

# Article 7 of Additional Protocol I

Yoram Dinstein\*

---

## The Provision of the Protocol

Article 7 of Protocol I of 1977, Additional to the 1949 Geneva Conventions for the Protection of War Victims,<sup>1</sup> sets forth:

The depositary of this Protocol shall convene a meeting of the High Contracting Parties, at the request of one or more of the said Parties and upon the approval of the majority of the said Parties, to consider general problems concerning the application of the Conventions and the Protocol.<sup>2</sup>

This provision seems to be a hidden niche of the Protocol: most experts either overlook it or brush it aside as non-consequential. But in the judgment of the present writer, article 7 deserves more attention.

As acknowledged by the International Committee of the Red Cross (ICRC) Commentary on the Protocol,<sup>3</sup> article 7 was inspired by article 27 of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO)).<sup>4</sup> However, although article 27 of the Hague Convention equally addresses the issue of meetings of the Contracting Parties, there are several variations of substance and procedure between that provision and article 7 of the Protocol.<sup>5</sup> These variations need not be addressed here.

---

\* M Jur, LL M, Dr Jur; Yanowicz Professor of Human Rights, Pro-President, Tel Aviv University (Israel); Member, Institut de Droit International. The paper is based on comments made by the author at the Fourth Bruges Colloquium on 'Improving Compliance with International Humanitarian Law', Bruges, Belgium, 11-12 September 2003.

<sup>1</sup> See below n 7.

<sup>2</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977 in D Schindler and J Toman (eds), *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions and Other Documents* (4th ed, 2004) 711, 718.

<sup>3</sup> B Zimmermann, 'Article 7' in Y Sandoz et al (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (1987) 103, 104.

<sup>4</sup> Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (14 May 1954) in Schindler and Toman (eds), above n 2, 999, 1008-9.

<sup>5</sup> On the meaning and reach of art 27 of the Hague Convention, see J Toman, *The Protection of Cultural Property in the Event of Armed Conflict* (1996) 283-90.

### The Preliminary Procedure

The procedure contemplated in article 7 of the Protocol casts in a central role the depositary of the Protocol, namely, the Swiss Federal Council<sup>6</sup> (which is also the depositary of the original 1949 Geneva Conventions<sup>7</sup>). The depositary has several other duties and functions that it is supposed to discharge pursuant to the Protocol.<sup>8</sup> The general rule, enshrined in article 76(2) of the 1969 Vienna Convention on the Law of Treaties, is that the depositary is under an obligation to act impartially in the performance of its designated functions.<sup>9</sup>

Upon close examination, the procedure envisaged in article 7 of the Protocol seems to consist of five steps:

- (a) A 'request' has to be addressed to the depositary, presumably in writing (in the form of a diplomatic note) specifying the reasons underlying, and justifying, the projected meeting. The request must emanate from one or more of the Contracting Parties to the Protocol. That is to say, the 'request' can be issued neither by a state which is not a Contracting Party to the Protocol, even if that state is a Contracting Party to the Geneva Conventions,<sup>10</sup> nor by a non-state entity like the ICRC (let alone private individuals).<sup>11</sup>
- (b) Having received a proper 'request', the depositary must send out to all the Contracting Parties to the Protocol a notice of consultation. It would make sense for the depositary to append a proposed agenda predicated on the 'request'.<sup>12</sup> If parallel 'requests', employing diverse phraseology, come in from several Contracting Parties at approximately the same time, the depositary is probably given the latitude to offer an amalgamated agenda. The depositary should also announce a specific timeframe (with a cut-off date) within which the consultation is to be conducted.<sup>13</sup>
- (c) A response to the depositary should be made by the various Contracting Parties to the Protocol, within the timeframe stated. Obviously, a response to the notice of consultation is a right and not a duty, so the number of

<sup>6</sup> See art 93 of Protocol I, above n 2, 758.

<sup>7</sup> Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (1949) in Schindler and Toman (eds), above n 2, 459, 479 (art 57); Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (1949) *ibid* 485, 502 (art 56); Geneva Convention (III) Relative to the Treatment of Prisoners of War (1949) *ibid* 507, 558 (art 137); Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War (1949) *ibid* 575, 625 (art 152).

<sup>8</sup> For a list of the functions of the depositary under the Protocol, see Zimmermann, above n 3, 1113, 1114.

<sup>9</sup> Vienna Convention on the Law of Treaties (23 March 1969) 1155 UNTS 331, in *United Nations Juridical Yearbook* 140, 160.

