



ICRC

# TWELVE ISSUES FOR 2022

WHAT STATES CAN DO TO IMPROVE RESPECT  
FOR INTERNATIONAL HUMANITARIAN LAW



# INTRODUCTION

This document provides a snapshot of 12 selected issues arising in relation to the international humanitarian law (IHL) applicable in today's armed conflicts and outlines five key efforts that are currently the focus of the work of the International Committee of the Red Cross (ICRC). Its purpose is to help states identify, discuss and ultimately address some of the most pressing issues related to the protection of people affected by armed conflict.

Events in early 2022 have taken an alarming turn. The international armed conflict in Ukraine has given rise to a type and scale of organized violence that states have long committed themselves to banishing. First and foremost, efforts must go toward restoring peace and preventing escalation.

In parallel to the effort to restore peace in all parts of the world affected by armed conflicts, states must also pursue a different but equally worthy and urgent purpose: they must address the unprecedented needs generated by the world's numerous ongoing humanitarian crises, whatever their cause. The ICRC therefore takes this opportunity to draw the attention of all states to the specific humanitarian challenges stemming from armed conflicts and to urge states to take the action necessary to overcome them.

The urgency and importance of this work could not be more apparent. Armed conflicts continue to affect every region of the world, with each one giving rise to unique humanitarian problems and potentially signalling new trends. There is reason to be concerned about a resurgence of armed conflict between states after decades of predominantly non-international armed conflict. The conflict in Ukraine follows on the heels of a dramatic escalation in another inter-state conflict on the European continent between Armenia and Azerbaijan. Analysts studying the implications of global competition among a handful of powerful states are preparing for more international conflicts in the near future.

Yet, regardless of whether these developments herald the re-emergence of war between states, the trends established over the last two decades also continue. There is no sign of an end to the protracted non-international armed conflicts continuing in Syria, Yemen, and the Sahel, with civilians – and many children – still enduring unimaginable hardship. The aftermath of the US withdrawal from Afghanistan has not meant the end of conflict for that country, and it is now the world's largest humanitarian crisis. The recent military intervention in Myanmar has further fuelled armed conflict in a place that has been in the grip of violence for decades, and a new non-international armed conflict has emerged in Ethiopia with no foreseeable end.

Other overarching trends continue as well. Armed conflicts are increasingly fought in the middle of cities, endangering civilians and the infrastructure they depend on. Separated families remain without contact for longer than necessary. Armed groups continue to fragment and elude responsibility, and states operating through state and non-state proxies do the same. Technology continues to develop apace, with cyber operations, autonomous weapons and the use of outer space raising questions regarding the application and interpretation of IHL.

Finally, all countries have been affected by the COVID-19 pandemic. Progress on development indicators has been significantly reversed, and a large number of people have been thrown (back) into poverty. The economic and societal cost of the pandemic has severely hit populations affected by conflict.

States have it within their power to take feasible measures that will have a concrete, positive impact on many of these problems: by seriously considering the implications of the increasing urbanization of warfare and avoiding the use of explosive weapons in populated areas; by addressing the situation of foreign fighters and their families in Syria through voluntary repatriation; by putting in place domestic laws, policies and institutional frameworks to effectively address issues related to the separated, missing and dead; by taking measures to protect the natural environment in armed conflict;



by clarifying when and how cyber operations are covered by IHL; by ensuring the compliance of private military and security companies with IHL and implementing the Montreux Document; by using their influence to promote respect for IHL by the non-state armed groups they support; by adopting legally binding rules on autonomous weapons; by ratifying the Treaty on the Prohibition of Nuclear Weapons; and by including humanitarian exemptions in counterterrorism instruments.

These issues, the ICRC's approach to them and the precise steps the ICRC recommends states should take to address them are laid out in the first section of this document. The second section sets out tools and resources available to states to help them fulfil their own obligations under IHL. The ICRC encourages states to use these tools to ensure that IHL is fully incorporated and up-to-date in their domestic policy and practice.





# TWELVE KEY ISSUES IN 2022

## 1 URBAN WARFARE

Urban warfare is not a new phenomenon; cities have featured as a stage for violence since humans began building them, and images in recent years – from Aleppo, Mosul and Sana’a to Marawi, Mogadishu, Donetsk, Kharkiv and Mariupol – leave little room for doubt that towns and cities will continue to be primary battlegrounds in future armed conflicts. We can expect belligerents to continue using traditional methods, such as sieges and encirclement, tunnels, booby traps, artillery, mortars and snipers, and to complement these with modern capabilities, such as new technologies of warfare and precision. Against this evolving backdrop, we must reflect urgently and in earnest on the ways in which contemporary urban conflicts are fought and the devastating harm they cause to cities and their populations.

The humanitarian consequences of urban warfare are complex, direct and indirect, immediate and long-term, visible and invisible, and call for a more sustained and holistic humanitarian response. The ICRC and the entire International Red Cross and Red Crescent Movement continue to reinforce their capacity to prevent and respond to these consequences. We favour a multidisciplinary, integrated approach combining prevention, protection and assistance activities specifically adapted to the urban context. We engage with belligerents at every level, driven by the voices of the people who are most affected.

Notably, urban fighting often causes extensive destruction of and damage to critical infrastructure required for the delivery of [essential services](#), such as electricity, health, education, water and sanitation. This is especially the case when heavy explosive weapons are used in urban areas (see next section). In some cases, services are deliberately denied to specific areas to exert pressure on civilians living there. Essential services are interdependent, which means the failure of one can result in the collapse of multiple services. The ICRC works to prevent critical infrastructure from collapsing and forcing millions into crisis. This involves repairing and rehabilitating infrastructure, supplying spare parts, providing training and capacity-building for local service providers and developing emergency preparedness plans. However, preventing the damage in the first place is paramount. IHL provides crucial safeguards aimed at ensuring civilians continue to have access to essential services during armed conflict.

The ICRC has been confronted with the limitations of the collective humanitarian response in the face of extensive damage and destruction to critical infrastructure and its misuse by parties to conflict. While humanitarian organizations are adept at directing assistance towards the most vulnerable, the risk that an entire population could be in need if an essential service system fails is alarming. When systems fail, the scale of the consequences far exceeds what can be addressed by humanitarian action alone. Recognizing the need to respond at scale has led us to forge new relationships, including with development actors. Together with the World Bank and UNICEF, we have developed a series of joint recommendations for systemic change in a recently released report titled [Joining Forces to Combat Protracted Crises](#) which focuses on the delivery of water and sanitation.

Protecting civilians caught in the midst of urban combat starts with full and good faith compliance with IHL. However, based on what we have observed first-hand in urban conflict zones across the globe, the consequences of fighting in cities raise serious questions about how parties to such conflicts interpret and apply relevant IHL rules. Importantly, given the intermingling of civilians and military

objectives in urban areas, it is critical that information collected when planning an operation in urban areas does not focus solely on verifying that targets are military objectives – a key requirement, of course – but also on assessing incidental harm, including the indirect or “reverberating effects” that may be expected. For example, the indirect effects from an attack on a power plant might have a significant impact on public health, as electricity is needed to operate hospitals and treat water and sewage and, without access to these essential services, there is an increased likelihood of the outbreak and spread of infectious diseases. The question of indirect effects is of extreme importance in urban settings when the use of heavy explosive weapons is pervasive.

When it comes to sieges and encirclement, IHL offers vital protection to civilians by imposing significant restrictions on what the parties are permitted to do. In short, civilians must not be trapped in sieges, and both parties must allow civilians to leave the besieged area. Although temporary evacuations may be necessary, and even legally required, sieges must not be used to compel civilians to leave an area permanently. For the civilians and the wounded and sick who remain in a besieged or encircled area, the IHL rules on starvation and on relief operations are designed to ensure – in combination – that civilians are not deprived of supplies essential to their survival.

