



ICRC

ADVISORY SERVICE

ON INTERNATIONAL HUMANITARIAN LAW

The Obligation to Disseminate International Humanitarian Law

Knowledge of International Humanitarian law (IHL) is a condition of its respect. When the States become parties to the 1949 Geneva Conventions and their 1977 Additional Protocols, they commit themselves to disseminate the provisions of those instruments as widely as possible both in peacetime and in periods of armed conflict so that they are known to the armed forces and to the population as a whole. The other instruments of IHL also contain an obligation of this nature. Although it is primarily the responsibility of the States to make the law known, other organizations, such as the International Committee of the Red Cross (ICRC), working in cooperation with the National Red Cross and Red Crescent Societies and their International Federation, have a mandate to assist the States in this task and are encouraged to take initiatives to that effect.

Dissemination: a treaty-based obligation for the States

The obligation to spread knowledge of IHL is based on the idea that sound acquaintance of the rules set forth in the law is essential for their effective application and, consequently, for the protection of the victims of armed conflicts.

Generally speaking, the obligation is a corollary to the commitment made by the States party to the instruments of IHL to *respect and ensure respect* for the provisions they contain.

Although dissemination activities must be stepped during armed conflicts, they must also be carried out in peacetime, for knowledge of the law is not a wartime matter alone. Dissemination promotes respect for the rules of the law, but it also helps inculcate principles of humanity that limit violence and preserve peace.

The substance of the obligation

The obligation of the States to instruct their armed forces in the rules laid down in the *laws and customs of war* and to bring those rules to the attention of the general public was a feature of the first instruments of the law of armed conflicts. What is more, the fact that the States carry out dissemination activities in practice and consider themselves legally bound to do so makes this a rule of customary law.

All four 1949 Geneva Conventions use virtually identical wording to reaffirm the general obligation to disseminate the texts (GC I/II/III/IV, Arts. 47/48/127/144):

"The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population".

The Third Geneva Convention of 1949 adds that any military or other authorities who in time of war are responsible for prisoners of war must possess the text of the Convention and be specially instructed as to its provisions (Art. 127(2)). The officers in charge of prisoner-of-war camps must ensure that these provisions are known to the camp staff and the guards and are held responsible for their application (Art. 39). Furthermore, the Convention must be posted in places where the prisoners of war can read it (Art. 41).

The Fourth Geneva Convention of 1949 provides the same obligations with regard to any civilian, military, police or other authorities who assume responsibilities in respect of civilians, particularly in places of internment (Arts. 99 and 144(2)).

The obligation to disseminate the Conventions and the Protocols is reiterated and developed in the 1977 Additional Protocols (AP I, Art. 83; AP II, Art. 19). Protocol I makes provision for specific measures with a view to strengthening the general obligation. Protocol II makes the obligation applicable to situations of non-international armed conflict. The reflex of compliance with the rules of IHL that is to be inculcated is in fact always the same, irrespective of the nature of the conflict.

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict requires that its provisions be made known to the personnel engaged in the protection of cultural property (Art. 25). The 1999 Second Protocol to that Convention requires furthermore that any military or civilian authorities who, in time of armed conflict, assume responsibilities with respect to its application be fully acquainted with the text. To that end, the States must incorporate guidelines and instructions on the protection of cultural property in their military regulations and must also develop and implement peacetime training and educational programmes in cooperation with UNESCO and relevant governmental and non-governmental organizations (Art. 30).

The 1980 Convention on certain Conventional Weapons also requires States to incorporate study of the text and of its Protocols in

programmes of military instruction (Art. 6). Its *Second Amended Protocol* specifies that each State must require its armed forces to issue relevant military instructions and operating procedures and to provide training for armed forces personnel that is commensurate with their respective duties and responsibilities (Art. 14). *Protocol IV* stipulates that the States shall provide training for their armed forces (Art. 2).

And finally, every State party to the *Convention on the Rights of the Child* (Art. 42) and to its *Optional Protocol of May 2000 on the involvement of children in armed conflict* (Art. 6) undertakes to make the principles and provisions of those instruments widely known by appropriate means, to adults and children alike.