<sup>10</sup> Zimmermann, above n 3, 104.

<sup>11</sup> M Bothe, K J Partsch and W A Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (1982) 84, 86.

<sup>12</sup> *Ibid* 87.

<sup>13</sup> Zimmermann, above n 3, 105.

states actively taking part in the consultation may be appreciably smaller than the total number of Contracting Parties (who must all be canvassed).

- (d) Once the prescribed timeframe lapses, a notification of the outcome of the consultation has to be sent out by the depositary to all the Contracting Parties to the Protocol (regardless of whether or not they actually took part in the consultation).
- (e) An invitation to the projected meeting should be issued by the depositary to all Contracting Parties to the Protocol if, and only if, the consultation has elicited approval of the proposed meeting by the majority of the Contracting Parties. It is noteworthy that the majority required is a majority of the Contracting Parties and not merely a majority of the states responding to the notice of consultation (it being understood, as indicated, that numerous Contracting Parties may opt not to take part in the consultation).<sup>14</sup> On the other hand, a simple majority of the Contracting Parties will suffice. A proposal that a special majority of two-thirds of the Contracting Parties would be required was rejected in the process of formulation of article 7.<sup>15</sup>

### The Meeting

A meeting under article 7 of the Protocol, if convened by the depositary following the consultation with the Contracting Parties, is designed to ‘consider general problems’. The meeting is not to be confused with a treaty-making conference: the conclusions (if any) of the meeting do not amount to amendments of the Protocol, which are covered by a different provision: article 97.<sup>16</sup> Oddly, a significant divergence between article 7 and article 97 is that in article 97 the ICRC is overtly assigned an active role,<sup>17</sup> whereas it is vested with no similar standing in article 7.

Since a meeting under article 7 is not a treaty-making conference, it need not be guided by any formal rules of procedure. The Chair is patently the convener of the meeting, namely, the depositary. The agenda is built-in, being based on the results of the consultation with the Contracting Parties to the Protocol. It must be perceived, however, that – if the ‘request’ triggering the meeting had sought one specific agenda and the consultation subsequently led to the approval by the majority of the Contracting Parties of a different (eg, narrower) one – only the latter agenda counts.<sup>18</sup>

No minimal quorum of Contracting Parties to the Protocol is set for an article 7 meeting. Anyhow, the requirement of a quorum in international conferences is more closely connected to the taking of decisions by vote than to mere deliberations.<sup>19</sup> Since the purpose of an article 7 meeting is only the

---

<sup>14</sup> Zimmermann, above n 3, 105.

<sup>15</sup> Bothe, Partsch and Solf, above n 11, 86.

<sup>16</sup> Protocol I, above n 2, 759.

<sup>17</sup> Ibid.

<sup>18</sup> Zimmermann, above n 3, 106.

<sup>19</sup> R Sable, *Procedure at International Conferences: a Study of the Rules of*

consideration of general problems, rather than their resolution, no voting seems to be called for. If any conclusions are arrived at by consensus as a result of the consideration of the general problems on the agenda, the best course of action suggesting itself is for the Chair to draw up a non-binding executive summary. Needless to say, such a summary ought to be circulated to all Contracting Parties to the Protocol (whether or not they have actually participated in the meeting) after the close of the session.

### **The Purpose of the Exercise**

Although the procedure visualised by article 7 has not been used even once since the entry into force of the Protocol, it is the contention of this writer that it could and should be put into effect, with a view to examining a wide span of general problems concerning the Protocol and the Geneva Conventions. These issues, as abundantly demonstrated by recent international armed conflicts, create stumbling blocks hindering the successful application of international humanitarian law.

It is necessary to recognise that the black-letter law of the Protocol and the Geneva Conventions is not perfect and, moreover, the framers of the instruments did not anticipate some challenges confronting the international community at this juncture, especially at the highest and at the lowest range of modern technology. Most conspicuously, the drafters of the texts did not envision the legal dilemmas generated by the current need to fight terrorist suicide bombers (at the lowest rung of the technology ladder) and by potential computer network attacks (at its highest).<sup>20</sup>

It is an indisputable fact of life that most Contracting Parties are not currently eager to take a fresh look at the text of the Geneva Conventions and Protocol in a manner allowing their formal revision and modification. Many states are afraid that initiating the amendment procedure (adumbrated in article 97 of the Protocol) would merely open a Pandora's Box. The inherent advantage of the alternative procedure which can be set in motion in conformity with article 7 is that, if implemented, it would not culminate in any formal amendment of the treaty language. Success, in terms of an article 7 meeting, is not measured in new black-letter law. Rather, the test is whether the meeting can lead to a consensual interpretation of ambivalent phrases in existing provisions of the Geneva Conventions or Protocol.

