



CELAC
Comunidad de Estados
Latinoamericanos y Caribeños

Permanent Mission of Costa Rica to the United Nations – Pro Tempore Presidency

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ITEM 79

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

**STATEMENT BY THE PERMANENT MISSION OF CUBA TO THE UNITED NATIONS
ON BEHALF OF THE COMMUNITY OF LATIN AMERICAN AND CARIBBEAN STATES**

New York, October 20, 2014

-Please check against delivery-

Mr. Chairman,

I have the honor to speak on behalf of the Community of Latin American and Caribbean States, CELAC.

CELAC takes note with satisfaction of the Report of the Secretary-General submitted pursuant to paragraph 11 of Resolution 65/29 based on the information submitted by Member States and the International Committee of the Red Cross on the Status of the 1977 Protocols and the measures adopted at the national level to strengthen humanitarian law (A/69/184).

Mr. Chairman,

The purpose of International Humanitarian Law is to protect persons who are not or are no longer combatants, and to impose restrictions to the methods of combat. That makes humanitarian law one of the most basic branches of international law and could be summarized though the obligation to respect and endeavor to bring into force International Humanitarian Law in all circumstances. As stressed by the 31st International Conference of the Red Cross and the Red Crescent, greater compliance with international humanitarian law is an indispensable prerequisite for improving the situation of victims of armed conflict.

We acknowledge the Member States which have presented information for the Report, as well as the activities they have implemented in order to strengthen the compliance to International Humanitarian Law. We call on States that have not yet done so to provide the Secretary-General with information on the progress in their domestic level regarding the application and promotion of international humanitarian law. Such information will allow this Committee to examine the degree of application of international humanitarian law at the national level and to exchange views on mechanisms for domestic implementation.

Mr. Chairman,

We have to recognize that armed conflicts of today's world pose additional challenges in the aim of protecting civilians. If those challenges are not addressed properly and in due time, their consequences are serious, in particular on vulnerable groups, like women and children, who continue to be the main victims of breaches of international humanitarian law.

There is no doubt that the international community must ensure the application of international humanitarian law, as provided for in the obligation "to respect and to ensure respect" for such norms as provided for in Article 1 common to the Geneva Conventions in all circumstances, to be able to respond to those new challenges. CELAC believes the work of this Commission can contribute in that regard.

Even though one of the issues we could examine is the convenience of clarifying or complementing the already codified humanitarian law in light of the new challenges posed by contemporary armed conflicts, it is also true that current challenges are not related to a normative problem, but rather, in the need of improving its implementation and fulfillment. This is a fundamental issue for all States Parties to the Geneva Conventions of 1949 and its Additional Protocols, in order to fulfill their obligations to respect and to ensure respect for the International Humanitarian Law in all circumstances.

One of the key challenges is to ensure that combatants respected it in situations where it is necessary to ensure access of humanitarian assistance for the relief of those in need – for which it is essential to fully comply with the provisions of International Humanitarian Law that protect such assistance, what includes staff, facilities and medical transportation, provision of food and other supplies and of humanitarian personnel in general.

It is also crucial to fully respect the civilian character of non-combatants of civilian facilities, according enshrined in international customary law. Protocol I clearly states that armed attacks should be limited strictly to military objectives – that is, those that, by their nature, location, purpose or use effectively contribute to military action and whose total or partial destruction, capture or neutralization offer military advantage in the prevailing circumstances. In addition to this, Protocol I prohibits, through its Article 52, reprisals against the civilian population.

The enhancement of the implementation mechanisms requires a dialogue among States Parties in the Covenants and Protocols and the ICRC to contribute to identify, in a practical and technical manner, the applicability and effectiveness of the existing implementation mechanisms, to improve their implementation and, if necessary, to create new ways that guarantee the fulfillment of the international Humanitarian Law.

Mr. Chairman,

The national commissions are intended to advise national authorities on the implementation, dissemination and development of international humanitarian law. Many states have established such national commissions. Several Members of CELAC already established their internal commission on humanitarian law, and they are playing an important role building capacity of civil servants and of members of the armed forces. It would be desirable that those Member States that have not yet done so consider establishing one.

This is so because one of the ways in which States should continue to move forward –and regarding which internal commissions on humanitarian law are important – is training of public officials whose functions require knowledge of the obligations imposed by international humanitarian law. This involves, at a general level, introducing international humanitarian law as a subject in the curricula of Law schools, but also in the training of judges and officials of the Ministries of Defense and Foreign Affairs. Above all, international humanitarian law must be an integral part of the training of armed forces, including those participating in peacekeeping operation activities.

In this regard, I would like to emphasize the relevance of the Secretary-General's Bulletin on the Applicability of International Humanitarian Law to UN Forces (ST/SGB/1999/13), issued in order to indicate the fundamental principles and rules of International Humanitarian Law applicable to UN Forces.

Mr. Chairman,

I would like to acknowledge the role of the ICRC and to highlight the numerous initiatives taken by the Committee, particularly those in order to implement Resolution 2 of the 31st International Conference of the Red Cross and the Red Crescent, which is mentioned in the Secretary-General's report.

CELAC also highlights the work done by the national societies of the Red Cross and the Red Crescent, in their capacity of entities who collaborate with the national public authorities of their respective States in the humanitarian field, regarding to the cooperation with their Governments and the assistance in the promotion, dissemination and application of the International Humanitarian Law.

In order to achieve this goal, cooperation with the ICRC is important. We would encourage the ICRC to continue its fruitful interaction with Member States.

Mr. Chairman,

CELAC would also like to make reference to the role of the International Humanitarian Fact-Finding Commission. The Commission was established under Article 90 of Protocol I with the mandate to investigate alleged serious violations of international humanitarian law, providing an impartial mechanism to assess the facts and make recommendations, as appropriate. This report is not public, unless all parties in conflict so request. We encourage Member States to consider accepting the jurisdiction of the International Humanitarian Fact-Finding Commission. It should be noted that international humanitarian law imposes obligations to States and individuals and, therefore, any breach of a rule of IHL may involve the international responsibility of State, international criminal responsibility, or both.

As regards the respect of international humanitarian law by individuals, the establishment of the International Criminal Court represents a breakthrough in the promotion of respect for IHL. We recall that the Review Conference of the Rome Statute of the ICC, held in Kampala, Uganda, added new war crimes to the Statute. It is necessary to reiterate that full and effective implementation of the Rome Statute is imperative to achieve its universality. We call on Parties to the Rome Statute to ratify the

The high level Declaration of the General Assembly on the Rule of Law (24 September 2012), reaffirmed the obligation of all States and all parties to armed conflict to respect and ensure respect for international humanitarian law in all circumstances.

CELAC wishes to reiterate its firm commitment with respect for and promotion of international humanitarian law, and its willingness to take the necessary measures, in accordance with their domestic legislations, for its full implementation at the national level, in particular for dissemination and the criminalization of conducts that are prohibited. It is essential that States have adequate legal tools to punish perpetrators of war crimes.

Mr. Chairman,

Despite the remarkable development of the normative system of International Humanitarian Law, it is regrettable that the situation on the ground regarding the protection of civilians remains critical – according to the latest Secretary-General's report on the protection of civilians. We are convinced that the first step in achieving those objectives is the strengthening of international humanitarian law regime, which is achieved through its universal acceptance. The Geneva Conventions are already universal and the 1977 Protocols are very close to become universal. CELAC calls upon States parties to the Geneva Conventions that have not yet done so to become parties to the Additional Protocols at the earliest possible date.

I thank you.