

**2014-2015 REPORT**

# **IMPLEMENTING IHL**

**Participation of the American States  
in IHL Treaties and their National Implementation  
PROGRESS AND ACTIONS OF AMERICAN STATES**



**ICRC**



**ICRC**

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This report, prepared by the **Advisory Service on International Humanitarian Law** of the International Committee of the Red Cross (ICRC) for submission to the Member States of the Organization of American States (OAS), is not exhaustive. For further information, please visit [www.icrc.org](http://www.icrc.org)

# LEGAL BASIS FOR THE ICRC'S WORK

The work of the ICRC is based on the Geneva Conventions of 1949 for the protection of the victims of war, their Additional Protocols of 1977, the Statutes of the International Red Cross and Red Crescent Movement, and the resolutions of the International Conferences of the Red Cross and Red Crescent.

The international community – through the Geneva Conventions and Additional Protocol I – gives the ICRC an important role to play in the event of international armed conflict, which includes visiting prisoners of war and civilian internees. The ICRC is also granted a broad right of initiative.

In non-international armed conflicts, the ICRC also enjoys a right of initiative, enshrined in Article 3 common to the four Geneva Conventions.

In the event of internal disturbances and tensions, and in any other situation that warrants humanitarian action, the ICRC has a right of humanitarian initiative, which is recognized in the Statutes of the International Red Cross and Red Crescent Movement. This means that the ICRC may offer its services to governments without that offer being considered as interference.

# TABLE OF CONTENTS

<b>INTRODUCTION</b>	<b>6</b>
<b>PART I. IHL TREATIES AND CUSTOMARY LAW</b>	<b>9</b>
<b>A. Participation of the American States in IHL treaties</b>	<b>9</b>
1. Protecting the victims of armed conflicts	9
2. Protecting cultural property in the event of armed conflict	10
3. The environment	10
4. International criminal law	10
5. Weapons	11
<b>B. Customary international humanitarian law</b>	<b>12</b>
<b>C. Main ratifications in 2014 and 2015</b>	<b>13</b>
<b>PART II. NATIONAL IMPLEMENTATION OF IHL IN THE AMERICAS</b>	<b>19</b>
<b>A. Legislative, regulatory, practical and public policy measures</b>	<b>19</b>
1. Penal repression	19
2. Missing persons	21
3. Weapons	22
4. Protecting the emblems	23
5. Protecting cultural property	24
6. Other measures	24
<b>B. Integrating IHL into the armed forces</b>	<b>26</b>
<b>C. Integrating IHL into academic teaching</b>	<b>27</b>
<b>D. 32nd International Conference of the Red Cross and Red Crescent</b>	<b>29</b>
<b>PART III. INTEGRATING AND PROMOTING INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONALLY RECOGNIZED RULES ON THE USE OF FORCE IN LAW ENFORCEMENT</b>	<b>31</b>
<b>PART IV. NATIONAL IHL COMMITTEES</b>	<b>35</b>
<b>PART V. THE OAS AND IHL</b>	<b>39</b>
<b>A. Promoting IHL</b>	<b>39</b>
<b>B. Training in IHL</b>	<b>40</b>
<b>PART VI. THE WORK OF THE ICRC'S ADVISORY SERVICE IN THE AMERICAN STATES</b>	<b>43</b>
<b>APPENDICES</b>	<b>46</b>
<b>I. Resolutions adopted by the 44th General Assembly of the OAS (2014)</b>	<b>47</b>
AG/RES. 2822 (XLIV-O/14). Right to the truth	47
AG/RES. 2829 (XLIV-O/14). Against torture and other cruel, inhuman, or degrading treatment or punishment	48
AG/RES. 2850 (XLIV-O/14). Internally displaced persons	50
AG/RES. 2852 (XLIV-O/14). Promotion of international law	52
AG/RES. 2864 (XLIV-O/14). Persons who have disappeared and assistance to members of their families	54
<b>II. Pledges made by American States at the 32nd International Conference of the Red Cross and Red Crescent</b>	<b>57</b>

# INTRODUCTION



This report provides a summary of the efforts and progress made by Member States of the Organization of American States (OAS) in implementing international humanitarian law (IHL) at a national level.

The measures taken to implement IHL domestically are an essential step in guaranteeing compliance with IHL and, as a result, easing the suffering that armed conflicts invariably cause throughout the world. These measures provide States with the tools they need to meet their obligations under IHL. To ensure they are effective, States have to take a strategic approach that involves concerted and integrated action over the long term.

During 2014 and 2015, the American States showed a firm commitment to IHL, with more than 30 ratifications of IHL treaties, including the 2013 Arms Trade Treaty and the 2008 Convention on Cluster Munitions.

In addition, four States made progress in implementing legislation relating to the criminalization and punishment of war crimes, and two States issued regulations on protecting and using the red cross emblem. A number of States also adopted measures to strengthen the protection of cultural property in the event of armed conflict. Furthermore, over the two-year period armed forces across the region continued their efforts to incorporate IHL into their military policy, and universities in the region made progress in integrating IHL into course plans in various academic fields.

The national IHL committees played a decisive role in much of these efforts. In many instances, they were behind the ratification of a treaty or involved in preparing measures to implement a treaty domestically. On other occasions, the committees continued to ensure that matters relating to IHL received the necessary attention from governments. This is particularly noteworthy given the numerous other priorities on governments' agendas, including other humanitarian priorities relating to other situations of violence not covered by IHL. In 2015, Venezuela became the 20th country in the region to create a National IHL Committee.

These efforts demonstrate just how worthwhile it is for the Member States of the OAS to continue their commitment to IHL. As part of this, the OAS General Assembly adopted various resolutions relating to IHL in 2014, including resolutions on disappeared persons and their families, displaced persons and the promotion of international law.

Anton Camen  
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# PART I

# IHL TREATIES AND CUSTOMARY LAW

International humanitarian law (IHL) is a set of rules that seek to limit the effects of armed conflict for humanitarian reasons. It protects individuals who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. IHL is also known as the law of war or the law of armed conflict. The rules are contained in international treaties and in customary international law.

## A. Participation of the American States in IHL treaties

A major part of IHL is contained in the four Geneva Conventions of 1949, to which all States are Parties. The Conventions are supplemented by the Additional Protocols of 1977 relating to the protection of victims of armed conflicts, while other treaties prohibit the use of certain weapons and methods of warfare and protect certain categories of people and property.

The main instruments for protecting people and property against armed conflict are the following:

### 1. Protecting the victims of armed conflicts

- **The Four Geneva Conventions (GC) of 12 August 1949 (GC I-IV 1949):** These treaties, which are universally accepted, protect the wounded and sick (GC I), the shipwrecked (GC II), prisoners of war (GC III) and civilians (GC IV). They also protect medical personnel, supplies, hospitals and ambulances. However, the Conventions do not cover important areas such as conducting hostilities and protecting the civilian population against the impact of hostilities. 196 States are Parties to the Geneva Conventions, including 35 American States.
- **Protocol I additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts of 8 June 1977 (AP I 1977):** Additional Protocol I applies to international armed conflicts.

It imposes limits on military operations, stipulating that the parties to a conflict do not have an unlimited right to choose methods or means of warfare and prohibiting the use of weapons, projectiles and material and methods of warfare that would cause superfluous injury or unnecessary suffering. 174 States are Parties to Additional Protocol I, including 34 American States.

- **Declaration under Article 90 of Additional Protocol I (AP I - IHFFC):** In an effort to secure the guarantees accorded to the victims of armed conflict, Article 90 of Additional Protocol I provides for the establishment of an International Fact-Finding Commission. The Commission was officially created in 1991 and is a permanent body whose primary purpose is to investigate allegations of grave breaches and other serious violations of IHL. As such, the Commission is an important means of ensuring that IHL is both applied and implemented during armed conflict. 76 States Parties have recognized the International Fact-Finding Commission, including 13 American States.
- **Protocol II additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977 (AP II 1977):** Within the scope of Additional Protocol II are non-international conflicts that take place within the territory of a State, between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory. Additional Protocol II extends the humanitarian principles enshrined in Article 3 common to the Geneva Conventions to non-international armed conflict. 168 States are currently Parties to Additional Protocol II, including 33 American States.

- **Protocol III additional to the Geneva Conventions of 12 August 1949 and relating to the Adoption of an Additional Distinctive Emblem of 8 December 2005 (AP III 2005):** Additional Protocol III, which was adopted in 2005, introduced another emblem in addition to the red cross and red crescent; the new emblem is composed of a red frame in the shape of a square on edge on a white ground. As the red cross and red crescent emblems are sometimes perceived as having a religious or political connotation, the new emblem is an option that has no such connotation and can be used in any context. The individuals and entities authorized to display the red cross and red crescent are the same as those entitled to use the emblems recognized by the Geneva Conventions of 1949. These include the medical services of the armed forces, civilian hospitals with explicit authorization, and the various components of the International Red Cross and Red Crescent Movement – namely, the International Committee of the Red Cross (ICRC), the National Societies, and their International Federation. 72 States are currently Parties to Additional Protocol III, including 18 American States.
- **Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 25 May 2000 (OP CAC 2000):** The Optional Protocol on the involvement of children in armed conflict, approved on 25 May 2000, strengthens the protection afforded to children during armed conflicts. In the Optional Protocol, States Parties undertake to take all feasible measures to ensure that members of their armed forces who have not reached the age of 18 do not directly take part in hostilities and that individuals who have not reached the age of 18 are not required to serve in their armed forces; States are also required to raise the minimum age for voluntary recruitment from the present age limit of 15 years; and armed groups that are distinct from the armed forces of a State should not under any circumstances recruit or use in hostilities individuals under the age of 18. In addition, States Parties agree to criminalize and punish such practices. 162 States are Parties to this Optional Protocol, including 29 American States.
- **International Convention for the Protection of All Persons from Enforced Disappearance of 20 December 2006 (ED UN 2006):** This Convention is the first universally binding treaty that defines forced disappearance as a human rights violation and prohibits it. Forced disappearance is defined as arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person. 52 States are Parties to this Convention, including 15 American States.

## 2. Protecting cultural property in the event of armed conflict

Military operations have often resulted in the destruction of irreplaceable cultural property – a loss not only to the country of origin but also to mankind’s cultural heritage as a whole. Recognizing the significance of this loss, the international community adopted the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. A Protocol dealing with cultural property during times of occupation was adopted at the same time as the 1954 Convention. To strengthen the provisions of the 1954 Convention, a second Protocol was adopted on 26 March 1999. The two Protocols of 8 June 1977 additional to the Geneva Conventions also contain provisions protecting cultural property (Articles 38, 53 and 85 of Additional Protocol I and Article 16 of Additional Protocol II).

- **Convention on the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 (HCCP 1954):** This Convention now has 127 States Parties, including 22 from the Americas.
- **Protocol I to the Hague Convention of 14 May 1954 (HCCP PI 1954):** 104 States are currently Parties to Protocol I, including 19 American States.
- **Protocol II to the Hague Convention of 26 March 1999 (HCCP PII 1999):** 68 States are currently Parties to Protocol II, including 18 American States.

## 3. The environment

- **Convention on the Prohibition of Military or any Hostile Use of Environmental Modification Techniques of 10 December 1976 (ENMOD 1976):** This Convention is an instrument of international disarmament law specifically intended to protect the environment in the event of armed conflict. It prohibits hostile use of the environment as a means of warfare. The provisions of Protocol I additional to the Geneva Conventions of 1949 are an essential complement to those of the ENMOD Convention, as they directly prohibit damage to the environment during armed conflict. 77 States are Parties to this Convention, including 16 American States.

## 4. International criminal law

- **Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity of 26 November 1968 (CSL 1968):** This Convention applies to both the prosecution and application of sentences, and covers war crimes – in particular grave breaches of the Geneva Conventions – and crimes against humanity, including apartheid and genocide, committed in times of war and of peace. 55 States are currently Parties to this Convention, including 12 American States.
- **The Rome Statute of the International Criminal Court of 17 July 1998 (ICC 1998):** The crimes within the Court’s jurisdiction are genocide, crimes against humanity, war crimes, and aggression. 123 States are currently Parties to the Rome Statute, including 28 American States.

- **Amendment to Article 8.2(e) of the Rome Statute (ICC a 2010):** This amendment was a result of the 2010 Review Conference in Kampala and added to the list of war crimes applicable in non-international armed conflicts the use of bullets that expand or flatten easily in the human body (dum-dum bullets), of asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices and of poison. 28 States are currently Parties to this Amendment, including 3 American States.

## 5. Weapons

- **Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of 17 June 1925 (GP 1925):** This Protocol prohibits the use of biological and chemical weapons. 138 States are currently Parties to this Protocol, including 28 American States.
- **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972 (BWC 1972):** The main objective of this Convention, as defined in the preamble, is to completely exclude the possibility of bacteriological (biological) agents and toxins being used as weapons. The use of biological weapons was already prohibited under the Geneva Protocol of 1925. The Convention supplements this Protocol, prohibiting the development, production, stockpiling, acquisition, retention and transfer of biological weapons, and requiring their destruction. 173 States are Parties to this Convention, including 34 American States.
- **Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1980 (CCW 1980) and its Protocols:** This Convention is one of the main IHL treaties. The Convention seeks to protect civilians from the effects of weapons and to protect combatants from excessive suffering. One of the Convention's important features is that it can be expanded in response to the development of new weapons or changes in the conduct of warfare. When it was approved in 1980, the Convention included three protocols. States Parties subsequently adopted new protocols in 1995 (Protocol IV on Blinding Laser Weapons), in 1996 (Mines, Booby Traps and Other Devices), and in 2003 (Protocol V on Explosive Remnants of War). 121 States are Parties to this Convention, including 25 American States.
  - **Protocol on Non-Detectable Fragments of 10 October 1980 (PI):** 116 States are Parties to this Protocol, including 24 American States.
  - **Protocol on Mines, Booby-Traps and Other Devices of 10 October 1980 (PII):** 94 States are Parties to this Protocol, including 17 American States.
  - **Protocol on Incendiary Weapons of 10 October 1980 (PIII):** 112 States are Parties to this Protocol, including 24 American States.
  - **Protocol on Blinding Laser Weapons of 13 October 1995 (PIV):** 105 States are Parties to this Protocol, including 24 American States.
  - **Protocol on Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (PII a 1996):** 102 States are Parties to this Protocol, including 22 American States.
  - **Protocol on Explosive Remnants of War of 28 November 2003 (PV 2003):** 87 States are Parties to this Protocol, including 20 American States.

- **2001 Amendment to Article 1 of the Convention on Conventional Weapons of 10 October 1980 (CCW a 2001):** In 2001, the Second Review Conference extended the Protocols in force to non-international armed conflicts. 82 States are currently Parties to this Amendment, including 20 American States.

- **Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993 (CWC 1993):** This Convention is one of the instruments of international law that prohibits the use of weapons deemed particularly abhorrent. The Convention aims to completely exclude the possibility of using chemical weapons. Like the 1972 Biological and Toxin Weapons Convention, it supplements, and in many ways strengthens, the 1925 Geneva Protocol. 192 States are Parties to this Convention, including 35 American States.

- **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 18 September 1997 (Ottawa Treaty 1997):** This Convention is part of the international response to the widespread suffering caused by anti-personnel mines. 162 States are Parties to this Convention, including 33 American States.

2014, Nuevo Vallarta, Nayarit, Mexico. ICRC vice president, Christine Beerli, gives a talk at the Second Conference on the Humanitarian Impact of Nuclear Weapons.



- **Convention on Cluster Munitions of 30 May 2008 (Cluster Munitions 2008):** This Convention prohibits cluster munitions. It aims to end the heavy toll that these weapons take on civilians during armed conflict and once fighting has ended. 98 States are Parties to this Convention, including 23 American States.
- **Arms Trade Treaty of 2 April 2013 (ATT 2013):** This Treaty regulates international transfers of conventional arms, as well as their ammunition, parts and components, with a view to reducing human suffering. The Treaty makes arms-transfer decisions subject to humanitarian concerns by forbidding transfers when there is a defined level of risk that war crimes or serious violations of international human rights law will be committed. 79 States are currently Parties to this Treaty, including 20 American States.

## B. Customary international humanitarian law

Customary international law consists of a set of rules that come from “a general practice accepted as law”, as stipulated in Article 38 of the Statute of the International Court of Justice, which lists the sources of international public law. These rules exist independent of treaty law. The rules of customary international law – or international custom – are not written down, but their legal validity derives from practices that are generally accepted by States and that become required as a matter of law over time. These rules are sometimes studied when creating instruments of international law or when interpreting these instruments. Customary IHL is of crucial importance in today’s armed conflicts because it fills gaps left by treaty law and so strengthens the protection offered to victims. In 2005, the ICRC published a study establishing a set of rules of customary IHL that constitute the common core of humanitarian law binding on all parties to all armed conflicts. This study has since been recognized as an important legal reference concerning international and non-international armed conflicts for courts, international organizations and non-governmental organizations.

The ICRC has published an online version of the study with a database that includes over 50% more content than the original printed version. This online version is divided into two parts. The first part provides a comprehensive analysis of existing rules of customary IHL that have been identified as applicable in international and non-international armed conflicts. The second part contains a summary of State practice covering the main aspects of IHL, taken from national legislation, military manuals, official statements and case law. It also refers to the practices of other entities, such as international organizations and courts. Since 2011, the database has been updated in various stages. In 2014, the practices of 44 countries were updated, including Brazil, Cuba, El Salvador, Mexico, Peru, the United States of America, and Venezuela. In the same year, the practices of the International Criminal Court, the International Court of Justice, the Criminal Tribunals for Rwanda and the former Yugoslavia and the Extraordinary Chambers in the Courts of Cambodia were also all updated. In addition to the countries already mentioned, the practices of the following Latin American countries have also been updated since the database was first launched: Argentina, Chile, Colombia, Guatemala, Nicaragua, Panama and Uruguay.

The database, which is updated every year, is available at: <http://www.icrc.org/customary-ihl/eng/docs/home>.

To download the PDF of volume 1 of the study in English, go to: <https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>

## C. Main ratifications in 2014 and 2015

The Americas continued to be at the forefront when it comes to ratifying IHL treaties. Some States have now ratified all the instruments comprising this body of law.

In 2014 and 2015, a number of arms and IHL treaties were ratified by more and more States: the 2008 Convention on Cluster Munitions was ratified by five States; the 1980 Convention on Certain Conventional Weapons and its five Protocols were ratified by Grenada in 2014; and 15 States became Parties to the 2013 Arms Trade Treaty.

The Rome Statute of the International Criminal Court has been ratified by a large number of countries in the Americas, with 28 States now Parties to this instrument. The amendment to Article 8 of the Statute, adopted at the 2010 Review Conference, concerning the use of poison, asphyxiating and poisonous gases and bullets that expand or flatten easily in the human body, was ratified by one more American State during the 2014-2015 period, bringing the total of American States that have ratified this amendment to three.

Also worth noting is the significant contribution of the American States to ratifications of the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, which came into force in December 2010. Half of the first twenty States to become a Party to the Convention were from the Americas, and one additional American State became a Party to the Convention during the 2014-2015 period. The number of American States that are Party to the Convention now stands at 15.