In other words, the principal objective of a meeting pursuant to article 7 is to make the text of the Geneva Conventions or Protocol clearer and more 'user friendly'. The cause of international humanitarian law can be served in a

---

*Procedure of Conferences and Assemblies of International Inter-Governmental Organisations* (1997) 80-81.

<sup>20</sup> This dual problem has been identified by an Informal High-Level Expert Meeting on the Current Challenges to International Humanitarian Law, 27-29 January 2003, Cambridge, Massachusetts, as part of a project (referred to as the 'Alabama Process') co-organised by the Harvard Program on Humanitarian Policy and Conflict Research (HPCR) and the Swiss Federal Department of Foreign Affairs, in close consultation with the ICRC.

singular manner if existing wrinkles can be ironed out that way. This can be achieved either through an interpretation of ambiguous clauses (thereby shedding light on the meaning of ill-phrased rights and obligations of parties to an international armed conflict) or through the filling of interstitial gaps by agreeing upon the application of *a contrario* logic or ‘implied terms’.<sup>21</sup>

Aust illustrates ‘implied terms’ with an example drawn from the Geneva Conventions.<sup>22</sup> At the close of the Falkland Islands War, the United Kingdom captured a large number of Argentinian prisoners of war. Consistent with article 22 (first paragraph) of Geneva Convention III, prisoners of war ‘may be interned only in premises located on land’.<sup>23</sup> However, a shipment of tents intended to accommodate these prisoners of war on land was lost at sea. Taking into account the special circumstances, ‘one could properly imply a term to the effect that when, for reasons beyond its control, a party to the conflict was unable to comply with article 22, it may hold prisoners of war on ships if that is preferable to leaving them on land without sufficient protection from the elements’.<sup>24</sup> The solution, embedded in common sense, was adopted by the British unilaterally after consultation with the ICRC.<sup>25</sup> But this is a case in point, emblematic of a general problem that might merit multilateral discussion in an article 7 meeting. By itself, the specific subject matter may be viewed as too minor to justify the mounting of a large-scale gathering of states. Yet, when taken in conjunction with other topics of a similar nature, the multiple issues in the aggregate may make the effort worthwhile.

### The Geneva Conventions

An article 7 meeting relates to general problems concerning the application of either the Protocol or the four 1949 Geneva Conventions. The explicit inclusion of general problems affecting the Geneva Conventions within the ambit of an article 7 meeting deserves attention and emphasis. It must be appreciated that, whereas the Geneva Conventions have by now gained virtually universal acceptance – in that almost every state in the world is at present a Contracting Party to them – several sections of the Protocol are implacably objected to by the United States of America<sup>26</sup> and by an array of other countries. Consequently, in no international armed conflict since 1977 has the Protocol been applied by all the belligerent states. When the Protocol is spurned, the Geneva Conventions are constantly invoked. Far from being overshadowed by the Protocol, the Geneva Conventions are conceivably held in higher regard today than at any point in time since their adoption in 1949.

Nevertheless, and without detracting from the overall import of the Geneva Conventions, there are many disagreements among states (and scholars) regarding the proper meaning of key provisions in the instruments. Recent

---

21 A Aust, *Modern Treaty Law and Practice* (2000) 200-2.

22 Ibid 201-2.

23 Geneva Convention (III), above n 7, 520.

24 Aust, above n 21, 202.

25 Ibid 201.

26 *Operational Law Handbook* 11 (US Army Judge Advocate General, 2003).

hostilities in Afghanistan and Iraq have brought to the fore some of the issues.<sup>27</sup> It must therefore be stressed that an article 7 meeting may be convened with the aim of attaining, if possible, a common interpretation of the language of the Conventions.

