

**FIFTH UNIVERSAL MEETING OF NATIONAL
COMMITTEES AND SIMILAR ENTITIES ON
INTERNATIONAL HUMANITARIAN LAW**

BRINGING IHL HOME THROUGH DOMESTIC LAW AND POLICY

29 NOVEMBER – 2 DECEMBER 2021

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INTRODUCTION

The Fifth Universal Meeting of National Committees and Similar Entities on International Humanitarian Law (Universal Meeting), hosted by the International Committee of the Red Cross (ICRC), took place online between 29 November and 2 December 2021, under the banner “Bringing IHL home through domestic law and policy”.

The aim of this event was to bring together representatives of national committees and similar entities on international humanitarian law (national IHL committees) to discuss national implementation of international humanitarian law (IHL) relating to selected themes, as detailed in the agenda (see **Annex 1**).

The Universal Meeting was joined by up to **230 participants** each day from across the world. Participants were members of the **118 national IHL committees** and included representatives from ministries of foreign affairs, defence and justice and from National Red Cross and Red Crescent Societies. Participants also included representatives from 12 governments, who joined as observers based on their interest in establishing a national IHL committee, and from five international and regional organizations involved in the domestic implementation of IHL.¹ In that sense, the Universal Meeting was one of the rare occasions on which the true universality of IHL could be demonstrated, with representatives from various bodies and departments across the globe coming together to discuss its implementation.

To facilitate these interactions, simultaneous interpretation was provided in Arabic, English, French, Spanish and Russian.

The present report includes many examples of current practice by national IHL committees and more general examples from states of their domestic implementation of IHL. These examples are drawn from contributions made by participants during the sessions of the Universal Meeting itself and from written submissions provided to the ICRC’s Advisory Service by participants during or after the Universal Meeting. The contributions can be found throughout this report in the sections entitled “Selected practice”, listed in alphabetical order of the state concerned.

¹ The list of participants is available in Annex 2.

OPENING SESSION

Dr Helen Durham, the ICRC's Director of International Law and Policy, opened the Universal Meeting by welcoming all the participants. Dr Durham's speech is reproduced in its entirety below.

Introduction

Your Excellencies, esteemed speakers, chairs, panellists, participants and friends.

On behalf of the International Committee of the Red Cross, I warmly welcome you to the Fifth Universal Meeting of National IHL Committees and Similar Entities on IHL.

I am delighted to be opening this event. We have had the pleasure of receiving more than **270** registered participants from the **118** national committees or similar entities, from governments present as observers, and from international or regional organizations. We are extremely pleased with these numbers.

Because of ongoing restrictions related to the COVID-19 pandemic, we opted for a lighter programme than usual and to conduct it online. This did not make scheduling easy, but we sincerely hope that by offering different times each day, all of you will be able to join several sessions that fall within your work hours.

We also decided to organize this Universal Meeting online, because we thought this was an excellent moment to take stock of all the impressive work done by national IHL committees across the world. Five years have indeed passed since we all convened for the Fourth Universal Meeting of National Committees and Similar Entities on IHL here in Geneva. In addition, we are currently midway between the 33rd and 34th International Conferences of the Red Cross and Red Crescent. The 33rd edition, through the "Bringing IHL home" resolution, strongly promoted the work of national IHL committees. In order to showcase what has been done since this resolution was adopted, or since the last Universal Meeting, and plan for the coming years, we have selected four key issues to discuss during this meeting, which I will present in a minute.

We remain committed to gathering in person in future years and hope to host the next Universal Meeting here in Geneva.

Welcome to new and revived national committees on IHL

Many of the concrete achievements in strengthening respect for IHL would not have been possible had it not been for those of you among us today who took the initiative of creating national committees.

Today, we have the pleasure of welcoming **nine national committees or similar entities on IHL** that have established themselves since our last Universal Meeting, in 2016, and that sit in the following territories:

1. Bulgaria
2. Cyprus
3. Kiribati
4. Niger
5. Oman
6. Palestine
7. Papua New Guinea
8. The Netherlands
9. Vanuatu.

I would also like to welcome four national committees on IHL that have re-established or reactivated themselves since our last meeting and that sit in the following territories:

1. Côte d'Ivoire
2. Gambia
3. Italy
4. Japan.

This brings us to a total of 118 national IHL committees across the globe today. On behalf of the ICRC, I would like to congratulate each of you on these achievements, and I invite everyone to join me in virtually welcoming the representatives of these committees.

A few remarks about the topics to be discussed during this meeting

Over these next four days, we will be hearing from many of you on your practical achievements in generating greater respect for IHL.

Bringing IHL home and voluntary reporting

The first item tabled for discussion is a follow-up to the 33rd International Conference of the Red Cross and Red Crescent, which took place in December 2019.

During this International Conference, the members adopted Resolution 1, entitled “Bringing IHL home: A roadmap for better national implementation of international humanitarian law”. The resolution recognizes the central role played by national committees in strengthening national implementation. That session will be the occasion to highlight some of YOUR achievements.

Many of you will remember that, in 2019, following the 33rd International Conference, we launched our online community for national committees on IHL. We currently have **30 members** in this community, and there have already been some exchanges on developments at the domestic level in relation to IHL. We hope that many more of you will join us on this platform, and please feel free to reach out to us bilaterally if you have any questions about this.

Missing persons and their families

In session 2, we will be reflecting on the steps that can be taken at the domestic level to protect missing persons and their families. This topic is pertinent across the globe, as hundreds of thousands of people are missing worldwide because of armed conflict, other situations of violence, disasters and migration. Many never return and are never heard from again. Behind every missing person there are countless more people suffering from the anguish and uncertainty of not knowing the fate and whereabouts of their loved ones, and struggling with the multiple consequences this has on their lives. Along with the terrible pain that only grows as the years go by without answers, these people often face numerous psychosocial, administrative, legal and economic difficulties.

As is always the case, a big part of the answer to those humanitarian problems lies in ensuring adequate legal protection at the domestic level. We know that many important steps have already been taken by national IHL committees to put in place domestic legal and policy frameworks, including the relevant mechanisms and processes. We look forward to hearing about your work in this area and your ideas on how the ICRC can further support you.

This session will also be the occasion to highlight the work of the Central Tracing Agency, which has reunited millions of separated people with their families through two world wars and in countless conflicts and disasters since. We will explain how we are transforming the Central Tracing Agency to ensure that our response is adapted to the challenges of today and tomorrow, and that we have the capacity to properly support states who bear the primary responsibility to protect missing persons and their families.