The following developments took place:

- **Argentina** became a Party to the Arms Trade Treaty on 25 September 2014.
- The **Bahamas** became a Party to the Arms Trade Treaty on 25 September 2014 and ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 28 September 2015.
- **Barbados** became a Party to the Arms Trade Treaty on 20 May 2015.
- **Belize** became a Party to the Convention on Cluster Munitions on 2 September 2014, the Arms Trade Treaty on 19 March 2015, and the International Convention for the Protection of All Persons from Enforced Disappearance on 14 August 2015.
- **Canada** ratified the Convention on Cluster Munitions on 16 March 2015.
- **Colombia** ratified the Convention on Cluster Munitions on 10 September 2015.
- **Costa Rica** ratified the amendment to Article 8 of the Rome Statute on 5 February 2015.
- **Dominica** became a Party to the Arms Trade Treaty on 21 May 2015.
- The **Dominican Republic** became a Party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict with effect from 14 October 2014. It also became a Party to the Arms Trade Treaty, submitting the ratification on 7 August 2014.
- **El Salvador** ratified the Arms Trade Treaty on 2 April 2014.
- **Grenada** became a Party to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and its Protocols I, III and IV, as well as its Protocol on Mines, Booby Traps and Other Devices as amended on 3 May 1996, and to the 2001 amendment to Article 1 of the Conventional Weapons Convention and its Protocol on Explosive Remnants of War; the above ratifications took place on 10 December 2014.
- **Guyana** acceded to the Convention on Cluster Munitions on 31 October 2014.
- **Jamaica** became a Party to the Arms Trade Treaty on 3 June 2014.
- **Panama** became a Party to the Arms Trade Treaty on 11 February 2014.
- **Paraguay** ratified the Convention on Cluster Munitions on 12 March 2015 and the Arms Trade Treaty on 9 April 2015.
- **Saint Kitts and Nevis** became a Party to the Statement pursuant to Article 90 of Additional Protocol I to the Geneva Conventions on 17 April 2014 and to the Arms Trade Treaty on 15 December 2014.
- **Saint Lucia** ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 15 January 2014 and the Arms Trade Treaty on 25 September 2014.
- **Saint Vincent and the Grenadines** became a Party to the Arms Trade Treaty on 3 June 2014.
- **Uruguay** ratified the Arms Trade Treaty on 25 September 2014.



## Status of participation of American States

Country	Protection of Victims of Armed Conflicts							
	GC I-IV 1949	AP I 1977	AP I - IHFFC	AP II 1977	AP III 2005	OP CAC 2000	ED UN 2006	
1 Antigua and Barbuda	06/10/1986	06/10/1986		06/10/1986				
2 Argentina	18/09/1956	26/11/1986	11/10/1996	26/11/1986	16/03/2011	10/09/2002	14/12/2007	
3 Bahamas	11/07/1975	10/04/1980		10/04/1980		28/09/2015		
4 Barbados	10/09/1968	19/02/1990		19/02/1990				
5 Belize	29/06/1984	29/06/1984		29/06/1984	03/04/2007	01/12/2003	14/08/2015	
6 Bolivia	10/12/1976	08/12/1983	10/08/1992	08/12/1983		22/12/2004	17/12/2008	
7 Brazil	29/06/1957	05/05/1992	23/11/1993	05/05/1992	28/08/2009	27/01/2004	29/11/2010	
8 Canada	14/05/1965	20/11/1990	20/11/1990	20/11/1990	26/11/2007	07/07/2000		
9 Chile	12/10/1950	24/04/1991	24/04/1991	24/04/1991	06/07/2009	31/07/2003	08/12/2009	
10 Colombia	08/11/1961	01/09/1993	17/04/1996	14/08/1995		25/05/2005	11/07/2012	
11 Costa Rica	15/10/1969	15/12/1983	09/12/1999	15/12/1983	30/06/2008	24/01/2003	16/02/2012	
12 Cuba	15/04/1954	25/11/1982		23/06/1999		02/09/2007	02/02/2009	
13 Dominica	28/09/1981	25/04/1996		25/04/1996		20/09/2002		
14 Dominican Republic	22/01/1958	26/05/1994		26/05/1994	01/04/2009	14/10/2014		
15 Ecuador	11/08/1954	10/04/1979		10/04/1979		07/06/2004	20/10/2009	
16 El Salvador	17/06/1953	23/11/1978		23/11/1978	12/09/2007	18/04/2002		
17 Grenada	13/04/1981	23/09/1998		23/09/1998		06/02/2012		
18 Guatemala	14/05/1952	19/10/1987		19/10/1987	14/03/2008	09/05/2002		
19 Guyana	22/07/1968	18/01/1988		18/01/1988	21/09/2009	11/08/2010		
20 Haiti	11/04/1957	20/12/2006		20/12/2006				
21 Honduras	31/12/1965	16/02/1995		16/02/1995	08/12/2006	14/08/2002	01/04/2008	
22 Jamaica	20/07/1964	29/07/1986		29/07/1986		09/05/2002		
23 Mexico	29/10/1952	10/03/1983			07/07/2008	15/03/2002	18/03/2008	
24 Nicaragua	17/12/1953	19/07/1999		19/07/1999	02/04/2009	17/03/2005		
25 Panama	10/02/1956	18/09/1995	26/10/1999	18/09/1995	30/04/2012	08/08/2001	24/06/2011	
26 Paraguay	23/10/1961	30/11/1990	30/01/1998	30/11/1990	13/10/2008	27/09/2002	03/08/2010	
27 Peru	15/02/1956	14/07/1989		14/07/1989		08/05/2002	26/09/2012	
28 Saint Kitts and Nevis	14/02/1986	14/02/1986	17/04/2014	14/02/1986				
29 Saint Lucia	18/09/1981	07/10/1982		07/10/1982		15/01/2014		
30 Saint Vincent and the Grenadines	01/04/1981	08/04/1983	04/11/2013	08/04/1983		29/03/2011		
31 Suriname	13/10/1976	16/12/1985		16/12/1985	25/06/2013			
32 Trinidad and Tobago	24/09/1963	20/07/2001	20/07/2001	20/07/2001				
33 United States of America	02/08/1955				08/03/2007	23/12/2002		
34 Uruguay	05/03/1969	13/12/1985	17/07/1990	13/12/1985	19/10/2012	09/09/2003	04/03/2009	
35 Venezuela	13/02/1956	23/07/1998		23/07/1998		23/09/2003		
<b>Total</b>	<b>REGION</b>	<b>35</b>	<b>34</b>	<b>13</b>	<b>33</b>	<b>18</b>	<b>29</b>	<b>15</b>
	<b>WORLDWIDE</b>	<b>196</b>	<b>174</b>	<b>76</b>	<b>168</b>	<b>72</b>	<b>162</b>	<b>52</b>



## in treaties that are of relevance for IHL (as of 31 December 2015)

International Criminal Law			Protection of Cultural Property in the Event of Armed Conflict			Environment
CSL 1968	ICC 1998	ICC a 2010	HCCP 1954	HCCP PI 1954	HCCP PII 1999	ENMOD 1976
	18/06/2001					25/10/1988
26/08/2003	08/02/2001		22/03/1989	10/05/2007	07/01/2002	20/03/1987
	10/12/2002		09/04/2002	02/10/2008	02/10/2008	
	05/04/2000					
06/10/1983	27/06/2002		17/11/2004			
	20/06/2002		12/09/1958	12/09/1958	23/09/2004	12/10/1984
	07/07/2000		11/12/1998	29/11/2005	29/11/2005	11/06/1981
	29/06/2009		11/09/2008	11/09/2008	11/09/2008	26/04/1994
	05/08/2002		18/06/1998	18/06/1998	24/11/2010	
27/04/2009	07/06/2001	05/02/2015	03/06/1998	03/06/1998	09/12/2003	07/02/1996
13/09/1972			26/11/1957	26/11/1957		10/04/1978
	12/02/2001					09/11/1992
	12/05/2005		05/01/1960	21/03/2002	03/03/2009	
	05/02/2002		02/10/1956	08/02/1961	02/08/2004	
			19/07/2001	27/03/2002	27/03/2002	
	19/05/2011					
	02/04/2012		02/10/1985	19/05/1994	04/02/2005	21/03/1988
	24/09/2004					
16/08/2010	01/07/2002		25/10/2002	25/10/2002	26/01/2003	16/08/2010
15/03/2002	28/10/2005		07/05/1956	07/05/1956	07/10/2003	
03/09/1986			25/11/1959	25/11/1959	01/06/2001	06/09/2007
21/06/2007	21/03/2002		17/07/1962	08/03/2001	08/03/2001	13/05/2003
23/09/2008	14/05/2001		09/11/2004	09/11/2004	09/11/2004	
11/08/2003	10/11/2001		21/07/1989	21/07/1989	24/05/2005	
	22/08/2006					
	18/08/2010					27/05/1993
09/11/1981	03/12/2002					27/04/1999
	15/07/2008					
	06/04/1999	13/11/2012				
			13/03/2009			17/01/1980
21/09/2001	28/06/2002	26/09/2013	24/09/1999	24/09/1999	03/01/2007	16/09/1993
	07/06/2000		09/05/2005			
<b>12</b>	<b>28</b>	<b>3</b>	<b>22</b>	<b>19</b>	<b>18</b>	<b>16</b>
<b>55</b>	<b>123</b>	<b>28</b>	<b>127</b>	<b>104</b>	<b>68</b>	<b>77</b>

## Status of participation of American States

	Country	GP 1925	BWC 1972	CCW 1980			
				CCW 1980	CCW PI 1980	CCW PII 1980	CCW PIII 1980
1	Antigua and Barbuda	27/04/1989	29/01/2003	23/08/2010	23/08/2010		23/08/2010
2	Argentina	12/05/1969	05/12/1979	02/10/1995	02/10/1995	02/10/1995	02/10/1995
3	Bahamas		26/11/1986				
4	Barbados	16/07/1976	16/02/1973				
5	Belize		20/10/1986				
6	Bolivia	13/08/1985	30/10/1975	21/09/2001	21/09/2001	21/09/2001	21/09/2001
7	Brazil	28/08/1970	27/02/1973	03/10/1995	03/10/1995	03/10/1995	03/10/1995
8	Canada	06/05/1930	18/09/1972	24/06/1994	24/06/1994	24/06/1994	24/06/1994
9	Chile	02/07/1935	22/04/1980	15/10/2003	15/10/2003		15/10/2003
10	Colombia		19/12/1983	06/03/2000	06/03/2000	06/03/2000	06/03/2000
11	Costa Rica	17/03/2009	17/12/1973	17/12/1998	17/12/1998	17/12/1998	17/12/1998
12	Cuba	24/06/1966	21/04/1976	02/03/1987	02/03/1987	02/03/1987	02/03/1987
13	Dominica		08/11/1978				
14	Dominican Republic	08/12/1970	23/02/1973	21/06/2010			
15	Ecuador	16/09/1970	12/03/1975	04/05/1982	04/05/1982	04/05/1982	04/05/1982
16	El Salvador	26/02/2008	31/12/1991	26/01/2000	26/01/2000	26/01/2000	26/01/2000
17	Grenada	03/01/1989	22/10/1986	10/12/2014	10/12/2014		10/12/2014
18	Guatemala	03/05/1983	19/09/1973	21/07/1983	21/07/1983	21/07/1983	21/07/1983
19	Guyana		26/03/2013				
20	Haiti						
21	Honduras		14/03/1979	30/10/2003	30/10/2003	30/10/2003	30/10/2003
22	Jamaica	28/07/1970	13/08/1975	25/09/2008	25/09/2008		25/09/2008
23	Mexico	28/05/1932	08/04/1974	11/02/1982	11/02/1982	11/02/1982	11/02/1982
24	Nicaragua	05/10/1990	07/08/1975	05/12/2000	05/12/2000		05/12/2000
25	Panama	04/12/1970	20/03/1974	26/03/1997	26/03/1997	26/03/1997	26/03/1997
26	Paraguay	22/10/1933	09/06/1976	22/09/2004	22/09/2004	22/09/2004	22/09/2004
27	Peru	13/08/1985	05/06/1985	03/07/1997	03/07/1997		03/07/1997
28	Saint Kitts and Nevis	27/04/1989	02/04/1991				
29	Saint Lucia	21/12/1988	26/11/1986				
30	Saint Vincent and the Grenadines	24/03/1999	13/05/1999	06/12/2010	06/12/2010		06/12/2010
31	Suriname		06/01/1993				
32	Trinidad and Tobago	31/08/1962	19/07/2007				
33	United States of America	10/04/1975	26/03/1975	24/03/1995	24/03/1995	24/03/1995	21/01/2009
34	Uruguay	12/04/1977	06/04/1981	06/10/1994	06/10/1994	06/10/1994	06/10/1994
35	Venezuela	08/02/1928	18/10/1978	19/04/2005	19/04/2005	19/04/2005	19/04/2005
<b>Total</b>	<b>REGION</b>	<b>27</b>	<b>34</b>	<b>25</b>	<b>24</b>	<b>17</b>	<b>24</b>
	<b>WORLDWIDE</b>	<b>138</b>	<b>173</b>	<b>121</b>	<b>116</b>	<b>94</b>	<b>112</b>

## in treaties that are of relevance for IHL (as of 31 December 2015)

## Weapons

CCW PIV 1995	CCW PII a 1996	CCW PV 2003	CCW a 2001	CWC 1993	Ottawa Treaty 1997	Cluster Munitions 2008	ATT 2013
23/08/2010				29/08/2005	03/05/1999	23/08/2010	12/08/2013
21/10/1998	21/10/1998	07/10/2011	25/02/2004	02/10/1995	14/09/1999		25/09/2014
				21/04/2009	31/07/1998		25/09/2014
				03/07/2007	26/01/1999		20/05/2015
				01/12/2003	23/04/1998	02/09/2014	19/03/2015
21/09/2001	21/09/2001			14/08/1998	09/06/1998	30/04/2013	
04/10/1999	04/10/1999	30/11/2010	30/11/2010	13/03/1996	30/04/1999		
05/01/1998	05/01/1998	19/05/2009	22/07/2002	26/09/1995	03/12/1997	16/03/2015	
15/10/2003	15/10/2003	18/08/2009	27/09/2007	12/07/1996	10/09/2001	16/12/2010	
06/03/2000	06/03/2000		20/05/2009	05/04/2000	06/09/2000	10/09/2015	
17/12/1998	17/12/1998	27/04/2009	03/06/2009	31/05/1996	17/03/1999	28/04/2011	29/09/2013
14/11/2012		14/11/2012	17/10/2007	29/04/1997			
				12/02/2001	26/03/1999		21/05/2015
21/06/2010	21/06/2010	21/06/2010	21/06/2010	27/03/2009	30/06/2000	20/12/2011	07/08/2014
16/12/2003	14/08/2000	10/03/2009	10/03/2009	06/09/1995	29/04/1999	11/05/2010	
26/01/2000	26/01/2000	23/03/2006	13/09/2007	30/10/1995	27/01/1999	10/01/2011	02/04/2014
10/12/2014	10/12/2014	10/12/2014	10/12/2014	03/06/2005	19/08/1998	29/06/2011	21/10/2013
30/08/2002	29/10/2001	28/02/2008	13/02/2009	12/02/2003	26/03/1999	03/11/2010	
				12/09/1997	05/08/2003	31/10/2014	04/07/2013
				22/02/2006	15/02/2006		
30/10/2003	30/10/2003	16/08/2010		29/08/2005	24/09/1998	21/03/2012	
25/09/2008	25/09/2008	25/09/2008	25/09/2008	08/09/2000	17/07/1998		03/06/2014
10/03/1998			22/05/2003	29/08/1994	09/06/1998	06/05/2009	25/09/2013
05/12/2000	05/12/2000	15/09/2005	06/09/2007	05/10/1999	30/11/1998	02/11/2009	
26/03/1997	03/10/1999	29/11/2010	16/08/2004	07/10/1998	07/10/1998	29/11/2010	11/02/2014
03/12/2008	22/09/2004	03/12/2008	03/12/2008	01/12/1994	13/11/1998	12/03/2015	09/04/2015
03/07/1997	03/07/1997	29/05/2009	14/02/2005	20/07/1995	17/06/1998	26/09/2012	
				21/05/2004	02/12/1998	13/09/2013	15/12/2014
				09/04/1997	13/04/1999		25/09/2014
06/12/2010	06/12/2010	06/12/2010		18/09/2002	01/08/2001	29/10/2010	03/06/2014
				28/04/1997	23/05/2002		
				24/06/1997	27/04/1998	21/09/2011	25/09/2013
21/01/2009	24/05/1999	21/01/2009	21/01/2009	25/04/1997			
18/08/1998	18/08/1998	07/08/2007	07/08/2007	06/10/1994	07/06/2001	24/09/2009	25/09/2014
	19/04/2005			03/12/1997	14/04/1999		
<b>24</b>	<b>22</b>	<b>20</b>	<b>20</b>	<b>35</b>	<b>33</b>	<b>23</b>	<b>20</b>
<b>105</b>	<b>102</b>	<b>87</b>	<b>82</b>	<b>192</b>	<b>162</b>	<b>98</b>	<b>79</b>

# PART II

# NATIONAL IMPLEMENTATION OF IHL IN THE AMERICAS

States must adopt the measures required to make the provisions of IHL treaties fully effective, so that they can be applied by the parties in the event of an armed conflict. Although most treaties take direct effect, it is essential to ensure that their provisions are known and implemented nationally as soon as possible. In some cases, this does not happen. Some of the rules also require States to take supplementary practical measures to ensure that IHL is effectively applied in practice if an armed conflict breaks out.

States are required to take a variety of measures, ranging from legislative and regulatory action to administrative, practical and educational measures.

## A. Legislative, regulatory, practical and public policy measures

### 1. Penal repression

In order to ensure compliance with IHL, it is fundamental to suppress all violations of IHL and to criminalize and punish those that are considered the most serious, called “grave breaches” and regarded as war crimes. Punishment of these crimes is in the interest of the international community as a whole.

The four Geneva Conventions of 1949 each contain a provision requiring States to enact any legislation necessary to provide effective criminal punishment for persons committing, or ordering to be committed, any of the grave breaches.

States are also under the obligation to search for individuals alleged to have committed, or to have ordered to be committed, such grave breaches, and must bring those individuals before its own courts, regardless of their nationality. States may also, if they prefer, and in accordance with the provisions of their own legislation, hand these individuals over for trial to another State concerned, provided that State has made out a prima facie case (see Articles 49, 50, 129 and 146 of the four Geneva Conventions respectively).

Additional Protocol I of 1977 supplements these rules, particularly in Part V, Section II, which stipulates that the provisions of the Conventions relating to the criminalization and punishment of breaches and grave breaches shall apply to the criminalization and punishment of breaches and grave breaches of that Protocol (see Article 85(1) of Additional Protocol I).

The Protocol further develops the rules set out by the Geneva Conventions in terms of types of violations of IHL, failure to act, the duty of commanders and mutual assistance in criminal matters (see Articles 85 to 88 of Additional Protocol I). Additional Protocol I also stipulates that grave breaches of the Geneva Conventions and of Protocol I are regarded as war crimes (see Article 85(5) of Additional Protocol I).

All 35 American States are Parties to the Geneva Conventions,

and 34 States have ratified Additional Protocol I. The American States are therefore required under international law to punish war crimes, based on the system determined by the Geneva Conventions and Additional Protocol I.

In addition, Rule 158 of the Study on Customary International Humanitarian Law states that States must investigate war crimes allegedly committed by their nationals or armed forces, or on their territory, and, if appropriate, prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects.