The ICRC has set out some of its views on the IHL challenges arising out of the urbanization of conflict and some legal issues that could require further clarification (see pp. 16 to 19 of the [ICRC's 2019 IHL Challenges Report](#), linked in the annex, for more detail). Notably, the ICRC recently published a [handbook for commanders on reducing civilian harm in urban warfare](#) which offers a series of recommendations on doctrine, training, planning and conduct of urban operations. The handbook is primarily intended for officers in command and staff officers below divisional level. At the national level, the ICRC continues to support states by providing IHL input for military manuals and doctrine, participating in workshops, round tables and training and developing tools to support implementation into domestic law, among others.

## 2 EXPLOSIVE WEAPONS IN POPULATED AREAS

One of the major causes of civilian harm in contemporary armed conflicts is the use of explosive weapons with wide area effects in urban and other populated areas (EWIPA). These include large bombs and missiles, artillery, mortars, multi-barrel rocket launchers and improvised explosive devices. Due to their wide area effects, their use in populated areas (where military objectives, civilians and civilian objects are often in close proximity) causes significant, and often indiscriminate, civilian harm, even when used against military objectives. The devastating direct and indirect (reverberating) effects of EWIPA include death, injury, mental harm, damage to critical infrastructure, the ensuing disruption of essential services (water, electricity, sanitation and health care) and contamination by unexploded ordnance. These effects are a major trigger for displacement and significantly hamper development.

While the use of EWIPA is not prohibited as such by IHL, it must comply with the prohibitions on indiscriminate and disproportionate attacks and the obligation to take all feasible precautions in attack, among others. However, the wide area effects of these weapons make it very difficult to use them in conformity with IHL in environments where civilians, civilian objects and military objectives are intermingled.

Since 2011, the ICRC has been calling on states and all parties to armed conflict to avoid the use of explosive weapons with a wide impact area in populated areas, due to the significant likelihood of indiscriminate effects. This means that heavy explosive weapons should not be used in populated areas unless sufficient mitigation measures are taken to limit their wide area effects and the consequent risk of civilian harm.

The ICRC supports all efforts to strengthen the protection of civilians and respect for IHL in relation to the use of EWIPA, including the ongoing diplomatic process for a political declaration. We engage in bilateral confidential dialogue with states, their armed forces and non-state armed groups to identify

and promote policy and practical measures to this end. In January 2022, the ICRC published [a major report](#) containing its observations and conclusions on the humanitarian, technical, legal and military operational aspects related to EWIPA and detailed “good practice” recommendations for political authorities and armed forces on preventive and mitigation measures to strengthen protection for civilians against the use of EWIPA and give effect to an avoidance policy. The ICRC calls on all states and parties to armed conflict to adopt and implement these recommendations.

### 3 MISSING PERSONS AND THEIR FAMILIES

Every year hundreds of thousands of people around the world go missing or are separated from their families, often as a result of armed conflicts. Many of these never return, and their families live in anguish and uncertainty not knowing their fate and whereabouts, while struggling with the numerous consequences this has on their lives. This represents a global humanitarian tragedy on a large scale.

Together with the network of National Red Cross and Red Crescent Societies, the ICRC’s Central Tracing Agency (CTA) is – and has been for over 150 years – at the heart of efforts to keep families together, reunite them and help them stay in touch, prevent people from going missing, search for the missing, protect the dignity of the dead and ensure that the rights and needs of families are addressed. The ICRC also works to enhance compliance with international obligations and supports states in ensuring their national implementation. Under IHL, parties to armed conflicts are required to take measures to prevent people from going missing and to account for those who do. Other relevant obligations are those related to the identification and proper management of the dead and respect for family life.

Despite the existence of these rules, increased and continuous efforts are needed to ensure that appropriate domestic laws, policies and institutional frameworks are in place to give effect to them and to effectively address the issue of the separated, [missing](#) and [dead](#). Such measures include establishing well-coordinated processes to collect and transmit information on those at risk of going missing, for instance, by setting up [National Information Bureaus](#), as required by the 1949 Geneva Conventions, to account for protected persons in the power of the adverse party and as part of a broader preparedness strategy; establishing [mechanisms](#) to clarify the fate and whereabouts of missing persons; and strengthening national frameworks and systems relating to the management of the dead and data protection. The need for states and parties to armed conflict to take actions such as these was emphasized in Resolution 2474 (2019) of the UN Security Council.

Throughout its history, the [CTA](#) has transformed to meet humanitarian needs; it is doing so again today to ensure a more effective global response on the separated, missing and dead. It is strengthening its own service provision, including improving its search capacities. The CTA can serve as a central repository of data to better help families find answers. The ICRC is well placed to do this, as a neutral, impartial and independent organization that uses data only for humanitarian purposes.

The recent [breach of personal data](#) entrusted to the ICRC and to National Societies brought to light the risk that cyber operations pose for humanitarian organizations. Such operations may create significant risks for the dignity and safety of people affected by armed conflict, disasters and other emergencies, which underscores the importance of continuing to invest in cyber security and maintaining high standards of data protection. But this alone is not enough. The ICRC is also urging states and parties to armed conflict to respect and protect data collected, stored or otherwise processed by impartial humanitarian organizations. In the ICRC’s view, unauthorized access to and exfiltration of data collected in the context of the impartial humanitarian activities of the ICRC and National Societies undermines the letter and spirit of IHL. Such activity disrupts humanitarian services and ultimately harms people.

## 4 IHL AND NON-STATE ARMED GROUPS

In 2021, the ICRC estimated that around 600 armed groups were present and operating in contexts in which the population has humanitarian needs – the ICRC is in contact with around 450 of them. The ICRC has classified approximately 100 of them as non-state armed groups (NSAGs) that are parties to armed conflicts and therefore bound by IHL. We estimate that millions of people live in areas under the exclusive control of NSAGs, and many more in territories where NSAGs exert influence. For civilian populations, living under the *de facto* control of an NSAG can exacerbate pre-existing needs and vulnerabilities, create new ones or – in other instances – provide a degree of stability in conflict-ravaged environments. In many cases, civilian populations are not only affected by hostilities and violence but are also subjected to a variety of rules and measures adopted by armed groups. For example, in the context of the COVID-19 pandemic, NSAGs have taken a range of health-related measures.

For over a century, the ICRC has sought dialogue with NSAGs to mitigate the suffering of people affected by armed conflict, including civilians or detained members of armed forces. Very practically, we aim to gain access to people located in territories in which these groups operate to provide protection and assistance, and we promote IHL and other relevant norms with a view to preventing or alleviating the suffering of the victims of armed conflict. During the ongoing pandemic, for example, we have on several occasions conveyed clear messages that the enforcement of COVID-19 measures must not violate fundamental guarantees under IHL. In 2022, the ICRC will also release – and operationalize – two important reports, one on the protection of detainees in the hands of NSAGs and the other on measures NSAGs can take to mitigate civilian harm in urban warfare.

The ability of the ICRC to engage in dialogue with NSAGs hinges not only on the agreement of these groups but also on the support of states in enabling and facilitating humanitarian engagement – either by consenting to our operations on their territory or by supporting this work politically. States can, however, also influence NSAGs directly. As a significant number of NSAGs are supported by states, it follows that states that support armed groups in one way or another have a particular responsibility to use their leverage and influence towards improving respect for IHL. Concrete guidance on this subject is available in the [ICRC's recommendations on managing support relationships in armed conflict](#).

## 5 CHILDREN ASSOCIATED OR AFFILIATED WITH NON-STATE ARMED GROUPS: THE IMPACT OF COUNTERTERRORISM DISCOURSE ON THEIR PROTECTION

The ICRC has consistently raised concerns in response to the discourse and accompanying legal approaches that some states have developed regarding the “exceptional” response permitted for the supposedly “exceptional” threat posed by non-state armed groups designated as terrorist. We have seen rhetoric dehumanizing adversaries go hand-in-hand with approaches that treat actors designated as “terrorist” as undeserving of the protection of international law. In other words, certain people and groups are cordoned off as “exceptions” to whom the international legal framework does not apply.

