



ICRC

## ADVISORY SERVICE

### ON INTERNATIONAL HUMANITARIAN LAW

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# Implementing International Humanitarian Law: from Law to Action

International humanitarian law – also called the law of war – sets out detailed rules that seek to limit the effects of armed conflict. In particular, it protects those who are not, or no longer, taking part in the fighting, and sets limits on the means and methods of warfare. Humanitarian law is a universal set of rules. Its main treaties have been accepted by nearly every State in the world. However, becoming party to these agreements is only a first step. Efforts must be made to implement humanitarian law – to turn the rules into action.

#### What is implementation?

The term implementation covers all measures that must be taken to ensure that the rules of international humanitarian law are fully respected. However, it is not sufficient merely to apply these rules once fighting has begun. There are also measures that must be taken in both wartime *and* peacetime. These measures are necessary to ensure that:

- both civilians and the military personnel are familiar with the rules of humanitarian law;
- the structures, administrative arrangements and personnel required for compliance with the law are in place;
- violations of humanitarian law are prevented, and punished when they do occur.

Such measures are essential to ensure that the law is truly respected.

#### Who should implement?

All States have a clear obligation to adopt and carry out measures implementing humanitarian law. These measures may need to be taken by one or more government ministries, the legislature, the courts,

the armed forces, or other State bodies.

There may also be a role for professional and educational bodies, the National Red Cross or Red Crescent Society or other voluntary organizations.

Measures have also been taken at an international level to deal with violations of humanitarian law. An International Fact-Finding Commission has been set up and States are encouraged to use its services. Tribunals have been set up to deal with violations committed during the recent conflicts in Rwanda and in the former Yugoslavia. An international criminal court was created by the 1998 Rome Statute.

However, it is the States which continue to bear primary responsibility for effectively implementing the law, and which must adopt measures at a national level.

#### What needs to be done?

Under international humanitarian law – that is, the 1949 Geneva Conventions, their Additional Protocols of 1977 relating to the protection of victims of armed conflicts, the 1954 Hague Convention on Cultural Property and the latter's Second Protocol of 1999

– a range of measures must be taken. The main ones are:

- 1) to have the Conventions and Protocols translated into the national language(s);
- 2) to spread knowledge of their provisions as widely as possible both within the armed forces and the general population;
- 3) to repress all violations listed as such in the above-mentioned instruments and, in particular, to adopt criminal legislation that punishes war crimes;
- 4) to ensure that persons, property and places protected by the law are properly identified, marked and protected;
- 5) to adopt measures to prevent the misuse of the red cross, the red crescent and other symbols and emblems provided for in the Conventions and Protocols;
- 6) to ensure that protected persons enjoy judicial and other fundamental guarantees during armed conflict;
- 7) to appoint and train persons qualified in international humanitarian law, in particular legal advisers within the armed forces;

- 8) to provide for the establishment and/or regulation of:
- National Red Cross and Red Crescent Societies and other voluntary aid societies,
  - civil defence organizations,
  - National Information Bureaux;
- 9) to take account of international humanitarian law when selecting military sites and in developing and adopting weapons and military tactics;
- 10) to provide for the establishment of hospital zones, neutralized zones, security zones and demilitarized zones.

The treaty provisions that could or do require such measures are set out in the table below.

Some of these measures will require the adoption of legislation or regulations. Others will require the development of educational programmes, the recruitment and/or

training of personnel, the production of identity cards and other documents, the setting up of special structures, and the introduction of planning and administrative procedures.

All these measures are essential to ensuring effective implementation of humanitarian law.

#### How can this be done?

Careful planning and regular consultation are the key to effective implementation. Many States have established national humanitarian law committees or similar bodies for this purpose. They bring together government ministries, national organizations, professional bodies and others with responsibilities or expertise in the field of implementation. Such bodies have generally proved to be an effective means of promoting national implementation.

In some countries, the National Red Cross and Red Crescent Societies

may also be able to offer assistance with implementation.

Through its Advisory Service on International Humanitarian Law, the International Committee of the Red Cross provides advice and documentation to governments on national implementation. It can be contacted through the nearest ICRC delegation, or at the address below.

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### Key articles requiring the adoption of IHL national implementation measures

	1949 Geneva Conventions				1977 Protocols		1954 Hague Conv.	1999 Protocol
	First	Second	Third	Fourth	I	II		
<b>Translation</b>	48	49	41, 128	99, 145	84		26	37
<b>Dissemination &amp; training</b>	47	48	41, 127	99, 144	80, 82-83, 87	19	7, 25	30
<b>Violations</b>								
General provisions	49-54	50-53	129-132	146-149	85-91		28	15-21
War crimes	49-50	50-51	129-130	146-147	11, 85-90			
Compensation					91			
<b>Protection</b>								
Fundamental guarantees		3, 12	3, 13-17	3, 27-34	11, 75-77	4-5,7		
Judicial and disciplinary guarantees; rights of prisoners and detainees	3	3	3, 5, 17, 82-90, 95-108, 129	3, 5, 31-35, 43, 64-78, 99-100, 117-126	44-45, 75	6		
Medicinal and religious personnel	40, 41	42		20	15-16, 18	10, 12		
Medicinal transports and facilities	19, 36, 39, 42-43	22, 24-27, 38-39, 41, 43		18, 21-22	12, 18, 21-23	12		
Cultural property					53	16	3, 6, 10, 12	5
Dangerous forces					56	15		
Identity cards	27, 40, 41, Annex II	42, Annex	17, Annex IV	20	18, 66-67, 78-79, Annexes I&II			
Capture and internment cards			70, Annex IV	106, Annex III				
Use/misuse of emblems and symbols	144, 53-54	44-45			18, 37-38, 66, 85, Annex I	12	6, 10, 12, 17	
<b>Experts and advisers</b>								
Qualified persons					6		7, 25	
Legal advisers					82			
<b>Organizations</b>								
National Societies	26			63	81	18		
Civil defence				63	61-67			
Information bureaux			122-124	136-141				
Mixed medical commissions			112, Annex II					
<b>Military planning</b>								
Weapons/tactics					36			
Military sites					57-58			8
<b>Protected zones and localities</b>	23, Annex I			14, 15	59-60, Annex I			