

**Meetings of the Standing Committees,
2 – 6 June 2008**

**ICRC Statement on Preventing and Suppressing Prohibited Activities
(Article 9 of the Convention)**

Friday 6 June 2008

Thank you Co-chair

The Nairobi action plan contains four specific commitments aimed at ensuring implementation of this fundamental Convention obligation (Actions#59-62). The ICRC is encouraged that since the last meeting of States Parties, some States have begun the process of developing implementing legislation, in particular Kiribati and Vanuatu, and the Cook Islands, Jordan and Mauritania have adopted new domestic law, the ICRC commends them for their efforts.

We note however, with concern, that still too few States Parties - 83 - or just over half of the States Parties report having adopted legislation or have stated, either through Article 7 reports or elsewhere, that they consider their existing legislation to be sufficient. Thirty five States have reported that they are in the process of adopting legislation, though twenty eight of these have been reporting this for at least four years, and only fifteen of these have mentioned article 9 measures in their 2007 Article 7 reports. Of perhaps even greater concern is the fact in the case of thirty three States, there is either no information on their Article 9 obligations or that information is unclear. Notably therefore much is left to be done for many States to fulfil their obligations under the Convention.

In order to ensure full respect for the obligations under this Article of the Convention, it is crucial that such measures be taken and that all States that have not done so ensure that their domestic law is capable, at a minimum, of preventing and suppressing any activity prohibited by the Convention. National legislation should also include provisions to facilitate the implementation of mine action, as well as provisions to facilitate the operationalisation of the compliance mechanisms envisaged by Article 8 of the Convention.

It is important to note that Article 9 requires **each and every State Party** - regardless of whether or not it is affected by anti-personnel mines – to prevent and suppress violations of the Convention. The rationale for this requirement is to ensure that the norm prohibiting anti-personnel mines is enforceable everywhere, and is therefore truly universal.

The ICRC is and has been providing assistance for the development of national implementing legislation to States Parties. Legal advisers of the ICRC's Advisory Service stand ready to assist more States in developing national legislation. As is known, the ICRC developed a number of tools to assist States in the development of their national implementing legislation, including a model law for States of the common law legal tradition.

The ICRC has produced a table categorising States Parties according to their implementation status. The ICRC also has available an easy-to-use checklist, which is being distributed, of minimum requirements to fulfil Article 9 obligations, and which can be used by all States Parties to ensure that their legislation conforms with Article 9 including those States that may consider their existing law as sufficient.

The test from the checklist is simple. Can the State prosecute for the 7 actions prohibited by Article 1(a) and (b) of the Convention, and can they prosecute persons who assist, encourage and induce these prohibitions (Article 1 (c))?

We encourage all States Parties to make use of the checklist to ensure their legislation meets the Article 9 requirements. We also urge States Parties to provide updates on their implementation efforts, especially those who are in the process of adopting legislation.