How should the States discharge their obligation?

In addition to making a distinction between dissemination to the armed forces and dissemination to the civilian population, the instruments of IHL indicate measures the States must take in order to fulfil their obligation to spread knowledge of the law. In particular, Additional Protocol I strengthens the obligation by requiring the States to take a number of specific measures in peacetime. Since dissemination must be as wide as possible, the States are allowed considerable leeway with regard to the choice of means for dissemination.

The obligation to translate the instruments of IHL into national languages obviously constitutes a first step towards their implementation (GC I/II/III/IV, Arts. 48/49/128/144; AP I, Art. 84; 1954 Convention, Art. 26).

Among the armed forces

Incorporating the study of IHL into programmes of military instruction is the fundamental measure set forth in the treaties with a view to making the law known to the armed forces, who bear primary responsibility for its application. Protocol I specifies that the military authorities must be fully acquainted with the text of the Protocol (Art. 83, para. 2). This obligation is strengthened firstly by the fact that the States must ensure that **legal advisers** are trained to assist commanders in the application of the Geneva

Conventions and the Protocol and to advise them on the appropriate instruction to be given to the armed forces on this subject (Art. 82), and, secondly, by the fact that **commanders** must ensure that the military personnel under their command are aware of their obligations under these instruments (Art. 87).

The 1954 Convention requires furthermore that services or specialist personnel be established who are responsible for securing respect for cultural property (Art. 7).

If the programmes of military instruction are to be effective, guidelines should be adopted for teaching the law and IHL should be incorporated into military handbooks, manoeuvres and exercises and into the rules of engagement of the armed forces. States which provide troops for peace-keeping or peace-enforcement operations conducted by the United Nations or under its auspices should ensure that the military personnel belonging to their contingent are instructed in the provisions of the law.

Among the civilian population

It is just as imperative to spread knowledge of the war among the civilian population as among the armed forces. This is an area, however, in which the States are given greater freedom.

Instruction in IHL should be provided primarily to the public authorities responsible for its application. It should thus be stepped up in universities, specifically in faculties of law, and the general principles of the law should be taught in secondary schools. Members of the medical corps and of the media should also be given training commensurate with their activities.

Protocol I stipulates furthermore that the States must train **qualified personnel** to facilitate the application of the Conventions and of the Protocol (Art. 6). These persons, who should be qualified in particular in the legal, military and medical fields and must be recruited and trained in peacetime in order to be operational in the event of conflict, could be assigned by the government authorities to the dissemination service.

The role of the National Committees for IHL

These Committees should ensure that their respective governments comply with the obligation to spread knowledge of the law and that the subject is included in national education programmes.

Support from the International Red Cross and Red Crescent Movement

The *International Conference of the Red Cross and Red Crescent*, which brings together the States party to the Geneva Conventions and the Movement's components (the ICRC, the National Red Cross and Red Crescent Societies and their International Federation) in principle every four years, regularly reminds the States of their obligations regarding dissemination and the Movement of its role to provide impetus and support for the States in this field.

The ICRC, for its part, has a mandate to work for the understanding and dissemination of IHL with the cooperation of the National Societies (Movement Statutes, Art. 5, and ICRC Statutes, Art. 4). It has delegates who are specialized in this field and who are assigned to dissemination tasks in the various regions of the world, it draws up dissemination programmes and special teaching material for the armed and security forces, academic circles and young people, and it runs campaigns to heighten public awareness of the law. The ICRC Advisory Service on IHL regularly updates a collection of documents on implementation of the law in individual countries; this collection, which is part of a database that can be accessed through the ICRC web site (<http://www.icrc.org/ihl-nat>), contains, *inter alia*, information on the measures taken by the States to spread knowledge of IHL.

The National Societies have a mandate to disseminate and to help their governments to disseminate knowledge of the law. They must take initiatives to that effect and recruit, train and assign the necessary staff (Movement Statutes, Art. 3). Their International Federation also helps promote IHL and cooperates with them in this field (Movement Statutes, Art. 6, and Federation Constitution, Art. 3).