This alarming trend manifests in many ways. A particularly grim example is the discriminatory approach taken to the treatment of children associated with, allegedly associated with, or born to members of groups designated as terrorist. International law is clear as to the rights of children affected by armed conflict. The Convention on the Rights of the Child requires states parties to take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of armed conflict (Article 39). The Optional Protocol to the Convention on the Rights of the Child requires assistance for their physical and psychological recovery and their social reintegration

(Article 6.3). UN Security Council Resolution 2427 (2018) and the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups set out further standards. Yet children associated with the “terrorist” label are promptly excluded from the protection of such laws and standards.

Nowhere is this double-standard more starkly evident than in the humanitarian crises shaping the lives of children in camps and places of detention in north-east Syria. They are perceived as children of “terrorists” or as “terrorists” themselves and so are left where they are without support for their recovery or reintegration. Since 2018, the ICRC has been sounding the alarm, warning states about the dire humanitarian situation witnessed in north-east Syria, in particular in places of detention and camps. Meagre access to health services, lack of proper food, poor infrastructure – and so many other issues – continue to affect individuals of different nationalities, including the many Syrian and Iraqi nationals who comprise the biggest portion of camp and prison populations in the region, along with people perceived to be foreign fighters and their families.

The combination of humanitarian needs and the deteriorating security situation has a significant impact on the life and development of the thousands of children living in camps and places of detention. In Al Hol camp – comprising around 60,000 inhabitants – children represent 70% of the camp population, almost all below 12 years of age.

The ICRC advocates for what we still believe is the only long-term solution to this problem for third-country nationals: we call on states to urgently repatriate their nationals – children together with their parents – subject to the principle of *non-refoulement*. For all persons, states need to address the root causes of the problem – legal status and potential legal proceedings – and put in place long-term solutions. Otherwise, the humanitarian crisis will only continue to worsen.

The ICRC has also emphasized the importance of ensuring that children are treated in accordance with their legal entitlements as children, including that detention of children only be used as a last resort. Policies must uphold the principle of the best interest of the child. Accordingly, children detained in north-east Syria should be released and reunited with their families in camps or elsewhere; foreign children should be repatriated together with their family members to their countries of origin, subject to the principle of *non-refoulement*; and as an urgent interim measure, while solutions such as release, family reunification and repatriation are sought, children should be placed in appropriate interim alternative care centres. Long-term, sustainable solutions for these children are needed, but they must be moved out of detention right now, with no further delay.

The ICRC has also provided legal and technical advice to a number of states during their repatriation operations and developed a range of humanitarian services to people who are returned home, including ensuring that their family links are duly restored and that their psychosocial needs are addressed. We stand ready to continue these efforts and ask states not to look away from one of the most complex child protection crises in recent years.

## 6 NEW TECHNOLOGIES OF WARFARE

### CYBER OPERATIONS DURING ARMED CONFLICTS

Cyber operations have become part of armed conflicts, and the international community recognizes that the “use of ICTs [information and communication technologies] in future conflicts between States is becoming more likely” ([OEWG report](#), para. 16). The ICRC is concerned about the potential human cost of cyber operations and has documented areas of particular concern in a detailed [report on this subject](#). Recent years have seen several cyber operations against states’ critical civilian infrastructure, such as nuclear plants, electricity grids and water systems, which can have devastating consequences for people. It is an important step forward that all states recognized in the March 2021 [Open-Ended Working Group \(OEWG\) Report](#) the “potentially devastating ... humanitarian consequences of malicious ICT activities on critical infrastructure ... supporting essential services to the public” (para. 18). The ICRC contributed to these discussions with the submission of a [position paper](#).



The ICRC urges states to work towards providing more clarity on the limits that existing rules of IHL impose on cyber operations. For the ICRC, there is no question that IHL imposes limits on cyber operations during armed conflicts – just as on any weapon, means and method of warfare used by a belligerent in a conflict, whether new or old. This view is widely shared among states.

It is now critical for states to focus on the questions of how and when IHL applies to cyber operations, as emphasized in the July 2021 [Group of Governmental Experts \(GGE\) Report](#) (para. 71(f)). For example, IHL prohibits any attacks against civilian objects, including civilian infrastructure. In cyberspace, questions have arisen about the extent to which these prohibitions apply to cyber operations designed or expected to disable civilian infrastructure or to delete or otherwise tamper with civilian data, for example, data held by companies or government social security data. These are fundamentally important questions in an ever more digitally dependent world, and states need to provide clarity on these and other issues. The ICRC calls on states to interpret – and apply – existing rules in a manner that ensures adequate and sufficient protection for civilians and civilian infrastructure, information and communication technology systems and data.

To support this effort, the ICRC has published a detailed [report on avoiding civilian harm from military cyber operations during armed conflicts](#). It puts forward expert recommendations on specific measures to mitigate the risk of civilian harm and to protect the civilian population against the dangers resulting from the use of military cyber capabilities (see [this post](#) for a set of key takeaways). In addition, the ICRC is currently examining the [benefits and potential risks of a “digital emblem”](#), that is, a digital sign or signal to identify the data and digital infrastructure of protected medical entities and of certain humanitarian organizations and to signal their protection. In 2022, the ICRC will publish a report with initial technical proposals for the “digital emblem” and an outline of possible next steps in this process.

## **AUTONOMOUS WEAPON SYSTEMS**

An autonomous weapon system (AWS) selects and applies force to targets without human intervention in the sense that after initial activation by a person, it self-initiates strikes in response to information from the environment received through sensors and on the basis of a generalized “target profile”. This means that the user of the AWS does not choose the specific target and the precise timing or location of the resulting application of force.

The resulting loss of human control and judgement in the use of force brings serious humanitarian risks of harm for people affected by armed conflict – both civilians and combatants – challenges for compliance with international law, including IHL, and fundamental ethical concerns for humanity, in effect substituting human decisions about life and death by sensor, software and machine processes.

The ICRC has, since 2015, urged states to establish internationally agreed limits on AWS to ensure civilian protection, compliance with IHL and ethical acceptability. In May 2021, the ICRC recommended that all states adopt [new legally binding rules](#) to:

- prohibit “unpredictable AWSs”, that is, AWS that are designed or used in a manner such that their effects cannot be sufficiently understood, predicted and explained
- prohibit “anti-personnel AWSs”, that is, AWS that are designed or used to apply force against persons
- regulate the design and use of all other AWS through a combination of limits on the types of target, the duration, geographical scope and scale of use, situations of use, and requirements for effective human supervision and timely intervention and deactivation.

The ICRC will continue to support any initiative aimed at establishing international limits on AWS that address the concerns they raise in an effective and timely manner. Considering the speed of developments in AWS technology and use, it is critical that such limits be established urgently.

## OUTER SPACE

As technology enabled by space systems permeates most aspects of civilian life, military operations that would destroy, damage, disable or disrupt civilian or dual-use space systems, through kinetic or non-kinetic means, using space- and/or ground-based weapon systems, could cause wide-reaching consequences for civilians on earth. Humanitarian considerations and the potential human cost of war in space should be at the centre of discussions about reducing space threats.

Military operations in relation to outer space do not occur in a legal vacuum but are constrained by existing international law, notably the UN Charter, the Outer Space Treaty, and IHL, including prohibitions and limitations on the use of certain weapons and means and methods of warfare.

The sole aim of IHL is to preserve a measure of humanity in the midst of armed conflict, notably to protect civilians. Affirming the applicability of IHL to military operations in relation to outer space during armed conflicts neither encourages the weaponization of outer space nor legitimizes hostilities in outer space.