Weapons, new technologies and arms transfers

For the ICRC, the application of IHL to weapons of all types is key, whether that be new technologies or those that have been around for 70 years or more. However, today, the international community faces significant challenges, which will be the topic of the third session.

We are witnessing the increased use of existing weapons that have otherwise been prohibited, such as nuclear weapons, chemical weapons, cluster munitions and anti-personnel mines. We know that there is a number of treaties regulating these weapons, yet we face challenges in encouraging states to ratify these instruments and in ensuring that treaty terms are met. Your role, as representatives of national IHL

committees, is very important in this regard. We would like to hear from you on what you are doing, or can do, to make sure that IHL, as a whole, is implemented effectively at the domestic level, and this includes the implementation of relevant weapons treaties.

Following advances in science and technology, we are witnessing the rapid, and often unconstrained, development and use of new means and methods of warfare. We know that many of you are engaged in discussions on the use of new technologies, cyber operations and autonomous weapons, as well as the challenges posed by these developments. The aim of this session is to hear from you, on how national IHL committees can further participate in these discussions and support states in responding to these developments, to ensure the continued application of IHL.

Across the world, we have great humanitarian concerns about the acute suffering brought about by the widespread availability and transfer of weapons, as well as their misuse. In many cases, this is due to inadequate controls. National IHL committees and similar entities have a vital role in encouraging states to regulate and limit the use of arms. This role includes conducting reviews to ensure that the weapons themselves and their use comply with IHL.

Counter-terrorism and the facilitation of humanitarian action

Our final themed session of the week will be on counter-terrorism and the facilitation of humanitarian action.

While recognizing that states shall protect their citizens from the threat of terrorism, the ICRC is concerned about the impact that some counter-terrorism measures are having on humanitarian action across the world. In some contexts, counter-terrorism measures have impeded neutral and impartial humanitarian assistance from reaching those most in need, such as the civilian population living in areas controlled by armed groups designated as “terrorists”. Such measures are incompatible with the letter and spirit of IHL. It is therefore imperative that states adopt humanitarian exemption clauses in their counter-terrorism legislation, in order to ensure that humanitarian assistance and activities to ensure protection under IHL can be provided for those in need. This is one of the main ways in which national IHL committees can help. The focus of this discussion will be on concrete examples of humanitarian exemption clauses, which many of you have been instrumental in attaining, and the sharing of good practice in this regard.

Furthermore, the ICRC is concerned about the misconception that IHL does not apply to counter-terrorism operations. Some states have developed a discourse according to which the exceptional threat posed by non-state armed groups designated as “terrorists” would require an exceptional response, in which IHL would not apply, in spite of the existence of an armed conflict. The ICRC stresses that IHL always applies to situations of armed conflict, and we seek your support in encouraging states to comply with IHL, even in relation to a person or armed group designated as terrorist.

Conclusion

During these four sessions, the vast majority of the time will be dedicated to your experiences and your work. It is, after all, your meeting – the moment to share your good practice, to ask questions of your peers on how they have overcome challenges that you may face yourselves, to create synergies and partnerships across the different regions. The domestic implementation of IHL is a continuous process – there is always more that can be done. We hope that this fifth edition will provide you with practical ideas of what more your national IHL committee can do.

With that, I would like to warmly thank all of the representatives of national IHL committees who have agreed to share stories of their work on each of these themes. Thank you to all of our colleagues across the world who were involved in organizing this event, and to each of you for taking the time to join us.

As I conclude, I would also like to acknowledge the presence at this meeting of several ICRC legal advisers from across the world. We are, indeed, committed to continuing to support you, and our colleagues will be ready to follow up bilaterally with each of you after this important meeting.

While we would have loved to have deliberated with you all face-to-face, we must make the best out of this situation, and I'm convinced that we will have many stimulating discussions. I welcome you once again, and I wish you all a fruitful week.

Dr Helen Durham's speech is available in [Arabic](#), [English](#), [French](#), [Russian](#) and [Spanish](#) on the ICRC website.

A FOLLOW-UP TO THE 33RD INTERNATIONAL CONFERENCE OF THE RED CROSS AND RED CRESCENT: “BRINGING IHL HOME” AND VOLUNTARY REPORTING

This first session of the Universal Meeting was dedicated to success stories regarding the implementation of Resolution 1, entitled “Bringing IHL home” (“Bringing IHL Home” resolution)² and adopted during the 33rd International Conference of the Red Cross and Red Crescent in December 2019, and to assessing what further measures should be taken in the lead-up to the 34th International Conference, due to take place in 2023.

NEW OR REACTIVATED NATIONAL IHL COMMITTEES

Paragraph 5 of the “Bringing IHL home” resolution encourages states that have not yet done so to consider establishing a national committee or similar entity on IHL. The ICRC further encourages states that have established such an entity to continue strengthening them.

Participants in the fifth Universal Meeting congratulated and welcomed the 13 national committees or similar entities on IHL that have been newly established, re-established or reactivated since the fourth Universal Meeting, in 2016. These entities sit in the following territories:

- Bulgaria
- Côte d’Ivoire
- Cyprus
- Gambia
- Italy
- Japan
- Kiribati
- The Netherlands
- Niger
- Oman
- Palestine
- Papua New Guinea
- Vanuatu.

Selected practice

COLOMBIA

At the time of the Universal Meeting, Colombia was in the process of reactivating and strengthening the IHL and Armed Conflict Subsystem (*Grupo Técnico de DIH y Conflicto Armado*), which acts as Colombia’s national IHL committee. The Subsystem comes under the auspices of the Presidential Body for Human Rights and acts in conjunction with state bodies.

The Subsystem was created in 2012, with the task of coordinating domestic implementation of IHL. The Subsystem organizes awareness-raising strategies, training for military bodies and an IHL training course for students. It seeks to strengthen its role in providing technical support to state entities – for example, in drafting documents on education, demining, recruitment, missing persons, protection

2 https://rcrcconference.org/app/uploads/2019/12/33IC-R1-Bringing-IHL-home_CLEAN_ADOPTED_FINAL-171219.pdf

of cultural property and ethical journalism. The Subsystem also intends to exchange information with other national IHL committees at the global and regional levels.