Furthermore, the Rome Statute of 1998 establishes the International Criminal Court, which has jurisdiction over war crimes, among others. The Court is not intended to take over the jurisdiction exercised by national courts, as States have the primary duty and responsibility to prosecute suspected war criminals. The Court plays a complementary role: it is intended to exercise its jurisdiction only when a State Party to the Rome Statute that has jurisdiction is unwilling or genuinely unable to investigate or prosecute (see the Preamble and Articles 1, 17, 18 and 19 of the Rome Statute).

The Rome Statute does not explicitly require States Parties to punish crimes under the Court's jurisdiction. However, this is assumed, as the complementarity provided for depends on States' possibility to punish crimes at a national level (see paragraph 6 of the Preamble to the Rome Statute). It is therefore essential for States Parties to the Rome Statute to adapt their criminal law to the Statute in order to punish crimes under the Court's jurisdiction domestically when a case arises.

Whether criminal law is adapted to the Rome Statute does not reduce a State's obligations under the Geneva Conventions and Additional Protocol I. It is more a question of harmonizing the rules set out in the Geneva Conventions and Additional Protocol I with those of the Statute. As a minimum requirement, it must therefore be possible under national criminal law to punish the war crimes defined in the Geneva Conventions and Additional Protocol I in accordance with the system for suppressing these crimes set out in those treaties. The rules of the Rome Statute can strengthen, but must not weaken, this set-up, both in terms of the definition of war crimes and the rules of criminal responsibility and prosecution.

To date, 28 American States are Parties to the Rome Statute of 1998.

### Legislation adopted

- **Colombia.** The Congress adopted Legislative Act no. 01 of 25 June 2015, which amends Article 221 of the Constitution of Colombia on courts martial and military tribunals. Congress passed Act 1719 of 18 June 2014, which amends the Criminal Code and Criminal Procedure Code and brings in measures to guarantee that victims of sexual violence – especially sexual violence resulting from armed conflict – have access to justice.
- **Dominican Republic.** The National Congress passed Act no. 550-14, which brought in a new Criminal Code that now defines genocide, forced disappearance, crimes against humanity and war crimes; due to come into force on 26 December 2015.

The National Congress also included the non-applicability of statutory limitations to genocide, war crimes, aggression and crimes against humanity in Act no. 10-15, which amends Act no. 76-02 of 19 July 2002 establishing the Code of Criminal Procedure of the Dominican Republic; the provisions will enter into force on 10 February 2016.

- **Ecuador.** The National Assembly passed the new Criminal Code, published in the supplement to the Official Gazette on 28 January 2014; the new Code came into force on 10 August 2014 and includes grave breaches of human rights and crimes against international humanitarian law in Part IV, Chapter 1.

### Draft legislation pending

- **Argentina.** Between 2011 and 2013, Argentina's National IHL Committee worked on drafting a law to incorporate the amendments to Article 8 of the Rome Statute adopted at the 2010 Kampala Conference. Following the analysis conducted by the ministries concerned, at the end of 2015 the draft was submitted to the Legal and Technical Secretary to the President to complete the procedure before it is submitted to the National Congress.
- **Bolivia.** During the two-year period under review, the Ministry of Justice studied a draft bill that will give domestic effect to the Rome Statute.
- **Brazil.** A few years ago, an expert working group, led by the former Deputy Military Prosecutor General, finalized a draft bill to incorporate the crimes provided for in the 1998 Rome Statute into domestic legislation, although it has not yet been studied by the Chamber of Deputies. The draft bill codifies the war crimes defined in the Geneva Conventions of 1949, Additional Protocol I and Article 8 of the Rome Statute. In 2015, Brazil's National IHL Committee fulfilled certain formalities before the National Congress in order to speed up the processing of this draft bill. Various draft bills concerning this subject have been brought before the National Congress, including a draft bill for a major reform of the Brazilian Criminal Code, with a whole chapter on serious violations of IHL which was along the same lines as the abovementioned draft bill.
- **Chile.** The amendments to Article 8 of the Rome Statute, adopted at the 2010 Review Conference, were passed by the National Congress on 1 April 2015; the Government of Chile had made a political commitment in 2009 to change Act no. 20357, which defines crimes against humanity, genocide and war crimes, in order to extend the war crimes indicated in the amendments to non-international conflicts and incorporate the crime of aggression into criminal law. At the end of 2015, the Ministry of Foreign Affairs was working on a draft bill, in conjunction with the Ministry of Justice and the Secretary General of the Office of the President.
- **Costa Rica.** Bill no. 16272, which includes the criminalization of war crimes, was awaiting approval by the Legislative Assembly.

- **El Salvador.** The Legislative Assembly ratified the Rome Statute of the International Criminal Court in November 2015. The consultation phase for ratifying the amendments to the Rome Statute was completed and a draft ratification bill was submitted to the Legislative Assembly in May 2014.
- **Haiti.** A draft new Criminal Code was submitted to the President of the Republic in 2015 by the Presidential Commission for Justice Reform set up in 2014. The bill is expected to be put before Parliament in early 2016.
- **Honduras.** In March 2013, the National IHL Committee, with the support of the ICRC, created a working group, headed by the President of the Congressional Human Rights Committee, to draft a bill to incorporate the war crimes provided for in the Rome Statute and other IHL treaties into national legislation. The bill is expected to be submitted to Congress for consideration shortly.
- **Paraguay.** At the end of the two-year period under review, a draft bill, prepared by an expert committee a few years ago, to implement the Rome Statute domestically and incorporate into national legislation the war crimes defined in the Statute and the crimes listed in the Geneva Conventions of 1949 and Additional Protocol I of 1977, was due to be introduced in the National Congress.
- **Peru.** Various draft bills to amend the Criminal Code were combined and included in the bill for the New Criminal Code. The Congressional Justice and Human Rights Committee

approved the New Criminal Code on 9 December 2014, and the new code was due to be debated in a plenary session of Congress at the end of 2015. The New Criminal Code also includes Bill no. 1615/2012-CR on the implementation of the Rome Statute.

## 2. Missing persons

In situations of armed conflict and other situations of violence that fall outside the scope of IHL, countless families suffer great anguish when loved ones go missing. The families of missing persons can find it very difficult to get over their grief and move on with their lives, even several years after their loved ones have gone missing. IHL upholds the right of families to know the fate and whereabouts of their missing relatives (see Article 32 of Additional Protocol I of 1977, Article 24(2) of the Convention for the Protection of All Persons from Enforced Disappearance, Article XI of the Inter-American Convention on the Forced Disappearance of Persons, and Rule 117 of the Study on Customary IHL). States must therefore make every effort to prevent people from disappearing and to deal with the consequences of such events, including meeting the multiple needs of the families concerned. This derives as much from IHL relating to armed conflicts as from international human rights law relating to other situations of violence that fall outside the scope of IHL.

### Legislation adopted

- **Colombia.** The National Government issued Decree 303 on 20 February 2015, which sets out the regulations for Act 1408 of 2010 known as the Act in Tribute to the Victims of Forced Disappearance, which sets out measures for searching for, identifying and recovering human remains, supporting families, providing compensation, etc.

2014, Ayacucho, Peru. Families of missing persons meet at the Ayacucho Institute of Legal Medicine to receive the remains of loved ones who went missing in 1983 and 1984.





- **Mexico.** In 2014, Mexico withdrew its reservation on Article IX of the Inter-American Convention on the Forced Disappearance of Persons, which states that persons alleged to be responsible for the acts constituting the offence of forced disappearance of persons may be tried only in the competent jurisdictions of ordinary law in each State, to the exclusion of all other special jurisdictions, particularly military jurisdictions. In August 2015, the Plenary Assembly of the National Conference of Attorneys General adopted a protocol for searching for missing persons and investigating the crime of forced disappearance. The Offices of the Republic's Attorney General, the State Attorney General and the Federal District Attorney General, together with experts and national and international human rights organizations, were all involved in drawing up this protocol. Its aim is to lay down rules and procedures that are in keeping with international human rights principles for investigating forced disappearances; it recognizes that for the search process to be successful, it is essential to ensure that professionals are involved and to foster capacity building, while establishing minimum operational requirements and monitoring the entire process.

#### Draft legislation pending

- **Brazil.** The Federal Congress is studying a draft bill to incorporate forced disappearance into Brazilian legislation.
- **Guatemala.** The Congress of the Republic has made progress in the process of adopting Bill 3590, which aims to create a committee for searching for missing persons, victims of forced disappearance and other forms of disappearance; it is currently pending final approval.
- **Mexico.** The amendment to Article 73 of the Constitution was published in the Official Gazette of the Federation on 10 July 2015; it authorizes the Congress of the Union to legislate on the forced disappearance of persons and on other illegal forms of depriving persons of their liberty and regulates the National Missing Persons System. As a follow-up to this amendment, the authorities have been working on draft legislation, which should be adopted in early 2016.
- **Peru.** In December 2014, the Deputy Minister for Human Rights and Access to Justice of the Ministry of Justice and Human Rights submitted to the Council of Ministers a bill declaring the search for persons who went missing during the period of violence from 1980 to 2000 to be of national interest.

#### Soft law

- **Argentina.** At an event that took place alongside the UN's Human Rights Council in April 2015, Argentina presented a good practice guide for the use of forensic genetics in investigations into violations of human rights and international humanitarian law; the guide was written by the Ministry of Foreign Relations, with help from the ICRC, human rights organizations and organizations of forensic anthropology in Argentina.

#### Other measures

- **Colombia.** In 2014, 120 public prosecutors and investigators working on disappearances received training by the ICRC on good practices for searching for, registering and identifying missing persons.
- **Mexico.** In the State of Coahuila, an autonomous working group made up of organizations of families of missing persons, non-governmental organizations and members of the Office of the United Nations High Commissioner for Human Rights in Mexico continued its work through the missing persons search and investigation board. This board is a platform for dialogue with the State authorities on the issue of missing persons in Coahuila; it sets up search mechanisms and determines ways to help families. In January 2015, the ICRC became an observer to the board and helped to create a forensic group, to which the ICRC provides technical advice. The forensic group has obtained some positive results in terms of identifying people.

### 3. Weapons

IHL contains principles and rules that govern the choice of means of warfare and prohibit and restrict the use of certain weapons. For example, certain conventional weapons are prohibited or restricted in order to protect civilians from the effects of indiscriminate use of these weapons and to prevent combatants from suffering in excess of what can be deemed necessary to achieve a legitimate military objective.

The main treaty governing the use of conventional weapons is the 1980 Conventional Weapons Convention and its five protocols. Added to this is the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, which is part of the international response to the widespread suffering caused by anti-personnel mines.

The 2008 Convention on Cluster Munitions prohibits these munitions and reinforces the obligations of parties to a conflict to distinguish at all times between civilians and combatants, to direct operations only against military targets and to take constant care to spare civilians and civilian property.

A more recent instrument is the 2013 Arms Trade Treaty, which regulates international transfers of conventional weapons, as well as their ammunition, parts and components, with a view to reducing human suffering. The Treaty makes arms-transfer decisions subject to humanitarian concerns by forbidding transfers when there is a defined level of risk that war crimes or serious violations of international human rights law will be committed.

There are also IHL treaties to explicitly prohibit biological and chemical weapons, such as the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction and the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

#### Legislation adopted

- **Bolivia.** Supreme Decree no. 2175 of 6 November 2014, which governs Act no. 400 of 18 September 2013, regulates



and controls all activities relating to firearms, ammunition, explosives and other related devices and materials; it is supplemented by Supreme Decree no. 2344 of 29 April 2015.

- **Panama.** Act 23 of 2015 was adopted; it sets out measures for combatting money laundering, the financing of terrorism and the proliferation of weapons of mass destruction and other related provisions.
- **Peru.** On 22 January 2015, the Congress of the Republic passed Act no. 30299 on firearms, ammunitions, explosives, pyrotechnics and related materials for civilian use.
- **Uruguay.** Act no. 19205 of April 2014 defines the crimes of producing, purchasing, keeping, developing, importing, exporting, transferring and trading chemical weapons, toxic chemical substances and their ingredients for any purpose.

#### Draft legislation pending

- **Uruguay.** The National IHL Committee completed a draft bill to incorporate violations of the Convention on Cluster Munitions into domestic criminal law. This draft bill incorporates the rules established in the Convention into Act no. 18026, which gives domestic effect to the Rome Statute and codifies all the violations of human rights and IHL treaties ratified by Uruguay, including those prohibiting or restricting certain types of weapons.

#### Other measures

- **Argentina.** At the National IHL Committee's first meeting of 2015, the Department for the Control of Military Goods (Ministry of Defence) provided information on points relating to the Arms Trade Treaty and IHL, particularly Articles 6 and 7 on the humanitarian risks that may occur when exporting arms, which the Committee may work on in the future.
- **Costa Rica.** In 2015, an inter-institutional committee was set up to meet the obligations set forth in the Arms Trade Treaty. The committee will define the facilities, processes and mechanisms needed to fully and effectively implement the Treaty, in accordance with Article 5.
- **Chile.** At the end of 2015, the Arms Trade Treaty continued to be studied by the ministries concerned and the General Secretariat of the Office of the President and the Ministry of Finance, prior to its submission to the National Congress. Also worth mentioning are the intense efforts of the National Demining Committee to meet the obligations under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, and the Cartagena Action Plan.
- **The States of the Caribbean Community (CARICOM).** In 2014 and 2015, various efforts were made to promote the Arms Trade Treaty, particularly through the CARICOM Implementation Agency for Crime and Security and through a model law for countries in the region.

## 4. Protecting the emblems

The use of the emblems – the red cross, red crescent or red crystal on a white background – is governed by the Geneva Conventions of 1949, their Additional Protocols I and II of 1977 and Additional Protocol III of 2005. These instruments define the individuals and services entitled to use the emblems and the purposes for which they may be employed. Any unauthorized use is prohibited. Non-compliance with these rules threatens the impartial nature of the assistance and protection provided to those in need. Use of the emblems can be authorized to protect the medical services of the armed forces and, in wartime, civilian hospitals. It is also used by the National Red Cross or Red Crescent Societies, their International Federation, and the International Committee of the Red Cross.

#### Legislation adopted

- **Dominican Republic.** Decree 249-14 of 29 July 2014 sets out the implementing regulations for Act 220-07 on the Protection and Use of the Red Cross and Red Crescent Emblems and Name.
- **Ecuador.** On 28 January 2014, the National Assembly passed the Integral Criminal Code, which defines misuse of the emblem as a crime in Article 139. During armed conflicts, the Code sets out punishments for the unauthorized use of the red cross, red crescent or red crystal emblem, or any sign that is an imitation or that could lead to confusion.
- **Mexico.** The regulations for the Act on the Use and Protection of the Name and Emblem of the Red Cross were published in the Official Gazette on 25 March 2014; this instrument imposes administrative sanctions on anyone who uses the emblem or name without authorization and sets up an email address to which individuals can send their complaints.
- **Venezuela.** In December 2015, the Act on the Protection of the Red Cross Name and Emblem was published in the Official Gazette; it replaces the previous act from 1965. For the first time, perfidy is defined as a crime.

#### Draft legislation pending

- **Argentina.** The National IHL Committee prepared a new draft bill on the protection of the red cross and red crescent emblems, with an open formula allowing for the future incorporation of new emblems, such as the emblem provided for in Additional Protocol III of 2005. By the end of 2015, the draft bill had been submitted to the relevant ministries and would then be brought before the national legislative chamber.
- **Ecuador.** In 2015, the National IHL Committee submitted a draft amendment to Article 218 of the regulations governing the Act on Land Transport, Traffic and Road Safety to restrict the use of the emblem by public and private ambulances.
- **Guatemala.** At the end of 2015, the draft regulations for the act on the protection and use of the red cross emblem were being studied by the Legal Department of the Ministry of Foreign Affairs, with help from the National IHL Committee.

- **Honduras.** In 2015, the National IHL Committee worked to raise awareness concerning the use of the emblem – primarily among the media, pharmaceutical companies and the private sector in general – in order to highlight the importance of ensuring proper use of the emblem. At the end of 2015, the National IHL Committee was analysing draft regulations for the law on the protection of the emblem.
- **Uruguay.** The National IHL Committee prepared a draft bill to amend the law on the use of the red cross emblem, which incorporates the provisions of Additional Protocol III. At the end of 2015, the draft amendment was awaiting passage through Parliament.

### 5. Protecting cultural property

IHL contains rules specifically aimed at protecting cultural property in the event of armed conflict. Their purpose is to prevent such property from being damaged or destroyed, as can often happen during military operations, and to prevent losses not only for the country in question but also for the cultural heritage of mankind as a whole. This is governed by the 1954 Convention on the Protection of Cultural Property in the Event of Armed Conflict (the Hague Convention) and its Additional Protocols of 1954 and 1999, which require States Parties to take legislative, administrative and practical measures to abide by these rules.

#### Marking processes

- **Argentina.** In 2014, as part of the 60th Anniversary of the Hague Convention, the working group responsible for developing a plan for implementing and complying with Argentina’s international obligations under the Hague Convention marked four properties with the Convention’s emblem. In 2015, the working group marked a further seven cultural properties across the country.

2015, Uxmal, Yucatan, Mexico. Inauguration of the Yucatan archaeological site as a “Blue Shield” site following its addition to UNESCO’s International Register of Cultural Property under Special Protection.



Secretariat of Foreign Affairs of Mexico

- **Chile.** During the two-year period under review, the National IHL Committee continued its work to identify cultural property to be registered and marked, through a special working group on the implementation of the 1954 Hague Convention and its Protocols. At the end of 2015, the working group was in the process of determining which properties could be eligible for general protection or enhanced protection as provided for under the relevant international instruments. A preliminary list of properties has been drawn up and work is scheduled to begin on having them marked as protected properties and raising awareness of them. Work is also in progress to register these properties as provided for under the Convention.
- **Honduras.** In July 2015, at the request of the National IHL Committee, the government, through its UNESCO representative, began the process of seeking enhanced protection for the Maya Site of Copán.
- **Mexico.** Further Mexican archaeological sites were added to UNESCO’s International Register of Cultural Property under Special Protection in the event of armed conflict, which entered into force in April 2015.

#### Other measures

- **Guatemala.** In 2015, on the initiative of the National IHL Committee and the Association of Museums, the National Committee of the Blue Shield was created in order to protect cultural property in the event of armed conflict.

### 6. Other measures

#### Implementation of the Geneva Conventions

- **Jamaica.** During the 2014-2015 period, efforts aimed at drafting a Geneva Convention Bill to implement the four Geneva Conventions and the three Additional Protocols continued.

#### Children in armed conflicts

- **Guatemala.** At the end of 2015, the possibility of endorsing the Safe Schools Declaration of the Global Coalition to Protect Education from Attack was being considered, with a view to safeguarding schools from attacks during armed conflicts.

#### Rules of procedure of National IHL Committees

- **Argentina.** During the two-year period under review, the National IHL Committee amended its regulations and broadened its composition.

#### National Information Bureaux

- **Chile.** At the end of 2015, the National IHL Committee was actively working with the Ministry of National Defence to set up a National Information Bureau as provided for in Part V of the Third Geneva Convention relative to the Treatment of Prisoners of War.