In 2021, the ICRC submitted a [position paper](#) as part of the UN Secretary-General's consultation on issues outlined in UN General Assembly (UNGA) Resolution 75/36. The ICRC will participate in and contribute to the work of the Open-Ended Working Group on reducing space threats convened by the UNGA.

The ICRC calls on states, including in multilateral processes such as the OEWG, to acknowledge the potential human cost for civilian populations on earth of military operations in relation to outer space during armed conflicts and the protection afforded by IHL.

Hostilities in relation to outer space would extend the destructive effect of armed conflicts to yet another domain, exacerbating civilian harm and raising significant concern, given the potential scale of their humanitarian consequences, particularly the potential effects on space systems on which critical civilian infrastructure and essential civilian services rely. While IHL provides a minimum degree of humanity in times of armed conflict, the ICRC urges states to consider the risks of humanitarian consequences when taking any decision with regard to military operations in relation to outer space at the national or multilateral level. In particular, in light of the risks of significant civilian harm, states may decide to set additional general prohibitions or specific limits with regard to weapons, hostilities or other military operations in outer space for a range of reasons, including humanitarian ones, as they did in the Outer Space Treaty. If new norms, rules and principles in this regard are to be developed, they must be consistent with and should build on and strengthen the existing legal framework, including IHL.

## 7 NUCLEAR WEAPONS

Since 1945, when it witnessed first-hand the unspeakable suffering caused by the atomic bombs in Hiroshima and Nagasaki while attempting to bring relief to the dying and injured, the International Red Cross and Red Crescent Movement has been calling for the prohibition and elimination of nuclear weapons. Any use of nuclear weapons would have catastrophic humanitarian consequences. No national government or international organization has the capacity to respond to the colossal humanitarian needs that any such use in or near populated areas would generate. It is a humanitarian imperative for states to ensure that nuclear weapons are never again used and are eliminated.

In the view of the ICRC, it is extremely doubtful that nuclear weapons could ever be used in an armed conflict in accordance with the principles and rules of IHL. Their use against civilian populations or civilian objects, such as entire cities, would violate the principle of distinction. Their use against military objectives located in or near populated areas would violate the prohibitions of indiscriminate and disproportionate attacks.

The entry into force of the Treaty on the Prohibition of Nuclear Weapons (TPNW) was a ground-breaking, historical moment. The TPNW is the first global legally binding instrument to comprehensively prohibit nuclear weapons. It sends a powerful signal that any use of nuclear weapons is unacceptable from a moral, humanitarian and now also legal perspective and reflects an important shift from the dangerous logic of deterrence to a focus on the weapon itself and its catastrophic humanitarian consequences. The treaty provides pathways for the elimination of nuclear weapons, a goal enshrined in the Nuclear Non-Proliferation Treaty (NPT), and is an effective measure in implementation of Article VI. Far from undermining the NPT, the TPNW complements and supports its objectives relating to nuclear disarmament and non-proliferation.

In line with its long-standing engagement on this issue, the ICRC continues to assist governments in their efforts to become a party to the TPNW and implement it, including through the dissemination of a “ratification kit”, a model law and interpretative notes on key provisions of the treaty. The ICRC seeks, through these efforts, to draw attention to the humanitarian rationale of the treaty. To this end, in 2020, the ICRC and the International Federation of Red Cross and Red Crescent Societies organized an expert meeting open to all states on the humanitarian impacts and risks of the use of nuclear weapons.

The ICRC strongly encourages all states that have not yet done so to ratify or accede to the TPNW without delay. We strongly encourage states that have signed the TPNW but not yet ratified it and also those states that are not yet in a position to join the treaty to participate as observers in the first meeting of states parties, due to take place later this year.

In parallel, we call on states that possess nuclear weapons to urgently take steps to reduce the risk of them being used. The ICRC has submitted a [Working Paper](#) to the 10th NPT Review Conference with recommendations to this effect.

## 8 THE ENVIRONMENT, CLIMATE RISKS AND ARMED CONFLICT

Today’s armed conflicts largely unfold across the epicentres of our global environmental and climate crisis. Conservation biology scholars have concluded that over 80% of all major armed conflicts between 1950 and 2000 took place directly in biodiversity hotspots, and according to the UN Environment Programme (UNEP), at least 40% of non-international armed conflicts between 1950 and 2009 were related to natural resources. At the same time, countries enduring conflict are on the front line of climate change: of the 25 countries most vulnerable to climate change and least ready to adapt, 14 are mired in conflict. The impacts of conflict-related environmental damage are now being compounded by the rapidly intensifying climate crisis.

From humanitarian actors to states and parties to armed conflict, we all have our part to play as we face this existential threat.

The ICRC has stepped up its legal, policy and operational work to drive actions forward. In 2020, the ICRC published both the updated *Guidelines on the Protection of the Natural Environment in Armed Conflict*, setting out 32 IHL rules and recommendations, and *When Rain Turns to Dust*, highlighting the humanitarian consequences of converging climate risks, environmental degradation and armed conflict and exploring avenues to address them. In 2021, along with the International Federation of Red Cross and Red Crescent Societies, the ICRC co-led the development of the *Climate and Environment Charter for Humanitarian Organizations*, which aims to steer and galvanize the humanitarian response to the climate and environment crises while maximizing the environmental sustainability of humanitarian action.



States and parties to armed conflict must act urgently too, including by integrating legal protections for the increasingly fragile environment into the doctrine of armed forces to reduce damage as they fight. The 2020 Guidelines are a reference tool for states, parties to armed conflicts and other actors who may be called on to promote, implement, apply and enforce IHL – a “one-stop shop” of relevant IHL on the natural environment. To support implementation, the ICRC proposes the following measures to states:

- Disseminate IHL rules protecting the natural environment, as reflected in the Guidelines, and integrate them into the doctrine, education, training and disciplinary systems of armed forces and into national policy and legal frameworks.
- Adopt and implement measures to increase understanding of the effects of war on the natural environment prior to and regularly during military operations, whenever feasible and operationally relevant, to minimize the direct and indirect environmental impacts they may have.
- Identify areas of particular environmental importance or fragility and designate them as demilitarized zones.
- Exchange good practices and examples of measures to comply with relevant IHL rules through activities such as conferences, military training and exercises, and regional forums.

Switzerland and the ICRC aim to convene a state expert meeting on “IHL: protecting the environment in armed conflicts” in 2022. The focus will be on the protection of the natural environment in armed conflicts at the national level. The meeting will facilitate a non-contextualized, non-politicized exchange of domestic laws, regulations, procedures, policies and good practices, which states have developed or could consider developing to ensure better protection of the natural environment in armed conflicts. The contributions of all states are welcome.

## 9 GENDER AND IHL

Gender shapes an individual’s experience of armed conflict in complex ways, but trends can be predictable. In particular, women and girls contend with structural gender inequality, including in conflict contexts. Women and girls have fewer financial resources, less access to essential services and less representation in decision-making bodies. Military operations do not therefore take place on an “equal playing field” for women and girls, and so a gender perspective is a relevant tool for practitioners seeking to understand and reduce civilian harm in armed conflict.

As part of its mandate to work for the understanding, dissemination of knowledge, and faithful application of IHL, in 2021 the ICRC convened an expert workshop to scope the gendered impacts of armed conflict and identify potential implications for the application of certain IHL obligations related to the protection of civilians. With this expert workshop, the ICRC sought to engage in a critical reflection on the role of IHL in addressing the gendered impacts of armed conflict. The focus was on the practical application of IHL and the mitigation of risks of harm to women and girls.

The ICRC will publish a report based on the workshop in 2022, with the aim of advancing understanding of the gendered impacts of the application of IHL on different groups, including women and girls. This forms part of the ICRC’s continuing efforts to adopt a gender analysis in its legal work, including notably in its project to update the Commentaries on the Geneva Conventions.

