



# General Assembly

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## Seventy-seventh session

Agenda item 81

### **Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts**

#### **Report of the Sixth Committee**

*Rapporteur:* Ms. Sarah Zahirah **Ruhama** (Malaysia)

## **I. Introduction**

1. The item entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts” was included in the provisional agenda of the seventy-seventh session of the General Assembly in accordance with Assembly resolution [75/138](#) of 15 December 2020.
2. At its 3rd plenary meeting, on 16 September 2022, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.
3. The Sixth Committee considered the item at its 16th, 17th and 36th meetings, on 17 and 18 October and 18 November 2022. The views of the representatives who spoke during the Committee’s consideration of the item are reflected in the relevant summary records.<sup>1</sup>
4. For its consideration of the item, the Committee had before it the report of the Secretary-General ([A/77/264](#)).

## **II. Consideration of draft resolution [A/C.6/77/L.19](#)**

5. At the 36th meeting, on 18 November, the representative of Sweden, on behalf of Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Central African Republic, Chile, Côte d’Ivoire, Croatia, Cyprus, Czechia, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Jordan, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Montenegro,

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<sup>1</sup> [A/C.6/77/SR.16](#), [A/C.6/77/SR.17](#) and [A/C.6/77/SR.36](#).



Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Uruguay, subsequently joined by Afghanistan, Costa Rica, Dominican Republic, Gambia, Lebanon, North Macedonia and Samoa, introduced a draft resolution entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts” ([A/C.6/77/L.19](#)).

6. At the same meeting, the Committee adopted draft resolution [A/C.6/77/L.19](#) without a vote (see para. 7).

### III. Recommendation of the Sixth Committee

7. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

#### **Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts**

*The General Assembly,*

*Recalling* its biennial resolutions on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, including its resolution [75/138](#) of 15 December 2020,

*Having considered* the report of the Secretary-General,<sup>1</sup>

*Reaffirming* the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

*Stressing* the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions of 1949<sup>2</sup> and the Additional Protocols,<sup>3</sup>

*Calling upon* Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

*Noting with satisfaction* the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

*Noting with appreciation* the meetings of representatives of those bodies organized by the International Committee of the Red Cross, together with relevant partners such as national Red Cross and Red Crescent societies, to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges that they face,

*Welcoming* the important role of relevant regional forums in promoting respect for international humanitarian law and disseminating knowledge of international humanitarian law in the respective regions,

*Stressing* the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I<sup>4</sup> to the Geneva Conventions,

*Stressing also* the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

*Taking note* of the fact that the International Humanitarian Fact-Finding Commission conducted its first operational mission in 2017,

<sup>1</sup> [A/77/264](#).

<sup>2</sup> United Nations, *Treaty Series*, vol. 75, Nos. 970–973.

<sup>3</sup> *Ibid.*, vol. 1125, Nos. 17512 and 17513, and vol. 2404, No. 43425.

<sup>4</sup> *Ibid.*, vol. 1125, No. 17512.

*Taking note also* of the fact that, in paragraphs 8 and 9 of its resolution [1894 \(2009\)](#) of 11 November 2009 on the protection of civilians in armed conflict, the Security Council noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, underlined the importance in that regard of receiving information that is timely, objective, accurate and reliable, and considered the possibility, to that end, of using the International Humanitarian Fact-Finding Commission established by article 90 of Protocol I,

*Noting with appreciation* the role of the International Committee of the Red Cross in facilitating and offering protection to the victims of armed conflicts,

*Noting with appreciation also* the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

*Noting* the special responsibilities of national Red Cross and Red Crescent societies, as auxiliaries to the public authorities of their respective States in the humanitarian field, to cooperate with and assist their Governments in the promotion, dissemination and implementation of international humanitarian law,

*Welcoming* the universal acceptance of the Geneva Conventions of 1949,

*Emphasizing* the fundamentally non-discriminatory character of international humanitarian law, including as reflected in the preamble to the 1977 Additional Protocol I to the 1949 Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts, which, inter alia, reaffirms that the provisions of the Geneva Conventions of 12 August 1949 and of Additional Protocol I must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the origin of the armed conflict or on the causes espoused by or attributed to the parties to the conflict,

*Taking note with appreciation* of Security Council resolution [2573 \(2021\)](#) of 27 April 2021 on the protection of civilian objects in armed conflict, including objects indispensable to the survival of the civilian population and objects critical to the delivery of essential services to the civilian population,

*Taking note with appreciation also* of Security Council resolution [2601 \(2021\)](#) of 29 October 2021 on the protection of children affected by armed conflict and facilitating the continuation and protection of education in armed conflict,

*Recalling* the imperative need to improve compliance with international humanitarian law,

*Noting* the close cooperation between the International Committee of the Red Cross and States to further strengthen international humanitarian law protecting persons deprived of their liberty in relation to armed conflict,

