



The International Committee of the Red Cross (ICRC) presents its compliments to the Under-Secretary-General for Legal Affairs, The Legal Counsel, and has the honour to refer to his letter (ref. LA/COD/2) dated 21 December 2012 regarding General Assembly Resolution A/RES/67/93 of 14 December 2012 entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

The ICRC is pleased to provide its contribution, enclosed herewith, to the report of the Secretary-General as requested in operative paragraph 13 of the above-mentioned Resolution. An electronic version of the ICRC's contribution has also been sent.

The International Committee of the Red Cross avails itself of this opportunity to convey to the Under-Secretary-General for Legal Affairs, The Legal Counsel, the renewed assurance of its high consideration.

New York, 01 June 2014
NYC 14/00019 – JEY/tma

A handwritten signature in black ink is written over a faint circular stamp. The signature is stylized and appears to be the initials "JEY". The stamp behind it is partially obscured but contains some text and a central emblem.

Mr. Miguel de Serpa Soares
Under-Secretary-General for Legal Affairs
The Legal Counsel
United Nations
Office of Legal Affairs
380 Madison Avenue
Room 13031
New York, NY 10017

Information on the Status of the Protocols Additional to the Geneva Conventions of 1949 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

Resolution 67/93 of the General Assembly

*Contribution by the International Committee of the Red Cross
(Geneva, June 1st 2014)*

Period under review: June 2012 to June 2014

Initiatives taken by the ICRC to reaffirm, clarify and strengthen international humanitarian law (IHL)

1. Among the eight resolutions adopted during the 31st **International Conference of the Red Cross and Red Crescent** (Geneva, December 2011), three related to IHL issues, including Resolutions 1, 2 and 5.
2. Resolution 1 on “**Strengthening Legal Protection for Victims of Armed Conflicts**” confirmed the need to strengthen IHL in two areas: 1) the protection of persons deprived of their liberty in non-international armed conflict (NIAC)¹, and 2) the mechanisms for monitoring compliance with IHL². Resolution 1 invited the ICRC, in cooperation with States, to pursue research and consultation and propose options for strengthening the law in both areas. Pursuant to the first track, the ICRC held four regional consultations (November 2012 to April 2013) with States on ways to address the weaknesses in IHL governing detention in NIAC. In response to the feedback received, the ICRC continued the process with two additional thematic consultations. The first focused on conditions of detention and particularly vulnerable detainees (Geneva, January 2014), and the second will address grounds and procedures for internment and transfers of detainees (October 2014). On the second track related to strengthening IHL compliance, the ICRC, jointly with the Swiss Government, has facilitated multilateral consultations to review existing IHL compliance mechanisms and examine options for creating more effective mechanisms.³ Two meetings of States (July 2012 and June 2013) have been held, along with four preparatory meetings, to discuss the framing of a possible new IHL compliance system, including by creating a forum for regular dialogue between States on current IHL issues. The third all-States meeting will be held from 30 June to 1 July 2014.
3. The ICRC has undertaken numerous initiatives to implement Resolution 2 on the “**Four-Year Action Plan for the Implementation of International Humanitarian Law**” in five areas: access by civilian populations to humanitarian assistance in armed conflicts; protection of children, women and persons with disabilities; protection of journalists; incorporation and repression of serious IHL violations; and arms transfers. In particular, it has promoted and undertaken negotiations, along with States and other stakeholders, for the adoption of the Arms Trade Treaty. The ICRC has also maintained continuous communication with States and National Societies to

¹ <http://www.icrc.org/eng/what-we-do/other-activities/development-ihl/strengthening-legal-protection-ihl-detention.htm>

² <http://www.icrc.org/eng/what-we-do/other-activities/development-ihl/strengthening-legal-protection-compliance.htm>

³ <http://www.eda.admin.ch/eda/en/home/topics/intla/humlaw/icrc.html>

ensure the implementation of the pledges they adopted regarding the Action Plan, and will prepare a report on progress made on the implementation of the Action Plan.

4. In the framework of the **Health Care in Danger Project**⁴ (Resolution 5), the ICRC Advisory Service on IHL organized an expert workshop on Domestic Normative Frameworks for the Protection of Health Care (Brussels, January 2014), which gathered more than 40 participants from all regions of the world, including from international organizations and associations. The workshop's objective was to discuss and identify concrete domestic legislative and regulatory measures and procedures to facilitate the provision of and access to health care in times of armed conflict and other emergencies. Prior to this consultation, the Advisory Service conducted, in 2012 and 2013, an extensive mapping of existing national legislation in this field across 39 countries. In 2014, the Advisory Service will produce a report of the workshop as well as a guiding tool for national implementation of the legal framework protecting the provision of health care.
5. Both the ICRC's Study on customary IHL (2005)⁵ and its online, free-of-charge, **Customary IHL Database**⁶ are widely used as legal reference tools on IHL applicable in international and non-international armed conflicts by States, international organisations, national and international courts and tribunals, NGOs and academia. The ICRC continues and has intensified its updates of State and international practice to its online Customary IHL Database. Statistics and other monitoring tools show that relevant actors search the Database for practice on topics that are the subject of current IHL debates, and for practice of countries that are currently involved in or affected by armed conflicts. The ICRC also regularly relies on its Study and uses the practice collection in the Database in its legal and operational dialogue with government authorities, arms bearers and civil society.
6. The ICRC welcomes the fact that States have expanded the discourse on **nuclear weapons** beyond military and security interests and are now increasingly discussing the humanitarian consequences of these devices. The ICRC, and the International Red Cross and Red Crescent Movement (hereafter: the Movement) more generally, have contributed to these discussions by voicing their concern about the humanitarian impact of nuclear weapons and the IHL consequences of their use. The Movement's views are outlined in a historic resolution adopted by the 2011 Council of Delegates⁷, which concluded that it was difficult to envisage how the use of nuclear weapons could be consistent with IHL. The resolution also appealed to States to begin negotiations to prohibit and eliminate nuclear weapons in accordance with their exiting international commitments. In 2013, the Movement adopted a four-year action plan to help National Red Cross and Red Crescent Societies engage on the nuclear weapons issue with their governments. The Movement actively participated in the two intergovernmental Conferences on the Humanitarian Impact of Nuclear Weapons (Oslo, March 2013; Nayarit, February 2014) and the ICRC continues to communicate the Movement's concerns in other intergovernmental fora, including meetings of States party to the Treaty on the Non-Proliferation of Nuclear Weapons and of the UN General Assembly.

