



ICRC

To all Permanent Representatives to the United Nations Office in Geneva

**INVITATION TO THE MEETING OF ALL STATES
ON STRENGTHENING INTERNATIONAL HUMANITARIAN LAW PROTECTING PERSONS DEPRIVED OF
THEIR LIBERTY IN RELATION TO NON-INTERNATIONAL ARMED CONFLICT**

Geneva, 27 January 2015
DP/JUR/THEM 15/004 SMC/GBO

Excellency,
Madam, Sir,

The International Committee of the Red Cross (ICRC) has the pleasure of inviting your Government to take part in a meeting of all States on:

**Strengthening International Humanitarian Law Protecting Persons Deprived of
their Liberty in relation to Non-International Armed Conflict**

Monday 27 April – Wednesday 29 April 2015

World Meteorological Organization (WMO), 7bis Avenue de la Paix, Geneva

This meeting is part of a major consultation process implementing Resolution 1 from the 31st International Conference of the Red Cross and Red Crescent, which seeks to address weaknesses and gaps in legal protection for persons deprived of their liberty in relation to non-international armed conflict (NIAC). The meeting will be a crucial one, as the discussions will inform the ICRC's development of options and recommendations on how to address these gaps in the future. Specifically, the discussions will inform the ICRC's preparation of a concluding report on the consultation process, and a draft resolution, for consideration by all States at the next International Conference of the Red Cross and Red Crescent in December 2015.

Background information

This initiative is grounded in Resolution 1 adopted at the 31st International Conference of the Red Cross and Red Crescent in 2011. In Resolution 1, the International Conference invited the ICRC, in cooperation with States and other relevant actors, to pursue research, consultation and discussion on how to ensure that international humanitarian law (IHL) remains practical and relevant in providing legal protection to all persons deprived of their liberty in relation to armed conflict. The focus of the consultation is on NIAC, the most prevalent form of armed conflict today. The resolution also asked the ICRC to submit a report with a range of options, including its recommendations, for strengthening the law to the next International Conference, for its consideration and appropriate action.

The ICRC launched the consultation process in 2012, involving meetings with government experts on both legal and procedural aspects of implementing Resolution 1. As a first step, the ICRC convened four regional consultations in 2012 and 2013, bringing together 170 government experts representing 93 States from across Africa, Europe, the Americas, the Caribbean, the Asia Pacific and the Middle East. The participants were chosen with a balanced regional representation and previous experience with armed conflict in mind. Experts in the regional consultations discussed four areas that the ICRC had identified in need of strengthening: conditions of detention, vulnerable categories of detainees, transfers of detainees, and grounds and procedures for internment. Overall, government experts participating in the regional consultations generally agreed with the focus on NIAC, with all the topics that the ICRC identified as key humanitarian problems and with the need to address them. Participating experts also expressed their initial support for there being an outcome of the process, and generally expressed a preference for an outcome document or instrument of a non-binding nature. Reports of all four regional consultations have been published on the ICRC website, together with a synthesis report and a background document: <https://www.icrc.org/eng/what-we-do/other-activities/development-ihl/strengthening-legal-protection-ihl-detention.htm>. These reports were presented at a briefing on the initiative for all Permanent Missions on 25 November 2013 in Geneva.

During the regional consultations, participating experts also indicated that the next steps in the process should involve centralized thematic consultations focusing on the concrete, technical aspects of strengthening the law in specific areas. To this end, the ICRC hosted two thematic consultations to take the discussions forward. To ensure a thorough and productive discussion, the ICRC considered it necessary to limit participation in these thematic consultations to a geographically representative selection of States. The first thematic meeting, held in January 2014, examined in detail issues related to conditions of detention and vulnerable detainee groups. It was attended by 57 experts representing 37 States. The second thematic meeting, held in October 2014, examined the issues of grounds and procedures for internment and transfers of detainees from one authority to another. It was attended by 48 experts, representing 32 States. As with the regional consultations, no final decisions were made at the thematic consultations, which were held under the Chatham House Rule.

One aim of these thematic consultations was to understand better how the humanitarian issues identified might be effectively dealt with in practice, taking into account the particular circumstances generated by NIAC. To this end, the government experts carried out a practical assessment examining in greater detail the substantive content of IHL rules applicable in international armed conflict, as well as that of related international human rights law and internationally recognized detention standards, to assess how their application might play out in the particular context of NIAC, with particular attention to the practice of States. A second aim of the thematic consultations was to seek the experts' views on 'elements of protection' that should be addressed in any effort to strengthen IHL protecting detainees in NIAC. Here the phrase 'elements of protection' refers to an outline of the specific categories of protection to address, leaving aside their normative content. The results of these discussions will be covered by two ICRC reports that will be published prior to the April 2015 all States meeting.

The meeting of all States: 27-29 April 2015

The purpose of the meeting is twofold. First, all States will be informed of the substantive discussions held so far in the consultation process, and be given an opportunity to contribute their views. Second, there will be a discussion about possible options for a future outcome document or instrument, aimed at strengthening legal protection applicable to detention in relation to NIAC. As indicated earlier, these discussions will inform the ICRC's preparation of a draft resolution and a concluding report, setting out options and recommendations for the way forward, for consideration by all States at the December 2015 International Conference. Any work on a possible outcome instrument would begin in 2016 based on a resolution adopted by the International Conference.

We invite each State to designate two government expert(s) for participation in the meeting. The experts selected ideally should have substantial expertise in IHL. If possible, practical expertise with detention operations in armed conflict would add particular value to the discussion. The working languages of the meeting will be English, Spanish, Arabic and French. Transport and accommodation during the conference will be at the expense of the States invited. The agenda and background material will be sent out to all States in the coming months.

We very much look forward to the participation of your State in the meeting and would be grateful if the relevant representatives could confirm their attendance under the following link by

Monday 16 March 2015: <http://de.amiando.com/ICRC-IHL-ALLSTATES2015>.

In the meantime, should you have any questions please do not hesitate to contact us at:
legal-meeting@icrc.org

In addition, the ICRC remains available for bilateral discussions at all times.

Yours sincerely,



Dr Knut Dörmann
Head of the Legal Division and
Chief Legal Officer