### Other activities

- **Argentina.** In 2015, the National IHL Committee completed a report of the working group responsible for analysing and proposing measures to set up a protocol for helping those with disabilities during an international or non-international armed conflict and during other humanitarian activities, to be submitted for approval.
- **Bolivia.** The National IHL Committee completed a second IHL course in November 2014 and a third in November 2015.
- **Colombia.** Decree 1081/2015 was ratified by the Interdisciplinary Committee, the highest political decision-making body in the areas of IHL and human rights; the Decree approved the National System for Human Rights and IHL. Various activities to raise awareness of IHL in academic fields were also carried out. These included the fourth edition of the “Augusto Ramírez Ocampo” course in IHL for high-level civil servants, which was organized in November 2015 by the government’s Technical Group on IHL and Armed Conflict, with help from the ICRC.
- **Dominican Republic.** The National IHL Committee conducted a study of the Montreux Document of 17 September 2008 on States’ international legal obligations and good practices related to operations of private military and security companies during armed conflict. The study was submitted to the Minister of Defence and the Minister of the Interior and Police in November 2014, who authorized a diplomatic note in support of the Montreux Document to be sent to the Swiss Federal Department of Foreign Affairs.
- **Ecuador.** The annual “Mariscal Antonio José de Sucre” course, which contains an introductory IHL module and covers specific topics, was given to civil servants, as well as members of the armed and security forces, academies and civil society. In 2015, the seventh edition of the course took place in the city of Guayaquil, with some 60 individuals from across the country taking part.
- **El Salvador.** In 2014, Executive Decree no. 74 was issued; it creates the National Committee for the Implementation of UN Security Council Resolution 1325 and any subsequent resolutions concerning women, peace and security; the purpose of the committee is to put forward policies and rules to achieve national compliance with these resolutions, taking into account the role that women play in preventing and resolving conflicts and the importance of their active participation in initiatives to maintain and restore peace and national security.
- **Mexico.** In 2014, the Inter-Ministerial IHL Committee organized the annual specialized IHL course for 200 people in Mexico City. In 2015, this course was given to more than 1,000 people (in five venues across the country). Also, as part of ICRC president Peter Maurer’s visit, two lectures were organized for 200 members of the Mexican armed forces and other related entities, as well as for students from the National Autonomous University of Mexico.
- **Peru.** Supreme Decree no. 005-2014-JUS passed the 2014-2016 national human rights plan, which contains provisions on the implementation of IHL mechanisms. On 10 December 2014, the 2021 National Plan for Education on Fundamental Rights and Obligations was presented; it was drawn up by the Ministry of Justice and Human Rights, in conjunction with the Ministry for Education, the Ministry of Foreign Affairs, the Ministry for Women and Vulnerable Populations, the Ministry of Culture, the Ministry of the Interior, and the Ministry of the Environment. The plan contains provisions to provide education on human rights and IHL education at all levels and in all fields. Peru gave the tenth edition of its IHL course. In the last two years, virtual training has been included, which has increased the number of teaching hours. This virtual training was made possible thanks to help from ICRC experts. It was also used by members of the committee to discuss and propose ways of implementing IHL.

2015, Mexico City, Mexico. ICRC president, Peter Maurer, during his lecture at the Law Faculty of the National Autonomous University of Mexico.



Mexican Red Cross

## B. Integrating IHL into the armed forces

Integrating IHL into the armed forces is a compulsory measure for the national implementation of IHL treaties. IHL rules must be translated into concrete mechanisms that ensure the protection of people and property in armed conflicts.

In order to ensure that members of the armed forces act in accordance with the rules of IHL, these rules must be faithfully reflected in military policy, education, instruction and training, as well as in systematic operational procedures and the choice of weapons.

Ministries of Defence form part of the National IHL Committees and chair them in some cases. As part of their duties, they produce reports on the progress made in this regard. Through its programme for armed forces, the ICRC contributes to efforts aimed at incorporating the rules of IHL into military policy and manuals.

- **Argentina.** The country has a national plan establishing a set of hierarchically organized orders and provisions, which ensure that IHL is effectively taught and promoted at all levels. The Joint Chiefs of Staff provide courses to train military instructors in IHL. The National Institute of Air and Space Law runs post-graduate IHL courses for military personnel and civilians. The Argentine Joint Peacekeeping Operations Training Centre provides IHL training for all Argentine military personnel to be deployed on United Nations peacekeeping operations. Since 2014, the Ministry of Defence has run a training course with a module dedicated to IHL, human rights and international criminal law for the Council of South American Defence.
- **Belize.** In 2014, a round table on IHL was organized for 30 officials from the country's armed forces.
- **Bolivia.** In August 2014, the Ministry of Defence approved the Manual on Human Rights and IHL, a reference for all soldiers and marines doing compulsory military service.
- **Brazil.** Guidelines on teaching IHL were adopted in 2008 to ensure that IHL is promoted and taught at all levels. In 2011, the Minister of Defence ordered the publication of the first edition of the IHL Manual for the Armed Forces as a whole. Using this manual as a model, the army, navy and air force are currently drawing up separate manuals. The Ministry of Defence was also studying a general directive on the implementation of IHL in the Brazilian army.
- **Colombia.** In 2015, the Protocol of Public Force on preventing and responding to sexual violence, particularly in relation to armed conflict, aimed at members of the armed forces and the national police force, was adopted; a military card was also issued containing the most important ways of identifying this type of violence so that appropriate action can be taken. With the help of the ICRC, the Ministry of National Defence and the Joint Forces Command conducted a series of activities

aimed at incorporating IHL into military policy, education and training, as well as into systematic operational procedures. Through Ministerial Directives no. 01 of 2014 and no. 13 of 2015, 11 After Action Reviews concerning IHL and international human rights law were conducted for 468 members of the security forces. At the same time, a total of 92 officials from the Government, the Ministry of Defence and the armed forces took part in three confidential round tables on interpreting the rules of IHL (use of force in operations, the protective emblems in other situations of violence, disciplinary and legal procedures, and prevention of sexual violence). In 2014 and 2015, seven workshops on how to integrate IHL into training were organized for a total of 254 military and police instructors. A total of 130 individuals from the office of the inspector general and the armed forces (eight army divisions, navy commandos, the air force, the Omega joint taskforce, the office of the inspector general, the national police, and the national intelligence department) took part in two workshops that covered: the ICRC's mandate; operational methods; implementation of IHL and IHRL in Colombia; the direct participation of civilians in hostilities; the use of force in other situations of violence; the issue of children and teenagers; sexual violence; weapon contamination; and humanitarian demining.

Two workshops on IHL and IHRL and implementing these rules domestically were also organized and attended by 140 operational legal advisors, and 11 workshops on the protection of medical personnel and services were also organized for 432 members of the armed forces. In addition, four workshops on IHL for 177 members of the security and armed forces took place.

- **Ecuador.** On 11 September 2014, the Ministry of National Defence approved the Manual of Law in Military Operations, which stipulates that IHL must be applied in military operations to defend sovereignty and territorial integrity, and that human rights must be protected in internal military operations.

2013, Putumayo, Colombia. ICRC president, Peter Maurer, talks to soldiers.



Boris Heger/ICRC



- **El Salvador.** The National IHL Committee, through its sub-committee on IHL promotion and capacity building, provides IHL capacity building to various government entities and civil society institutions by offering university places. In 2015, it provided ongoing training for the armed forces, which also served to raise awareness of the Committee's activities and achievements.
- **Guyana.** In 2015, a round table on implementing IHL was organized for 30 officials from Guyana's armed forces, with the aim of promoting the integration of IHL.
- **Mexico.** The Secretariat of National Defence gave scholarships to military personnel so that they can specialize in IHL at renowned international centres in Peru and Italy. The Secretariat of the Navy included IHL in the exams for the upper ranks.
- **Nicaragua.** Act no. 854 of 29 January 2014 amended Article 93 of the Constitution so that it now stipulates that members of the army must receive ongoing training in human rights and IHL.
- **Peru.** On 12 August 2015, the Ministry of Defence created an ad hoc committee in charge of drafting an operational manual for the armed forces; the manual will serve as a legal framework for planning all of the armed forces' operations to combat narcoterrorism. The committee is entitled to invite experts, civil servants and individuals from private sector institutions to take part in its sessions. Ministerial Resolution no. 881-2015-DE/SG, issued on 3 October 2015, extends the committee's powers so that it can draw up the regulations for Legislative Decree no. 1095, which sets out the rules for the use of force by the armed forces in national territory.
- **Venezuela.** In January 2015, the Ministry of Defence issued a resolution that governs the use of force by military personnel; the ICRC contributed to this resolution through its courses on international principles on the use of force.
- **Central American Armed Forces Conference.** As part of the Central American Armed Forces Conference (CFAC), professors from the school of graduates in human rights and IHL of the Dominican Republic's Ministry of Defence provided basic courses in cadet training schools and commando and chief-of-staff schools on human rights and IHL for El Salvador, Guatemala, Honduras and Nicaragua.

## C. Integrating IHL into academic teaching

On becoming a party to IHL treaties, States undertake to raise awareness of and promote these provisions as widely as possible and to take steps to implement them nationally. In order to fulfil this commitment, academic institutions in each country must integrate this subject into their course plans, teach IHL and encourage research into the subject, particularly in faculties of law and post-graduate education. Good universities and expert teachers enable States to train future specialists, future civilian and military leaders, members of the judiciary, legislators, other decision-makers and the general public.

An increasing number of academic institutions in the Americas have shown their commitment to including the teaching of IHL in the education they offer. However, although this body of law is clearly of interest to these institutions, progress in actually including the subject in the curriculum was uneven across the region in 2014 and 2015.

A significant number of universities, particularly in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Peru and Uruguay, systematically offer IHL courses at bachelor, master and doctorate level, providing students with knowledge and experience in this branch of public international law. In addition to faculties of law, faculties of political science, social science, journalism and international relations also offer courses on this subject.

The ICRC has actively cooperated with universities in a number of countries in the Americas to promote the inclusion and teaching of IHL and humanitarian principles in academic programmes, including post-graduate courses, with the aim of developing top-class research centres. This is done mainly through cooperation agreements and courses for university lecturers.

In 2014 and 2015, various universities across the continent took part in the Jean Pictet IHL competitions, held in Sintra, Portugal, and Charlottesville, USA respectively.

Teachers and experts from a variety of disciplines continue to support and contribute to integrating IHL into academic teaching and to promoting research into the subject at the national level. These individuals are actively involved, as independent or government experts, in the national training and implementation processes, both at the government level, through the National IHL Committees, for example, and in the armed forces and National Societies. They also contribute to the clarification process through research, working group discussions, international conferences, opinion papers and their input as government experts.

- **Argentina.** Various activities were carried out in the academic field. The ICRC provided support for the recent editions of the IHL colloquium organized by the Institute of Human Rights of the Central University of the Province of Buenos Aires.

- **Ecuador.** In March 2014, an academic cooperation agreement was signed between the Catholic Pontifical University of Ecuador (PUCE) and the ICRC to promote IHL at that university. Students from PUCE also participated in the Jean Pictet IHL competition in 2015. Finally, in October 2015, the first “Manuel Muñoz Borrero” national inter-university IHL competition took place in the Jurisprudence Faculty of PUCE, with six teams from four universities taking part.
- **Mexico.** The two-year period under review saw editions of both the “Víctor Carlos García Moreno” International Criminal Court moot court competition and the “Sergio García Ramírez” competition (proceedings before the Inter-American Court of Human Rights). The fictitious cases used in these competitions included aspects of IHL, and students representing various universities from across the region were able to gain important insight into its application and how it differs from IHRL. In 2015, the dialogue with the Law Faculty of the National Autonomous University of Mexico continued, with a view to incorporating IHL into course plans.
- **Peru.** The ICRC continued to support the Yachay human rights competition organized by the Catholic Pontifical University of Peru, which was entered by universities from various cities in Colombia, Peru, Ecuador and Bolivia and which each year covers topics related to IHL through its fictitious case. In 2015, the ninth edition of this competition took place. Students from the Catholic Pontifical University of Peru also took part in the Jean Pictet IHL competition in 2014 and 2015. The 2014-2016 national human rights plan was approved by Supreme Decree no. 005-2014-JUS, which stipulates in strategic objective 8.3 (No. 2) that it is necessary to encourage the inclusion of human rights and IHL – especially conduct prohibited during armed conflicts – in all educational processes, depending on the level of the students concerned.

2013, Zulia, Venezuela. Members of the Venezuelan Red Cross develop first-aid activities in remote communities.



Claudia Olago/Venezuelan Red Cross

## D. 32nd International Conference of the Red Cross and Red Crescent

From 8 to 10 December 2015, the 32nd International Conference of the Red Cross and Red Crescent took place in Geneva. The International Conference is an apolitical forum that every four years brings together the States Parties to the Geneva Conventions of 1949 and the International Red Cross and Red Crescent Movement to discuss matters of humanitarian interest. American States made an important contribution to the Conference, which adopted resolutions on topics such as strengthening international humanitarian law protecting persons deprived of their liberty, strengthening compliance with IHL, protecting the delivery of health care, and sexual and gender-based violence. In addition, the report entitled “International humanitarian law and the challenges of contemporary armed conflicts” was also presented. Conference documents are available at the following link: <http://rcrcconference.org/international-conference/documents/>.

During the Conference, various American States made pledges (i.e. voluntary commitments relating to IHL), particularly concerning the ratification of treaties and implementing priority measures. These pledges are provided in the appendix to this Report.

Representatives from military forces and humanitarian agencies take part in a panel on the Fundamental Principles during the 32nd International Conference of the Red Cross and the Red Crescent.



Damien Fulton Naylor/IFRC

# PART III



# INTEGRATING AND PROMOTING INTERNATIONAL HUMAN RIGHTS LAW AND INTERNATIONALLY RECOGNIZED RULES ON THE USE OF FORCE IN LAW ENFORCEMENT

The national, State, departmental and municipal police and security forces of more than a dozen countries in the Americas continued to use the United Nations' Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as tools to provide guidance on professional law enforcement practice to ensure respect for the life, physical integrity and dignity of all human beings.

The ICRC works to ensure that these tools are effectively implemented by the police and security forces with which it works in all areas, including policy, education, training, enforcement, sanctions and equipment. To this end, the ICRC organizes awareness-raising, training and advisory activities aimed at all hierarchical levels.

The ICRC also works to raise awareness and provide training in some countries where the armed forces support the police and security forces in their duties.

Some countries in the Americas have started to review their policies as well as education and training plans, with a view to integrating humanitarian rules and improving compliance with them.

- **Belize.** Starting in 2013, the ICRC began working with both the police and the armed forces, providing practical instruction on international rules relating to the use of force. Practical training and a round table with the Ministry of National Security, the security forces and armed forces were also organized.
- **Bolivia.** On 17 September 2015, the Ministry of the Interior, the General Command of the National Police and the Department of Prisons signed an inter-institutional cooperation agreement. The aim of the agreement is to coordinate efforts to integrate international principles on the use of force and the protection

of individuals into the rules, policy and education and training system of the National Police of Bolivia. The agreement will remain in effect until September 2020.

- **Brazil.** With help from the ICRC, in 2014 the Military Police of the state of Rio de Janeiro conducted seminars and workshops with teachers from the police academy and training centre on integrating international human rights rules into both police education and training. The guidelines applicable to community policing were also updated. The National Secretariat of Public Security of the Ministry of Justice revised and broadened the contents of the long-distance course on human rights in the police force.
- **Chile.** With the help of the ICRC, the Human Rights Department of the Chilean police provided two training courses for trainers of trainers and two seminars for teachers and professionals from the area of education and policy, with a view to integrating international human rights rules into police education and training.
- **Colombia.**
  - Colombia made efforts to adjust and create mechanisms to regulate the use of force in operations to maintain and restore law and order. On 19 February 2015, the National Police Department issued Resolution 00448, which regulates the use of force and non-lethal devices, ammunition and weapons by the National Police. These regulations govern the use of force and firearms in all situations not constituting armed conflict.
  - A new Manual of Operational Law for the armed forces and a Military Card of Operational Law for Commanders were drawn up and issued on 20 April 2015 through Resolution 019 of the Ministry of National Defence. The manual brings together and sets out the rules relating to human rights and IHL in armed conflicts and the processes that military

units must follow. In addition, the Ministry issued Directive 21/2015, which covers everything concerning new threats and operational risks that could arise in the next phases of the country's existence.

- In 2014, in conjunction with the Inspector General of the National Police, the ICRC conducted a workshop on maintaining law and order and human rights, with 41 members of the armed forces and four members of the Prisons Institute taking part. In 2015, a course on training instructors in human rights, the use of force and the role of the police was given to 41 instructors.
- Other work carried out with the security forces covered integrating IHRL, the use of force, the role of the police, and law enforcement operations. Six related activities were carried out, with members of the Colombian armed forces, 142 police officers and prisons guards taking part. In Medellín, police officers attended workshops to raise awareness of IHRL and the use of force.
- During these two years, four workshops on the use of force in the prisons system from a human rights perspective were conducted for members of the Prisons Institute.
- **El Salvador.** In 2014, 26 officials from the middle and upper ranks of the National Civil Police received training on the international rules and principles relating to the use of force; they were made aware of the importance of incorporating these rules and principles into the planning and supervision of police operations.
- **Guatemala.** With the support of the ICRC, the armed forces provided training for over 600 soldiers deployed in public safety squads, which support the national civilian police force, on their obligations pursuant to the rules governing the use of force.  
In 2014, an After Action Review was conducted with senior officials of the National Civil Police to drive home the need to establish concrete measures and mechanisms for integrating the rules on the use of force and the protection of persons into the planning, execution, supervision and follow-up of operations.
- **Guyana.** Starting in 2014, the ICRC began working with both the police and the armed forces on implementing international rules applicable to the use of force when maintaining law and order. Practical training and a round table with the Ministry of National Security, the security forces and armed forces were conducted.
- **Haiti.** In December 2014, more than 1,000 police officers from the 25th generation of the national police received training on the use of force, with support from the ICRC. The training covered, among other topics, the treatment of detainees.
- **Honduras.** In 2015, a bill was drafted on the use of force by all civil servants tasked with law enforcement and with a policing role or a police-support role; before it was submitted to the Council of Security and National Defence, it was shared

with various governmental and non-governmental entities. The ICRC was involved in the drafting process, as part of the cooperation agreement signed with the Minister of Security in April 2015.

In 2014 and 2015, 75 officers, officials and senior officials from the national police were made aware of the importance of understanding and complying with the principles concerning the use of force and human rights applicable to the police in security operations.

- **Jamaica.** Starting in 2014, the ICRC began working with both the police and the armed forces on integrating international rules applicable to the use of force when maintaining law and order. Practical training and a round table with the Ministry of National Security, the security forces and armed forces were conducted.
- **Mexico.**
  - In May 2014, the Manual on the Use of Force was published in the Official Gazette of the Federation; it applies to all three armed forces (army, air force and navy) and is a guide on how to act during security operations.
  - In the period under review, as part of the diploma course in police management, which was organized by the Federal Police and the Centre of Economic Research and Training (CIDE), more than 700 senior and middle-ranking officials from the Federal Police, as well as public-security officials, police directors, and senior municipal and State officials were made aware of the challenges and opportunities concerning the interpretation and implementation of the rules on the use of force and protecting individuals. Along the same vein, 200 officers, chiefs and senior officials from the Mexico City preventive and investigative police took part in the two editions of the diploma course on the use of force and human rights, which is jointly organized by the ICRC and the Human Rights Committee of the Federal District.
  - Under the cooperation agreement with the Secretariat of Public Security of the Federal District (Mexico City), the ICRC gave support and advice on whether operational policy was in keeping with the rules and principles of IHRL.
- **Panama.** In 2014 and 2015, 67 officers, senior officials and civil servants from the National Police, National Aero-naval Service, National Border Service, Institutional Protection Service and Department of Migration attended training events in which there were in-depth discussions on the utility of complying with the rules governing the use of force and the protection of individuals.
- **Paraguay.** During the period under review, the human rights departments of the National Police and the Ministry of the Interior provided courses for trainers of trainers in human rights and police operations, with help from the ICRC. Seminars and workshops for teaching staff were also organized to promote the full integration of international human rights rules into education and police training.