*Welcoming* efforts by States to implement their obligations under international humanitarian law, as well as programmes and other measures of States and their armed forces that promote or ensure compliance with international humanitarian law,

*Noting* the work undertaken by States and by the International Committee of the Red Cross in relation to sexual and gender-based violence in armed conflict,

*Noting also* the work undertaken by States, the International Red Cross and Red Crescent Movement and other actors in the “Health Care in Danger” project to improve the protection of the provision of and access to health care,

*Noting with appreciation* Security Council resolution [2286 \(2016\)](#) of 3 May 2016, and in this regard calling upon all parties to armed conflict to respect and

protect the wounded and sick, as well as health-care personnel, humanitarian personnel exclusively engaged in medical duties and their means of transport and equipment, as well as hospitals and other medical facilities, in armed conflict, in accordance with their obligations under international humanitarian law,

*Noting with appreciation also* Security Council resolution [2222 \(2015\)](#) of 27 May 2015 on the protection of journalists, media professionals and associated personnel in situations of armed conflict,

*Noting* the serious concern expressed by States regarding the humanitarian impact caused by cluster munitions, and noting the entry into force of the Convention on Cluster Munitions<sup>5</sup> on 1 August 2010,

*Noting also* the entry into force of the Arms Trade Treaty<sup>6</sup> on 24 December 2014,

*Welcoming* the important contribution to the protection of victims of armed conflicts made by the significant debate generated by the publication in 2005 of the study by the International Committee of the Red Cross on customary international humanitarian law, as well as other recent initiatives by the Committee, welcoming also its efforts to update regularly its customary international humanitarian law database, and looking forward to further constructive discussion on the subject,

*Acknowledging* the fact that the Rome Statute of the International Criminal Court<sup>7</sup> covers the most serious crimes of international concern under international humanitarian law and that the Rome Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

*Noting* the amendments to article 8 of the Rome Statute of the International Criminal Court, relating to war crimes under the Rome Statute, adopted on 10 June 2010 at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010,<sup>8</sup>

*Acknowledging* the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949, and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;<sup>9</sup>

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I, or those States not parties, upon becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed

<sup>5</sup> Ibid., vol. 2688, No. 47713.

<sup>6</sup> Ibid., vol. 3013, No. 52373.

<sup>7</sup> Ibid., vol. 2187, No. 38544.

<sup>8</sup> Ibid., vol. 2868, No. 38544.

<sup>9</sup> Ibid., vol. 1125, Nos. 17512 and 17513.

Conflict and the two Protocols thereto<sup>10</sup> and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;<sup>11</sup>

6. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective, and supports its further strengthening and development;

8. *Notes with appreciation* the eight resolutions adopted at the thirty-third International Conference of the Red Cross and Red Crescent, held in Geneva from 9 to 12 December 2019, in particular resolution 1, entitled “Bringing IHL home: a road map for better national implementation of international humanitarian law”, and also notes with appreciation the subsequent publication of “Bringing IHL home: guidelines on the national implementation of international humanitarian law” by the International Committee of the Red Cross;

9. *Calls upon* Member States to actively participate in the thirty-fourth International Conference of the Red Cross and Red Crescent, to be held in Geneva in 2024;

10. *Welcomes* the activities of the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments, and reminds Member States of the availability of the manual on domestic implementation of international humanitarian law;

11. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and their work in promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law, and encourages Member States that have not yet done so to consider establishing national commissions or committees, with the support of national Red Cross and Red Crescent societies where relevant, to advise and assist Governments in implementing and disseminating knowledge of international humanitarian law;

12. *Commends* the International Committee of the Red Cross for organizing the fifth Universal Meeting of National Committees and Similar Entities on International Humanitarian Law, held online from 29 November to 2 December 2021, and invites the International Committee to continue to organize such meetings;

13. *Requests* the Secretary-General to submit to the General Assembly at its seventy-ninth session a comprehensive report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

<sup>10</sup> Ibid., vol. 249, No. 3511, and vol. 2253, No. 3511.

<sup>11</sup> Ibid., vol. 2173, No. 27531.

14. *Encourages* Member States and the International Committee of the Red Cross, in transmitting information to the Secretary-General, to focus on new developments and activities during the reporting period;

15. *Welcomes* the increasing trend of voluntary submissions transmitted to the Secretary-General, as requested in paragraph 12 of resolution [75/138](#), and encourages Member States to participate in the submission process at the seventy-ninth session of the General Assembly;

16. *Encourages* Member States to explore ways of facilitating the submission of information for future reports of the Secretary-General and, in this context, to consider the convenience of using a questionnaire as drafted by Member States, with the assistance of the International Committee of the Red Cross and, as appropriate, in consultation with the Secretariat, for submission to the General Assembly at its seventy-ninth session;

17. *Decides* to include in the provisional agenda of its seventy-ninth session the item entitled “Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts”.

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