

Statement by the Minister for Foreign Affairs

Mr. Micheál Martin, T.D.

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The Relevance of the Geneva Conventions in Contemporary Warfare

I would like first to thank the Irish Red Cross for convening this morning's seminar and to commend it for bringing together such an expert panel of speakers before such a distinguished audience. We are commemorating this year not just the 60th Anniversary of the Geneva Conventions but the 70th Anniversary of the establishment of the Irish Red Cross Society and on behalf of the Government I would like to publicly acknowledge and thank the Irish Red Cross and its staff for their tireless and invaluable work since 1939.

I have little doubt that the support and encouragement that the Irish Red Cross has received for its work from the people of Ireland over the past 70 years is inspired by humanitarian concerns deeply felt throughout society here. These humanitarian considerations are also at the centre of Ireland's foreign policy and are a fundamental element of our official development assistance programme.

Ireland's commitments under the Good Humanitarian Donorship initiative, for example, which we currently chair, place the *principle of humanity* – meaning the vital importance of saving human lives and alleviating suffering wherever it is found – at the heart of humanitarian action. As a Good Humanitarian Donor, we work closely with both the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (IFRC) in undertaking humanitarian action. Our ongoing strategic partnerships with both the ICRC and the IFRC, as well as with the Irish Red Cross in its overseas activities, are important elements in the promotion of Irish Aid's policy objectives.

For the Government, the four Geneva Conventions of 1949 remain at the centre of modern international humanitarian law. It is a tribute to the power of the ideas represented by these Conventions that they are now universally applicable, that is that every state in the world has either ratified or acceded to them. This is a very rare distinction for any multilateral treaty. The four Conventions have been supplemented by two Additional Protocols concluded in 1977 and a third in 2005. Between them, these instruments constitute a very significant body of law that has played a vital – and continuing – role in limiting the horrors of warfare. They rest on respect for the inherent dignity of the individual. Without them, the barbarism and brutality of armed conflict would be

unmitigated.

It is important to bear in mind, moreover, that the rules set out in the Conventions and Protocols are not mere pious aspirations but concrete standards, formulated in the light of bitter experience, and agreed to by the international community as a whole as a basis for its future conduct.

The subject of this seminar suggests of course that there are new challenges to the continuing relevance of the Geneva Conventions and to the general rules of international humanitarian law. We recognise for instance that large scale inter-state conflict seldom occurs nowadays, as it did at the time of the negotiation of the Conventions, and this, of course, is a very welcome development. Modern armed conflict instead often takes the form of what has been described as '*war amongst the people*', in densely populated urban areas, with frequently appalling consequences for civilian life.

In approaching the question of the continued relevance of the Geneva Conventions to present conditions, the Irish Government is guided by the two central principles of modern international humanitarian law –

- first, the obligation to protect the defenceless in war, namely civilians, prisoners of war, and the wounded and shipwrecked; and
- secondly, that the rights of parties to an armed conflict on how they conduct operations, and on their choice of weapons, are not unlimited.

Accordingly, in assessing whether new rules are required to address modern conditions, or whether the existing ones are insufficient or even obsolete, we must consider to what extent the existing rules no longer ensure protection of the defenceless in war, or prevent unnecessary suffering.

We have certainly seen instances of weapon systems that cause indiscriminate harm to civilians. Although the general rules of international humanitarian law prohibit the use of indiscriminate or inhumane weapons, new, specific rules are often required. Ireland has consistently promoted the development of new instruments to prohibit or regulate the use of these weapons.

I am particularly proud that the Government hosted and chaired the diplomatic conference last year in Croke Park that negotiated, and adopted by consensus, the new Convention on Cluster Munitions. Since its opening for signature in Oslo in December last year 100 states have signed the Convention and 23 (including Ireland) have ratified it. We look forward to its early entry into force and to the first meeting of States Parties next year in Laos.

We have been prepared, therefore, to join with others to develop the law where necessary. However, in our view existing rules by and large are neither insufficient nor obsolete. In fact the greatest challenge to protecting human life in modern armed conflict is the frequent – and often shocking - failure by both the armed forces of states and non-state armed groups to respect the existing rules. 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, promotion or tolerance of a culture of impunity.

It goes without saying that if the existing rules were followed much of the dreadful human suffering in contemporary armed conflicts would not occur. But where they are not followed there must also be accountability. Successive Irish Governments have consistently advocated the effective investigation and prosecution of violations of international humanitarian law.

Ireland has also been a consistent and strong supporter of the International Criminal Court, recognising it as an essential means of ending a culture of impunity and of ensuring respect for international humanitarian law at the highest levels. Together with our partners in the European Union we have taken a leading role in promoting the Court internationally and we will continue to do so, including at the first Review Conference of the Statute in Kampala in May and June of next year.

In conclusion, the most important single measure we can all take is to continue to promote respect for the Geneva Conventions and their Additional Protocols, which remain as relevant as ever. I therefore very much welcome the opportunity provided by this seminar to contribute to that ongoing effort and, again, commend the Irish Red Cross for its initiative.