December – For humanity



Strengthening Legal Protection for Victims

of Armed Conflicts

(2nd Plenary Session)

Concept note

Objectives

The thematic plenary session on international humanitarian law (IHL) is aimed at fostering the debate on the legal protection for victims of armed conflicts. The participants to the International Conference are invited to discuss the main conclusions of the ICRC's study on this issue as well as the result of the consultations conducted with States on the main conclusions of the study and possible follow-up to it. They will have an opportunity to express their views on humanitarian concerns arising from contemporary armed conflicts – focusing particularly on the areas identified in the study - and on ways of exploring legal solutions to address these concerns.

Rationale

The ICRC study concluded that IHL remains, on the whole, an appropriate framework for regulating the conduct of parties to armed conflicts. What is required in most cases in order to improve the situation of persons affected by armed conflict is a greater compliance with the existing legal framework. However, the ICRC study also showed that ensuring better protection for these persons involves strengthening the law governing armed conflict in four specific areas, namely: a) the protection for persons deprived of their liberty in non international armed conflict; b) international mechanisms for monitoring compliance with IHL and reparations for victims of violations; c) the protection of the natural environment; d) the protection of internally displaced persons.

Following consultations with States, the ICRC acknowledged that priorities must be established based on the level of interest that States have expressed in each one of these areas. The consultations showed that further work should focus on the protection for persons deprived of their liberty in non international armed conflict and international mechanisms for monitoring compliance with IHL.

With regard to the legal protection for persons deprived of their liberty in non international armed conflict, States recognized the necessity to ensure better legal protection in particular for persons detained for security reasons during non-international armed conflicts. Clear legal guidance is needed to prevent arbitrary detention. Some States also insisted that the risks to which detainees are exposed when they are transferred from one authority to another should be addressed. Others also expressed an interest in conditions of detention, especially in the specific protection needs of certain categories of persons, such as women, children, the elderly and disabled.

States also recognized that most of the existing implementation mechanisms provided under IHL have proved to be insufficient so far. Moreover, many States admitted that mechanisms developed outside the ambit of IHL also have limitations and were not developed for implementing this body of law. They concurred that discussion on improving international mechanisms for monitoring compliance with IHL is a priority.

The thematic plenary session on IHL will therefore allow the participants to provide substantive contribution to future work on strengthening legal protection for victims of armed conflicts. It will not seek to determine any specific outcome of this work. Such outcome will have to be decided at a later stage, once substantive issues have been discussed. Participants wishing to do so may make recommendations on the best way to take this dialogue forward.

Guiding questions

1. What is your assessment of the humanitarian consequences of armed conflicts with regard to the four areas highlighted in the ICRC report on *Strengthening Legal Protection for Victims of Armed Conflicts*, namely: a) the protection for persons deprived of their liberty in non international armed conflict; b) international mechanisms for monitoring compliance with IHL and reparation for victims of violations; c) the protection of the natural environment; d) the protection of internally displaced persons?
2. Among the four areas identified by the ICRC for strengthening legal protection for victims of armed conflicts, do you agree that the two priority areas are the protection for persons deprived of their liberty and international mechanisms for monitoring compliance with IHL?
3. What are the specific issues that would require further work in order to improve the legal protection of persons deprived of their liberty in the context of non international armed conflict and to improve the effectiveness of international mechanisms for monitoring compliance with IHL?

Practical details

The thematic plenary session will begin at 1.30 pm on Monday 28 November. It will be chaired by Dr Liesbeth Lijnzaad, Legal Adviser, Legal Affairs Department, Ministry of Foreign Affairs, Netherlands. The session will begin with an introductory statement by Dr Philip Spoerri, Director for International Law and Cooperation, ICRC. The Chair will then introduce the debate and open the floor for statements from the participants. Delegates are invited to limit their statements to three minutes. Delegates speaking on behalf of a group of participants may extend their statement to five minutes. Around 6.00 pm the Chair will make concluding remarks, and formally close the session.

Reference to official working documents

Strengthening Legal Protection for Victims of Armed Conflict, Report, Document prepared by the International Committee of the Red Cross, Geneva, October 2011, IC/11/5.1.1.