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ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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DIALOGUE BETWEEN THE CAJP AND THE NATIONAL
COMMITTEES ON INTERNATIONAL HUMANITARIAN LAW

(Videoconference)

Friday, September 13, 2013

10:00 a.m. to 1:00 p.m.

Simón Bolívar Room

REPORT ON THE CONCLUSIONS AND OUTCOMES OF THE DIALOGUE

(Document prepared by the Department of International Law)

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Introduction

On Friday, September 13, 2013, the Committee on Juridical and Political Affairs (CAJP) of the Permanent Council of the Organization of American States (OAS) conducted a dialogue with the National Committees on International Humanitarian Law, pursuant to the mandate contained in paragraph 10 of General Assembly resolution AG/RES. 2795 (XLIII-O/13), "Promotion of and Respect for International Humanitarian Law."

10. To provide backing for the regional meetings of national committees on international humanitarian law organized with the support of the ICRC, in particular the next hemispheric conference to be held in San José, Costa Rica, from September 10 to 12, 2013. Accordingly, to instruct the CAJP to organize and lead, with the support and participation of the General Secretariat, and in coordination with the ICRC, a dialogue with national committees on international humanitarian law, in San José, Costa Rica, on September 13, 2013, to examine ways, means, and possible activities to forge closer cooperative ties between the OAS and the said entities in the implementation, integration, and promotion of international humanitarian law. In view of the foregoing, to invite the ICRC to submit a report on the conclusions and results of that hemispheric conference and to ask the CAJP and the General Secretariat to present a report on the conclusions and results of the aforesaid dialogue prior to the forty-fifth regular session of the General Assembly.

The dialogue took place via teleconference between Washington, D.C., where OAS headquarters are located, and San José, Costa Rica, the venue for the Hemispheric Conference of National Committees on International Humanitarian Law.

Pursuant to the aforementioned General Assembly mandate, this event aimed "to examine ways, means, and possible activities to forge closer cooperative ties between the OAS and said entities in the implementation, integration, and promotion of international humanitarian law."

The General Assembly mandate invites the ICRC to submit a report on the conclusions and results of that Hemispheric Conference and asks the CAJP and the General Secretariat to present a report on the conclusions and results of the aforesaid dialogue prior to the forty-fifth regular session of the General Assembly, scheduled for June 2015.

The dialogue was chaired by Ambassador Arturo Ulises Vallarino Bartuano, Chair of the CAJP and Panama's Permanent Representative to the OAS, who traveled to San José for the occasion. The Chair of the CAJP thanked the International Committee of the Red Cross (ICRC) and the Department of International Law (DIL) of the OAS General Secretariat for the key part it played in organizing this event. At OAS headquarters in Washington, D.C., the CAJP was chaired by the Minister Counselor of the Permanent Mission of the Dominican Republic to the OAS, Ms. Mayerlyn

Cordero, in view of the fact that the Vice Chair of the Committee, Ambassador Diego Pary, Permanent Representative of Bolivia to the OAS, was away from headquarters.

Following is an account of points discussed during the dialogue"

1. Presentation by the Chair of the CAJP, Ambassador Arturo Ulises Vallarino Bartuano, Permanent Representative of Panama to the OAS

In his presentation, Ambassador Vallarino referred to the resolutions adopted by the General Assembly that relate directly to international humanitarian law (IHL) and to developments in that field within the OAS.

As for promotion, he recalled the courses and special meetings conducted by the DIL pursuant to General Assembly resolutions and within the framework of cooperation agreements between the OAS and the ICRC, that had served to disseminate and promote the work of the ICRC among the political bodies of the Organization, as well as promote greater familiarity with the work of the DIL. In that context, the Chair of the CAJP invited the members of the National Committees to participate in future meetings, either as speakers and participants traveling to OAS headquarters or via web casts. The Chair also referred to two instruments recently prepared by the Inter-American Juridical Committee (CJI) that could be of assistance to States in the spheres they address: guidelines to regulate the use of force and the protection of persons in situations of internal violence that do not amount to armed conflict and model legislation on the protection of cultural property in cases of armed conflict.