CROATIA

The National Committee on International Humanitarian Law (*Nacionalni odbor za medjunarodno humanitarno pravo*) was reactivated in 2021, after being dormant for the previous few years. That year, the committee held two meetings, started working on its plan of action and decided to put together a voluntary report.

ITALY

The Italian Commission for the Study and Development of International Humanitarian Law (*Commissione per lo studio e lo sviluppo del diritto internazionale umanitario*) was re-established by decree of the Minister for Foreign Affairs and International Cooperation on 16 September 2021. The Commission includes representatives of the various administrations involved in the implementation of IHL, as well as of the judiciary, academia and the National Red Cross Society. The body contributes to the study of and research on IHL, promotes the implementation and dissemination of IHL and facilitates coordination between authorities and civil society organizations on those matters. It records pledges that have been submitted and signed by Italy during previous International Conferences of the Red Cross and Red Crescent.

MOZAMBIQUE

The IHL and Human Rights Interministerial Group (*Grupo Inter-Ministerial de Direitos Humanos e Direito Internacional Humanitário*) was, at the time of the Universal Meeting, in the process of being established in Mozambique, with the assistance of the ICRC. The Group was already meeting informally, pending final approval of its statutes by the government.

This new entity will be tasked with providing a platform for discussions with key actors, to ensure respect for both IHL and human rights. Key conditions, such as relevant training for the Group's members, sufficient financial and technical resources, and opportunities to exchange with other national IHL committees, are being considered by the Group to ensure it can function effectively.

As it becomes operational, the Group is aiming to work on increasing knowledge of IHL and human rights law among key stakeholders, while, at the same time, responding to the need to follow up allegations of violations of such regimes.

TREATY PARTICIPATION

Paragraph 4 of the “Bringing IHL home” resolution encourages states to consider ratifying or acceding to IHL treaties to which they are not yet party.

During the period between the fourth and fifth Universal Meetings (January 2017 to December 2021), the ICRC registered **245 ratifications of and accessions to IHL-related treaties (including amendments to them)** across the world, as follows:

- One state (Angola) became party to **Protocol II additional to the Geneva Conventions**.
- Six states (Cameroon, Ecuador, Kyrgyzstan, Lesotho, Madagascar and Peru) became party to **Protocol III additional to the Geneva Conventions**.
- One state (Palestine) recognized the **competence of the International Humanitarian Fact-Finding Commission**.
- Six states (Afghanistan, Djibouti, Ireland, Togo, Turkmenistan and the United Kingdom) became party to the **Hague Convention for the Protection of Cultural Property**.
- Six states (Afghanistan, Botswana, Djibouti, Togo, Turkmenistan and the United Kingdom) became party to the **First Protocol to the Hague Convention for the Protection of Cultural Property**.

- Fifteen states (Afghanistan, Burkina Faso, Denmark, Djibouti, France, Ireland, Lebanon, Liechtenstein, Madagascar, Portugal, Sweden, Togo, Turkmenistan, the United Kingdom and Ukraine) became party to the **Second Protocol to the Hague Convention for the Protection of Cultural Property**.
- Two states (Armenia and Equatorial Guinea) became party to the **International Convention Against the Recruitment, Use, Financing and Training of Mercenaries**.
- Eleven states (Benin, Czech Republic, Dominica, Fiji, Gambia, Malawi, Norway, Oman, the Seychelles, Slovenia and Sudan) became party to the **International Convention for the Protection of All Persons from Enforced Disappearance**.
- Six states (Central African Republic, Fiji, Gambia, Myanmar, South Sudan and Suriname) became party to the **Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict**.
- Five states (Benin, Dominica, Malawi, Mauritius and Turkmenistan) became party to the **Convention on the Prevention and Punishment of the Crime of Genocide**.
- One state (Ecuador) became party to the **Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity**.
- One state (Kiribati) became party to the **Rome Statute of the International Criminal Court** (the Rome Statute).
- Eight states (Argentina, Guyana, Mongolia, New Zealand, Palestine, Panama, Paraguay and Portugal) became party to the **Amendment to the Rome Statute on War Crimes**.
- Eight states (Bolivia, Ecuador, Guyana, Ireland, Mongolia, Panama, Paraguay and Portugal) became party to the **Amendment to the Rome Statute on the Crime of Aggression**.
- Twelve states (Andorra, Austria, Belgium, Croatia, France, Italy, Latvia, the Netherlands, Portugal, Romania, Slovenia and Switzerland) became party to the **Amendment to Article 124 of the Rome Statute**.
- Nine states (Croatia, Czech Republic, Latvia, Luxembourg, the Netherlands, New Zealand, Norway, Slovakia and Switzerland) became party to the **Amendment to Article 8 of the Rome Statute on weapons that use microbial or other biological agents, or toxins**.
- Nine states (Croatia, Czech Republic, Latvia, Luxembourg, the Netherlands, New Zealand, Norway, Slovakia and Switzerland) became party to the **Amendment to Article 8 of the Rome Statute on weapons the primary effect of which is to injure by fragments undetectable by X-rays in the human body**.
- Nine states (Croatia, Czech Republic, Latvia, Luxembourg, the Netherlands, New Zealand, Norway, Slovakia and Switzerland) became party to the **Amendment to Article 8 of the Rome Statute on blinding laser weapons**.
- Six states (Andorra, Croatia, the Netherlands, New Zealand, Norway and Portugal) became party to the Amendment to **Article 8 of the Rome Statute on intentionally using starvation of civilians as a method of warfare**.
- Six states (Armenia, Kazakhstan, Kyrgyzstan, Palestine, Tajikistan and Uzbekistan) became party to the **Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and on Bacteriological Methods (the Geneva Protocol)**.
- Ten states (Benin, Gambia, Madagascar, Maldives, Namibia, Niue, the Philippines, Saint Lucia, Sao Tome and Principe, and Sri Lanka) became party to the **Convention on Cluster Munitions**.
- Two states (Palestine and Sri Lanka) became party to the **Anti-Personnel Mine Ban Convention**.
- Nineteen states (Afghanistan, Botswana, Brazil, Cameroon, Canada, Chile, China, Guinea-Bissau, Honduras, Kazakhstan, Lebanon, Maldives, Mozambique, Namibia, Niue, Palau, Palestine, Sao Tome and Principe and Suriname) became party to the **Arms Trade Treaty**.
- One state (Palestine) became party to the **Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques**.
- Five states (Central African Republic, Niue, Palestine, Samoa and Tanzania) became party to the **Biological Weapons Convention**.
- Two states (Afghanistan and Lebanon) became party to the **Convention on Certain Conventional Weapons**.
- Three states (Afghanistan, Benin and Lebanon) became party to the **Amendment to Article 1 of the Convention on Certain Conventional Weapons**.