While we work to integrate a gender perspective more consistently in interpretations and the implementation of IHL, it is important to recall the well-established prohibitions of sexual violence as a war crime in international and non-international armed conflict. These prohibitions protect women, men, boys and girls, and/or including persons of diverse sexual orientation and gender identity, and are an important component of how states and parties to armed conflict must act to prevent and respond to gendered harm in armed conflict. Yet while international law is clear on the prohibition of sexual violence, national legal and policy frameworks are more diverse. With this in mind, the ICRC has developed a *Checklist on the Domestic Implementation of IHL Prohibiting Sexual Violence*. We stand ready to support states in implementing their international legal obligations in this respect into domestic frameworks.

## 10 DISABILITY AND IHL

Work on disability and IHL constitutes one of the pillars of the ICRC Vision 2030 on disability, with its ambition to transform the organization into a disability-inclusive employer and a provider and advocate of disability-inclusive humanitarian activities.

Persons with disabilities make up an estimated 15% of any given population. The risks and barriers they may face in accessing protection and assistance include wrongful targeting, barriers to fleeing fighting or evacuation from areas where military operations are taking place, heightened risks of violence and abuse when left behind by family or support persons and inaccessible humanitarian relief. The ICRC's work seeks to make the specific perspectives and needs of persons with disabilities more visible in the interpretation and implementation of existing IHL rules on the protection of civilians or persons hors de combat, in complementarity with the Convention on the Rights of Persons with Disabilities. In this vein, we published a [short note on complementarity](#) and will devote an upcoming issue of the *International Review of the Red Cross* to persons with disabilities and armed conflict.

The ICRC calls for persons with disabilities and organizations of persons with disabilities to be better involved in the planning of protection and assistance responses in the event of an armed conflict in order to create deeper awareness of the specific risks and barriers they face in armed conflict. We also call on weapon bearers to be made aware of these specific risks and barriers and emphasize the need for them to integrate such considerations into their military doctrine, planning, conduct of operations and training. The ICRC supports the recommendations made in this regard by the UN Special Rapporteur on the rights of persons with disabilities in his 2021 report to the UNGA. We are also co-hosting expert consultations for a new report by the UN Special Rapporteur on the conduct of hostilities and persons with disabilities, with the aim of bringing together state armed forces and persons with disabilities and their representative organizations.

## 11 PRIVATE MILITARY AND SECURITY COMPANIES

The presence of private military and security companies (PMSCs) in situations of armed conflict can pose particular risks for the effective protection of civilians. This is especially the case where PMSCs and their personnel do not have adequate training or sufficient motivation to comply with IHL and other applicable law and are not subject to effective accountability processes for violations of IHL or other abuses. The ICRC works to ensure that contracting, territorial and home states fulfil their obligations under IHL in relation to PMSCs. In certain circumstances, the ICRC may also engage directly with a PMSC where this could improve the humanitarian situation.

A key tool in the ICRC's work on PMSCs is the 2008 *Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict*. It is an intergovernmental document intended to promote respect for IHL and human rights law whenever PMSCs are present in armed conflicts. Its development was jointly facilitated by Switzerland and the ICRC. It summarizes existing relevant international legal obligations and good practices but is not in itself a legally binding instrument.

The ICRC also closely follows the open-ended intergovernmental working group established by the UN Human Rights Council in Geneva "to elaborate the content of an international regulatory framework, without prejudging the nature thereof, relating to the activities of private military and security companies".

The ICRC calls on all home, territorial and contracting states to fulfil their obligations under IHL to ensure that PMSC operations comply with IHL – obligations that are reflected in the Montreux Document but also exist independently of it. We would welcome a particular focus on ensuring national

laws include the necessary provisions and are enforced in practice. We invite all states that have not yet signed up as participants to the Montreux Document to consider doing so and invite those that have to encourage others to sign up too. Finally, we encourage all states to engage constructively in UN processes.

## **12 PRESERVING HUMANITARIAN SPACE**

### **HUMANITARIAN ACCESS**

Humanitarian access is central to the effective protection of civilians. Humanitarian access and the provision of humanitarian activities require dialogue at all times, not only when humanitarian access and delivery are threatened or restricted. This dialogue is a reflection of IHL “at work”. Although the relevant rules vary slightly depending on the nature of the conflict (international armed conflict other than occupation, occupation, or non-international armed conflict), put simply, the IHL framework governing humanitarian access consists of four interdependent layers.

First, each party to an armed conflict has to meet the basic needs of the population under its control. Second, impartial humanitarian organizations have the right to offer their services to carry out humanitarian activities, especially when the basic needs of the population are not being met. Third, impartial humanitarian activities carried out in armed conflicts are generally subject to the consent of the parties to the conflict concerned; however, consent cannot be denied arbitrarily or unlawfully. Fourth, once impartial humanitarian relief schemes have been agreed to, the parties to the armed conflict, as well as all states that are not party to the conflict, are expected to allow and facilitate the rapid and unimpeded passage of humanitarian relief. They may exercise a right of control to verify that the goods are in fact what they are claimed to be.

The crises we continue to see are primarily caused by the lack of compliance with IHL by parties to armed conflicts, and they are compounded by the inability of the parties and the international community to find political solutions to such situations. Similarly, the most significant obstacle to undertaking humanitarian activities commensurate with the needs of populations affected by armed conflict is most often the situation on the ground, where access is difficult or impossible mainly for security and/or political reasons. An increasing and dangerous politicization of humanitarian action adds to this challenge.

The ICRC would like to see states approach the question of humanitarian access in an apolitical manner and base their actions and decisions solely on humanitarian needs.

### **COUNTERTERRORISM AND SANCTIONS REGIMES**

In recent years, there has been an increase in global, regional and local regulatory measures in the field of counterterrorism and international sanctions regimes. The ICRC does not engage in questioning the legitimacy and necessity of states taking such measures, but it observes that these measures have had unintended adverse consequences for humanitarian action. Given the proliferation and widening scope of these measures, their impact on humanitarian action is increasing. This has affected the ability of humanitarian organizations, such as the ICRC, to respond to the needs of people affected by conflict and violence in a principled manner. The ICRC considers that counterterrorism measures and sanctions regimes must not impede principled humanitarian action and must comply with IHL rules, notably those governing humanitarian activities.

The ICRC has been engaging at all levels (for example, at the UN and the European Union and with states) to raise awareness on the impact of counterterrorism measures and sanctions and to promote effective mitigation measures, especially in the shape of humanitarian exemptions that exclude the humanitarian activities of impartial humanitarian organizations from the scope of counterterrorism legislation and sanctions regimes, in line with IHL and humanitarian principles.



There is positive language in recent UN Security Council resolutions (for instance, Resolutions 2610 and 2615) and in EU framework documents on sanctions, which contain several references to the intention of the UN and EU to preserve humanitarian activities from adverse consequences and to respect international law, including IHL. However, certain prohibitions established under these regimes continue to impact principled humanitarian action, especially in connection with the fact that sanctions often target non-state armed groups, entities with which humanitarian actors are called on to interact directly. The activities of humanitarian actors have therefore been directly and indirectly affected by UN, EU and national sanctions. The impact includes, for example, difficulties importing or exporting goods, bank transfers being blocked or delayed, suppliers “de-risking”, leading to a halt or delay in humanitarian activities in the health or water and sanitation sector, donor agreements no longer consistent with IHL and humanitarian principles and potential exposure for non-compliance and the ensuing liability. This last issue can give rise to problems in terms of their duty of care to staff.