Ambassador Vallarino then went on to underscore the work done by the National Committees in advising and assisting governments on matters to do with the dissemination and application of international humanitarian law.

Finally, he explained the General Assembly mandate that had prompted this dialogue in the framework of resolution AG/RES. 2795 (XLIII-O/13), "Promotion of and Respect for International Humanitarian Law."

2. Presentation by the Rapporteur of the Hemispheric Conference of National Committees on International Humanitarian Law

Also speaking from San José, the rapporteur of the Hemispheric Conference on National Committees on International Humanitarian Law, Ms. Mariana Salazar Albornoz,, Director of the Division of International Humanitarian Law of the Ministry of Foreign Affairs of Mexico, presented the conclusions and outcomes of this Conference,, which took place from Tuesday, September 10 to Thursday, September 12, 2013 in San José, Costa Rica.

She explained that 18 members of national committees in the Americas had attended the Conference (Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, and Uruguay), along with six observer states in the Hemisphere (Belize, Cuba, Haiti, Suriname, United

States, and Venezuela), and members of national committees in three European countries (Germany, Spain, and Switzerland), in addition to academics and experts. She then addressed the topics discussed, which were organized under the following six headings ("modules"):

- Reports of the national committees and their cooperation with the ICRC;
- Follow-up to the decisions of the 31st International Conference of the Red Cross and Red Crescent, held in Geneva in 2011 (resolution on "Strengthening of Respect for International Humanitarian Law," "Protection of Health Care," and "4-Year Action Plan for the Implementation of International Humanitarian Law and Pledges");
- Ways to limit the humanitarian consequences of certain weapons (United Nations Arms Trade Treaty; the challenges posed by cyber operations and the humanitarian consequences with respect to nuclear weapons);
- The role of national committees in promoting and preparing national rules to regulate the use of force in maintaining public order;
- Processes under way and the role of national committees regarding persons who have disappeared and members of their families;
- The protection of cultural property; and
- Prosecution of war crimes.

Finally, she reported on the conclusions and recommendations adopted by the Hemispheric Conference:

1. The establishment of coordination mechanisms for the national committees of the Americas.
2. The implementation of international humanitarian law treaties by appropriate adoption of effective laws and measures needed to implement the provisions of international humanitarian law.
3. That the States that have not yet installed a committee of this kind consider doing so.
4. Measures to strengthen dialogue and cooperation between national committees and the International Committee of the Red Cross.
5. Implementation of the best practices of the national committees in the region, including action plans and annual reports, periodic meetings, internal rules of procedure, training and refresher courses, and that the ICRC consider these best practices and disseminate them among States.
6. Consideration, to the extent possible, of resolutions relating to international humanitarian law adopted in both global and regional international forums.
7. Cooperation among national committees in the preparation of periodic reports on compliance with international humanitarian law and related treaties.
8. The role of the National Committees in implementing the pledges made and decisions adopted at the First Review Conference of the Rome State in Kampala, Uganda, in 2010, as well as the pledges of the 31st International Conference of the Red Cross and Red Crescent.
9. The role of the national committees in preparing a draft law to comprehensively address criminal prosecution of war crimes and grave violation of international humanitarian law, as well as the amendments to the Rome Statute adopted at the Review Conference.

10. That each national committee be regularly informed of programs developed to familiarize the armed forces and security forces with international humanitarian law.
11. The role of the national committees in promoting protection of cultural property in situations of armed conflict, taking into account, *inter alia*, the conclusions of the seminar on the subject, held in Buenos Aires in 2005 and in San Salvador in 2011, the model law prepared by the Inter-American Juridical Committee in 2013, the practical advice for protecting cultural property in armed conflicts compiled by the ICRC, and the technical support of UNESCO and the ICRC in adopting a multi-year action plan and annual plans in this field.
12. The diplomatic processes relating to weapons and international humanitarian law, including nuclear weapons and the Arms Trade Treaty.
13. The training of future experts in international humanitarian law and promotion of education for international humanitarian law research in the countries of the region.