- Three states (Afghanistan, Benin and Lebanon) became party to **Protocol I to the Convention on Certain Conventional Weapons**.
- Four states (Afghanistan, Benin, Lebanon and Mauritius) became party to **Protocol II to the Convention on Certain Conventional Weapons**.
- Two states (Afghanistan and Lebanon) became party to **Protocol III to the Convention on Certain Conventional Weapons**.
- Two states (Afghanistan and Benin) became party to **Protocol IV to the Convention on Certain Conventional Weapons**.
- Four states (Afghanistan, Benin, Mauritius and Palestine) became party to **Protocol V to the Convention on Certain Conventional Weapons**.
- One state (Palestine) became party to the **Chemical Weapons Convention**.
- Fifty-nine states (Antigua and Barbuda, Austria, Bangladesh, Belize, Benin, Bolivia, Botswana, Cambodia, Comoros, Chile, Cook Islands, Costa Rica, Cuba, Dominica, Ecuador, El Salvador, Fiji, Gambia, Guinea-Bissau, Guyana, Holy See, Honduras, Ireland, Jamaica, Kazakhstan, Kiribati, Laos, Lesotho, Malaysia, Maldives, Malta, Mexico, Mongolia, Namibia, Nauru, New Zealand, Nicaragua, Nigeria, Niue, Palau, Palestine, Panama, Paraguay, Peru, the Philippines, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, San Marino, South Africa, the Seychelles, Thailand, Trinidad and Tobago, Tuvalu, Uruguay, Vanuatu, Venezuela and Viet Nam) became party to the **Treaty on the Prohibition of Nuclear Weapons**.

Selected practice

CROATIA

At the time of the Universal Meeting, Croatia's National Committee on International Humanitarian Law (*Nacionalni odbor za medjunarodno humanitarno pravo*) was in the final stages of ratification of the Convention on the Protection of All Persons from Enforced Disappearances, which is one of two international instruments connected to IHL not yet ratified by Croatia.

ADOPTION OF NATIONAL LAWS AND POLICIES

Paragraph 2 of the "Bringing IHL home" resolution calls upon states to adopt the necessary legislative, administrative and practical measures at the domestic level to implement IHL, and invites them to carry out an analysis, with the support of their National Society, of the areas where domestic implementation is required.

Paragraph 11 recalls the obligations of High Contracting Parties to the Geneva Conventions and Additional Protocol I: to enact any legislation necessary to provide effective penal sanctions for those committing (or ordering to be committed) any grave breaches of the Geneva Conventions and Additional Protocol I; take measures for the suppression of other acts contrary to those treaties or to other IHL obligations; and repress serious violations of IHL.

Finally, paragraph 12 recalls the obligations of those High Contracting Parties to search for persons alleged to have committed (or have ordered to be committed) such grave breaches, and to bring these persons before their own domestic courts; or to hand them over for trial, in accordance with their national legislation, to another High Contracting Party concerned, provided that this High Contracting Party has made out a *prima facie* case.

Since the fourth Universal Meeting, several countries have adopted or amended domestic statutes and prepared draft legislation to implement IHL and other relevant instruments. During the period between the

fourth and fifth Universal Meetings (2017–2021), **270 new laws and examples of domestic case law** were added to the public ICRC database on national IHL implementation.³

Selected practice

BAHRAIN

The National Committee on International Humanitarian Law (اللجنة الوطنية للقانون الدولي الإنساني) of the Kingdom of Bahrain passed the International Crimes Act in 2018, which establishes national jurisdiction over four categories of international crimes, i.e. genocide, crimes against humanity, war crimes and crimes of aggression. On 22 June 2020, the national IHL committee adopted Decree No. 8 of 2020 on Regulating the Use of the Protective Emblems and Signs provided for in the Geneva Conventions of 12 August 1949, which had been promulgated by the first deputy prime minister. It regulates the use of the protective emblems of the red crescent, red cross, red crystal, international distinctive sign of civil defence, international special sign for works and installations containing dangerous forces, and the distinctive emblem for cultural property.

COSTA RICA

The Costa Rican Commission on IHL (*Comisión Costarricense de Derecho Internacional Humanitario*) has submitted a draft change to the Penal Code to insert a new crime of forced disappearance, following Costa Rica's ratification of the International Convention for the Protection of All Persons from Enforced Disappearance. The draft change is currently pending in the Legislative Assembly.

DISSEMINATION OF IHL TO ACTORS IN CHARGE OF APPLYING, INTERPRETING AND IMPLEMENTING IHL

Paragraph 3 of the “Bringing IHL home” resolution encourages states to intensify their efforts and initiatives aimed at disseminating knowledge about IHL and promoting compliance with it, both by raising awareness among civilians and military personnel and by putting in place implementation measures.

Paragraph 7 encourages states to ensure that IHL is fully integrated into military practice and reflected in military ethos, by making every effort to integrate IHL into military doctrine, education and training, and at all levels of military planning and decision-making. The delegates of the International Conference also recalled the importance of having legal advisers within states' armed forces to advise commanders on the application of IHL.

Paragraph 8 encourages states and the components of the International Red Cross and Red Crescent Movement (especially National Societies) to take concrete, coordinated activities to disseminate IHL effectively. The paragraph also stresses that attention should be paid to those responsible for implementing or applying IHL, such as military personnel, civil servants, parliamentarians, prosecutors and judges, and that IHL should be disseminated at the domestic level as widely as possible to the general public, including young people.

Paragraph 10 encourages states and components of the Movement, in addition to using proven effective methods to disseminate IHL, to explore new, innovative and appropriate methods to promote respect for IHL, including digital and other means. It further encourages them to consider therein the voices of those affected by armed conflict and their perception of IHL.

