



**INTERNATIONAL HUMANITARIAN
FACT-FINDING COMMISSION (IHFFC)**

**COMMISSION INTERNATIONALE HUMANITAIRE
D'ÉTABLISSEMENT DES FAITS (CIHEF)**

Statement

of the President of the International Humanitarian Fact-finding Commission
Professor Michael Bothe
before the
Third Universal Meeting of National Committees on International Humanitarian Law

Thank you, Mr. Chairman,

The fundamental purpose of this Conference has been to promote the better implementation of international humanitarian law. In this context, I would like to remind the delegates of the National Commission here assembled of a tool which exists exactly for this purpose, namely the International Humanitarian Fact-finding Commission, and, as President of the Commission, I am grateful for the opportunity to do so.

Art. 90 AP I creates of a permanent body which States may seize if there are allegations of violations of international humanitarian law. Its task is to clarify the relevant facts.. The creation of this body was one of the major achievements of the drafters of AP I in 1977 who wished to improve the mechanisms designed to ensure respect for the Conventions and the Additional Protocols. However, the binding competence of the Commission does not follow automatically from the ratification of AP I. An additional declaration is necessary to this effect. The General Assembly of the United Nations has repeatedly invited States to make this declaration in addition to their ratification, and it is hopefully making the same appeal in the resolution the draft of which is now being considered in the 6th Committee. There are also resolutions of Red Cross/Red Crescent conferences to the same effect.

You, the National Committees on IHL are particularly well placed to see to it that these appeals are heeded and that the potential for a better implementation of IHL which the Commission offers is indeed used by your countries. 72 countries from all parts of the World have so far recognized the competence of the Commission. Time for those who have not yet done so to join the club.

Why is this in the interest of all Parties to the GC, also of your country? A lot of fact-finding is done by various organisations. But for violations of international humanitarian law, the IHFFC is the specialised treaty body. Last year, in this very room, former UN Secretary-General Kofi Annan said:

“If States distrust the ad hoc Character of expert reports or commissions of inquiry, it is well within their power to establish bodies permanently tasked with documenting abuses. Indeed, there is already provision for such a body under Additional Protocol 1 – but it has never been called on. It should be empowered to launch investigations at its own initiative and given the resources to do so effectively.”

The Commission indeed presents a number of advantages: It is truly independent and impartial, without any political agenda of its own. It is composed of 15 members elected by the States which have recognised its competence, but they do not represent these States. They are independent. These members bring to bear different types of expertise: They are military officers, judges, university teachers of law, medical doctors, psychiatrists, diplomats.

The procedure of the Commission is designed for cooperation with the parties to a conflict. These parties may appoint *ad hoc* members. The procedure is confidential and the results will not be published by the Commission unless the parties agree. Naming and shaming is not the agenda of the Commission. By ascertaining the facts which are the object of controversy, it will facilitate a return to a situation where the rule of law governs. It is a confidence-building measure.

One aspect of its potential is particularly interesting in the context of the deliberations of this conference: an inquiry conducted by the IHFFC yielding meaningful factual results may facilitate, and open the way for, national prosecutions using these facts. This would enable States to avail themselves of the principle of complementarity contained in the ICC Statute.

For more information, I recommend our website www.ihffc.org. Very soon, there will also be new printed material. Personally, I am available to answer any questions. I submit all this for your consideration and thank you for your kind attention.