



**Speech by Didier Burkhalter  
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***“The law can only be effective when it  
is respected”***

**Third Meeting of States on Strengthening  
Compliance with International Humanitarian  
Law**

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**Check against delivery**

Mr. President of the ICRC,  
Ladies and gentlemen, representatives of the governments,  
Ladies and gentlemen,

In the summer of 1864, “animated by the desire to lessen the inherent evils of warfare” several states gathered in Geneva to adopt the Geneva Convention for the amelioration of the condition of the wounded in armies in the field. Today, exactly 150 years on, the spirit of the preamble to the first Geneva Convention still animates us: armed conflicts continue to cause immeasurable suffering.

Exactly one century after the outbreak of the First World War, three quarters of a century after the start of the second, and at a time when our world is troubled by serious crises, we would do well to remember this.

And yet, this suffering could be largely avoided if warring parties respected the applicable law. We meet today to arm ourselves with the means to more effectively ensure respect for this pillar of international law and lessen the inherent evils of warfare. Today, we are closer than ever to achieving this goal. But, as in sport, being close to the goal does not yet mean that we have won.

International humanitarian law has developed enormously in the last 150 years. Its reach has extended to prisoners of war and civilians. Today, in theory, it affords appropriate protection to the victims of armed conflict.

But, each woman raped during armed conflict, each mistreated prisoner of war, each abducted child, each civilian killed and each attack against those dedicated to protecting

victims is one tragedy too many. Each of these odious acts reminds us that we must do more and we must do better to strengthen compliance with humanitarian law. Because the law can only be effective when it is respected.

Ladies and gentlemen,

International humanitarian law is underpinned by one simple but essential assertion: protect and, when necessary, care for those who are not, or who are no longer, taking an active part in hostilities, without discrimination.

In June 1859, after the Battle of Solferino, Henry Dunant, from Geneva, witnessed the terrible suffering of thousands of wounded soldiers abandoned to their fate on the battlefield. It was this experience which, four years later, led him to create the ICRC and, in 1864, draw up the first Geneva Convention.

Since then, Switzerland has acted as depositary state for the Geneva Conventions, which form the backbone of international humanitarian law. Switzerland, a neutral country whose history is intrinsically linked to that of the development of international humanitarian law, is committed to its defence, for the good of the international community and for the protection of women, men and children - all the most vulnerable people - caught up in armed conflicts.

But Switzerland is not alone. When we ratified the 1949 Geneva Conventions, we all undertook “to respect and ensure respect for” international humanitarian law in all circumstances. States are therefore, all jointly responsible in this regard.

It is beholden upon all of us to effectively implement this law nationally and internationally. We all made a solemn commitment to humanity, out of humanity. We must now honour this promise and act to strengthen the law, to obtain greater protection for the most vulnerable in armed conflicts.

Ladies and gentlemen,

It took the Geneva diplomatic conference of 1864 to bring humanitarian law to the attention of the world, its people and their governments.

But humanitarian principles existed long before that; they are universal in origin, with roots everywhere. In every era and in every civilisation, religious leaders, statesmen and women, military leaders and visionary thinkers have formulated rules to limit the brutality of war, breathing the warmth of humanity into the depths of inhumane suffering.

From its birth, Islam promulgated rules of a very humanitarian nature. Soldiers were under orders not to kill women, children or the elderly. They were instructed to spare fruit trees and livestock (today we would talk of the goods essential for the survival of the population), and not to destroy homes. The neutrality of members of religious orders was guaranteed. Many of these principles remain relevant today.

Humanitarian principles have also been handed down to us from ancient India, in particular the “Laws of Manu”. These recognised the principle of distinction long before it was adopted into our international humanitarian law: directing military operations against people who were not or who were no longer taking part in hostilities was not permitted.

Requisitions and captivity were regulated; poisonous weapons were prohibited. These principles are still valid today.

These are but two examples. Nevertheless, whichever period you examine, you will find a desire to eradicate needless suffering in armed conflict, “to lessen the inherent evils of warfare”.

Men and cultures may differ, but human nature is the same everywhere.

Protection of the weakest is a universal value recognised by all cultures: it is not the product of modern international law. This universality confers timeless authority upon its rules, because they seek to preserve the very essence of our being: human dignity.

Ladies and gentlemen,

We must work together! We are heading in the right direction but we must resolve to make real advances. What has been achieved to date?

The 31st International Conference of the Red Cross and Red Crescent adopted a resolution on strengthening legal protection for victims of armed conflicts. It recognised the need to improve compliance with international humanitarian law and to consolidate inter-state dialogue.

In 2012, Switzerland and the ICRC launched a joint diplomatic initiative to implement this resolution. An initial informal Meeting of States concurred that the legal framework

governing the conduct of hostilities and the protection of victims is by and large adequate.