3 Available at <https://ihl-databases.icrc.org/ihl-nat>.

Selected practice

NEPAL

The National Committee for the Implementation of International Humanitarian Law (अन्तराष्ट्रिय मानवीय कानून राष्ट्रिय समिति) has developed a handbook for parliamentarians and civilian authorities, which aims to promote respect for IHL.⁴ The handbook provides conceptual knowledge on IHL and gives an overview of implementation measures adopted in Nepal. Since the handbook's publication, a great deal of training based on it has been conducted for parliamentarians, judges and police officers, as well as in the form of university courses.

The handbook was developed for several reasons. First, there was a realization that parliamentarians and civil authorities play an important role in meeting a state's IHL obligations, so the government, which was focused on meeting those obligations, wanted to ensure that these stakeholders had the capacity to actively help it do so. Second, Nepal did not have a domestic law that implemented IHL at the time the handbook was developed. Third, Nepal was promulgating a new constitution, and the national IHL committee wanted to create the handbook to encourage the inclusion of a provision in the new constitution on the protection of human rights during armed conflict. Fourth, Nepal's parliament not only creates the law but is also the government, thus it is vital that parliamentarians are informed on IHL.

COOPERATION AMONG NATIONAL COMMITTEES AND SIMILAR ENTITIES ON IHL

Paragraph 6 of the "Bringing IHL home" resolution calls for the strengthening of cooperation between national committees and similar entities on IHL at the international, regional and cross-regional levels. The paragraph highlights that this should be done through attending and actively participating in the regular meetings of such entities, as well as through the [online community for national committees and similar entities on IHL](#) (created on the basis of the outcomes of the 2016 Universal Meeting).

In between the fourth and fifth Universal Meetings, several regional forums took place, often organized by the ICRC and a partner state or regional organization, with the purpose of providing national IHL committees with a space in which to exchange on good practices. Those regional forums included:⁵

- The IHL Seminar for Southern African States (co-organized by South Africa's Department of International Relations and Cooperation, and the ICRC)
- The Annual Review Meeting on the Implementation of International Humanitarian Law Treaties in West Africa (co-organized by the Economic Community of West African States (ECOWAS) and the ICRC)
- The Regional Conference of National Committees on IHL and Similar Entities of the Americas (see below)
- The Expert Exchange for the National IHL Committees of Asia and the Pacific (organized by the ICRC)
- The Pacific Islands IHL Round Table (organized by the ICRC)
- The Regional Meeting for the Arab National Committees on IHL (co-organized by the League of Arab States and the ICRC)
- The Regional IHL Conference for National IHL Committees of Central and South-Eastern Europe (co-organized by the ICRC and Romania)
- The Fifth Meeting of Representatives of Commonwealth National IHL Committees (co-organized by the ICRC, the British Red Cross and the United Kingdom's national committee on IHL, with the support of the Commonwealth Secretariat).

⁴ For further reference, please see ICRC, [New Handbook to Promote International Humanitarian Law in Nepal](#), ICRC, New Delhi, 2015.

⁵ In the case of most of these forums, more than one edition took place between January 2017 and December 2021.

Selected practice

AMERICAS/ECUADOR

The [Regional Conference of National Committees on IHL and Similar Entities of the Americas](#) took place online in February 2021 and was co-organized by Ecuador and the ICRC. In all, 22 national IHL committees or similar entities attended the event.

At the end of this regional meeting, a [declaration](#) was adopted, which details several commitments to promote the domestic implementation of IHL in the Americas. The participants re-affirmed the important role of national IHL committees and similar entities in this regard and agreed to reinforce partnerships among themselves. The regional meeting was useful for exchanging ideas on IHL and good practice.

SLOVENIA

The Permanent Coordination Group for IHL (*Stalna koordinacijska skupina za mednarodno humanitarno pravo*) is active in peer discussions, both bilateral and at regional level. For example, the Group held two rounds of consultations with the German National IHL Committee to compare the domestic laws of the two countries, in particular regarding the emblem, protection of the medical mission, of cultural property and of journalists in armed conflicts and weapons. In the second round of the consultations, Doctors without Borders participated for the first time and enriched the discussions.

Furthermore, the Group organized consultations between the Austrian, French, German and Slovenian IHL committees, the Dutch IHL platform and the Portuguese Ministry of Foreign Affairs on IHL issues, focusing on strengthening coordination and promoting respect for IHL, and discussing issues related to climate change and protection of the environment in armed conflicts.

Exchange of best practice, experience and lessons learnt between the national IHL committees is invaluable and contributes to greater respect for IHL, promotion of compliance with IHL and dissemination of IHL knowledge at the domestic level.

ADOPTION OF PLANS OF ACTION

Paragraph 2 of the “Bringing IHL home” resolution calls on states to adopt necessary legislative, administrative and practical measures at the domestic level to implement IHL, and invites them to carry out an analysis, with the support of their National Society, of the areas where domestic implementation is required.

KUWAIT

Kuwait’s National Commission on International Humanitarian Law (اللجنة الوطنية الدائمة للقانون الدولي الإنساني) developed a strategy covering the period from 2020 to 2022 to give effect to the regional plan of action adopted at the conclusion of the Meeting of the Arab National Committees on IHL.⁶ This plan details a strategy to implement IHL on the ground and includes four pillars of action: to enhance IHL expertise in universities and military academies; to develop training on IHL for government and civil society actors; to ensure that domestic laws are in compliance with IHL; and to cooperate with other national IHL committees and similar entities in the Middle East and North Africa region, as well as with the League of Arab States and the ICRC. On this last point, Kuwait will host the next regional meeting of Arab national IHL committees, in 2022.

⁶ The regional plan of action is available on the ICRC website as the [Eighth Periodic Report on the Implementation of International Humanitarian Law at the Level of Arab States 2015–2018](#).

REPORTING ON THE DOMESTIC IMPLEMENTATION OF IHL

Paragraph 2 of the “Bringing IHL home” resolution invites states to carry out, with the support of the National Society where possible, an analysis of the areas requiring further domestic implementation. In parallel, paragraph 13 of the resolution also invites states to share examples of and exchange good practice regarding national implementation measures taken in accordance with IHL obligations, as well as other measures that may go beyond states’ IHL obligations.