Some UN and EU sanctions regimes provide for the possibility of requesting derogations, that is, the possibility to ask the competent authorities for permission to continue humanitarian activities that might be at risk of not being compliant with a specific sanctions regime. However, this is not a viable solution. Having to ask political bodies for permission to work in contexts subject to sanctions regimes is operationally untenable and may raise security issues. It also raises serious concerns in terms of compatibility with IHL, as such systems are difficult to reconcile with IHL rules governing humanitarian access and humanitarian activities and, in view of the risk of liability that non-compliance poses, with the rules protecting humanitarian personnel.

The ICRC is calling on the designers of sanctions (notably the UN and the EU) to further enhance compliance with IHL and humanitarian principles by introducing standing and well-framed humanitarian exemptions in sanctions regimes. Good examples include Recital 38 of the EU CT Directive, the main EU counterterrorism instrument, and the carve-out in UN Security Council Resolution 2615 regarding the Taliban sanctions regime. These now need to be transposed into domestic legislation to ensure they are given full effect.

Standing and well-framed exemptions are the most appropriate and efficient way to safeguard and protect humanitarian action and to ensure that sanctions do not restrict humanitarian space and impede humanitarian access. Such exemptions would also give the humanitarian community much needed support in addressing over-compliance and de-risking practices and help to create a general culture of support for humanitarian action overall. These would not be “blanket” exemptions but would keep the exclusively humanitarian activities of organizations that are truly impartial and humanitarian and that work at all times in conformity with IHL clearly outside the scope of application of sanctions regimes.



## PART 2

# BUILDING A GLOBAL CULTURE OF RESPECT FOR IHL

Respect for IHL depends on states holding themselves, and each other, to account. Building a global culture of respect for IHL starts with a shared understanding of the [rules](#), and entails leading by example. A clear understanding of the legal framework, along with the effective incorporation of international obligations in national legal systems, encourages better respect for IHL by all parties to armed conflict and strengthens the capacity to influence others.

The ICRC is constantly seeking ways to support states and all relevant actors in understanding IHL as it applies in today's world and to support the implementation and respect of obligations under IHL. Below we highlight five key efforts to achieve these goals.

## 1 UPDATED COMMENTARIES ON THE GENEVA CONVENTIONS OF 1949 AND THEIR ADDITIONAL PROTOCOLS OF 1977

In the context of its work to disseminate and clarify IHL, the ICRC published “commentaries” on the four Geneva Conventions in the 1950s and on the Additional Protocols in the 1980s.

The original Commentaries aimed to clarify the scope and content of the then newly adopted Conventions and Protocols, in particular in the light of the preparatory work and previous experience in armed conflicts. The original Commentaries became, over time, key reference documents for interpreting the Conventions, frequently cited by military lawyers, international and national courts and scholars around the world. However, as they were drafted in the 1950s and 1980s, they do not reflect developments in law and practice since then.

Against this background, in 2011 the ICRC embarked on a major project to update the Commentaries on the Geneva Conventions of 1949 and their Additional Protocols of 1977. By updating them, the ICRC intends to provide current interpretations and guidance that take into account the issues and challenges encountered in armed conflicts in recent decades as well as developments in technology and international and national law. The interpretations set out in the updated Commentaries are based on the methodology for treaty interpretation defined in the Vienna Convention on the Law of Treaties. The purpose of the Commentaries is to serve as a practical tool that provides easy access to summaries of all the relevant elements that inform up-to-date interpretations of the Conventions. They allow practitioners, including military legal advisers and others involved in the application and interpretation of IHL, to find out what the ICRC's interpretations of the Conventions entail and the main diverging views.

To date, three updated Commentaries have been published:

- [Commentary on the First Geneva Convention \(2016\)](#)
- [Commentary on the Second Geneva Convention \(2017\)](#)
- [Commentary on the Third Geneva Convention \(2020\)](#)

Work is currently ongoing to update the Commentary on the Fourth Geneva Convention.

As they are freely available online, we hope that these Commentaries can travel “virtually” in the backpacks of military lawyers and other practitioners. In addition, they are included in the [free IHL App](#).

## 2 BRINGING IHL HOME

In December 2019, the 33rd International Conference of the Red Cross and Red Crescent adopted Resolution 1 (33IC/19/R1) “[Bringing IHL home: A road map for better national implementation of international humanitarian law](#)”. The resolution is based on the widely shared recognition that better respect for IHL is needed to protect victims of armed conflict and that implementing IHL at the domestic level is an essential step towards achieving this goal. It therefore sets a general direction for the members of the Conference to follow and provides them with guidance in the form of key measures to strengthen the national implementation of IHL.

In order to give effect to the resolution and to IHL-related [pledges](#) adopted by the members of the International Conference, the ICRC produced [Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law](#), published in May 2021. These Guidelines unpack the process behind the implementation of IHL at the domestic level and compile the ICRC’s recommendations for states and National Societies on how to act on their commitments.

The Bringing IHL Home resolution encourages states to carry out “an analysis of the areas requiring further domestic implementation” (para. 2), including assessing their participation in IHL-related treaties and checking that their domestic legal frameworks are consistent with their international obligations. This exercise entails looking in particular at domestic legislation, practical implementation measures, criminal repression and suppression of violations of IHL, integration of IHL into military doctrine, education, training and sanctions systems, and dissemination.

States have begun publicly sharing their work to implement IHL at home. To be clear, neither IHL nor the Bringing IHL Home resolution contain any obligation to report on IHL implementation. Nevertheless, a growing number of states have published or are working on a voluntary report on the implementation of IHL at the domestic level. The term voluntary report generally refers to any document drafted under the lead or with the strong involvement of a state entity (for instance a national committee or similar entity on IHL, and sometimes with the support of the National Red Cross or Red Crescent Society), for the purpose of describing the state of IHL implementation within the domestic legal system, including law, policy and practice. Such reports usually outline how international legal obligations are incorporated into the domestic system and identify potential areas requiring further action. Ideally, such reports also include information about internal decision-making processes and the roles and responsibilities of those who contribute to domestic implementation. Voluntary reports are usually made public once finalized, as one of their aims is to contribute to sharing good practices on IHL implementation with the international community.

These reports may be seen as examples of efforts in line with the Bringing IHL Home resolution, including paragraph 2 mentioned above and paragraph 13, which encourages sharing good practices on national implementation. Such reports have been further encouraged by the parallel initiative in the [Open Pledge to Report on the Domestic Implementation of International Humanitarian Law](#), drafted by the United Kingdom and the British Red Cross and signed by 15 states and National Societies.

Furthermore, to support states and other actors, including National Red Cross and Red Crescent Societies, in their efforts to improve implementation of IHL, the ICRC has published several legislative checklists that provide concrete and operational guidance on the legal, regulatory, and administrative measures to be adopted domestically, for instance, on prohibiting sexual violence, implementing the anti-personnel landmine ban convention and the cluster munitions convention and protecting health services during armed conflict. These are listed and linked in the annex.



### 3 NATIONAL IHL COMMITTEE MEETINGS

Many states have created interministerial platforms to bring together the different governmental stakeholders working on IHL. Over time, these platforms, referred to as national committees and similar entities on IHL, have demonstrated that they have a role to play in creating an environment conducive to the implementation of IHL and other relevant international norms and increase respect for the law. Most national IHL committees that exist today (119 in March 2022) include representatives of the various government institutions involved in the implementation of IHL (ministries of foreign affairs, defence, justice, education, etc.), the judiciary, and the National Red Cross or Red Crescent Society. Through regular meetings, these actors actively encourage the promotion of IHL domestically, for instance, by developing training programmes for practitioners responsible for applying or interpreting IHL, supporting research on IHL topics of domestic importance and generally facilitating coordination between authorities and civil society organizations concerned with IHL.

