



International Institute of Humanitarian Law  
Institut International de Droit Humanitaire  
Istituto Internazionale di Diritto Umanitario

## 41<sup>st</sup> ROUND TABLE ON CURRENT ISSUES OF INTERNATIONAL HUMANITARIAN LAW

### *“Deprivation of liberty and armed conflicts: exploring realities and remedies”*

Sanremo, 6-8 September 2018

## Message

*Peter MAURER*

President, International Committee of the Red Cross

Detention is one of ICRC’s oldest areas of work and mandate and it still remains an important issue for us.

Whoever has visited a detention facility, even outside or in the context of armed conflicts, immediately sees that this is a place of particular vulnerability. You can’t escape your guards, you can’t escape the situation and I think the drafters of the Geneva Conventions were very much aware that, in armed conflicts, this vulnerability is even more exposed. I think that is what made detention in armed conflict such an important priority for ICRC.

If you look at the poor figures today, it’s impressive to see that we are visiting more than one thousand four hundred detention facilities worldwide and that we visit almost one million prisoners worldwide. And when I look today what we really do in detention it is also interesting to see how our mandate has evolved and how detention in armed conflict comes from our original mandate as an organisation dealing with prisoners of war. But today, only the minimal part of what we are doing is with formal legal statuses of people who are prisoners of war. Today, we have become a professional expert agency in visiting detainees in very different contexts of war and violence worldwide.

I think this has happened because ICRC has developed a professional expertise approach to detention, and it has developed its principles in detention which have proven very worthwhile, also for detaining authorities: having interviews without a witness, having privileged

dialogues with detention authorities, etc. All those principles we have developed over time, I think have proven important to protect people to throw our attention to the vulnerabilities; and at the same time also, to give a space for detention authorities and judicial authorities to change. And I think this has made detention such an important issue.

The principle aim of the ICRC is to ensure humane treatment for all detained, irrespective of their reasons. In the context previously explained, some challenges are arising in ensuring that humane treatment is given to detainees.

When I visit detention facilities, and I have visited quite a lot of detention facilities, you get a sense about the big challenges to which people are exposed. Ill treatment is certainly the first and foremost. The presence of ICRC, the mere fact that you have a presence in a detention facility, that you have confidential dialogue with those detained makes you have a much more objective view on what the big challenges are.

When I look for instance in some places of detention that I have visited, I have been surprised, shocked, whatever word you use, about how the developmental challenges outside prisons are compounded by the situations within prisons. And this is translated in the problem of overcrowding which is such a pressing issue today. And so, changing the behaviour of those detaining people in order to prevent or correct the challenges of ill treatment, but also looking at the very practical and concrete challenges of humane conditions of life, even within prisons. The fact that there is water, sanitation services, medical treatment, basic human services provided in prisons, I think this remains a big issue today.

And when I talk to high level politicians, there is one real threat, which is of course coming out very clearly: Prisoners are no priority for any politicians worldwide. This means that they have no interest, because prisoners are not voting, they are not expressing themselves politically. They have no interest to make available credit lines in order to have these conditions for prisoners in the situations in which they find themselves. So, I think one of our big challenges is than really also to remind the political leaders about the obligations, about the importance of the principles, about humane treatment of detainees and this needs money, this needs behaviour, this needs policies, this needs directives, this needs attention from political levels and not only from directors of prisons and guards.

Concerning legal issues and what role the law plays in increasing protection for those detained, I know from the work of my colleagues in detention facilities, that the law is absolutely critical to have a strong reference point on the basis on which they engage with the respective

authority. So, implementation of the law, in order to open a dialogue, to know what the framework of expectation is, that you have as a visiting authority, as the ICRC, is of critical importance. And therefore, I think what is today of critical importance in legal terms, is not only just to call for the implementation of the law, but it is also to be as precise as possible, as directive as possible; and to develop also principles which are understandable, manageable for detention authorities, for detainees and which allows you to interpret the law in a level of concreteness which allows then also really things to change, abuses to stop, conditions to improve.

What I would expect from a Round Table, like the one in Sanremo, is a reflection on, at what level of legal granularity can we, in the future also, improve and offer tools for the delegates of the ICRC to improve the situation.

So, colleagues and friends at Sanremo, this would be my thanks and my expression of interest in your workshop, that you help us develop the necessary legal tools and frameworks to improve the situation in detention facilities.