

## **40<sup>th</sup> 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 2017

#### **Ambassador Peter Maurer, President of the International Committee of the Red Cross**

Distinguished guests,

ICRC is pleased to again co-organise this event in partnership with the International Institute of Humanitarian Law, particularly on the occasion of the fortieth anniversary of the Additional Protocols. I am sorry that I cannot be with you in person today, but I trust that your discussions will be fruitful, as you consider the current challenges of International Humanitarian Law (IHL).

It is an auspicious year – forty years since the Additional Protocols were first adopted in 1977, to reflect a new world order and how modern wars were being fought. Conflicts leading up to 1977 were characterised by wars of national liberation throughout Africa and Asia, asymmetric conflicts, a spiking on international armed conflicts and the development of new weapons technologies. In non-international armed conflicts, civilians were often the main victims and were largely beyond the protection of IHL. Recognizing this growing need, the international community came together to create Additional Protocol 2, the first ever treaty devoted exclusively to non-international armed conflicts, and in doing so they secured greater protection for civilians and civilian objects. Of note to today’s world, the Additional Protocols all sought to take account of the new realities of warfare – for instance, by strengthening the rules of addressing terrorism in armed conflicts.

Today, the Protocols remain relevant, useful, and a barrier to the worst excesses of war. The Protocols are among the most widely adhered international instruments. They are together with the 1949 Geneva Conventions the foundation of IHL and our cornerstones for the protection and respect of human dignity in armed conflicts.

The real triumph of the Additional Protocols has been their ability to translate into practice. The last forty years have proven that far from Ivory Tower idealism, they are battle-worn tools that make a tangible difference on the ground.

For example, as peace was negotiated in Columbia at the end of last year, the final agreement between the government and the FARC, and the subsequent amnesty law, both largely drew from Additional Protocol 2 – a clear example of national integration of IHL.

The Additional Protocols have also set the ground work for multiple weapons treaties. The legally binding treaty prohibiting nuclear weapons, which was adopted two months ago, was

driven by the concerns of the catastrophic humanitarian consequences of nuclear weapons and the compatibility of these with fundamental IHL rules, including distinction, proportionality and precautions in attack. All of these rules were reaffirmed, clarified or developed forty years ago by Additional Protocol 1.

Forty years later, today's world sees further changes in the nature of conflicts which creates live frictions about the developments of IHL, including the Additional Protocols.

When I speak with people in the various forums I attend, I am sometimes told that IHL falls short of addressing the new realities on the battlefield. It can seem that with the daily headlines reporting the horrors of armed conflicts, the respect for the rules of war has diminished. You and I know how fundamental and relevant the law remains. But we do need to be aware of perceptions and tensions so we can contribute to the discussions and to help shape the narrative. The frictions I see and what is frankly a huge challenge for the respect of the law is the behaviour of some of the armed forces engaged in fighting terrorism. Often it is argued that these activities do not fall within the scope of IHL, or that armed groups are labelled as terrorist simply to deny that such groups may be parties to conflicts. Despite the important challenges faced by States fighting terrorism, these assertions often mask an unwillingness to apply time-tested rules to contemporary armed conflicts. The Additional Protocols provide a framework to address terrorism in armed conflicts, and strengthening the rules covering these situations was precisely one of their objectives.

The Additional Protocols represent a reasonable balance between military necessity and humanity and States must not be tempted to shift the cursor too far towards security interests and minimise their duty to uphold the important protections provided by the Additional Protocols.

How do we counter the narrative of annihilation tactics or unrestricted military force and the push to apply IHL selectively? What do we argue when forces pretend the law doesn't apply? Our experience shows that the failure to impose limits on means and methods of warfare may contribute to continuing cycles of excessive violence that will spiral through generations.

The ICRC remains convinced that the existing rules continue to be relevant and that the fundamental challenge is and remains the need to reinforce respect for these rules and improve their implementation. We must all focus our efforts on generating respect for IHL on the ground and it's important that this gathering and other fora continue to ask the right questions and to openly tackle these realities.

This is an essential challenge and I wish you well for your deliberations.

Thank you.