They also recommended:

14. That the national committees, depending on their mandates, continue to work in the area of persons who have disappeared and members of their families with a view to adopting a comprehensive internal legal framework.
15. That the national committees, depending on their mandates, continue analyzing the drafting of national provisions governing the use of force.
16. That the national committees take into account development in customary international law.
17. That they include among their priorities and tasks follow-up to and compliance with the relevant resolutions of the 31st International Conference of the Red Cross and Red Crescent, and that they consider cooperating with other commissions and committees in this Hemisphere and other continents, given the advisability of diversifying their agenda by drawing inspiration from best practices and shared experiences.

In this regard, the Committees welcomed with satisfaction the offer by the Government of Colombia to host the next hemispheric meeting of National Committees on International Humanitarian Law.

Finally, the representatives of the National Committees on IHL of the Americas entrusted the ICRC with the preparation of a report on this hemispheric conference that could serve as a tool for following up on the aforementioned conclusions and recommendations.

3. Dialogue between the representatives of the National Committees on International Humanitarian Law and the representatives of the member states.

The representative at the Conference of the National Committee of Chile, Dr. Hernán Salinas, pointed to the importance of implementing practical steps to boost cooperation and dialogue between the national committees and the political organs of the Organization, and he requested that the resolutions be added to the national committees' pool of resources.

The Representative of the National Committee of Guatemala, Vice Minister Iván Espinoza, commended the ICRC and the OAS for their work in organizing this meeting and underscored the importance of the issues being discussed. He also drew attention in his remarks to initiatives under way in Guatemala on the matter of the use of force. For his part, Mr. Carlos Ávila Martínez, Director of Humanitarian Law of the Ministry of Foreign Affairs of Guatemala, explained how his country was engaged in disseminating international humanitarian law instruments, pursuant to resolutions adopted by the OAS General Assembly. He also mentioned work done to protect cultural property, during both armed conflicts and natural disasters, by appropriate marking of sites. Finally, he explained the Guatemalan Committee's contribution to the process of developing national legislation aimed at the adoption of national provisions along the lines of the Rome Statute, especially with respect to the inclusion of war crimes in Guatemalan law.

The representative of the National Committee of El Salvador, Lieutenant Colonel Juan Méndez Mejívar, talked about the work done in his country to protect cultural property in light of the report by the Inter-American Juridical Committee. He said it was important to specify the responsibilities of the armed forces and security forces for protecting such property at all times—in times of peace as well as during armed conflicts.

The representative of the National Committee of Costa Rica and representative of the Ministry for Public Safety, Mr. Luis Aguilar, described his country's initiatives to protect cultural property during natural disasters and other emergency situations. He explained the importance of drawing up catalogues and inventories and training staff in this area. He also suggested establishing mechanisms for sharing best experiences with other countries and educating the public regarding international humanitarian law.

The representative of the National Committee of Bolivia, Ms. Maysa Ureña Menacho, asked about progress made by States with setting up a mechanism for linking national committees with the Committee on Juridical and Political Affairs. On this, the Chair of the CAJP said that the idea was to move ahead with this mandate.

The representative of the National Committee of Peru, Mr. Roger Rodríguez Santander, mentioned a draft law being developed in his country to institutionalize the National Plan for Searching for Persons who have Disappeared and Assisting the Members of Their Families. He proposed that the CAJP consider analyzing those plans at a future meeting and disseminating them to all the member states, in line with the General Assembly resolution and taking the ICRC's model law as a guideline.

The representative of the National Committee of the Dominican Republic, Ambassador Miguel Pichardo Oliver, agreed with Bolivia's concern and suggested exploring channels of communication between the national committees and the OAS. He noted the links between the national committees and ministries of foreign affairs and that in many countries the committees formed part of that ministry, which could facilitate closer relations. He ended his remarks by urging that this dialogue continue, so that the committees could provide input for the CAJP and vice versa.

The Chair of the CAJP, Ambassador Arturo Vallarino, said he thought that National Committees had two ways to participate in CAJP meetings: either formally through the ministries of foreign affairs or through direct contact as well.