- **Peru.**
  - The 2014-2016 National Human Rights plan was approved by Supreme Decree no. 005-2014-JUS, which stipulates in strategic objective 8.3 (No. 2) that it is necessary to encourage the inclusion of human rights and IHL – especially conduct prohibited during armed conflicts – in all education processes, based on the level of the students concerned.
  - On 5 February 2015, Peru’s Ministry of the Interior and the ICRC signed a cooperation agreement aimed at coordinated efforts to integrate international principles on the use of force and the protection of individuals into the rules, policy and educational and training system of the National Police of Peru. The agreement will remain in effect until February 2017. Under the agreement, the ICRC and the Ministry have trained some 250 police officers in the regions of Alto Huallaga and Valle del Río Apurímac, Ene y Mantaro (VRAEM) in the use of force during periods of unrest, and when working to eradicate coca leaves and prohibit drug-trafficking.
  - On 15 August 2015, the government issued Legislative Decree no. 1186 on the use of force by the National Police of Peru. This law regulates the principles, circumstances and conduct of police concerning the use of force and determines the situations in which a firearm can be legally used in law enforcement operations.
- **Saint Lucia.** In 2014, the security forces received practical training on the international rules applicable to the use of force in law enforcement operations, with support from the ICRC.
- **Trinidad and Tobago.** Starting in 2013, the ICRC began working with both the police and the armed forces on integrating international rules applicable to the use of force when maintaining law and order. Practical training and a round table with the Ministry of National Security, the security forces and armed forces were conducted.
- **Central America.** During the two-year period under review, there were four editions of the instructor-training course on human rights and humanitarian principles applicable to policing roles. A total of 156 Mexican police officers from the three levels of government took part, along with members of the police and security forces of El Salvador, Guatemala, Honduras and Panama. The aim of these events was to build the capacities of participating institutions in developing processes to integrate and raise awareness of these rules.

2013, Putumayo, Colombia. An ICRC delegate talks with officials during a prison visit.



# PART IV

# NATIONAL IHL COMMITTEES

National implementation of IHL includes all measures that are taken to ensure full compliance with the rules of this branch of the law. As a general rule, these measures have to be prepared and adopted in times of peace, to ensure that States fulfil their obligations under IHL treaties.

More than half of the world's States have set up mechanisms to facilitate this task. And most Latin American States have such a mechanism. These mechanisms generally take the form of inter-ministerial or inter-institutional committees created to address IHL issues. They are formed by relevant executive branch institutions, such as ministries of foreign relations, defence, justice, health, education and culture, together with representatives of the legislative branch and the judiciary. Input is also often provided by other institutions, such as National Red Cross Societies and academic institutions. In its capacity as a legal and/or technical advisor, the ICRC is involved in the work of these committees. National IHL Committees enable States to work more efficiently in this area, by streamlining resources and bringing together skills that are normally dispersed. They also help maintain a permanent focus on IHL, regardless of changing circumstances and shifting priorities.<sup>1</sup>

To date, 20 American States have established a National IHL Committee. In December 2015, Venezuela became the most recent country in the region to set up a National IHL Committee, when the new law creating the committee was announced in the Official Gazette.

COUNTRY	COMMITTEE CREATED IN
Argentina	1994
Bolivia	1992
Brazil	2003
Canada	1998
Chile	1994
Colombia	2000
Costa Rica	2004
Ecuador	2006
El Salvador	1997
Guatemala	1999
Honduras	2007
Mexico	2009
Nicaragua	1999
Panama	1997
Paraguay	1995
Peru	2001
Dominican Republic	1995
Trinidad and Tobago	2001 (ad hoc)
Uruguay	1992
Venezuela	2015
<b>TOTAL</b>	<b>20</b>

<sup>1</sup> The list of National IHL Committees is available at the following link: <https://www.icrc.org/en/document/table-national-committees-and-other-national-bodies-international-humanitarian-law>.

The region's IHL committees met in Bogotá, Colombia, from 9 to 11 September 2015, at the Conference of National Committees for the Implementation of International Humanitarian Law of the Americas. The conference was organized by the ICRC under the auspices of the Colombian Government's Technical Group on IHL and Armed Conflict, led by the Presidential Advisor on Human Rights, the Ministry of the Interior, the Ministry of National Defence and the Ministry of Foreign Affairs.

The members of the region's National IHL Committees attended, as did representatives of the governments of Cuba, the USA, Spain and Switzerland, the Secretariat of CARICOM, the OAS International Law Department, the OAS Committee for Juridical and Political Affairs, and the International Humanitarian Fact-Finding Commission.

The conference, part of a process of regular exchanges between National IHL Committees in the region, enabled their members to take stock of challenges relating to implementing IHL nationally and keep up to date on various issues relating to IHL and the protection of individuals in general.

Below are details of some of the work carried out by the National IHL Committees during the period under review.

- **Argentina.** The National IHL Committee amended its regulations, broadened its composition and drew up a new draft bill on the protection of the red cross and red crescent emblems. The Committee also promoted the marking of 11 cultural properties, pursuant to the Hague Convention, and began work on marking three further properties. The Committee also contributed to developing a protocol for looking after people with disabilities in the event of an international or non-international armed conflict.
- **Bolivia.** The Committee studied the viability of including a law on the implementation of the Rome Statute in a series of regulations put together by the legislature. The Committee organized a second IHL course in November 2014 and a third in November 2015.
- **Brazil.** In 2015, Brazil's National IHL Committee took steps before the Federal Congress to speed up the processing of a draft bill on implementing the crimes stipulated in the 1998 Rome Statute. The Committee was also behind efforts to ratify the Arms Trade Treaty and the two amendments to the Rome Statute.
- **Chile.** Through the special working group on the implementation of the 1954 Hague Convention, the National IHL Committee continued to identify cultural items to be registered and marked, either for general or for enhanced protection. In conjunction with the Ministry of National Defence, the Committee worked to create a National Information Bureau under the terms stipulated in Part V of the Third Geneva Convention. The Committee also approved the Kampala amendments to the Rome Statute so that the ratification process could continue. Finally, as Chile served as a non-permanent member of the UN Security Council during the period under review, the Committee backed Chile's support for the protection of civilians and vulnerable groups through the promotion and implementation of IHL.
- **Colombia.** The government's Technical Group on IHL and Armed Conflict was behind the implementation of the National System for Human Rights and IHL. The Group also contributed to the new Manual on Operational Law for the Armed Forces. Furthermore, the Group drew up and implemented actions to help with the search for missing persons and provide support to their families. Finally, it organized the third edition of the "Augusto Ramírez Ocampo" course in IHL for high-level civil servants in November 2014, and the fourth edition in November 2015.
- **Dominican Republic.** The Committee was involved in drawing up the regulations for the Law on the Protection and Use of the Red Cross and Red Crescent Names and Emblems, which sets out the conditions for their protective and indicative use. It also completed its study of the Montreux Document of 2008 on States' international legal obligations and good practices related to operations of private military and security companies during armed conflict.
- **Ecuador.** The National IHL Committee submitted a draft amendment to the regulations for the law on land transport, transit and road safety to restrict the use of the emblem by public and private ambulances. The Committee also studied the viability of ratifying Additional Protocol III and issued its recommendation. The Committee worked to incorporate grave breaches of IHL into Ecuadorian legislation, as part of the entry into force of the new Criminal Code in 2014. It also organized the seventh edition of the annual "Mariscal Antonio José de Sucre" course for civil servants, members of the armed forces and police, academies and civil society.
- **El Salvador.** The Committee provided ongoing training on IHL to different government entities and civil society institutions, including the armed forces. It also worked on a new project to mark six more cultural properties. In 2014, the consultation phase regarding the amendments to the Rome Statute was completed, and the draft bill was submitted to the National Assembly for ratification. The Committee also helped to create the National Committee for the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security.
- **Guatemala.** On the initiative of the National IHL Committee and the Association of Museums, the National Committee of the Blue Shield was created in order to protect cultural property in the event of armed conflict. The IHL Committee also worked on draft regulations for the law on the protection and use of the red cross emblem. In addition, it analysed the Safe Schools Declaration of the Global Coalition to Protect Education from Attack in order to determine whether the Declaration could be endorsed. Finally, the Committee provided IHL training to army officers deployed in peacekeeping operations in the Democratic Republic of the Congo and Haiti.



- **Honduras.** The National IHL Committee was involved in drawing up a draft bill to incorporate the war crimes stipulated in the Rome Statute and other IHL treaties into domestic law. The National IHL Committee worked to raise awareness of the use of the emblem, aimed primarily at the media, pharmaceutical companies and the private sector in general; it highlighted the importance of ensuring proper use of the emblem. The Committee also analysed the draft regulations for the law on the protection of the emblem. At the Commission's request, the process of applying for enhanced protection for the Copán archaeological site began. The Committee also worked on drawing up the regulations for the Law on the Protection of the Red Cross and Red Crescent Emblems.
- **Mexico.** The Committee worked on the regulations for the Law on the Use and Protection of the Red Cross Name and Emblem, which includes details of the process for authorizing use of the emblem and the administrative sanctions in the event of emblem misuse. The abovementioned law came into force in 2014. The Committee completed the process for registering nine cultural properties under the special protection provided for in UNESCO's treaty law. The Committee also conducted the fifth and sixth editions of the annual IHL course, which is aimed at members of the three branches of government and the general public. Finally, it designed and launched a website to provide information on the Committee's work and functioning.
- **Paraguay.** The Committee launched a project to follow up on the promotion of IHL in different areas of the country. It also examined the issue of protecting cultural property to determine what measures could be taken to implement this in Paraguay.
- **Peru.** The Committee analysed the possibility of ratifying Additional Protocol III and other treaties. It also worked on adopting a programme to protect the civilian population in situations involving armed groups and terrorists. The Committee also organized the tenth edition of its IHL course, which now includes virtual learning. Furthermore, it continued to work to protect cultural property, drawing up regular reports for UNESCO.
- **Uruguay.** The Committee drew up a draft bill to include violations of the Cluster Munitions Treaty in domestic law, a bill on including the use of cluster munitions (among others) as a war crime, and a draft bill to amend the law on the use of the red cross emblem in order to incorporate Additional Protocol III. It helped to organize human rights and IHL training days and capacity building for army personnel involved in UN peacekeeping operations. The Committee also conducted an analysis of Article 6 of the Arms Trade Treaty, which prohibits the transfer of arms in certain cases.

2015, Bogotá, Colombia. The Conference of National IHL Committees in the Americas.



# PART V



# THE OAS AND IHL

## A. Promoting IHL

During the two-year period covered by this report, the Organization of American States (OAS) and its Member States continued to strengthen their efforts to ensure compliance with and promotion of IHL. The importance ascribed to IHL in the organization's agenda, particularly in the work of the Committee on Juridical and Political Affairs, is clear proof of this commitment, manifested in the adoption at the Organization's 2014 General Assembly of a number of resolutions on questions such as the promotion of international law (with references to IHL and the International Criminal Court) and missing persons and their families. These resolutions reflect the strong and steadfast political will of the States to comply with and ensure compliance with IHL. They also offer ways of responding to the humanitarian issues currently faced by the countries in the hemisphere.

The main resolutions relating to the promotion and strengthening of IHL adopted by the 2014 General Assembly, which met in Asunción, Paraguay, are the following:

- AG/RES. 2822 (XLIV-O/14): Right to the Truth
- AG/RES. 2829 (XLIV-O/14): Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- AG/RES. 2850 (XLIV-O/14): Internally Displaced Persons
- AG/RES. 2852 (XLIV-O/14): Promotion of International Law
- AG/RES. 2864 (XLIV-O/14): Persons Who Have Disappeared and Assistance to Members of their Families

Resolution 2866 "Advancing Hemispheric Security: A Multidimensional Approach" urges Member States to ratify the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials and the Inter-American Convention on Transparency in Conventional Weapons Acquisitions.

The resolution also urges the organs and entities of the OAS to redouble their efforts, in order to create greater synergies for implementing the related instruments and mechanisms, such as the United Nations Programme of Action on Small Arms, the International Tracing Instrument, the Arms Trade Treaty, and the United Nations Convention against Transnational Organized Crime, particularly its Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

The Committee on Juridical and Political Affairs also covered the topic of IHL, with the tenth special session on IHL being held on 31 January 2014. In accordance with the agenda approved by the Committee, the outcome of the Continental Conference of National IHL Committees, which took place in San José, Costa Rica, in September 2013, was discussed, as were the possible ways in which cooperation between the Organization and the National IHL Committees could be strengthened. Other topics included an overview of the progress made in IHL by Member States, lessons learned concerning the protection of cultural property during armed conflict, and current achievements and challenges concerning weapons.

## B. Training in IHL

The Committee on Juridical and Political Affairs organized the fifth course on IHL, which took place in Washington on 30 January 2014 and was aimed at Members States, personnel of the OAS and the general public; the purpose of the course was to raise awareness and ensure compliance with IHL and related regional instruments, including implementation measures. The topics addressed at the event, which combines theory with interactive exercises, included the legal frameworks applicable during hostilities and the challenges brought about by new weapons and technologies.

In March 2014, the eighth working day between the ICRC and the Inter-American Court of Human Rights in San José took place; it was aimed primarily at the lawyers of the Court. Various topics relating to IHL and IHRL were covered during the event.

The Committee organized a workshop for the same group of people in May 2014; it focused on the principles and basic techniques of forensics for investigating, recovering and analysing human remains, and the role of the families of missing persons. Other topics, such as the general principles applicable to forensic investigations, data management and identifying human remains, were also covered, and good practices from Colombia and Chile were exchanged.

Finally, in 2014 and 2015, various IHL-related topics were covered during the annual course on international law organized in Rio de Janeiro by the Inter-American Juridical Committee and the Department of International Law (Secretariat of Legal Affairs).



# PART VI

# THE WORK OF THE ICRC'S ADVISORY SERVICE IN THE AMERICAN STATES

The Advisory Service on International Humanitarian Law offers Member States expert legal and technical advice.

This is a mandate given by States to the ICRC, as defined most notably in Article 5.2(c) of the Statutes of the International Red Cross and Red Crescent Movement. Pursuant to this Article, the role of the ICRC is to “work for the faithful application of international humanitarian law”. This mandate was reasserted in Resolution 1 of the 26th International Conference of the Red Cross and Red Crescent, which approved the Final Declaration of the International Conference for the protection of war victims, adopted on 1 September 1993, and in the recommendations drawn up by the Intergovernmental Group of Experts, which met in January 1995 in Geneva, Switzerland.

The Advisory Service is a specialized entity and supports States in the process of implementing IHL nationally. The Service provides guidance to national authorities on specific domestic implementation measures needed to meet their IHL obligations, and it supports the work of national IHL bodies established to facilitate IHL implementation domestically. The Service supports the exchange of information on national measures of implementation and helps to improve capacity building, upon the specific request of the national authorities and other organizations. The Service is in contact with national authorities, organizes topical workshops for experts and sponsors regional and international peer meetings for relevant State authorities. The legal advisors work closely with National Red Cross and Red Crescent Societies, academic institutions and other relevant groups and individuals.

To foster understanding of IHL and to further the ICRC's work on IHL implementation, the Advisory Service cooperates with relevant international and regional organizations, such as UNESCO, the Commonwealth Secretariat, the Council of Europe, the Organization of American States, and the International Criminal Court.

The Advisory Service has a decentralized structure, with a team of experts operating from ICRC headquarters in Geneva and legal advisors based in the different regions around the world. In the Americas, the Advisory Service has advisors operating in Bogotá, Brasilia, Caracas, Guatemala, Lima, Mexico City, Tegucigalpa and Washington.

In 2014 and 2015, the Advisory Service provided technical and legal advice to the authorities of the American States, encouraged exchanges among the region's 19 National IHL Committees and promoted the implementation of IHL in the 35 American States. The activities carried out include the following:

- **advising** States on the contents of IHL treaties to which they are not a party in order to facilitate their ratification;
- **providing guidance** to States on whether domestic legislation is consistent with IHL treaties;
- **issuing** legal opinions for States on bills to ensure that they are consistent with IHL treaties, particularly with regard to international criminal law;
- **advising** States on the development of legislative and regulatory measures aimed at preventing the disappearance of people and meeting the needs of the families of missing persons;
- **designing** strategies aimed at strengthening the National IHL Committees, in coordination with the relevant authorities, and supporting implementation;
- **facilitating** exchanges between National IHL Committees and external experts;
- **informing** States about developments in the field of IHL, for example, the red crystal emblem and the debate on cluster munitions and the Arms Trade Treaty;
- **organizing** meetings of government experts on issues relating to IHL and national implementation;
- **delivering** lectures and addresses on issues relating to IHL and national implementation;

- **organizing** or taking part in professional training courses for the authorities;
- **sharing** information on national IHL implementation measures, including the database that the ICRC makes available to States and the general public. This database is updated regularly with information on all 35 American States and is available at: <https://www.icrc.org/ihl-nat>.

The Advisory Service has also created a series of factsheets on topics such as the protection of civilians, conventional weapons and new weapons, the differences between IHL and IHLR, measures within the criminal justice system, and international criminal justice. These factsheets are available at: <https://www.icrc.org/en/war-and-law/ihl-domestic-law/documentation>.