Consequently, a number of states was prompted to consider working on a voluntary report on the implementation of IHL at the domestic level. Such reports have been further encouraged by the parallel initiative of 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.⁷

The first session of the Universal Meeting was the occasion to clarify the definition of voluntary reports on the domestic implementation of IHL. First, it was recalled in this respect that neither IHL nor the “Bringing IHL home” resolution contains any obligation to report on its implementation at the domestic level. The decision to embark on the process of drafting a voluntary report is entirely that of the states concerned. Second, participants generally agreed that a voluntary report is any document drafted under the direction of or with the strong involvement of a state entity (for instance, a national IHL committee, and, sometimes, with the support of the National Society), with the purpose of describing the state of IHL implementation within the domestic legal system, including law, policy and practice. Such reports usually outline the harmony between international legal obligations and the domestic system, and identify areas where further action may be required. Ideally, such reports also incorporate information about the 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 practice among the international community on IHL implementation.

Selected practice

A number of voluntary reports on the domestic implementation of IHL has been published in recent years, including by the following states:⁸

BULGARIA

Bulgaria’s National Committee on IHL (*Националният комитет по международно хуманитарно право (НК МХП)*) published a voluntary report on the domestic implementation of IHL in 2020 ([Bulgarian version](#), [Bulgarian MFA website with relevant links](#) and a summary in [Bulgarian](#) and [English](#)). The report indicates that Bulgaria has joined a number of global initiatives and partnerships related to the enforcement of IHL, including an action plan on women, peace and security. The report also allowed the Committee to assess the multilateral instruments to which Bulgaria has not yet acceded.

ROMANIA

The National Commission on International Humanitarian Law (*Comisia Națională de Drept Internațional Umanitar (CNDIU)*) submitted its first voluntary report in June 2021, following its adoption by the government. From a national viewpoint, the report gave an overall picture of Romania’s achievements and ongoing actions in this field, including aspects in need of further improvement, and helped raise the profile of IHL on the political and public agendas. At the same time, the report stimulated cooperation among the eight ministries represented on the Commission, which celebrates its 15th anniversary in 2022. The report also prompted the Commission to launch the process of updating the

⁷ The open pledge was signed by Australia, Australian Red Cross, Austria, British Red Cross, Chile, Estonia, Republic of Korea National Red Cross, New Zealand, New Zealand Red Cross, Peru, Spain, Spanish Red Cross, South Sudan Red Cross, Swiss Red Cross, Switzerland, the United Kingdom’s Foreign, Commonwealth and Development Office and Trinidad and Tobago Red Cross Society.

⁸ The full list of voluntary reports publicly available at the time of publication of the present report is provided under “Resources” at the end of this section.

national strategy on the implementation of IHL, adopted in 2007. From an international perspective, the Commission stands ready to share its experience with other interested countries and contribute to intergovernmental dialogue on IHL matters. The voluntary report has been published, in [Romanian](#) and in [English](#), on the websites of the key ministries with competence in this field and will be systematically disseminated within the public administration and society.

UNITED KINGDOM

The United Kingdom National Committee on International Humanitarian Law commissioned and published a [Voluntary Report on the domestic implementation of IHL](#) in 2019. It reflects the United Kingdom government's commitment to fully comply with and implement international humanitarian law. The report is written for a general readership and shows how IHL is reflected in United Kingdom's domestic law. While compilation of the report did not identify gaps in legislation, it did identify areas where dissemination is lacking, such as in education. The government of the United Kingdom hopes the voluntary report will encourage other states to publish details of their implementation activities, help identify best practice and, ultimately, improve compliance with and implementation of IHL. To encourage other countries to publish their own reports, the United Kingdom has also published a [toolkit](#), which, although it reflects the United Kingdom's experience, sets out the steps that need to be undertaken to compile such a report, including a template that can be used by any state and available in Arabic, French, Portuguese, Russian and Spanish (further translations will be added shortly). Additionally, the United Kingdom is working with other countries that would like to write their own voluntary reports, with considerable assistance from the British Red Cross. The United Kingdom is also currently working with the British Red Cross, Switzerland and the ICRC to encourage and offer support to other states to produce reports.

Additional national IHL committees expressed their intention to draft a voluntary report on the domestic implementation of IHL.

COSTA RICA

The Costa Rican Commission on IHL (*Comisión Costarricense de Derecho Internacional Humanitario*) produces regular reports addressed to different universal and inter-American human rights mechanisms, and therefore sees the value of producing a voluntary report on the domestic implementation of IHL, which it hopes to publish in 2022. The process of producing a report would allow the Commission to review the strengths and weaknesses of the domestic system in Costa Rica, in order to then steer improvements. In addition, it will allow Costa Rica to assess the level of implementation of the different IHL-related international instruments that the country has ratified or to which it has acceded. While Costa Rica has already done much to implement and promote IHL, the Commission recognizes that IHL is not static and, thus, that domestic measures need to be reassessed in light of contemporary developments, such as the sophistication of means and methods of warfare and other scientific and technological advances. Finally, the production of voluntary reports can enhance trust and cooperation between states and national IHL committees.

CYPRUS

The National Committee on IHL of Cyprus (*Εθνική Επιτροπή Διεθνούς Ανθρωπιστικού Δικαίου*) was established in 2020 and has members from various ministries and government departments. The Committee's first priority is the preparation of a compatibility study to assess Cyprus' implementation of IHL. In this regard, a decision has been taken to set up a core group consisting of ministries, government departments and the Cyprus Red Cross.

Another possible way to report on the domestic implementation of IHL is through the request made to states every two years to provide information to the UN Secretary-General as a follow-up to the UN General Assembly Resolution on the Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflict.⁹

BURKINA FASO

At the time of the Universal Meeting, the Interministerial Committee on Human Rights and IHL (*Comité interministériel des droits humains et du droit international humanitaire*) was in the process of drafting a contribution to the biennial report of the UN Secretary-General on the Status of the Additional Protocols. To this end, the Committee has established a multi-sectoral subcommittee, composed of representatives of various ministries involved in IHL. In their contribution, they list the institutions that contribute to the implementation of the Additional Protocols, the activities that have been conducted so far and the further actions that are envisaged. In addition to this submission, Burkina Faso's Committee has published regular voluntary reports on the domestic implementation of IHL since 2018.

UNITED KINGDOM

In line with Resolution 7144 of the United Nations General Assembly (UNGA), requesting reporting on the Protocols additional to the Geneva Conventions, the United Kingdom encourages member states to explore ways to facilitate the submission of information for future reports of the Secretary-General in a consistent and comprehensive manner without creating unnecessary workload. The United Kingdom has devised a simple [template questionnaire](#), which is publicly available and which it uses as a single format that it updates. The United Kingdom is actively promoting the template in the UN, with the aim of encouraging a greater number of member states to report under the resolution.