⁴<http://www.icrc.org/eng/what-we-do/safeguarding-health-care/solution/2013-04-26-hcid-health-care-in-danger-project.htm>

⁵<http://www.icrc.org/eng/resources/documents/publication/pcustom.htm>

⁶<http://www.icrc.org/customary-ihl/eng/docs/home>

⁷ Every two years the ICRC, the International Federation and the national Red Cross and Red Crescent societies, meet in what is known as the Council of Delegates. It provides a forum to discuss Movement strategy and debate global humanitarian issues facing the international community.

7. The ICRC report on *The Use of Force in Armed Conflicts: Interplay between the Conduct of Hostilities and Law Enforcement Paradigms*⁸, which provides a detailed account of the debates that took place during an expert meeting organized in Geneva by the ICRC on the **use of force in armed conflicts** has been published last year (November 2013).
8. The ICRC expanded its bilateral dialogue with governments on **new methods and means of warfare**, such as cyber warfare and autonomous weapons. The publication of an article in the *International Review of the Red Cross*⁹ and active participation in governmental and expert conferences directly contributed to the promotion of IHL rules applicable to cyber warfare. In March 2014, the ICRC organised an expert meeting aimed at exploring the legal, technological, military and ethical aspects of the deployment of autonomous weapons.
9. In December 2013, the Government of Switzerland and the ICRC organized a conference to celebrate the fifth anniversary of the **Montreux Document on private military and security companies**. This conference provided States with an opportunity to take stock of the progress made in terms of regulation, to identify challenges in the national implementation of the document and to look at ways to promote wider endorsement of the Montreux Document. The participants also expressed interest in institutionalizing the dialogue among signatory States through a Montreux Document Participants' Forum.

Legal advice and technical assistance for the national implementation of IHL

10. The ICRC continued to work to provide national authorities with **legal advice and technical assistance for the adoption of legislative, regulatory and practical measures** needed to ensure full implementation of IHL in domestic law and practice. In particular, the ICRC continued over the past two years to support the adherence to and implementation of the 1949 Geneva Conventions, their Additional Protocols of 1977 and 2005, and various other IHL instruments.

The ICRC welcomes the accession of Palestine and South Sudan, in the period under review, to the four Geneva Conventions and Additional Protocol I (1977), as well as the accession of South Sudan to Additional Protocol II (1977). Additional Protocol III (2005) was adhered to by the following countries: Kenya, Nauru, New Zealand, Portugal, South Sudan, Suriname and Uruguay.

The ICRC would also like to underline that Kuwait, Malawi, Saint Vincent and the Grenadines and Saint Kitts and Nevis recently accepted the competence of the International Humanitarian Fact-Finding Commission¹⁰. The ICRC similarly stresses national implementation measures of IHL taken in at least 33 States on a number of topics including weapons, missing persons, torture and repression of international crimes including war crimes.

11. The ICRC has modernized its public **Database on National Implementation of IHL**¹¹. The Database contains up-to-date information on the national legislation and case law of 194 countries, and offers States' authorities and other interested actors a research tool to share best practices and to facilitate the fulfilment of their obligations under IHL. In particular, the Database aims at

⁸ <http://www.icrc.org/eng/resources/documents/publication/p4171.htm>

⁹ <http://www.icrc.org/eng/resources/documents/article/review-2012/irrc-886-droege.htm>

¹⁰ Article 90 of Additional Protocol I

¹¹ <http://www.icrc.org/ihl-nat>

simplifying the exchange of information on the status of national IHL implementation around the world. It may furthermore provide a useful source for identifying and analysing trends, as well as State practice, in national IHL implementation.

12. The ICRC published the **Report of the Third universal meeting of National Committees for the implementation of international humanitarian law**¹², *Preventing and Repressing International Crimes: Towards an "Integrated" Approach Based on Domestic Practice* (October 2010), which includes discussions on various means and solutions available in meeting the challenges associated with bringing domestic legislation and practice in line with the requirements under IHL, and offers a pragmatic approach to the prevention and suppression of international crimes.

¹² <http://www.icrc.org/eng/resources/documents/publication/p4138.htm>