# APPENDICES



## I. Resolutions adopted by the 44th General Assembly of the OAS (2014)

### **AG/RES. 2822 (XLIV-O/14) RIGHT TO THE TRUTH**

*(Adopted at the second plenary session, held on 4 June 2014)*

THE GENERAL ASSEMBLY,

CONSIDERING resolutions AG/RES. 2175 (XXXVI-O/06), AG/RES. 2267 (XXXVII-O/07), AG/RES. 2406 (XXXVIII-O/08), AG/RES. 2509 (XXXIX-O/09), AG/RES. 2595 (XL-O/10), AG/RES. 2662 (XLI-O/11), AG/RES. 2725 (XLII-O/12), and AG/RES. 2800 (XLIII-O/13), "Right to the Truth"; the Inter-American Convention to Prevent and Punish Torture; the Inter-American Convention on Forced Disappearance of Persons; the International Convention for the Protection of All Persons from Enforced Disappearance; Additional Protocol I to the Geneva Conventions of August 12, 1949, and other inter-American and other related international instruments on human rights and international humanitarian law; the reports of the Office of the United Nations High Commissioner for Human Rights on the right to the truth (A/HRC/12/19) and on forensic genetics and human rights (A/HRC/15/26); resolution A/HRC/RES/18/7, adopted by the Human Rights Council, which creates the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, and the latter's report A/HRC/21/46; United Nations General Assembly resolution 60/147, which adopts the Basic Principles and Guidelines On the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law; the recommendations of the Inter-American Commission on Human Rights and the decisions of the Inter-American Court of Human Rights on this subject; and, in that regard, the need for the Organization of American States to continue to review

this issue in the framework of the efforts of its political bodies and of the human rights promotion and protection organs of the inter-American human rights system;

EMPHASIZING that member states should provide appropriate and effective mechanisms for society as a whole and, in particular, for members of the victims' families to learn the truth regarding gross human rights violations and serious violations of international humanitarian law; and, within the framework of their own internal legal systems, should preserve records and other evidence concerning serious violations of human rights and of international humanitarian law so as to facilitate knowledge thereof, investigate allegations, and provide victims with access to an effective remedy in accordance with international law, in order to prevent these incidents from occurring again in the future, among other reasons;

TAKING NOTE of resolution 65/196 of the United Nations General Assembly, "Proclamation of 24 March as the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims"; and

RECALLING that the right to the truth may be characterized differently in some legal systems as the right to know or to be informed, or as freedom of information,

RESOLVES:

1. To recognize the importance of respecting and ensuring the right of victims of gross violations of human rights and grave breaches of international humanitarian law, and of their families and society as a whole, to know the truth regarding such violations to the fullest extent practicable, in particular, the identity of the perpetrators, the causes and facts of such violations, and the circumstances under which they occurred,

- in order to contribute to ending impunity and to promoting and protecting human rights.
2. To encourage member states to establish specific judicial mechanisms, where necessary, and to respect their decisions; and to encourage the creation of other non-judicial or ad hoc mechanisms, such as truth and reconciliation commissions, that contribute to the work of the justice system and to the investigation of violations of human rights and international humanitarian law; and to express appreciation for the preparation and publication of their reports and, accordingly, to invite the member states concerned to disseminate these reports, implement their recommendations, monitor the implementation of said recommendations at the domestic level, and report on compliance with the decisions of judicial mechanisms.
  3. To call upon the Inter-American Commission on Human Rights (IACHR) to consider completing the right to the truth requested in resolutions AG/RES. 2175 (XXXVI-O/06), AG/RES. 2267 (XXXVII-O/07), AG/RES. 2406 (XXXVIII-O/08), AG/RES. 2509 (XXXIX-O/09), AG/RES. 2595 (XL-O/10), AG/RES. 2662 (XLI-O/11), AG/RES. 2725 (XLII-O/12), and AG/RES. 2800 (XLIII-O/13), in order to continue the progressive development of this right with a view to finalizing a special meeting to be organized by the Permanent Council in the second half of 2014 to discuss the IACHR report and exchange national experiences.
  4. To hold, as stipulated in the preceding resolutions, a special meeting of the Permanent Council in the second half of 2014 to discuss the IACHR report and exchange national experiences.
  5. To encourage member states and the IACHR, within its sphere of competence, to provide member states that so request with the necessary and appropriate assistance concerning the right to the truth through, inter alia, technical cooperation and the sharing of experiences and good practices geared toward the protection, promotion, and implementation of this right.
  6. To encourage member states to consider extending an invitation to the United Nations Human Rights Council's Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.
  7. To urge those member states that have not yet done so to consider signing, ratifying, or acceding to, as appropriate, the International Convention for the Protection of All Persons from Enforced Disappearance.
  8. To encourage all member states to take appropriate measures to establish mechanisms or institutions to reconstruct the truth and the historical record for disseminating information on human rights violations and ensuring that citizens have appropriate access to said information, in order to further the exercise of the right to the truth, prevent future human rights violations, and establish accountability in this area.
  9. To request the Permanent Council to report to the General Assembly at its forty-fifth regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

**AG/RES. 2829 (XLIV-O/14)**

**Against torture and other cruel, inhuman, or degrading treatment or punishment**

*(Adopted at the second plenary session, held on 4 June 2014)*

THE GENERAL ASSEMBLY,

CONSIDERING the purposes and principles of the American Convention on Human Rights and the Charter of the Organization of American States, generally recognized principles of international law and international humanitarian law, the Universal Declaration of Human Rights, and the American Declaration of the Rights and Duties of Man;

TAKING INTO ACCOUNT that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that "the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity";

BEARING IN MIND the provisions of Article 5 (2) of the American Convention on Human Rights, which states, "No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person";

RECALLING that freedom from torture and other cruel, inhuman, or degrading treatment or punishment is a non-derogable right under international law, including international human rights law and international humanitarian law, that must be respected and protected in all circumstances, and that Article 2 (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture";

REAFFIRMING that the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment is affirmed in relevant international instruments, including the instruments adopted in the framework of the inter-American

human rights system, and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right;

RECALLING that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law that must be respected and protected in all circumstances, including in times of international or internal armed conflict or internal disturbance, or any other public emergency; that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments; and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right;

RECALLING ALSO that the prohibition of torture is a peremptory norm of international law and that international, regional, and domestic bodies and courts have recognized the prohibition of cruel, inhuman, or degrading treatment or punishment as customary international law;

RECALLING FURTHER the resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the United Nations General Assembly, in particular, resolution 68/156, adopted by consensus on December 18, 2013, which affirms the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment;

EMPHASIZING the importance of the proper interpretation and implementation by states of their obligations with respect to torture and other cruel, inhuman, or degrading treatment or punishment, and the importance that states promote public policies and measures to prevent, prohibit, and punish any form of torture and other cruel, inhuman or degrading treatment or punishment, and to provide assistance and mentoring for victims of torture, ensuring the full, effective exercise of human rights;

RECALLING that torture and other cruel, inhuman, or degrading treatment or punishment can only be eradicated through a holistic approach that combines, inter alia, unequivocal official condemnation of torture and other cruel, inhuman, or degrading treatment or punishment in all circumstances; implementation of measures and creation of preventive mechanisms; the existence of procedural safeguards and appropriate practices during arrest, detention, and interrogation; human rights education for law enforcement personnel and other relevant officials; independent, prompt, effective, and impartial investigation of complaints; prosecution and punishment of persons responsible; and full redress to victims;

COMMENDING the persistent efforts of states, national human rights institutions, national preventive mechanisms, and civil society organizations, including nongovernmental organizations, as well as the considerable network of centers for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of this practice;

RECALLING the customary adoption by the United Nations General Assembly of a resolution reaffirming the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, and especially the provisions of resolution 68/156, adopted by consensus by the plenary of the United Nations General Assembly on December 18, 2013;

CONCERNED by the commission of any act that constitutes torture and other cruel, inhuman, or degrading treatment or punishment;

OBSERVING that December 10, 2014, marks the 30th anniversary of the United Nations Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and that September 12, 2015, marks the 30th anniversary of the Inter-American Convention to Prevent and Punish Torture; and

REAFFIRMING the commitment of the states of the Hemisphere to eradicate the practice of torture and other cruel, inhuman, or degrading treatment or punishment in the Americas,

RESOLVES:

1. To reaffirm its condemnation of all forms of torture and other cruel, inhuman, or degrading treatment or punishment, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and to reiterate the need to respect international human rights law, inter-American law, and international humanitarian law.
2. To recall the historic significance in the fight against torture and other cruel, inhuman, or degrading treatment or punishment of the adoption and entry into force of the United Nations Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and of the Inter-American Convention to Prevent and Punish Torture, and to encourage all states that have not yet done so to become parties, as a matter of priority, to both conventions and to comply strictly with the obligations under said instruments.
3. To reaffirm all the provisions of resolution 68/156, adopted by the United Nations General Assembly on December 18, 2013, particularly the reaffirmation of the absolute and irrevocable prohibition of torture and other cruel, inhuman, or degrading treatment or punishment.
4. To condemn any action or attempt by states or their officials to legalize, authorize, or acquiesce in torture and other cruel, inhuman, or degrading treatment or punishment in any circumstances, including on grounds of national security and counter-terrorism or through judicial decisions, and to urge states to ensure accountability of those responsible for such acts.
5. To welcome with satisfaction the establishment of national mechanisms to prevent torture and other cruel, inhuman, or degrading treatment or punishment; to urge states to

- consider establishing, appointing, maintaining, or enhancing independent and effective mechanisms; and to invite those member countries of the Organization of American States that are or that become parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfill their obligation to designate or establish national preventive mechanisms that are truly independent, properly resourced, and effective.
6. To encourage OAS member states to develop and/or strengthen their policies and laws on prevention, prohibition, and punishment of any form of torture and other cruel, inhuman, or degrading treatment or punishment, as well as to provide assistance and mentoring for victims of torture, ensuring the full, effective exercise of human rights enshrined in international human rights law, inter-American law, and international humanitarian law.
  7. To also call upon all states to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence.
  8. To remind all states that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment; and to urge all states to respect the safeguards concerning the liberty, security, and dignity of the person and to ensure that secret places of detention and interrogation are abolished.
  9. To welcome the work of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights in the prevention and punishment of torture and other cruel, inhuman, or degrading treatment or punishment.
  10. To recall in particular the “Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas” and the “Report on the Human Rights of Persons Deprived of Liberty in the Americas,” both adopted by the Inter-American Commission on Human Rights.
  11. To emphasize the importance of states ensuring good-faith follow-up to the recommendations and judgments of the organs of the inter-American human rights system, as well as the recommendations and conclusions of the relevant treaty bodies and mechanisms of the United Nations; and to recognize the important role of national human rights institutions and other relevant national or regional bodies in preventing torture and other cruel, inhuman, or degrading treatment or punishment.
  12. To recall the “Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” (Istanbul Principles) as a valuable tool in efforts to prevent and combat torture, and to urge states to strengthen procedures for medical and legal documentation of torture and other cruel, inhuman, or degrading treatment or punishment.
  13. To stress that national legal systems must ensure that victims of torture or other cruel, inhuman, or degrading treatment or punishment have effective access to justice and obtain redress without suffering any retribution for bringing complaints or giving evidence.
  14. To emphasize that conditions of detention must respect the dignity and human rights of detainees; to encourage states to take effective measures to address overcrowding in detention facilities, including through enhancing the use of alternatives to pretrial detention and custodial sentences and reducing pretrial detention, inter alia, by adopting and effectively implementing both new and existing legislative and administrative measures and policies on its preconditions, limitations, duration, and alternatives; by taking measures aimed at the implementation of existing legislation; and by ensuring access to justice and legal advice and assistance; and to invite states to make use of appropriate international technical assistance in order to strengthen national capacities and infrastructure in this regard.
  15. To call upon all states, the Inter-American Commission on Human Rights, and other organs and agencies of the Organization of American States, as well as relevant intergovernmental and civil society organizations, including nongovernmental organizations, to carry out activities to commemorate the adoption of the international conventions on torture and other cruel, inhuman, or degrading treatment or punishment, with a view to observing the 30th anniversary of the adoption of the Inter-American Convention to Prevent and Punish Torture, on September 12, 2015.

#### **AG/RES. 2850 (XLIV-0/14)**

#### **Internally displaced persons**

*(Adopted at the second plenary session, held on 4 June 2014)*

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2716 (XLII-O/12), “Internally Displaced Persons,” and all its previous resolutions on the subject;

REITERATING the principles established in the Charter of the Organization of American States and in the Inter-American Democratic Charter, especially those referred to in its Chapter III, “Democracy, Integral Development, and Combating Poverty”;

EMPHASIZING that the states have the primary responsibility to respect, promote, and protect the human rights of all persons within their jurisdiction, including internally displaced persons, and to provide them with adequate and comprehensive protection and assistance, as well as to address, as appropriate, the causes of the internal displacement problem and to do so, when required, in cooperation with the international community;

RECALLING the obligations of member states under international human rights, humanitarian, and refugee law; and recognizing that the protection of internally displaced persons has been reinforced by the definition and consolidation of specific protection standards, in particular the Guiding Principles on Internal Displacement prepared by the Representative of the United Nations Secretary-General on internally displaced persons;

RECALLING ALSO that, according to those guiding principles, internally displaced persons are “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”;

EMPHASIZING the importance of implementing effective measures for preventing and avoiding forced internal displacement and its causes and for protecting and assisting persons affected by displacement, including the communities of origin and reception, during displacement and during return or resettlement and reintegration, including through the implementation of applicable international law by developing, for example, a national regulatory framework on the matter;

UNDERSCORING that to promote enhanced protection for internally displaced persons, comprehensive strategies and lasting solutions are needed, which include, among other aspects, a free and informed decision by internally displaced persons as to whether to return to their place of origin, to integrate in the place to which they were displaced, or to resettle elsewhere in the country; and

RECOGNIZING that internally displaced women and girls are in a particularly vulnerable situation by being exposed to new and heightened risks of violence, and mindful of the responsibility of states to further bolster their protection and assistance,

RESOLVES:

1. To urge member states to include, as appropriate, in their sectoral plans, policies, and programs, the special needs of internally displaced persons such as the loss of physical protection, the loss of livelihoods, and exposure to new risks, and of communities affected by internal displacement, in particular, in the preparation of programs on prevention of the diverse causes and consequences directly related to that displacement, including social and security policies and programs to foster development, fight poverty, and reduce the risk of natural disasters, in which the needs of receiving communities could be taken into account.
2. To urge member states to evaluate the advisability of incorporating into national legislation the Guiding Principles on Internal Displacement prepared by the representative of the United Nations Secretary-General on internally displaced persons and applying them in the design and implementation of plans, policies, and support programs and for the protection of displaced persons, in compliance with international law and with special emphasis on their transparency, to attend to the specific needs of indigenous communities, communities of African descent, children, women, the elderly, farm workers, and persons with disabilities.
3. To urge member states to include a gender perspective in those sectoral plans, policies, and programs, in consideration of the special needs of internally displaced women and girls, and to begin processes to prepare budgets that take gender issues into account, in order to allocate sufficient resources to afford them comprehensive protection.
4. To urge member states to conduct gender-sensitive training programs for the police, military forces, judiciary, social workers, and other entities and organs with responsibilities for preventing and responding to gender-based violence, including sexual violence, in situations of displacement.
5. To call on member states to take the steps necessary to fight impunity in connection with gender-based violence, including sexual violence, in an internal displacement context, particularly by preventing and promptly investigating, prosecuting, and punishing it, and by providing the judicial authorities and the medical sector with standard operating procedures that make swift intervention possible, as well as training and appropriate logistics for them to discharge their duties effectively.
6. In order to avert the internal displacement of persons, to encourage member states to address the factors that cause it and to establish preventive measures, such as early-warning systems and policies that mitigate the threat and the risk of displacement, bearing in mind that dialogue with all the actors involved is essential to the achievement of lasting solutions.
7. To urge member states, in keeping with their responsibility to internally displaced persons, based on comprehensive strategies and from a human rights and gender perspective, to commit to providing them with protection and assistance before and during displacement, through competent institutions; and to invite member states to commit to seeking lasting solutions, including the safe, voluntary, and dignified return of internally displaced persons and their resettlement and reintegration, whether in their place of origin or in the receiving community.
8. To encourage member states, in responding to the needs of internally displaced persons and the communities affected by internal displacement, to consider the Framework on Durable Solutions for Internally Displaced Persons and the Operational Guidelines on Human Rights and Natural Disasters prepared by the Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons;



the document *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* presented at the High-Level Conference “Ten Years of Guiding Principles on Internal Displacement—Achievements and Future Challenges,” and the Hyogo Framework for Action 2005-2015.

9. To encourage the member states and competent authorities to seek, as necessary, new and appropriate ways of providing protection and assistance to displaced persons, in keeping with the different needs of residents of urban or rural areas or persons living in camps in consultation with, and attending to the needs of, the persons and communities affected.
10. To urge member states to support and promote national and international initiatives for the gathering, updating, analysis, and dissemination of quantitative and qualitative data on internally displaced persons, ensuring that a gender-sensitive approach is used in this gathering and analysis process and is positively reflected in the design and execution of programs to benefit internally displaced persons.
11. To urge the member states to respond promptly and effectively to the needs of internally displaced persons in the event of natural disasters, including needs related to risk prevention, reduction, and mitigation, through domestic efforts, international cooperation, and, to the extent possible, dialogue with the internally displaced persons and the communities affected by internal displacement.
12. To urge the appropriate agencies of the United Nations and the inter-American system, as well as other humanitarian organizations and the international community, to help provide support and/or assistance, as requested by member states, in addressing the various factors that cause internal displacement and in protecting and assisting persons affected by internal displacement at all stages, where account should be taken of the Guiding Principles on strengthening of the coordination of humanitarian emergency assistance.
13. To include the item on the agenda of the General Assembly at its forty-sixth regular session. Execution of the activities envisaged in this resolution shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

**AG/RES. 2852 (XLIV-O/14)**  
**Promotion of international law**

*(Adopted at the second plenary session, held on 4 June 2014)*

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly 2013-2014” (AG/doc.5470/14 add. 1), in particular as it pertains to the activities of the Committee on Juridical and Political Affairs (CAJP);

RECALLING the resolutions assigned to the CAJP in the “List of Resolutions of the Committee on Juridical and Political Affairs (CAJP) for the Period 2007-2012 Classified by Thematic Areas as Identified by the Informal Working Group to Review the Mandates of the CAJP” (CP/CAJP/INF.188/13);

CONSIDERING that the programs, activities, and tasks set out in the resolutions within the purview of the CAJP help further the core purposes of the Organization enshrined in the Charter of the Organization of American States;

REAFFIRMING the norms and principles of international law and those contained in the Charter of the Organization of American States;

RECALLING resolutions AG/RES. 2728 (XLII-O/12) and AG/RES. 2791 (XLIII-O/13);

NOTING with concern the continuation in some parts of the world of persistent violations of international humanitarian law and international human rights law, and reaffirming that all states have the basic responsibility to prevent their commission and recurrence and to avoid the impunity of their perpetrators, particularly by investigating, prosecuting, and punishing such violations, where applicable, within a framework of full respect for relevant judicial guarantees and due process;

REAFFIRMING the primary responsibility of states, through their national jurisdictions, to investigate and prosecute the perpetrators of the most serious crimes of concern to the international community in a way consistent with international law, and bearing in mind the complementary nature of the jurisdiction of the International Criminal Court in respect of the crimes for which they have jurisdiction;

CONVINCED that the Rome Statute and the International Criminal Court are effective instruments for consolidating international criminal law and for guaranteeing that international justice can help consolidate lasting peace;

WELCOMING WITH SATISFACTION the fact that 122 states have now ratified or acceded to the Rome Statute, among them 28 members of the Organization of American States (OAS), and that 16 member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court;

RECALLING the outcome of the Review Conference of the Rome Statute, held in Kampala, Uganda, in 2010;

MINDFUL of the importance of full and effective cooperation from states, international and regional organizations, and civil society, for the International Criminal Court to function effectively, as recognized in the Rome Statute;

UNDERSCORING the importance of the “Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court,” signed by the OAS General

Secretariat and the International Criminal Court on April 18, 2011, and the importance of the cooperation agreement signed by the Inter-American Commission on Human Rights and the International Criminal Court in April 2012;

RECALLING the outcome of the Working Meeting on the International Criminal Court, held at OAS headquarters on April 12, 2013, by the Committee on Juridical and Political Affairs with support from the Department of International Law;

CONSIDERING that in 1997 the General Assembly adopted the Inter-American Program for the Development of International Law, through resolution AG/RES. 1471 (XXVII-O/97), which was subsequently updated by resolution AG/RES. 2660 (XLI-O/11), and noting the "Report on the Inter-American Program for the Development of International Law [AG/RES. 2791 (XLIII-O/13)] (Activities of the Department of International Law of the Secretariat for Legal Affairs in 2013)" (CP/CAJP/INF.211/14);

TAKING INTO ACCOUNT that the Department of International Law, through the Inter-American Program, has started implementing specific projects for institutional support to member states, in the areas of access to information, security interests, international arbitration, and private international law; and

TAKING INTO ACCOUNT ALSO the training activities that the OAS General Secretariat's Department of International Law has been carrying out in various member states on the subject of promotion and protection of the human rights of indigenous peoples and people of African descent,

**RESOLVES:**

1. To reaffirm to the Permanent Council and to the General Secretariat the applicable mandates contained in past resolutions of the General Assembly assigned to the Committee on Juridical and Political Affairs (CAJP) and mentioned in the preamble of this resolution; and to urge member states to continue contributing to the attainment of the objectives established in said resolutions through the development and execution of activities, the submission of reports, the exchange of information, the adoption of measures and policies, and cooperation, support, and mutual assistance; and to instruct the General Secretariat to provide necessary support to those ends.
2. To request the Permanent Council to report to the General Assembly at its forty-fifth regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

**I. PROMOTION OF THE INTERNATIONAL CRIMINAL COURT**<sup>1/2</sup>

3. To renew its appeal to those member states that have not yet done so to consider ratifying or acceding to, as the case may be, the Rome Statute of the International Criminal Court and its Agreement on Privileges and Immunities.
4. To remind those member states that are parties to said instruments of the importance of the promotion of their universality and to continue adopting the necessary measures to achieve their full and effective implementation, and to adopt measures to adjust their national legislation, including, where appropriate, regarding the inclusion of crimes within the jurisdiction of the International Criminal Court, international cooperation and judicial assistance, and the protection of and reparations for victims.
5. To welcome with satisfaction the cooperation and assistance provided to date to the International Criminal Court by those member states that are parties to the Rome Statute, by those member states that are not, and by international and regional organizations, and to urge them to continue their efforts to ensure cooperation with and assistance to the International Criminal Court in accordance with any applicable international obligations, particularly as regards arrest and delivery, presentation of evidence, protection and movement of victims and witnesses, and serving of sentences, so as to avoid the impunity of the perpetrators of crimes over which it has jurisdiction.
6. To urge those member states that are parties to the Rome Statute to support and promote the work of the International Criminal Court, in keeping with their obligations and to underscore the importance of the cooperation that states that are not parties to the Rome Statute can render to the International Criminal Court.
7. To encourage those member states that are parties to the Rome Statute to follow up specifically on the results of the Review Conference and on compliance with the promises made during that conference, and to give consideration to ratifying the amendments adopted.
8. To request the General Secretariat to report, prior to the forty-sixth regular session of the General Assembly, on implementation of the cooperation measures set forth in the "Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court," signed by the General Secretariat of the Organization of American States and the International Criminal Court.
9. To request the Permanent Council to hold, prior to the forty-sixth regular session of the General Assembly, a working meeting with support from the Department of International Law, which should include a high-level dialogue session among the permanent representatives of all member states to

discuss, among other matters, measures that could strengthen cooperation with the International Criminal Court. The International Criminal Court, international organizations and institutions, and civil society will be invited to cooperate and participate in this working meeting.

