



UNITED STATES MISSION TO THE UNITED NATIONS

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Statement of the United States of America
71st General Assembly Sixth Committee

Agenda Item 81: Status of the Protocols Additional to the Geneva Conventions of 1949
Statement by Stephen Townley, Counsellor
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Thank you Mr. Chairman. The United States has long been a strong proponent of the development and implementation of international humanitarian law, which we often also refer to as the law of war or the law of armed conflict, and we recognize the vital importance of compliance with its requirements during armed conflict. President Obama has consistently reaffirmed the need for nations to work together within a rule of law framework in addressing the numerous security challenges currently confronting States; as he stated in his address to the U.N. General Assembly in September, “binding ourselves to international rules ... enhances our security.” Accordingly, the United States continues to ensure that all of our military operations that are conducted in connection with armed conflict comply with international humanitarian law, as well as all other applicable international and domestic law.

As we reported in the last discussion of this agenda item in this Committee two years ago, the United States announced its intent to seek the U.S. Senate’s advice and consent to ratification of Additional Protocol II, and this treaty is pending before the Senate for its advice and consent. An extensive interagency review found that U.S. military practice was consistent with the Protocol’s provisions, and we believe it remains so today. Although the United States continues to have significant concerns with many aspects of Additional Protocol I, Article 75 of that Protocol sets forth fundamental guarantees for persons in the hands of opposing forces in an international armed conflict. The U.S. Government has chosen out of a sense of legal obligation to treat the principles set forth in Article 75 as applicable to any individual it detains in an international armed conflict, and we expect all other nations to adhere to these principles as well.

The United States is committed to complying with its obligations under the law of armed conflict, including those obligations that address the protection civilians. The protection of civilians is fundamentally consistent with the effective, efficient, and decisive use of force. As a matter of policy, the United States therefore routinely imposes certain heightened policy standards that are more protective of civilians than would otherwise be required under the law of armed conflict. Some examples of best practices that are taken to enhance the protection of civilians are in Executive Order 13732 on United States Policy on Pre- and Post-Strike Measures to Address Civilian Casualties in U.S. Operations Involving the Use of Force, which was issued by President Obama in July of this year.

I'd also like to take this opportunity to discuss the ongoing international initiative on strengthening compliance with international humanitarian law and to provide an update on our views following the 32nd International Conference of the Red Cross and Red Crescent held in December of last year. Over the past four years, the United States has been a strong supporter of creating a new forum to facilitate substantive, non-politicized discussion between States about international humanitarian law, and we believe that remains a worthy – and achievable – goal. It will be essential, however, to ensure that the forum's modalities guard against politicization, such as by focusing discussions on best practices rather than violations, and ensuring that States report on their own practice rather than the practice of other States. We look forward to the further development of this initiative—as well as the initiative on strengthening protections for persons deprived of their liberty during armed conflict. Although the United States recognizes the progress States have made in improving the implementation of international humanitarian law over the past decades, more can and should be done to promote best practices.

We would also briefly like to signal our strong support for ongoing work in the Montreux Document Forum, which was launched in December 2014 and which held its second plenary meeting in January 2016. We are looking forward to the third plenary meeting next year, and we will continue to engage in the Montreux Document Forum to support regular dialogue on outreach regarding and implementation of the Montreux Document.

These various initiatives offer opportunities for States to engage in substantive discussions regarding good practices for strengthening implementation of international humanitarian law. We look forward to continuing to work with the International Committee of the Red Cross, with the United Nations, and with our other partners around the world in these endeavors.

Thank you, Mr. Chairman.