Admittedly, there is a conundrum here. If an article 7 meeting is convened to address general problems pertinent to the application and interpretation of the Geneva Conventions (as distinct from the Protocol), how can Contracting Parties to the Conventions be possibly excluded from the meeting only because they have not ratified or acceded to the Protocol? The entire thrust of an article 7 meeting is apt to be missed if those Contracting Parties to the Geneva Conventions who have not expressed their consent to be bound by the Protocol were left out of the gathering. After all, it is precisely those states that have rejected the Protocol – but fully profess their resolve to apply the Geneva Conventions in their pure form – whose input is so crucial where the unreconstructed text of the Conventions is concerned. Reason and practicality both dictate that all Contracting Parties to the Geneva Conventions (whether or not Contracting Parties to the Protocol) be invited to an article 7 meeting called upon to discuss the Conventions. The informal nature of the meeting makes it easier for the depositary to invite Contracting Parties to the Geneva Conventions, despite the fact that such an invitation is not contemplated in the Protocol.

### **The 1998 Meeting Differentiated**

Interestingly enough, although no article 7 meeting has been held so far, in January 1998 there was a first periodic meeting of the Contracting Parties to the Geneva Conventions. It was convened by the depositary, on the initiative of the 26th International Conference of the Red Cross and Red Crescent (in 1995), to deal with two general problems: (i) respect for and security of personnel of humanitarian organizations, and (ii) armed conflicts linked to the disintegration of state structures.<sup>28</sup> The conclusions were presented as reflecting ‘the Chairman’s personal view’ without in any way binding participants.<sup>29</sup>

In the opinion of this writer, the two themes selected for discussion by the 1998 meeting (held outside the bounds of article 7 to the Protocol) do not optimally represent the type of general problems that are most suitable for consideration by a meeting by virtue of article 7. The topic of the disintegration of state structures relates to the phenomenon of a ‘failed state’ where the central government has disappeared. Undeniably, the application of the Geneva Conventions is profoundly affected by these abnormal circumstances, but the practical problems that come to the fore are not due to any possible

---

<sup>27</sup> For an illustrative list of ten such topics, see Y Dinstein, ‘Jus in Bello Issues Arising in the Hostilities in Iraq in 2003’ (2004) 34 *Israel Yearbook on Human Rights* 1.

<sup>28</sup> L Caflisch, ‘First Periodical Meeting on International Humanitarian Law: Chairman’s Report’ in M Sassoli and A A Bouvier (eds), *How Does Law Protect in War? Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law* (1999) 507-11.

<sup>29</sup> *Ibid* 507.

disagreement as to the interpretation of the Conventions. The real challenges lie elsewhere: putting an end to anarchy; restoring law and order; apprehending and prosecuting criminals; et cetera.<sup>30</sup> The nexus to the UN Security Council is glaring; the link to the Contracting Parties of the Geneva Conventions is much less in evidence.

As for the other theme of the security of the personnel of humanitarian organisations, it is obviously apposite to the application of the Geneva Conventions. Yet, a major problem identified by the Chairman of the 1998 meeting is that '[h]umanitarian organizations ... do not always observe their status of neutrality or respect local customs; and their motivation may not always be purely humanitarian.'<sup>31</sup> If that is the case, the remedies proposed (full compliance by all humanitarian organisations with the principles of impartiality and neutrality<sup>32</sup>) would require taking drastic action that goes beyond a mere interpretation of the Conventions.

### **'General Problems' and Consensus**

The reference in article 7 of the Protocol to 'general problems', and only to general problems, clearly implies that the consideration of specific or individual cases would not come within the legitimate purview of the meeting.<sup>33</sup> In other words, the stated purpose of an article 7 meeting is not to examine particular armed conflicts.<sup>34</sup> Nor is it to 'expose specific alleged violations of the Conventions and the Protocol'.<sup>35</sup> These are cardinal points. Any attempt to convene a meeting of the Contracting Parties in order to take a certain state to task for its conduct in a concrete context is liable to encounter opposition and is not likely to do much good.<sup>36</sup> It is also unnecessary, since there is no paucity of appropriate fora in the international community (pre-eminently, the UN General Assembly) where the given policy or conduct of a state may be harshly criticised and rebuked.

It is true that, even if an article 7 meeting is confined in principle to the consideration of general problems, participants may cite specific examples and

---

<sup>30</sup> Cf the conclusions, *ibid* 509-10.

<sup>31</sup> *Ibid* 508.

<sup>32</sup> *Ibid* 509.

<sup>33</sup> Bothe, Partsch and Solf, above n 11, 87.