## II. INTER-AMERICAN PROGRAM FOR THE DEVELOPMENT OF INTERNATIONAL LAW

1. To reaffirm the importance of, and its support for, the Inter-American Program for the Development of International Law and to request the Department of International Law to continue carrying out the activities listed in the Program and report thereon each year to the CAJP.
2. To instruct the Department of International Law to continue its support, within the activities envisaged in the Program, to the member states with respect to the implementation of domestic laws on access to public information; continue its training of judges and other officials in effective application of international treaties on the execution of arbitral decisions and awards; and continue to raise awareness of the Model Law on Secured Transactions among member states.
3. To instruct the Department of International Law to promote among member states further development of private international law, in collaboration with agencies and organizations engaged in this area, among them the United Nations Commission on International Trade Law (UNCITRAL), the Hague Conference on Private International Law, and the American Association of Private International Law (ASADIP).
4. To instruct the Department of International Law to continue, in the activities provided for under the Inter-American Program, to promote and raise awareness of the rights of people of African descent and indigenous peoples, and to promote the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance and the Inter-American Convention against All Forms of Discrimination and Intolerance.<sup>3</sup>
5. To request that member states indicate to the Secretariat for Legal Affairs as soon as possible their interest in having regular meetings of the legal consultants to the ministries of foreign affairs and other senior officials responsible for international law issues in member states; the usefulness of preparing a directory of competent authorities for such matters; and the advisability of drafting guidelines on possible topics that could be addressed at such meetings.

### AG/RES. 2864 (XLIV-O/14)

#### Persons who have disappeared and assistance to members of their families

*(Adopted at the second plenary session, held on 4 June 2014)*

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2794 (XLIII-O/13), "Persons who have Disappeared and Assistance to Members of their Families," adopted by the General Assembly on June 5, 2013; Resolution 67/180, "International Convention for the Protection of All Persons from Enforced Disappearance," adopted by the United Nations General Assembly on December 20, 2012; other past resolutions on this subject, adopted by both forums, by the former Commission on Human Rights and by the present Human Rights Council of the United Nations, as well as the treaties on international humanitarian law and international human rights law, both universal and regional, that address this problem;

NOTING that the Inter-American Convention on Forced Disappearance of Persons, adopted in Belém do Pará, Brazil, on June 9, 1994, by the General Assembly of the Organization of American States (OAS), came into force on March 28, 1996, and that 16 states have ratified or adhered to it; and that the International Convention for the Protection of All Persons from Enforced Disappearance, adopted on December 20, 2006, by the United Nations General Assembly, entered into force on December 23, 2010, and that 42 countries have ratified or acceded to it, of which 14 are states of the Hemisphere, and that four of the 14 countries that have recognized the competence of the Committee on Enforced Disappearances belong to this region;

BEARING IN MIND that the problem of missing persons and assistance to members of their families is addressed in both international humanitarian law and international human rights law within their respective spheres of application, and that, in accordance with those legal frameworks, states are further urged to adopt, progressively, the national implementing measures referred to in previous resolutions of this General Assembly on the subject, in particular, in terms of prevention, investigation of cases, information management, and treatment of human remains, and support to family members;

REAFFIRMING the humanitarian need and the responsibility of states to continue necessary efforts to alleviate the suffering, anxiety, and uncertainty besetting the family members of persons who are presumed to have disappeared in situations of armed conflict or armed violence, as well as their right to truth and justice, to learn about the fate and whereabouts of those persons, as recognized in OAS resolution AG/RES. 2509 (XXXIX-O/09), and, where appropriate, to receive legal remedy for the damage caused;

CONCERNED about the situation of migrants presumed to have disappeared and mindful of the need to persist in efforts to find solutions to this problem;<sup>4</sup>



REAFFIRMING that forced disappearance is a multiple and continuous violation of several human rights, the widespread or systematic practice of which constitutes a crime against humanity as defined in applicable international law and that, therefore, it cannot be practiced, permitted, or tolerated, even in states of emergency or exception or of suspension of guarantees;

RECOGNIZING the need to address the issue of persons considered to have disappeared in the context of armed conflicts or situations of armed violence as part of peace-building, and consolidation of peace processes, using all available judicial and transitional-justice mechanisms, within a framework of the rule of law, transparency, accountability, and public participation;

EMPHASIZING the development of forensic science and its important contribution in the process of searching for missing persons, especially as regards the location, recovery, analysis, identification, and return of human remains to their families, and as regards clarification of the whereabouts and fate of persons who are presumed to have disappeared; and

TAKING NOTE of the conclusions and recommendations of the First Meeting of Forensic Specialists of the Americas, of the Meeting of Ministers of Justice or Other Ministers or Attorneys General of the Americas in 2009, the Guiding Principles/Model Law on the Missing of the International Committee of the Red Cross (ICRC), the ICRC handbook “Accompanying the Families of Missing Persons,” and the minimum standards for psychosocial work proposed in the International Consensus on Principles and Minimum Standards for Psychosocial Work in Search Processes and Forensic Investigations in Cases of Enforced Disappearances, Arbitrary or Extrajudicial Executions,

RESOLVES:

1. To reiterate the provisions of operative paragraphs 1 to 17 of resolution AG/RES. 2594 (XL-O/10), “Persons Who Have Disappeared and Assistance to Members of Their Families,” adopted by the General Assembly on June 8, 2010.
2. To urge member states, in keeping with their obligations under international humanitarian law and international human rights law and with pertinent national and international jurisprudence, to continue the progressive adoption of measures, including domestic regulatory and institutional provisions, to:
  - a. prevent the disappearance of persons, with particular focus on those related to vulnerable groups;
  - b. clarify the whereabouts and fate of those who have disappeared;
  - c. attend to the needs of the family members; and
  - d. strengthen technical capacity and promote regional cooperation for forensic search, recovery, and use of forensic genetics for the identification of human remains, including with regard to the problem of migrants presumed to have disappeared;

3. To encourage member states, in order to address the legal situation of missing persons and its effect on that of family members, to proceed to adopt the necessary comprehensive domestic legal framework to recognize and address the legal and practical difficulty and hardship faced by the missing person and his or her family members, including the legal framework needed to authorize a “declaration of absence” for persons who are presumed to have disappeared.
4. To invite member states to enact timely provisions that ensure the participation and representation of victims and their families in the relevant proceedings, as well as access to justice and to mechanisms for them to be able to seek fair, prompt, and effective reparation; and, likewise, provisions to guarantee protection for victims and witnesses, especially women and children and adolescents of both sexes, human rights defenders, and lawyers involved in cases of serious violations of international humanitarian law and of international human rights law filed in their courts and in other transitional-justice mechanisms.
5. To ask member states to pay maximum attention to cases of children and adolescents of both sexes presumed to have disappeared and to adopt appropriate measures to seek out, identify, and, if possible, reunite them with their families.
6. To invite member states to consider ratifying or acceding to, and implementing in their domestic legal systems the Inter-American Convention on Forced Disappearance of Persons of 1994 and the International Convention for the Protection of All Persons from Enforced Disappearance of 2006, and to recognize the competence of the Committee on Enforced Disappearances envisaged in the latter convention.
7. To exhort member states, in order to allow family members to exercise their right to learn the fate and whereabouts of relatives who have disappeared in situations of armed conflict or armed violence], as recognized in resolution AG/RES. 2509 (XXXIX-O/09), to adopt effective measures in the context of a broad and comprehensive investigation for the location, recovery, identification, and return of human remains, using standardized forensic protocols and promoting the establishment of centralized databases, while respecting the families’ dignity, traditions, and mental health.
8. To invite member states to collect, protect, and manage data on disappeared persons in accordance with national and international legal standards and provisions, and to support the training of forensic scientists in their respective countries, together with the implementation of forensic examinations consistent with internationally validated scientific standards and procedures. To those ends, to urge states to foster international cooperation, exchanges of information, and the participation and technical assistance of international and national institutions with recognized experience in the field.

9. To invite member states to continue their cooperation with the International Committee of the Red Cross (ICRC), a recognized, neutral, independent humanitarian institution, in its areas of responsibility, by facilitating its work and implementing its technical recommendations with a view to consolidating the measures adopted by states in the process of searching for missing persons and providing assistance to their families.

10. To encourage member states, as appropriate, with the support of their respective missing persons search commissions and their national commissions on human rights or on international humanitarian law, or other competent bodies, in accordance with their respective mandates, and, as warranted, with technical collaboration from the ICRC, to promote, at the national level, the adoption of measures regarding the provisions of the resolutions adopted by the General Assembly since 2005 on “Persons who have Disappeared and Assistance to Members of Their Families” and to provide information thereon, entrusting the Committee on Juridical and Political Affairs with placing on its agenda the broad dissemination of this information before the forty-sixth regular session of the OAS General Assembly.

11. To instruct the Permanent Council to follow up on this resolution. Execution of the activities envisaged in this resolution shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

1. The Government of Nicaragua views with concern the continuing systematic violations of international human rights law and international humanitarian law in the world. At the domestic level, our criminal laws ascribe particular importance to this subject. Hence the criminalization of these offenses under Title XXII of Law No. 641 of 2007 (Criminal Code), the enforcement of which provisions are the exclusive responsibility of the Nicaraguan courts, as regards the call for states to consider acceding to or ratifying the Rome Statute of the International Criminal Court, the Government of Reconciliation and National Unity is unable to support this resolution and enters its reservation thereto, given that, for the time being, conditions are not suited to our accession to the present Statute. The Republic of Nicaragua bases its international relations on friendship, solidarity, cooperation, and reciprocity among states, and therefore desists from any kind of political, military, economic, cultural, or religious measure against them, while at the same time upholding the principles of nonintervention in the domestic affairs of states and peaceful solution of international disputes by means of the mechanisms available under international law.

2. The United States remains steadfastly committed to promoting the rule of law and supporting efforts to bring those responsible for war crimes, crimes against humanity, and genocide to justice. While the United States is not a party to the Rome Statute, the United States recognizes that the International Criminal Court can play a key role in bringing those responsible for the worst atrocities to justice. To that end, to date we have provided specific support to the ICC in connection with its current investigations and prosecutions, consistent with U.S. law and policy. With respect to the amendments on the crime of aggression adopted at the Kampala Review Conference, the United States notes the differences between the crime of aggression and the crimes defined in Articles 6, 7, and 8 of the Rome Statute, including with respect the question of the extent to which it is appropriate or permissible to investigate and prosecute alleged offenses in domestic courts. See RC/Res.6, Annex III, Understanding 5. The United States understands that any OAS support rendered to the ICC will be drawn from specific-fund contributions rather than the OAS regular budget.

3. The United States has consistently objected to the negotiation of new legally binding instruments against racism, racial discrimination and other

forms of discrimination or intolerance and reiterate our longstanding reservations and concerns with this and prior resolutions on the topic and does not endorse the texts that have resulted from these negotiations. We are concerned that some provisions of the conventions could undermine or are incompatible with international human rights law protections including those related to freedoms of expression and association. There is already a robust global treaty regime that provides comprehensive protections in this area. A regional instrument is not necessary and runs the risk of creating inconsistencies with this global regime. As early as 2002, the Inter-American Juridical Committee articulated similar concerns, concluding that it was not advisable to negotiate a new convention in this area. The United States believes that the resources of the OAS and of its member states would be better utilized by identifying practical steps that governments in the Americas might adopt to combat racism, racial discrimination and other forms of discrimination and intolerance, including best practices in the form of national legislation and enhanced implementation of existing international instruments. Such efforts should be aimed at bringing immediate and real-world protection against discrimination.

4. Although Colombia shares this concern regarding the situation of migrants presumed to have disappeared and is aware of the need to take steps to address the problem, it holds that states’ commitments as regards international migration cannot be compared to the obligations that exist with respect to people who have disappeared through forced disappearances, situations of armed conflict, or situations of armed violence, and with regard to the families of such persons, since such situations are treated differently under international law.

## II. Pledges made by American States at the 32nd International Conference of the Red Cross and Red Crescent

### ARGENTINA

- **Cooperation with the Swiss/ICRC initiative (Resolution 1, 31st International Conference)**

Contribute to the consultations to prepare for the first Meeting of States on International Humanitarian Law

- **Raising awareness of the amendments to the Rome Statute**

Make every effort to ensure relevant groups are aware of the contents of the amendments adopted during the first Review Conference of the Rome Statute, with a view to promoting national implementation.

- **Protocol on assistance for people with disabilities in the event of armed conflict and other humanitarian activities**

Continue to adopt measures to put in place protocols for the armed forces on assisting and protecting persons with disabilities during an armed conflict, natural disaster or humanitarian emergency, in accordance with Article 11 of the International Convention on the Rights of Persons with Disabilities.

- **Protecting persons deprived of their liberty**

Continue to actively work, in cooperation with the International Committee of the Red Cross, to strengthen the protection of persons deprived of their liberty in non-international armed conflicts.

- **Implementation of the Convention on the Protection of Cultural Property in the Event of Armed Conflict**

Press ahead with measures to further promote and develop implementation of and compliance with Argentina's international obligations under the Convention on the Protection of Cultural Property in the Event of Armed Conflict.

- **Ensuring full protection to prevent, punish and eradicate violence against women**

Argentina pledges to continue to develop measures to execute the national plan for the implementation of UN Security Council Resolution 1325, which was adopted by Presidential Decree no. 1895 in 2015, especially those measures relating to ensuring full protection to prevent, punish and eradicate violence against women.

- **Support of the International Humanitarian Fact-Finding Commission (IHFFC)**

Open Pledge by Switzerland signed by Argentina  
For the years 2016-2019, we hereby pledge: We undertake/pledge to raise awareness of the potential of the International Humanitarian Fact-Finding Commission (IHFFC) and of its working methods (not only fact-finding, but also good offices, confidence-building, etc.), by contributing to the discussion on the role that the IHFFC might play in the future, and by encouraging the referral of matters to this Commission as well as the recognition of its competence.

- **Strengthening the protection of education during armed conflict**

Open Pledge by Norway signed by Argentina and Uruguay  
Safeguarding education during armed conflict is critical to prevent violence and to build the basis for lasting social cohesion and economic reconstruction and development. Students, education providers, schools and universities are generally protected as civilians and civilian objects under International Humanitarian Law (IHL). States' practice also indicates that children affected by armed conflict are to be given special respect and protection. Access to education is also fundamental to the realization of children's human rights. This pledge is based on our shared concern regarding attacks – targeted or incidental – that affect students, teachers and educational facilities during armed conflict, and on the fact that the use of educational facilities for military purposes, for instance as barracks, bases or weapons stores, may cause them to lose protection under IHL. It is also based on our conviction that more can be done *in practice* to better protect education during armed conflict within the framework of IHL. This pledge complements other ongoing initiatives aimed at strengthening the protection of students, teachers, schools and universities from attack, including the Safe Schools Declaration, through which states are committing to better protect education during armed conflict and to use the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* which provide an additional reference tool for parties to armed conflict to address issues related to protecting education.

### BRAZIL

- **Engagement for the orientation of horizontal humanitarian cooperation**

Continue engagement for the orientation of horizontal humanitarian cooperation by the principles of socio-economic and environmental sustainability in order to consolidate the complementarity between emergency and structuring dimensions. This action is aimed at favouring the sharing of social technologies to accelerate growth for the creation of local scale resilience.

- **Strengthening compliance with International Humanitarian Law**

Support the efforts for the convening of the first "Meeting of States on International Humanitarian Law".

- **Strengthening the protection of refugees**

Further continue the efforts to host refugees from the Syrian conflict.

- **Women, peace and security**

Present a National Plan of Action for Women, Peace and Security.

- **Ratification of the Arms Trade Treaty**

Ratify the Arms Trade Treaty (ATT).

- **Pursue negotiations on measures for nuclear disarmament**  
Pursue concrete negotiations on effective measures for nuclear disarmament, in line with the commitments assumed under Article VI of the NPT and the need to fill the legal gap of prohibition and elimination of nuclear weapons.

- **Strengthening the protection of persons deprived of their liberty in NIACs**

Continue active engagement for the strengthening of the protection of persons deprived of their liberty in the context of non-international armed conflicts, including as Member-State of the “Advisory Group” in charge of promoting the second phase of the consultation process on the theme.

- **Diffusion of the Rome Statute**

Ratify the Amendment to the Rome Statute on the crime of aggression. Ratify the Amendment to the Rome Statute to Article 8.

## CANADA

- **Pledge on the Prohibition on the Use, Stockpiling, Production and Transfer of Antipersonnel Landmines**

For the years 2015-2019, the Government of Canada pledges to:

- Continue the pursuit of a world free of the scourge of anti-personnel landmines through fully universalising and implementing the Convention on the Prohibition on the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on their Destruction (the Ottawa Convention), in close cooperation with other States Parties, the Convention’s Implementation Support Unit, UN Agencies, International organizations, including the ICRC, and civil society, particularly the International Campaign to Ban Landmines; and
- Continue to assist States Party to the Ottawa Convention to meet their treaty deadlines for stockpile destruction and mine clearance, and to support the rehabilitation of mine victims.