The roles and tasks of national IHL committees have also evolved over time. They have now acquired a recognized advisory function in relation to the implementation of all rules concerning the protection of people and objects affected by violence and all IHL-related issues. The instrument that establishes the national IHL committee and sets out its functions (often a legislative or executive act) usually includes a mandate to make concrete recommendations on the adoption of domestic implementation measures. This has led some committees to submit draft amendments to their country's Penal Code in order to incorporate new crimes following the state's accession to specific international treaties (e.g. adding the crime of forced disappearance following accession to the International Convention for the Protection of All Persons from Enforced Disappearance). National IHL committees also regularly carry out studies that aim to identify areas where the domestic legal framework would need to be strengthened to better correspond to the state's international obligations.

Given the expertise developed by each of these national committees, strengthening cooperation among them at the international, regional and cross-regional level can inspire states and National Societies to build on implementation practices that have proven effective in other contexts.

Paragraph 6 of the Bringing IHL Home resolution highlights that cooperation should occur through attendance at and active participation in the regular meetings of such entities and through the [online community for national committees and similar entities on IHL](#) (created on the basis of the outcomes of their 2016 Universal Meeting). Regularly organized meetings for national IHL committees include their Universal Meeting (held every four years, with the 5th edition taking place in December 2021) and regional meetings often organized by the ICRC and a partner state or regional organization. Participants include diplomats and legal advisers from ministries of foreign affairs, defence and justice and from National Red Cross and Red Crescent Societies, who exchange good practices on the domestic implementation of specific areas of IHL.

### 4 SUPPORT RELATIONSHIPS IN ARMED CONFLICT INITIATIVE

Contemporary armed conflicts often involve a multiplicity of actors, including states, non-state actors, multinational coalitions and peace forces. Some fight one another, and others support one another through military partnerships, alliances and coalitions. This support takes various forms, such as the provision of training and equipment, arms transfers, institutional capacity support, financial aid, cyber operations, the hosting of troops, the provision of private contractors and intelligence sharing. Through its field presence, the ICRC has found that these complex webs of support and partner relationships have become increasingly prevalent and are a key feature of almost every major context of armed conflict in which it operates.

Under IHL, those who support parties to non-international armed conflicts may themselves become party to that conflict, and therefore be bound by IHL, in particular when they contribute to the collective conduct of hostilities by another party against an armed group or exert overall control over an armed group. To be clear, a state does not become a party to an armed conflict on the sole ground that it supplies weapons or military equipment to a belligerent. Nevertheless, even when the support provided does not reach the threshold of contributing to the collective conduct of hostilities, it still affects, or has the potential to affect, the conduct of the supported party to an armed conflict and may increase or reduce human suffering.

In contemporary conflicts, the ICRC has therefore been developing its engagement with those who support parties to armed conflict, recently stepping up these efforts with its Support Relationships in Armed Conflict Initiative. The ICRC believes that there is a need and an opportunity for individual and collective action that aims to leverage such support relationships to positively influence partners' behaviour for the benefit of victims of armed conflict.

Ensuring respect for IHL includes an obligation not to encourage, aid or assist in violations of IHL as well as a due diligence obligation to take proactive steps to influence parties to conflict to adopt an attitude of respect for IHL. The ICRC understands that there are challenges in finding concrete measures to foster better respect for IHL. States are free to choose from a variety of different measures that would be adequate to ensure respect. These include assessments prior to providing support, mechanisms to identify and address partner misconduct while support is being provided, and review, limit, or suspend support, if necessary, as well as context-specific IHL training. Experience shows that – in addition to training – oversight and accountability are critical for the protection of victims of armed conflict in active military operations and detention.

The ICRC is conscious of the legal, policy and operational challenges often encountered when developing such measures. It engages with actors in supporting or supported roles to discuss its recommendations, to increase their usefulness over time and to learn from their experience. Ultimately, the ICRC seeks to ensure that all decisions taken regarding such support adequately factor in risks and opportunities for the protection of civilians, the wounded and detainees, and for the respect of IHL in general.

## 5 INVESTIGATION GUIDELINES

The obligation of states to respect and ensure respect for IHL necessarily requires leaders to closely monitor the actions of their personnel. When an IHL violation is suspected to have occurred, effective investigations are critical to enable decision makers to establish the facts and take action to ensure accountability and bring their forces into compliance with the law.

In some cases, such as grave breaches of the Geneva Conventions and other potential war crimes, IHL itself requires investigations to be carried out with a view to criminal sanctions. In other circumstances, investigations are an integral part of a state's responsibility to put a stop to ongoing violations of IHL, take steps to ensure they are not repeated and make appropriate reparation.

As part of the ICRC's effort to advise states on the legislation and processes to put in place to ensure respect for IHL, the ICRC joined with the Geneva Academy of International Humanitarian Law and Human Rights to develop guidelines for investigating violations of IHL. The document provides practical assistance by setting out a general framework for investigations in armed conflict and, where relevant, indicating the corresponding international principles and standards. This work has been underpinned by extensive research into the domestic law and practice of states and engagement with military and government experts, academics and non governmental organizations.

We consider these guidelines necessary and important because proper investigations undertaken by states at the domestic level are an essential tool for ensuring compliance with IHL. Investigations

are also a form of accountability to a state's own population, to the victims of violations of IHL and their families, to the population of another territory in which its military may be operating and to the international community. They can demonstrate that a state is adhering to its international obligations – either by clarifying that IHL was not violated or by demonstrating that the state is addressing an alleged violation of the law and taking appropriate corrective action.

In the planning of all military deployments, whether domestic or extraterritorial, the ICRC urges states to anticipate the need for independent and impartial investigations as a critical tool for compliance with IHL. Clear expectations and processes need to be set ahead of time to make sure effective investigations are possible. States should prepare by ensuring the availability of qualified personnel to promptly carry out such investigations and by adopting standard operating procedures for systematically recording the details of military operations, including unplanned and planned detention, the use of force and incidents of harm to civilians or to property. They also need to facilitate the reporting of incidents of concern up the chain of command, for example, by means of post-mission briefs, after action reports, proper reporting by the commander in charge and, importantly, whistle-blower protection.



# ADDITIONAL RESOURCES

This annex provides links to additional ICRC resources on the topics covered in this report. It is limited exclusively to material produced by the ICRC or in partnership with the ICRC. There are many additional useful resources on these topics produced by many other sources.

## URBAN WARFARE

### KEY RESOURCES

- ICRC, [Reducing Civilian Harm in Urban Warfare: A Commander's Handbook](#), 2021.
- World Bank, ICRC and UNICEF, [Joining Forces to Combat Protracted Crises – Humanitarian and Development Support for Water and Sanitation Providers in the Middle East and North Africa](#), Washington DC, 2021.
- ICRC, [International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions](#), section on urbanization of armed conflicts, 2019, pp. 16–25. [also in Arabic, Chinese, French, Russian and Spanish]

### More on this topic

- ICRC, [“Urban warfare: An age-old problem in need of new solutions”](#), *Humanitarian Law & Policy blog*, 2021.
- ICRC and International Institute of Humanitarian Law, [New Dimensions and Challenges of Urban Warfare](#), 43rd San Remo Round Table webinars, Sept–Oct 2020.
- ICRC, “Humanitarian consequences of urban warfare”, [part 1](#) and [part 2](#), *Intercross* podcast, No. 111 and No. 112, Oct–Nov. 2020.
- University of Queensland Law School, [“Mitigating harm to the civilian population and critical infrastructure in urban warfare”](#), *Law and the Future of War* podcast, 2021.

## EXPLOSIVE WEAPONS IN POPULATED AREAS

### KEY RESOURCES

- ICRC, [Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas](#), January 2022.
- UN secretary-general and ICRC president, [“Explosive weapons in cities: Civilian devastation and suffering must stop”](#), joint appeal, September 2019.
- ICRC, [International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions](#), section on urbanization of armed conflicts, 2019, pp. 19–22. [also in Arabic, Chinese, French, Russian and Spanish]

### More on this topic

- ICRC, [“Waging war in cities: A deadly choice”](#), film, 2020.