During the session, the following national committees or similar entities also announced their interest in drafting a voluntary report in the coming years:

- **Croatia:** the National Committee on International Humanitarian Law (*Nacionalni odbor za međunarodno humanitarno pravo*) has decided to start drafting a voluntary report.
- **Ecuador:** the National Commission for the Application of IHL (*Comisión Nacional para la Aplicación del Derecho Internacional Humanitario del Ecuador*) is considering drafting its first voluntary report on the application of IHL.
- **Italy:** the publication of a voluntary report on the domestic implementation of IHL in Italy features prominently in the action plan of the re-established Italian Commission for the Study and Development of International Humanitarian Law (*Commissione per lo studio e lo sviluppo del diritto internazionale umanitario*). The findings from this report could form the basis for a future action plan, capable of strengthening national implementation of IHL and its dissemination.
- **Kenya:** at the time of the Universal Meeting, the National Committee on IHL was in consultation with the British Red Cross on the possibility of drafting a voluntary report.
- **Kuwait:** at the time of the Universal Meeting, the National Commission on IHL (اللجنة الوطنية الدائمة للقانون الدولي الإنساني) was in the process of drafting a voluntary report.
- **Mongolia:** the government of Mongolia and the ICRC signed a Memorandum of Understanding in November 2021 to work on an assessment study looking at how consistent Mongolia's domestic laws are with its international obligations.
- **Sierra Leone:** the Sierra Leone Red Cross, through the National Committee for the Implementation of IHL, stands ready to support the government of Sierra Leone in order to finalize its first voluntary report.

⁹ At the time of publication of the present report, the most recent version of the biennial UN General Assembly Resolution was Res 75/138, adopted on 15 December 2020. Operative paragraphs 11–13 concern submission of information by states to the UN Secretary-General and facilitating the submission of such information through the possible use of a questionnaire.

INTERNATIONAL HUMANITARIAN FACT-FINDING COMMISSION

Paragraph 4 of the “Bringing IHL home” resolution recalls that states may recognize the competence of the International Humanitarian Fact-Finding Commission (IHFFC) as provided by Article 90 of Protocol I additional to the Geneva Conventions, and that this recognition may contribute towards respect for IHL.

The IHFFC, established according to Article 90 of Protocol I of 8 June 1977 additional to the Geneva Conventions, shared a written intervention with participants in the fifth Universal Meeting.

The IHFFC’s essential purpose is to contribute to better implementation of IHL. It stands at the service of parties to any armed conflict to conduct inquiries and to facilitate, through its good offices, the restoration of an attitude of respect for IHL.

During the 33rd International Conference of the Red Cross and Red Crescent, a meaningful reference to the IHFFC was made in the “Bringing IHL home” resolution (in its operative paragraph 4); in addition, a group of states submitted a joint [Open pledge to support the IHFFC](#). This pledge was signed by 16 states and two National Societies.¹⁰

Since the 33rd International Conference, no new state has recognized the competence of the IHFFC, nor has any state accepted any of the IHFFC’s numerous offers to use its good offices or fact-finding services.

Therefore, the members of the IHFFC would like to appeal to states that have not yet recognized the competence of the IHFFC to consider doing so, and to invite all states to use and encourage the use of IHFFC’s good offices and fact-finding services.

The IHFFC further encourages states that are drafting voluntary reports on the national implementation of IHL to include a chapter on, or at least a reference to, the IHFFC.

RECOMMENDATIONS FROM SESSION 1

In line with Resolution 1, states and/or national committees and similar entities on IHL should:

- consider establishing a national IHL committee or similar entity, where none exists, and provide such entity with the means and resources to function effectively.
- consider ratifying or acceding to IHL treaties to which the state is not yet party. National IHL committees or similar entities can advise their states in this regard.
- adopt the necessary legislative, administrative and practical measures to implement IHL. To assist states in doing so, national IHL committees or similar entities should consider developing plans of action on the domestic implementation of IHL.
- promote and disseminate IHL among various actors, which may include training for those involved in applying or interpreting IHL, and the incorporation of IHL in university curricula. National IHL committees or similar entities are often involved in these tasks.
- publicly report on the state of IHL implementation at the domestic level in the form of a voluntary report and/or by contributing to the UN Secretary-General’s biennial report on the status of the Additional Protocols. This can also be done by participating in regional conferences on IHL where good practice is shared.
- carry out an analysis of the areas requiring further domestic implementation – for example, through compatibility studies and by including specific sections on further developments within voluntary reports.
- support cooperation between national IHL committees and similar entities at the international, regional and cross-regional levels. This can be done by joining the ICRC’s online community, organizing and attending regional meetings, and continuing to attend and participate in Universal Meetings.

¹⁰ The signatories are: Argentina, Bulgaria, Estonia, Finland, Greece, Japan, Lichtenstein, Monaco, Montenegro, New Zealand, New Zealand Red Cross, Portugal, Qatar, Slovakia, Spain, Switzerland, the Trinidad and Tobago Red Cross Society, the United Kingdom’s Foreign, Commonwealth and Development Office.

RESOURCES

- ICRC's *Guidelines for Success Towards Respecting and Implementing International Humanitarian Law*, available in Arabic, English, French, Russian and Spanish
- ICRC's *Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law*, available in Arabic, Chinese, English, French, Russian and Spanish
- [Open pledge to report on the domestic implementation of international humanitarian law](#), available in Arabic, English, French and Spanish
- Voluntary reports on the domestic implementation of IHL in the following countries are publicly available:
 - [Belgium](#) (in French and Dutch)
 - Bulgaria: [Bulgarian version](#), summary in [Bulgarian](#) and in [English](#)
 - Burkina Faso¹¹
 - [Germany](#)
 - [Niger](#)¹²
 - [Poland](#)
 - [Sweden](#)
 - [Switzerland](#): available in English, French, German and Italian
 - Romania: [Romanian version](#) and [English version](#)
 - [United Kingdom](#)
- Regional reports on the domestic implementation of IHL:
 - [Eighth Periodic Report on the Implementation of International Humanitarian Law at the Level of Arab States 2015–2018](#)
 - [Implementing IHL in West Africa: Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation](#)
 - [Implementing IHL: Participation of the American States in IHL Treaties and their National Implementation](#)
- United Kingdom's [Toolkit for preparing a report on the implementation of IHL at the domestic level](#), which is available in Arabic, English, French, Portuguese, Russian and Spanish
- UN Secretary-General Resolution on the status of the Protocols additional to the Geneva Conventions (the most recent version of this biennial UN General Assembly Resolution is [Res 75/138](#) adopted on 15 December 2020. Operative paragraphs 11–13 concern submission of information by states to the UN Secretary-General, and facilitating the submission of such information through the possible use of a questionnaire)
- United Kingdom's [template questionnaire](#) for states interested in submitting a contribution to the report of the UN Secretary-General on the status of the Protocols additional to the Geneva Conventions
- [Open pledge on support for the International Humanitarian Fact Finding Commission \(IHFFC\)](#)
- [ECOWAS' specific pledge on Implementation, domestication, dissemination of international humanitarian law \(IHL\) in West Africa.](#)