At OAS headquarters, Minister Counselor Mayerlyn Cordero thanked everybody for their comments and suggestions. In response to Peru's query on the subject of the forced disappearance of persons, she explained that the CAJP would address the issue at a meeting sometime this year.

The delegate of El Salvador to the CAJP, Ambassador Luis Menéndez-Castro, thanked both the ICRC and the DIL, who had organized the event, for helping to advance implementation of the GA mandates and to publicize the work being done in the field of international humanitarian law. He referred to the CJI paper on the protection of cultural property and proposed that the committees advise the CAJP during negotiation of the Model Law on the Protection of Cultural Property based on the CJI proposal. He also urged that preventive measures be included in the model legislation.

The delegate of Haiti to the CAJP, Ambassador Bochit Edmond, acknowledged the importance of the subject for his country, which currently has no national committee in that field. He recognized the importance of cooperation among States aimed at sharing experience among their respective committees and allowing other State to benefit from those experiences. Finally, he urged the Department of International Law to explore the possibility of organizing international seminars or national meetings for university students and activists and organizations for the defense of human rights and international humanitarian law.

The delegate of Mexico to the CAJP, Alternate Representative Pablo Monroy, thanked everybody for their inputs on the various issues addressed by the Conference, which would help boost the work being done by States. He said his delegation was interested in continuing to back this initiative aimed at maintaining cooperation with the national committees. He also invited the members of those committees to develop relations with the CAJP on other matters of importance, such as meetings with the International Criminal Court and initiatives undertaken by the International Committee of the Red Cross. The committees form part of the governments represented in the OAS and may therefore participate and make any suggestions they deem appropriate. Finally, he invited States to use the Inter-American Juridical Committee studies and to reply to the queries and questionnaires of that Committee's members. In reply to the question posed by the representative of Bolivia, he explained that there had been discussion in the CAJP about the possibility of moving toward a more formal mechanisms and that he hoped to be able to work on that suggestion over the coming months, possibly even addressing the subject in a General Assembly resolution. He concluded his remarks with a reference to the adoption by the United Nations of the Arms Trade Treaty, banning the shipment of arms intended for use in genocide, crimes against humanity, or war crimes, or facilitating such use.

The Delegate of Peru to the CAJP, Alternate Representative Maya Soto, thanked participants for their input and explained that the General Assembly mandate on "persons who have disappeared and assistance to members of their families" requests States to provide information on measures undertaken and asks the CAJP to disseminate said information by June 2014. She therefore urged States to submit their national reports. In addition, she noted the importance of using communication technologies to facilitate, among other things, the exchange of information. Finally, she also thanked the DIL and the ICRC for their briefing document, which makes suggestions regarding a mechanism for establishing ties between the OAS and the National Committees on International Humanitarian Law.

Echoing other speakers' remarks, the Delegate of Uruguay to the CAJP, Alternate Representative Néstor Rosa, drew attention to the importance of training at different levels. He then spoke on voluntary commitments his country had entered into for 2011-2015 regarding, *inter alia*, the adoption of measures needed to allow safe conduct passes for persons affected; training for the Armed Forces, including enhanced awareness of sexual violence; improved implementation of IHL; and the strengthening of dialogue among the parties. In response to the query raised by the delegate of Bolivia, he noted with satisfaction the mechanism suggested by the DIL. He ended his remarks by thanking the CJI for its contributions to the subject and mentioning his country's efforts to support all the instruments adopted in this field.

The Delegate of Colombia to the CAJP, Alternate Representative Luisa Fernanda Rueda, described the work undertaken in her country and the place accorded civil society in the forging of an international humanitarian law system. To boost ties with the national committees, she proposed bearing in mind the comments by the Peruvian delegate on the use of communication technologies and those of the Mexican delegation on the various options for participation in the work of the CAJP.

4. Closing remarks by the Chair of the CAJP

There being no further interventions, the Chair of the CAJP explained that there would be a report on this meeting and that the Department of International Law had pledged to support the tasks that lay ahead.

He thanked all those who had attended, participated in, supported, or followed this dialogue via webcast and declared the CAJP meeting closed.