## COUNTERTERRORISM AND THE PROTECTION OF CHILDREN IN ARMED CONFLICT

- ICRC, [\*International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions\*](#), section on the status and protection of foreign fighters and their families, 2019, pp. 61–63. [also in Arabic, Chinese, French, Russian and Spanish]
- ICRC, “[Syria: The Children of Al Hol](#)”, *Intercross* podcast, No. 120, December 2021.
- ICRC regional director for the Near and Middle East, “[Briefing on the humanitarian situation of stranded and detained people in north-east Syria](#)”, June 2021.
- ICRC, “[Syria: ICRC president urges “new approach” by international community after decade of brutal crisis](#)”, statement, March 2021.
- ICRC, “[Gender-sensitive reintegration in context](#)”, statement before the UN Counter-Terrorism Committee, November 2019.

## MISSING PERSONS AND THEIR FAMILIES

- ICRC, “[Guiding Principles / Model Law on the Missing](#)”, 2009.

## THE ENVIRONMENT, CLIMATE RISKS AND ARMED CONFLICT

- ICRC, [\*Guidelines on the Protection of the Natural Environment in Armed Conflict\*](#), 2020.
- ICRC, “[Fighting without a Planet B: How IHL protects the natural environment in armed conflict](#)”, *Humanitarian Law & Policy* blog, May 2021.
- ICRC, “[War, law and the environment](#)”, *Humanitarian Law & Policy* blog series, May 2021– (submissions welcome).
- ICRC, [\*International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions\*](#), Chapter 6 on climate, armed conflict, and the natural environment, 2019, pp. 65–68. [also in Arabic, Chinese, French, Russian and Spanish]
- ICRC and International Federation of Red Cross and Red Crescent Societies, [Climate and Environment Charter for Humanitarian Organizations](#), especially the [guidance on Commitment 6](#), which includes examples of targets incorporating IHL, 2021. [also in Arabic, French and Spanish]
- ICRC, [\*When Rain Turns to Dust: Understanding and Responding to the Combined Impact of Armed Conflicts and the Climate and Environment Crisis on People’s Lives\*](#), 2020. [also in Arabic, Chinese, French and Spanish]

## IHL AND NON-STATE ARMED GROUPS

- ICRC, [\*ICRC Engagement with Non-State Armed Groups: Why, how, for what Purpose, and Other Salient Issues\*](#), position paper, March 2021.

## PRIVATE MILITARY AND SECURITY COMPANIES

- ICRC and the Swiss Federal Department of Foreign Affairs, [\*The Montreux Document: On Pertinent International Legal Obligations and Good Practices for States related to Operations of Private Military and Security Companies During Armed Conflict\*](#), 2009. [also in [Arabic](#), [Finnish](#), [French](#), [Russian](#) and [Spanish](#)]
- [Montreux Document Forum](#), website.

## NEW TECHNOLOGIES OF WARFARE

- ICRC, [\*International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions\*](#), section on new technologies of warfare, 2019, pp. 26–35. [also in Arabic, Chinese, French, Russian and Spanish].

## CYBER OPERATIONS DURING ARMED CONFLICTS

- ICRC, [\*International Humanitarian Law and Cyber Operations during Armed Conflicts\*](#), position paper, 2019. [also in Arabic, Chinese, French, Portuguese, Russian and Spanish]
- ICRC, [\*Avoiding Civilian Harm from Military Cyber Operations during Armed Conflicts\*](#), 2020.
- ICRC, “[Signalling legal protection in a digitalizing world: A new era for the distinctive emblems?](#)”, *Humanitarian Law & Policy* blog, September 2021.

## AUTONOMOUS WEAPON SYSTEMS

- ICRC, [\*ICRC Position on Autonomous Weapon Systems\*](#), May 2021. [also in Arabic, Chinese, French, Russian and Spanish]
- ICRC president, “[Autonomous weapon systems raise ethical concerns for society](#)”, statement, December 2021.
- ICRC, “[What are the dangers of autonomous weapons?](#)”, video, December 2021.

## OUTER SPACE

- ICRC, [\*The Potential Human Cost of the Use of Weapons in Outer Space and the Protection Afforded by International Humanitarian Law\*](#), position paper, April 2021. [also in Arabic, Chinese, French, Russian and Spanish]

## NUCLEAR WEAPONS

### KEY RESOURCES

- ICRC, “[ICRC urgently appeals to states to ensure that nuclear weapons are never used](#)”, statement, March 2022.
- ICRC, “[The International Red Cross and Red Crescent Movement celebrates the entry into force of the Treaty on the Prohibition of Nuclear Weapons](#)”, news release, January 2021.
- ICRC president, “[We must not forget that prohibiting nuclear weapons is the beginning – not the end – of our efforts](#)”, statement on the entry into force of the Treaty on the Prohibition of Nuclear Weapons, October 2020.
- ICRC, [working paper submitted by the International Committee of the Red Cross to the tenth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons](#), 2021.
- ICRC, [\*Humanitarian Impacts and Risks of Use of Nuclear Weapons\*](#), report on the expert meeting, 2020.
- ICRC president, “[Nuclear weapons: Averting a global catastrophe](#)”, appeal, 2018.
- ICRC, [model law for the Treaty on the Prohibition of Nuclear Weapons](#), March 2019.
- ICRC, [model declarations under Article 2 of the Treaty on the Prohibition of Nuclear Weapons](#), 2021.
- ICRC, [view on interpretation of the Treaty on the Prohibition of Nuclear Weapons](#), briefing notes, 2019.
- International Red Cross and Red Crescent Movement, “[Working towards the elimination of nuclear weapons: 2018–2021 action plan](#)”, Council of Delegates, Resolution 4, 2017.

### More on this topic

- ICRC, [“What if we nuke a city?”](#), explainer video, 2019.
- ICRC, [“Live or die: What would you choose in a nuclear attack?”](#), campaign video, 2019.
- ICRC, informational videos on the [consequences](#), [lack of response capacity](#), and [risks](#).
- ICRC, [“Why does the Nuclear Ban Treaty matter?”](#), article, January 2021.

## GENDER AND IHL

- ICRC, [Considering Different Impacts on Diverse Women, Men, Girls and Boys when Applying and Implementing IHL](#), pledge, 2019.
- ICRC, [Domestic Implementation of IHL Prohibiting Sexual Violence: A Checklist for States and the International Red Cross and Red Crescent Movement](#), November 2020. [also in Arabic, French and Spanish]
- ICRC [“GCIH Commentary: I’m a woman and a POW in a pandemic. What does the Third Geneva Convention mean for me?”](#), *Humanitarian Law & Policy* blog, 2020.
- ICRC, [“Walking the talk on SGBV: An implementation checklist to narrow the gaps between international law and domestic practice”](#), *Humanitarian Law & Policy* blog, 2021.
- ICRC, [“Sexual violence in armed conflict: The historical limits of humanitarian action and the ICRC in the 20th Century”](#), *Humanitarian Law & Policy* blog, 2021.
- ICRC and Norwegian Red Cross, [“That Never Happens Here”: Sexual and Gender-Based Violence against Men, Boys and/including LGBTIQ+ Persons in Humanitarian Settings](#), 2022.
- ICRC, [“My Father and Cows Will Go to Court, Not Me”: Male Perceptions of Sexual Violence in South Sudan and the Central African Republic](#), 2022.

## DISABILITY AND IHL

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The ICRC helps people around the world affected by armed conflict and other violence, doing everything it can to protect their lives and dignity and to relieve their suffering, often with its Red Cross and Red Crescent partners. The organization also seeks to prevent hardship by promoting and strengthening humanitarian law and championing universal humanitarian principles.