- **Pledge on Humanitarian Access**

For the years 2015-2019, The Government of Canada pledges:

- To promote safe and unhindered humanitarian access to individuals and communities in need and to support measures or initiatives that improve the safety of humanitarian workers.

- **Pledge on Children in Situations of Armed Conflict**

For the years 2015-2019, the Government of Canada pledges to:

- Continue efforts to address the problems faced by children in situations of armed conflict by:
- Sustaining attention and action on the issue of children and armed conflict as part of Canada’s broader policy focus on the protection of civilians, child protection and children’s human rights;
- Advocating for the full implementation of UNSCR 1612, 1882 and 1998 and the strengthening of the UN Monitoring and Reporting Mechanism, both bilaterally and multilaterally, and whenever possible, by complementing these advocacy efforts with programming;

- Examining means to further increase accountability for persistent violators of children rights and to ensure that grave violations against children trigger the imposition of sanctions; and
- Where relevant, to continue to support the protection of children affected by armed conflict.

- **Pledge on Support for International Mediation and Political Dialogue**

For the years 2015-2019, the Government of Canada pledges:

- To deepen Canada’s role to prevent and reduce violent conflict through ongoing support for international mediation and political dialogue.

- **Pledge on Reproductive, Maternal, Newborn and Child Health in Humanitarian Emergencies**

Pledge by Canada and the Canadian Red Cross Society

Consistent with Canada’s Reproductive, Maternal, Newborn and Child Health (RMNCH) commitments; acknowledging the key contributions of the Red Cross and Red Crescent Movement to the health and survival of women and children, and especially those living in fragile contexts; recognizing that the majority of maternal and child deaths globally occur in developing countries affected by disasters and conflicts; and noting the great risks posed to both patients and health care workers in these contexts, the Government of Canada and the Canadian Red Cross pledge to take concrete steps to increase maternal and child survival by:

- Strengthening the capacities of health systems to deliver high quality RMNCH services;
- Supporting evidence-based decision making by ministries of health and other policy-makers by strengthening Health Management Information Systems (HMIS);
- Developing the skills of Red Cross and Red Crescent volunteers to promote preventive and caregiving practices, in order to improve communities’ health, self-reliance and resilience to shocks;
- Enhancing health care workers’ ability to access mothers and children affected by humanitarian crises by advocating for the safety and security of patients and health care providers; and
- Strengthening Canadian capacity to provide quality reproductive, maternal and child health services in emergencies.

- **Pledge on the Promotion of International Humanitarian Law and Principles**

Pledge by Canada and Canadian Red Cross

For the years 2015-2019 the Government of Canada and the Canadian Red Cross building on the successes of previous commitments to raise awareness of IHL jointly pledge:

- To promote awareness with the general public, and young people in particular, of the principles and rules of international humanitarian law by working together to increase public discourse and dialogue on humanitarian concerns related to IHL and principles; and
- To continue the cooperation between the Canadian Red Cross and the Government of Canada in the promotion of humanitarian education activities across Canada.

- **Pledge on Training on the prevention of sexual and gender-based violence in armed conflict and complex emergencies**

Pledge by Canada and the Canadian Red Cross Society

For the years 2015-2019 the Government of Canada and the Canadian Red Cross, building on the work on sexual and gender-based violence at the 32nd International Conference, jointly pledge to:

- Work within respective mandates and priorities to prevent sexual violence in armed conflict and other crisis situations;
- Work to disseminate IHL including existing provisions that prohibit sexual violence as widely as possible in military instruction;
- Continue to ensure that knowledge and understanding of existing prohibitions of sexual violence are fully integrated into the planning of operations of armed forces including relevant aspects of doctrine, training and exercises; and
- Work to share these experiences and good practices where appropriate with other militaries and the International Conference.

- **Pledge by the group of francophone countries on sexual and gender-based violence in armed conflict and other emergency situations**

Open Pledge by Canada signed by Uruguay

We, a group of francophone countries, members and observers of the International Organization of La Francophonie, pledge to comply with international law, in particular applicable international humanitarian law and international human rights law, in order to prevent acts of sexual and gender-based violence in armed conflicts and other emergency situations by:

1. protecting the life and dignity of all human beings;
2. meeting the needs of victims of sexual and gender-based violence by providing support, while putting victims' well-being and safety at the centre of all actions to help victims, and by ensuring confidentiality;
3. by ensuring that victims of sexual and gender-based violence have access to justice and the necessary means of recovery, including access to health care, psychosocial support and an adequate level of protection;
4. by taking concrete risk-reduction measures, including awareness-raising, education and training to prevent sexual and gender-based violence;
5. by adopting a zero tolerance policy with regard to sexual and gender-based violence, regardless of the perpetrator, and by ensuring that these acts are strictly prohibited both by law and in practice;
6. by bringing perpetrators of sexual and gender-based violence in armed conflicts and other emergency situations to justice in order to combat impunity, avoid repeated crimes and work towards national reconciliation;
7. and by informing the 33rd International Conference of the Red Cross and Red Crescent of any developments in relation to this issue.

- **Pledge on Sexual and Gender-based Violence in Emergencies – Focus on Situations of Conflict and Disasters**

Open Pledge by Canada

The National Red Cross or Red Crescent Society and/or government in their domestic and international programming pledges to work to end all forms of sexual and gender-based violence in emergencies with a focus on situations of armed conflict, disasters and other emergencies. We pledge that addressing sexual and gender-based violence remains a priority internationally, including for the International Red Cross and Red Crescent Movement and governments. Based on our mandates, we undertake to protect women, girls, boys and men of all backgrounds from sexual and gender-based violence in emergencies including but not limited to prevention, risk reduction and response to rape and other forms of sexual violence, trafficking, physical and psychological abuse, child, early and forced marriage, sexual exploitation and abuse, all forms of violence against children, and partner and family violence by:

1. Strengthening Sexual and Gender-Based Violence Programming Responses:

- Coordinating and cooperating with Red Cross and Red Crescent Movement partners, specifically the ICRC, IFRC, National Red Cross and Red Crescent Societies in line with their respective mandate and roles within the Movement, and exchanging experiences and best practices;
- Coordinating with Red Cross and Red Crescent Movement partners as well as relevant international, national and local stakeholders such as appropriate government agencies, civil society, the United Nations, and local non-governmental organizations to identify best practices and effective measures to prevent and respond to such violence;
- Building capacity through training, technical support, and strengthening local expertise and community-based initiatives with support from the ICRC and IFRC.
- Encouraging the active and meaningful participation of women, girls, boys and men in local emergency preparedness, response and recovery decision-making processes, including strengthening peace processes;
- Encouraging immediate measures to mainstream the prevention, risk reduction and response to sexual and gender-based violence within armed conflicts, disasters and other emergencies in preparedness, response and recovery; and
- Supporting and promoting the mobilization of adequate resources and services to prevent and respond to sexual and gender-based violence.

2. Strengthening Sexual and Gender-Based Violence Policy and Advocacy:

- Promoting evidence based programming, including the strengthening of data sets to explicitly identify gaps in sexual and gender-based violence policy;
- Promoting local community efforts to raise awareness on sexual and gender-based violence through implementing primary prevention initiatives that address the underlying social and cultural norms that perpetuate gender bias and



discrimination in order to encourage behaviour changes to eliminate power imbalances and to promote and protect women's rights;

- Working to protect humanitarian workers and the people they serve in local communities from sexual and gender-based violence through the development and implementation of internal organizational processes and mechanisms to prevent, report and respond to allegations by adopting a zero tolerance policy on this issue taking into account Movement Codes of Conduct as well as the Inter-Agency Standing Committee Plan of Action and Core Principles of Codes of Conduct on Protection from Sexual Abuse and Exploitation in Humanitarian Crisis;
- Emphasizing that the principle of “do no harm” should be central to all programming and making reasonable efforts to ensure that any support provided will not be a source of additional conflict/violence or exacerbate pre-existing vulnerabilities. This includes respecting the confidentiality and consent of all survivors of sexual and gender-based violence;
- Promoting adherence to relevant protection frameworks and minimum standards such as the IFRC Minimum Commitments to Gender and Diversity in Emergency Programming (2015), the Inter-Agency Standing Committee Guidelines for Preventing and Responding to Gender-Based Violence in Emergencies (2015), the IFRC Principles and Rules for Humanitarian Assistance, the SPHERE Minimum Standards for Child Protection in Humanitarian Action and the United Nations Sustainable Development Goals among others;
- Provide support to government agencies and Red Cross and Red Crescent National Societies in their efforts to develop and make mandatory child protection policies to protect girls and boys from all forms of violence; and
- Advocating for the prevention, enhanced response mechanisms and appropriate services to eliminate and address sexual and gender-based violence in armed conflict, disasters and other emergencies in relevant humanitarian fora.

- **Safety and Security of Humanitarian Personnel**

Open Pledge by Switzerland signed by Canada and the United States of America

This open pledge is directed to State Parties to the Geneva Conventions participating in the 32nd International Conference of the Red Cross and Red Crescent. The signatories of this pledge/We recognize the primary responsibility of States to ensure the safety and security of humanitarian personnel in their territories; and to take measures to protect people in need and to facilitate their rapid and unimpeded access to assistance, in accordance with humanitarian principles. In situations of armed conflict these responsibilities lie with all parties to the armed conflict, including armed groups. States should also take necessary measures to ensure that impartial humanitarian organizations can carry out/implement their activities in accordance with humanitarian principles. The signatories of this pledge/We recognize the challenges for operational humanitarian partners to apply holistic and efficient security management approaches in complex and

volatile environments with rapidly changing threats and vulnerabilities. These situations demand continuously adapted risk management analysis and practice involving all relevant actors. We pay tribute to the courage and commitment of all those who take part in humanitarian operations, often at great personal risk; We therefore pledge, for the years 2015-2019: To share relevant information and explore ways in which we can, individually and collectively, effectively improve our contribution to the safety and security of principled humanitarian action and of humanitarian workers, independent of their race, color, origin, sex, language, religion, national or social origin or other similar criteria. We will also work together to consider ways to incentivize good practice in terms of security risk management within the humanitarian organizations that we support. Furthermore, we pledge to support our operational humanitarian partners in their endeavors to continuously improve on their management of staff safety and operational security, taking into account the specificities of each operational context, including what can be achieved collectively and what needs to be achieved by each of our partners. In line with our commitments in the 32nd International Conference resolution on “Safety and security of humanitarian volunteers,” we pledge to support National Red Cross and Red Crescent Societies and all actors deploying humanitarian volunteers to improve their safety, including by promoting community understanding and acceptance of the role of humanitarian volunteers. Moreover, we pledge to identify possible additional ways to address challenges of safety and security of humanitarian workers through bilateral actions, and in multilateral forums. We recognize the complementarity of the resolution on “safety and security” with the Resolution on “Health care in danger” and pledge our continued support to promoting and disseminating IHL including as it relates to protection of the wounded and sick and health-care personnel, facilities, and medical transports.

**CHILE**

- **Information Bureau**

For the years 2015-2019, the Government of Chile pledges to make every effort to move ahead with the creation of an Information Bureau, in accordance with Part V of Geneva Convention III relating to the Treatment of Prisoners of War.

- **Arms Trade Treaty**

For the years 2015-2019, the Government of Chile pledges to make every effort to progress towards the ratification of the Arms Trade Treaty.

- **Protecting cultural property in the event of armed conflict**

For the years 2015-2019, the Government of Chile pledges to make every effort to progress towards the implementation of the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and its Additional Protocols, by registering cultural properties.

- **Kampala amendments**

For the years 2015-2019, the Government of Chile pledges to make every effort to progress towards the ratification of the amendments to Article 8 of the Rome Statute on war crimes and the amendments concerning the crime of aggression.

- **Health care in danger**

For the years 2015-2019, the Government of Chile pledges to make every effort to:

- Set up mechanisms to identify priorities and find ways to improve the safety of health care services at a national level;
- Set up a permanent system for collecting data on violence against health care services;
- Promote ethical principles relating to health care among interested parties and the general public in order to ensure compliance with these principles in all circumstances;
- Determine and implement specific measures as a response to the serious and concerning issues identified in the initial assessment and improve respect for and the safety of health care.

**COSTA RICA**

- **Encouraging other National Societies to promote international humanitarian law**

Open Pledge by the Spanish Red Cross signed by Costa Rica  
The Spanish Red Cross pledges to support other Red Cross and Red Crescent National Societies in encouraging training and promotion of international humanitarian law and human rights for members of the armed forces and security forces; this will be done by helping with specific courses on this topic provided by staff from the Centre for Studies in International Humanitarian Law.

**GUATEMALA**

- Adopt the law on implementing the Rome Statute of the International Criminal Court.
- Progress towards ratifying the International Convention on the Protection of all Persons against Enforced Disappearance.
- Progress towards approving the law establishing the committee for searching for missing persons, victims of forced disappearance and other forms of disappearance.
- Ratification of the Arms Trade Treaty
- Progress towards adopting the law on the national archive system, which includes the protection of military archives, the national police archives, the peace archives and the archives of Central America.

- **Pledge on sexual violence in armed conflicts and other emergencies**

Open Pledge by Guatemala

We, the Government of Guatemala, pledge to comply with international law and to prevent and act against sexual violence during armed conflict and other emergencies by: 1. protecting the life and dignity of all human beings; 2. meeting the needs of victims of sexual violence, giving priority to their well-being and ensuring confidentiality; 3. providing victims with the means to recover, particular through access to health care, psychosocial support and appropriate protection; 4. focussing on risk reduction and zero tolerance towards sexual violence, regardless of the perpetrator, and guaranteeing absolute prohibition both in law and in practice; 5. applying effective punishments that have a real power of dissuasion; and 6. informing the International Conference of the Red Cross and Red Crescent of any relevant developments.

**HONDURAS**

- **Application for the enhanced protection of the Maya Site of Copán**

In accordance with the 1999 Protocol II of the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict, Honduras will apply for the enhanced protection of the Maya Site of Copán before the Governmental Committee of the Hague Convention, with its seat at UNESCO.

- **Strengthening the State's legal and technical preparation for new activities to promote and implement IHL**

Pledge by Honduras and Honduran Red Cross

Strengthen the State's legal and technical preparation for new activities to promote and implement IHL through social inclusion and a culture of non-violence, to ensure that human rights are respected in emergencies.

**MEXICO**

- **Preventing and responding to sexual and gender-based violence in conflict and emergency situations**

Open Pledge by United Kingdom of Great Britain and Northern Ireland signed by Mexico and United States of America (Text available under United States of America).

- **Women, Peace and Security**

Open Pledge by United Kingdom of Great Britain and Northern Ireland signed by Mexico and United States of America (Text available under United States of America).

**UNITED STATES OF AMERICA**

- **Preventing and responding to sexual and gender-based violence in conflict and emergency situations**

Open Pledge by the United Kingdom of Great Britain and Northern Ireland signed by the United States of America and Mexico

We recall some of the commitments already made to prevent and respond to sexual and gender-based violence: UN Security Council Resolution 1325 on Women Peace and Security in 2000, the *Declaration of a Commitment to End Sexual Violence in Conflict* launched in the margins of the 2013 UN General Assembly, the *Call to Action on Protecting Women and Girls in Emergencies* launched in London in November 2013, and the *Global Summit to End Sexual Violence in Conflict* hosted in London in 2014. We reaffirm our commitment to working to prevent sexual and gender-based violence in conflict and emergency situations, tackle impunity and protect the rights and well being of victims and survivors. We pledge to prioritise policy and practical support within States and with partner organisations wherever possible to:

1. Support health actors, police, military, civil society, and local communities to build safer communities and enable all victims and survivors (including women, girls, men and boys and any children born as a result of sexual violence) to access health, psychosocial and economic support to help rebuild their lives.
2. Tackle the impunity of perpetrators of sexual and gender-based violence, and assist victims and survivors to access justice, by promoting the implementation of relevant domestic legislation which criminalises sexual and gender-based violence and provides protection, support and remedies.
3. Follow international best practice when carrying out investigations into sexual and gender-based violent crimes by, for example, disseminating, implementing the main principles and, if possible, offering training on the '*International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*' and on the '*2015 Guidelines for Integrating Gender-based Violence in Humanitarian Action*' in situations of conflict, disaster and emergencies in order to promote survivor-centred approaches and facilitate prompt and effective investigation and prosecution of cases.

4. Take the life saving measure of responding to sexual and gender-based violence within humanitarian crises by committing to the Call to Action on Protection from Gender Based Violence in Emergencies and operationalizing the core objectives of the Call to Action Roadmap.

- **Women, Peace and Security**

Open Pledge by United Kingdom of Great Britain and Northern Ireland signed by the United States of America and Mexico We acknowledge the 15<sup>th</sup> anniversary of the adoption of UNSCR 1325 (2000) on Women, Peace and Security and reaffirm the commitments made therein as well as the subsequent resolutions, namely 1820 (2008); 1888 (2009); 1889 (2009), 1960 (2010), 2016 (2013), 2122 (2013) and 2242 (2015). As a reflection of our commitment to the implementation of the Women, Peace and Security agenda, we pledge whenever possible to:

1. Increase participation by women in peace processes and at all levels of decision-making in such processes.
2. Improve protection for women and girls affected by conflict, including in refugee and internal displacement settings (e.g., the design and administration of camp and displacement settlements).
3. Incorporate a gender perspective in conflict prevention and early warning systems.
4. Develop, implement and promote National Action Plans as a means to enhance and formalise domestic implementation of the Women, Peace and Security agenda.
5. Encourage and assist States who have not yet done so, to develop National Action Plans and engage with Regional Action Plans.
6. Co-operate with other States and Agencies to exchange ideas and expertise on the most effective strategies for National Action Plans: bilaterally, multilaterally or within regional groups focused on security, political, or economic cooperation (e.g. EU, NATO, OSCE, ECOWAS and Pacific Islands Forum).
7. Incorporate a gender perspective in security-sector activities and operations, including military, police, and peacekeeping operations, and increase the women's representation and participation in operations.
8. Incorporate a gender perspective in security-sector activities and operations, including military, police, and peacekeeping operations, and increase women's representation and participation in operations.

- **Safety and Security of Humanitarian Personnel**

Open Pledge by Switzerland signed by the United States of America and Canada (Text available under Canada)



## URUGUAY

- **Capacity building to fight against violence in conflict situations**

Continue with and strengthen training of the armed forces on protecting civilians, particularly in relation to sexual and gender-based violence.

- **Implementation of the Arms Trade Treaty – ATT**

Determine the regulations for implementing the Arms Trade Treaty, which was approved by law 19.527.

- **Implementation of Convention on Cluster Munitions**

Determine the regulations for implementing the 2008 Convention on Cluster Munitions, which was approved by law 18.527.

- **Protection of Cultural Goods in Armed Conflicts**

Provide a more concrete process for identifying, registering and marking cultural properties that are protected in the event of armed conflict, a pledge already made at the 31st International Conference.

- **Fight against violence related to children in conflicts**

Strengthen capacity building for the national police forces with regard to children, teenagers and other vulnerable groups in armed conflicts.

- **Institutional strengthening for IHL implementation**

Change the composition of the National IHL Committee in order to include other groups or individuals who play an important role in meeting and monitoring Uruguay's obligations under IHL.

- **Strengthening the protection of education during armed conflict**

Open Pledge by Norway signed by Uruguay and Argentina (Text available under Argentina).

- **Pledge by the group of francophone countries on sexual and gender-based violence in armed conflict and other emergency situations**

Open Pledge by Canada signed by Uruguay (Text available under Canada).



**MISSION**

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.



ICRC