

## Informal Meeting on strengthening compliance with International Humanitarian Law

Geneva 13 July 2012

### Remarks by Ambassador Gerard Corr, Permanent Representative of Ireland to the United Nations

- I would firstly like to commend the International Committee of the Red Cross for its very clear report on 'Strengthening legal protection for victims of armed conflicts', which was prepared for the 31<sup>st</sup> International Conference last year. Ireland shares many of the conclusions reached by that report.
- I would also like to thank Switzerland for the commitment made in its Pledge to the 31<sup>st</sup> International Conference to facilitate - in collaboration with the ICRC – this process in which we are engaged today. Ireland was happy to support this Pledge at the Conference and looks forward to working with all States and the ICRC in identifying concrete means of strengthening the application of International Humanitarian Law, including the question of compliance mechanisms.
- As we have said often in the past, in our view the greatest current obstacle to the protection of victims of armed conflict is the frequent failure by both the armed forces of States and non-state armed groups to respect the existing rules of IHL. This failure may occur for a number of reasons – lack of knowledge of the law, absence of political will to ensure respect for the law or, indeed, tolerance or promotion of a culture of impunity.
- It goes without saying that if the existing rules were followed much of the human suffering in contemporary armed conflicts would not occur. Where those rules are violated those responsible should be made accountable. The creation of the International Criminal Court has greatly increased the prospect of effective accountability for the most serious violations of international humanitarian law. Its mere existence serves a deterrent function and is an essential means of ending a culture of impunity and of ensuring respect for IHL at the highest political levels.
- However, while it is clearly important to enhance accountability mechanisms where violations of IHL do occur, we must also seek to prevent those violations occurring and, where they do occur, prevent them continuing. Both States and the ICRC play vital roles in this area. States are obliged not only to respect IHL but to *ensure* respect for it. This means that where violations of IHL do occur the international community has a duty to call on those responsible to desist. The ICRC plays a different, necessarily confidential, role in its contacts with the parties to armed conflicts but will also urge those responsible for failing to respect IHL to remedy their behaviour.
- We agree with the conclusions of the ICRC Report that serious consideration must now be given to developing effective, independent and neutral means of monitoring compliance with IHL during a conflict and ensuring that violations can be prevented or stopped.
- For various reasons the existing mechanisms established within the framework of IHL have not been able to do this. The International Humanitarian Fact Finding Commission established by the First Protocol Additional to the Geneva Conventions, for instance, has never been called upon to act. As a consequence it has been left to other bodies to assume a role in this area on an ad hoc basis, such as the Human Rights Council has done in recent years.

- The role of bodies created outside the framework of IHL is only likely to grow unless existing IHL compliance mechanisms are adapted to become more effective or new, effective ones are devised.
- As a starting point, the competence of the International Humanitarian Fact Finding Commission to conduct inquiries would ideally be recognised by all States. Alternatively we might examine how – and in what circumstances - it could be authorised to act without the need for express recognition by States involved in armed conflicts.
- We might also consider whether the services of the Commission, as an independent, neutral and expert standing body, could be used from time to time by the United Nations (under Chapter VII of the UN Charter for instance), rather than ad hoc fact-finding missions often put together at short notice.
- The appointment of an impartial High Commissioner for International Humanitarian Law, with powers to conduct inquiries and to make recommendations, is another idea worthy of further consideration.
- As regards next steps, while continued dialogue between States will remain indispensable, there would seem to be a clear case now for the ICRC to convene a Conference of Government Experts, as it has done in the past, in order to formulate concrete proposals for the consideration of States.
- In the meantime Ireland remains committed to working with all States and the ICRC on this important issue.