

40th Round Table on Current Issues of International Humanitarian Law

“The Additional Protocols 40 Years Later: New Conflicts, New Actors, New Perspectives”

Sanremo, 7-9 September

Dr. Helen Durham, Director of International Law and Policy, International Committee of the Red Cross

Conclusion

On behalf of the International Committee of the Red Cross I am delighted today to introduce the Vice- President of the ICRC, Madame Christine Beerli. It is a special introduction as it is the last time Madame Beerli will be attending these Round Tables in her current capacity as she will be stepping down as the ICRC Vice-President early next year. With this in mind I would like to warmly thank our Vice-President for her extraordinary support over the years – both to the Department of Law and Policy and to the Sanremo International Institute of Humanitarian Law. She is a lady of great grace, intellect and a committed humanitarian and it has been an honor to work with her. Madame Beerli has definitely contributed substantially to the ‘spirit of San Remo’ over her six years on the Council of this Institute and ten years as Vice-President of the ICRC.

When it comes to this Round Table – as usual it is not my task to summarize the rich, engaged and interesting discussions of the last few days. What I will say is that in examining the 40 years of the Additional Protocols we clearly saw what the new challenges are and what remains the same. Much is ‘old’ about our debates – indeed the archives of the ICRC indicate that back in the mid-1970s issues relating to new technologies and acts of ‘terrorism’ were key factors in the push for new additions in the shape of Protocols to the normative framework. These issues are still topics we grapple with today. Our Round Table commenced with an examination of the new questions surrounding the scope of application (in particular extra-territorial non-international armed conflicts fought by coalitions against non-state armed groups.) We moved to reflecting upon issues found in Additional Protocol I relating to the conduct of hostilities. In particular, we discussed distinctions in different battle spaces (including cyber) and the interpretation of indiscriminate or disproportionate attacks. The complexities of implementing ‘all feasible precautions’ were highlighted in the current situations of the intermingling of civilians and their objects with military objectives.

Other areas we have discussed the last few days include: the important issue of fundamental guarantees for persons deprived of their freedom, with analysis of the customary nature of Article 75 dealing with fundamental guarantee, and the practical and military operational experiences in which detention activities have to take into account a State’s IHL and Human Rights obligations. The specific work of the ICRC with our ‘detention track’ was also noted, with the importance of moving forward to ensure a number of humanitarian dilemmas. Humanitarian access was also

raised in detail and Madame Beerli will address some of the key issues raised (including rights and obligations, and gender diversity in negotiations) in her presentation.

The topic of gender has been dealt with in an afternoon of important presentations and dialogue including Professor Pocar's introduction. It was noted that sexual and gender based violence does not discriminate based on sex, to the extent that sadly both women and men, girls and boys are victims. Discussion was held on the continual challenges with the development of jurisprudence in this area, the range of practical work being done on gender issues within the military and the importance of incorporating a gender perspective within IHL as well as in military operations.

A sincere thanks to the organisers, the speakers/Chairs and to you the audience – this is a unique opportunity that we are granted each year in this beautiful location to discuss critical issues relating to IHL and I look forward to seeing you all in 2018.