<sup>34</sup> It has been rightly underscored that an art 7 meeting 'does not concern only the Parties to the conflict, but all the Contracting Parties' to the Protocol. Y Sandoz, 'Implementing International Humanitarian Law', in UNESCO, *International Dimensions of Humanitarian Law* (1988) 259, 279.

<sup>35</sup> F Kalshoven and L Zegveld, *Constraints on the Waging of War* (2nd ed, 2001) 152.

<sup>36</sup> This is amply attested to by two meetings of Contracting Parties to the Geneva Conventions, convened by the depositary in July 1999 and December 2001 to discuss the specific issue of the application of Geneva Convention (IV) to the territories occupied by Israel: the first meeting lasted 17 minutes and the second two and a half hours. See P-Y Fux and M Zambelli, 'Mise en oeuvre de la Quatrième Convention de Genève dans les Territoires Palestiniens Occupés: Historique d'un Processus Multilatéral (1997-2001)' (2002) 84 *Revue Internationale de la Croix Rouge* 661.

'in practice it might prove difficult to distinguish such specific examples from direct accusations'.<sup>37</sup> All the same, there is a marked difference between a session focusing on the behaviour of a particular state and a meeting addressing general problems in which some individual fault-finding sneaks in.

In any event, discord and acrimony can only jeopardise the chances of success of an article 7 meeting. As observed, the real objective of such a meeting is to establish (if possible) a common interpretation of the Geneva Conventions and Protocol so as to properly construe equivocal clauses and apply long-standing black-letter law to unfamiliar problems. It must be recognised that, even in terms of these limited goals, the meeting can be fruitful only on condition of a consensus (as distinct from unanimity<sup>38</sup>) emerging from the positions taken by the Contracting Parties present at the meeting. Absent a consensus, owing to political altercations, the meeting must be regarded as abortive. Granted, when the text of a treaty is negotiated at an international conference, normally it can be adopted by the vote of two-thirds of the states present and voting (as per article 9(2) of the Vienna Convention on the Law of Treaties).<sup>39</sup> However, since an article 7 meeting is not supposed to end up with a new treaty, this rule is inapplicable.

### The Merits of Consensus

Convening an article 7 meeting may appear, at a cursory glance, to be much less appealing than other avenues open to Contracting Parties to the Protocol interested in tackling a general problem in the application and interpretation of these instruments. On the face of it, there exist less cumbersome, and more efficacious, procedures for eliminating disharmony among states. But is that really so? Other available procedures (however promising) do not really preempt the need for a consultation designed to build a consensus among Contracting Parties about the thrust and meaning of the treaty provisions that tie them together.

There is no real need to dwell here upon procedures that lead in different directions, primarily the optional operation of an International Fact-Finding Commission, a Chamber of which may enquire into any facts alleged to constitute a grave breach of the Geneva Conventions or Protocol (provided that its competence has been recognised in a declaration by the Contracting Party concerned, in accordance with article 90 of the Protocol).<sup>40</sup> After all, the target of such an enquiry is specific fact-finding (what has really happened?) rather than removing a general legal bone of contention.<sup>41</sup>

More to the point, there is no real substitute for promoting and forging a consensus among Contracting Parties, which is the tacit goal of an article 7

---

<sup>37</sup> Kalshoven and Zegveld, above n 35, 152.

<sup>38</sup> Unlike unanimity (requiring an affirmative vote of all participating states), a consensus signifies merely the absence of any formal objection. See R Jennings and A Watts (eds), *Oppenheim's International Law* (9th ed, 1992) 1186.

<sup>39</sup> Vienna Convention on the Law of Treaties, above n 9, 142.

<sup>40</sup> Protocol I, above n 2, 756-58.

<sup>41</sup> R Kolb, *Ius in Bello: Le Droit International des Conflits Armés* (2003) 247.

meeting. No recommendation issued by the International Fact-Finding Commission (or, for that matter, by any other outside body seized with the matter) can possibly serve as a real substitute for a consensus. True, conclusions arrived at by consensus in an article 7 meeting cannot be considered legally binding *per se* on participating states, but this is equally the case with recommendations submitted by the International Fact-Finding Commission.