However, the delegations unanimously declared that the available compliance mechanisms had, to date, proved to be inadequate.

Subsequent discussions concentrated on assessing the flaws in the existing mechanisms. (Enquiry procedures of the Geneva Conventions, the Protecting Powers system and the International Humanitarian Fact-Finding Commission).

The conclusions are unambiguous: with the exception of the International Humanitarian Fact-Finding Commission, these mechanisms would not be easy to reform. Devised for international armed conflicts, they cannot accommodate the specific aspects of non-international conflicts which account for the majority of present-day conflicts.

The Second Meeting of States, in June 2013, confirmed the need to concentrate efforts on creating new mechanisms. The meeting led to the identification of possible mechanisms to encourage greater compliance with international humanitarian law.

Preparatory discussions focused on the design of these instruments. The blueprint of a system for strengthening compliance with international humanitarian law is now clearly in sight. This is an exceptional opportunity for humanity and it is our duty to seize it. I would like to evoke the four main components of this system.

1. Periodic reporting. This is an effective tool which will facilitate the early identification of challenges. These reports will make it possible for states to self-assess implementation of international humanitarian law at the national level and identify common concerns.

Indeed, states face many questions on the same level. Consider the issue of deprivation of liberty in non-international armed conflicts, or the consequences of fighting reaching residential areas.

These reports will also - and above all - serve to highlight positive examples of compliance with humanitarian law. It will enable us to encourage and share good practices.

The periodic reports will provide a source for inter-state dialogue on their respective implementation experiences. They will help us to coordinate our efforts and support one another: from the training of armed forces to discussions on practical experiences of complying with a specific obligation, for example when determining if a new weapon would be prohibited by international humanitarian law.

2. Regular and systematic discussions. Regular and in-depth dialogue on the most urgent problems will enable us to better anticipate together the problems connected with the evolving nature of armed conflicts and new technologies. We must prevent technical or other developments bypassing the correct application of the law before we have fully assessed their impact on humanitarian law. This, for example, was the risk with private military and security companies and the issue constantly arises with the use of new weapons, such as the so-called 'non-lethal' weapons.

Thematic discussions will help us to form a consensus on how best to apply humanitarian law before problems arise and to understand our obligations better so that we might honour them more effectively.

3. A fact-finding mechanism. When, in the heat of battle, humanitarian law is trampled underfoot, we must be able to act, together. Opinions differ on a possible fact-finding mechanism. Switzerland urges you to pursue this discussion in an open-minded and constructive manner so that the states can reach agreement on the issue.

4. Finally, the last point is how to institutionalise the preceding elements. This is crucial. The periodic reports, thematic discussions and fact-finding mechanism are important for strengthening compliance with humanitarian law.

All the same, structuring these instruments and discussions requires a framework, a forum, a place. Many of the states involved in this process consider the establishment of a Meeting of States as essential for ensuring greater respect for international humanitarian law.

The Geneva Conventions do not make any provision for this type of meeting. Consequently, the implementation of humanitarian law suffers from a lack of institutionalisation and coordination. For instance, practical measures to improve compliance are implemented without the wider international community being informed. There is no regular or structured dialogue on the most urgent aspects of international humanitarian law. And the requisite conditions for ensuring effective cooperation in particular with regard to capacity-building do not exist.



A regularly convened Meeting of States would put international humanitarian law permanently on the multilateral diplomatic agenda. A beacon in this turbulent world.

To be effective, the meeting would need to be held annually. This would help engrain the principles and application of international humanitarian law in the world's collective consciousness. It would develop a global humanitarian culture.

Ladies and gentlemen,

You have, over this past year, discussed possible elements of a system for compliance with international humanitarian law.

Many of the resulting proposals are today at a remarkably advanced stage. Today, we need move things forwards and consolidate this blueprint. Let us agree wherever possible and, over the coming year, work on those points where agreement is not yet within reach.

Switzerland and the ICRC will be organising new preparatory discussions over the coming year to examine the issues for further discussion in detail. A fourth Meeting of States will take place at the beginning of summer in 2015. This will be the last consultation of this type within the mandate of resolution 1 of the 31<sup>st</sup> International Conference. The active participation of all the High Contracting Parties to the Geneva Conventions will be encouraged.

Ladies and gentlemen,

We have never been so close to concrete solutions. Nevertheless, we still have a considerable amount of work to do together. In accordance with the resolution adopted by the last international conference of the Red Cross and Red Crescent, Switzerland and the ICRC will present a report containing the results of our consultations to the next conference at the end of 2015.

At the conclusion of the next conference, Switzerland is - if it is of use and welcome - ready to play a significant role, and resolutely undertake to provide the Meeting of States with the means to ensure its establishment on a permanent and stable basis. In the name of my country and in the spirit of the Geneva Conventions, I thank you for your commitment today, especially if it can bring true progress tomorrow.