Implementing International Humanitarian Law: from Law to Action

International humanitarian law, also called the law of war, sets out a detailed rule which seeks to limit the effects of armed conflict. In particular, it protects those who are not, or are no longer, taking part in the hostilities, and limits the means and methods of warfare. Humanitarian law is a universal set of rules. Its principal instruments have been accepted by nearly every State in the world. However adhering to these instruments is only a first step. Efforts must be made to implement humanitarian law - to turn the rules into action.

What is implementation of International Humanitarian Law?

All States have a clear obligation to adopt measures implementing humanitarian law. Within each State the responsible authority will depend on the structure and the organisation of the State, and the measure in question. Often, many different ministries and government agencies as well as parliament play a key role. The involvement of several different authorities which do not necessarily share the same priorities requires co-ordination. This is why numerous States all over the world have found it beneficial to establish governmental commissions or other structures specifically charged with the implementation of International Humanitarian Law. Such forms tend to facilitate and enhance the process of implementation in their States.

What needs to be done to implement International Humanitarian Law?

Implementation of International Humanitarian Law first of all presupposes treaty participation. Therefore, a State must first ratify, accept, approve, accede or succeed to the relevant treaties. international Humanitarian Law treaties – like any treaty – require for their application from States to adopt national measures. These measures can be of legislative, administrative or practical nature. By adopting such measures States implement the relevant treaty provisions. It is of utmost importance that this work is being done in peacetime already for once armed conflict erupts, focus will be set elsewhere. Without implementation laws almost inevitably the risk of aggravating the suffering of victims of armed conflict because the application of the treaty rules cannot fully be realised.

In Central Asia

The ICRC’s Advisory Service provides legal and technical advice to the governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. In four of these States comprehensive general assessments of existing national measures of implementation have been prepared in cooperation with national experts and the authorities. These assessments aim at providing the authorities with a tool facilitating the organisation of work still to be done. In Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan the ICRC provided extensive consulting to the authorities preparing amendments in their criminal laws in order to ensure the repression of war crimes. Similar work was carried out in relation to new normalisation laws and the protection of the emblem of the Red Crescent or the Red Cross. These efforts resulted in the adoption of new criminal law provisions in Tajikistan and draft laws amending the criminal codes of Kyrgyzstan, Turkmenistan and Uzbekistan. In Kyrgyzstan as well as in Tajikistan laws protecting the emblems of the Red Crescent and the Red Cross have been adopted.

The ICRC’s Advisory Service also further consolidated its co-operation with national commissions for the implementation of International Humanitarian Law in Kyrgyzstan and Tajikistan by regularly providing specialist advice, and by organising appropriate forms of training to members of these commissions. At the same time, the authorities of the other three States have been encouraged to establish similar commissions to enhance the co-ordination of the implementation process they are engaged in. By the end of 2000, Kazakhstan became the third Central Asian State having set up such an organ.

Published by the ICRC Regional Delegation for Central Asia

8, 1 Asaka tor kuchasi, Tashkent, Uzbekistan
Tel.: (99871) 137 22 86 / 68 46 38 / 68 46 38 / 68 46 69 / 67 28 55
Fax: (99871) 136 71 20
E-mail: tachkent.tac@icrc.org
Internet: www.icrc.org