Consensus conclusions reached in an article 7 meeting may perhaps be regarded as a manifestation of ‘soft law’.<sup>42</sup> This characterisation of the conclusions may actually help in the emergence of a consensus among Contracting Parties. Experience shows that when states realise that they are dealing only with ‘soft law’, the lowering of the stakes ‘often facilitates consensus which is more difficult to achieve on “hard law” instruments’.<sup>43</sup>

### **Preparation for the Meeting and the Role of the ICRC**

Realistically, one can scarcely expect an article 7 procedure to have a favourable outcome if it is instituted by a single Contracting Party to the Protocol acting without prior coordination with other states. In the first place, should a ‘request’ to convene the meeting reflect an isolated impulse, it is not likely to pass muster by gaining the approval of the majority of the Contracting Parties to the Protocol. Second (assuming that approval is not withheld), convening a meeting only to find out that opinions of participating states are sharply divided on the agenda topics, would be useless and perhaps even counter-productive.

Action in unison of several Contracting Parties to the Protocol would most certainly have a greater impact both in the preliminary stage to an article 7 meeting and in the session itself. Indeed, the best scenario would be for the whole process to be endorsed by a cluster of states (either an existing regional league, such as the European Union, or an *ad hoc* configuration of states). But how can such a group be mobilised into action?

In all likelihood, the most effective *modus operandi* would be for the ICRC to start the ball rolling by recruiting support from the members of a select group with a recommendation that they undertake the mission. To be sure, such a role is not assigned to the ICRC *expressis verbis* in article 7. Still, nothing precludes the ICRC from suggesting to Contracting Parties that an article 7 meeting might prove timely and beneficial to the cause of international humanitarian law. A mere informal suggestion or recommendation (addressed to Contracting Parties) would not qualify as a formal ‘request’ (addressed to the depositary), which the ICRC as a non-state entity is barred from making directly under article 7.<sup>44</sup> This may be subsumed under the heading of the ICRC’s general ‘right of

---

<sup>42</sup> On this subject, see D Thürer, ‘Soft Law’, in R Bernhardt (ed), (2000) 4 *Encyclopedia of Public International Law* 452.

<sup>43</sup> P Malanczuk, *Akehurst’s Modern Introduction to International Law* (7th ed, 1997) 54.

<sup>44</sup> Bothe, Partsch and Solf, above n 11, 87.

initiative'.<sup>45</sup> *'De même, toute l'histoire du Comité international est jalonnée par une succession d'initiatives'*.<sup>46</sup>

The value added of founding a 'request' by states (Contracting Parties to the Protocol) on the bedrock of a suggestion or recommendation by the ICRC is plain to see. The ICRC is widely deemed to be the promoter and moral guardian of the Geneva Conventions and Protocols. Moreover, the ICRC is a highly professional organisation: it can be relied upon not to launch into orbit (through its suggestion or recommendation) a 'request' without first exploring the feasibility of attaining concrete results. Advance consultations can only strengthen the prospects of a consensus crystallising in the ultimate article 7 meeting.

A reasonable expectation that an article 7 meeting will be crowned with success is linked to it being well prepared. Should the ICRC pave the way to a formal 'request' by states for an article 7 meeting, one may virtually take it for granted that the ICRC has undertaken serious preparatory work. As a rule, if an international meeting is to proceed on an even keel, the presentation of a bare-bones list of topics of discussion does not suffice. Some preliminary papers have to be disseminated, in order to expound and explain what the agenda is all about. The ground work can be mastered by the depositary itself, but, judging by experience, the ICRC can make an invaluable contribution to a fruitful article 7 meeting (based on proper consultation with experts in the field, including government experts).<sup>47</sup>

### Conclusion

To sum up briefly, an article 7 meeting can do some good (as long as the agenda is carefully defined and the prospective results are not assessed too highly); it may be preferable to other available procedures, and, above all, it is feasible (if coherently laid out and adequately prepared).

---

<sup>45</sup> The ICRC regards the 'right of initiative' as granted to it by arts 9/9/9/10 common to the Geneva Conventions, above n 7, 378, 406, 433, 504, and by art 81(1) of the Protocol above n 2, 669-70. See, esp, Zimmermann, 'Article 5', in Sandoz et al (eds), above n 3, 75, 85; C Pilloud and J Pictet, 'Article 81', in Sandoz et al (eds), above n 3, 935, 938-39.

<sup>46</sup> F Bugnion, *Le Comité International de la Croix-Rouge et la Protection des Victimes de la Guerre* (1994) 401.

<sup>47</sup> It may be noted that, in the 1998 first periodic meeting of the Contracting Parties to the Geneva Conventions, the debates were based on two preparatory documents drafted by the ICRC and two working papers submitted by the depositary. See Caflisch, above n 28, 507.