¹¹ The report is on file with the ICRC and can be shared with other national IHL committees on request, with the consent of the national IHL committee of Burkina Faso.

¹² The 2020 report is available to members of the online community for national committees and similar entities on IHL. For non-members, the report is on file with the ICRC (together with the 2019 report) and can be shared with other national IHL committees on request, with the consent of the national IHL committee of Niger.

ENHANCING PROTECTION FOR MISSING PERSONS AND THEIR FAMILIES

The objective of this session was to support efforts to strengthen the work of national IHL committees on implementing the rules of IHL concerning missing persons and their families, through the exchange of good practice and challenges, and by promoting synergies between committees working in this area.

THE IMPORTANCE OF ADDRESSING THE TOPIC OF MISSING PERSONS AND THEIR FAMILIES

Introduction

Every year, thousands of people go missing, many as a result of armed conflicts. The circumstances in which people go missing vary: families are separated because of hostilities, or when people flee their homes. On the battlefield, members of state armed forces and non-state armed groups can go missing, and so can people who are detained, arrested or held incommunicado or in secret places of detention. If human remains are inappropriately handled, these people can also be considered missing. Families suffer great anguish not knowing whether their relatives are alive or dead. They make desperate attempts to find them and can live in limbo for many years, even decades. The uncertainty of not knowing what has happened to their relatives can generate significant psychosocial consequences for them, in addition to the numerous administrative, legal and economic difficulties they might also face.

International law, and in particular IHL and international human rights law (IHRL), contains relevant obligations for states to avoid, insofar as possible, such consequences for missing persons and their families.

First, IHL requires parties to the conflict to prevent people from going missing. For instance, they must register persons deprived of their liberty and allow them to correspond with their families. They must also record all available information relating to the dead and ensure that their remains are managed in a proper and dignified manner.

Second, IHL requires parties to the conflict to clarify the fate and whereabouts of people that go missing. To this end, they must take all feasible measures to account for missing and dead persons and to provide their family members with any information they have on their fate.

Finally, IHL also contains obligations regarding the investigation and prosecution of war crimes, including those resulting in persons going missing or being forcibly disappeared.

It is important to recall that some IHL obligations regarding the missing continue even after conflict has ended. This is the case, for instance, regarding the obligation to clarify the fate and whereabouts of missing persons.

IHRL also contains rules and standards that are relevant to prevent people from going missing, to clarify the fate and whereabouts of those who do, and to investigate and prosecute serious violations of IHRL, not only in connection with armed conflict but also in other circumstances, such as disasters or in the context of migration. For instance, the 2006 International Convention for the Protection of All Persons from Enforced Disappearance was the first international treaty to include specific obligations for states parties in terms of prevention, clarification and accountability regarding enforced disappearance.

To ensure that the issue of missing persons and their families is effectively addressed when an armed conflict starts, it is essential that the rights and obligations derived from these bodies of international law are implemented at the national level. This can be done through the adoption of proper domestic laws and policies and the establishment of relevant and well-coordinated structures, procedures or mechanisms. Such

structures include National Information Bureaux (NIB) and national mechanisms on missing persons. So, there is much to do in this regard, and this is where the work of national committees on IHL becomes vital. This is why the topic had already been discussed as far back as 2007, at the second Universal Meeting of national IHL committees.¹³ Many important steps have already been taken by states to strengthen domestic implementation on the issue of missing persons, as outlined during this session.

Missing persons and their families on the multilateral agenda and the “Global Alliance for the Missing”

Addressing the plight of missing persons in armed conflicts is a global and complex challenge that requires resources, technical capacities and political will. No single person or organization can tackle this alone. For this reason, it is essential to put this topic on the global agenda and address it. Over the years, several international and regional resolutions have referred to missing persons and their families. For example, every two years, the UNGA adopts the resolution called “Missing Persons”.¹⁴ In 2019, the United Nations Security Council adopted Resolution 2474 – its first-ever resolution on missing persons in armed conflicts – which, notably, calls on parties to armed conflict to take appropriate measures to prevent persons from going missing and to account for those who do, without adverse distinction.¹⁵

GLOBAL ALLIANCE FOR THE MISSING/ SWITZERLAND

For Switzerland, the issue of missing persons is a top priority and its goals are to see this topic rank high on the agenda of the international community and to improve collaboration between states. For this reason, in 2021, Switzerland and the ICRC launched the [Global Alliance for the Missing](#) to bring the collective diplomatic, political and financial capacity and influence of states to bear on improving efforts to prevent and respond to cases of separated and missing persons. The Global Alliance has four specific objectives:

- 1) It aims to raise awareness of the issue of missing persons and the applicable legal framework, both globally and regionally.
- 2) It promotes the implementation of global commitments related to missing persons, including United Nations Security Council Resolution 2474 on missing persons in armed conflicts.
- 3) It encourages collaboration and the sharing of best practice, guidance and technical recommendations to improve the prevention of and response to cases of missing persons at national, regional and global levels.
- 4) It will work towards ensuring that the ICRC’s Central Tracing Agency (CTA) is adequately resourced and equipped to develop guidance, research and innovative approaches, and to provide advice and support to states and other actors on preventing and responding to the issue of missing persons.

¹³ The report of that meeting is available on the ICRC website here: [Legal Measures and Mechanisms to Prevent Disappearances, to Establish the Fate of Missing Persons, and to Assist their Families](#).

¹⁴ UNGA, Res. 57/207, “Missing Persons”, UN Doc. A/RES/57/207, 14 February 2003 and UNGA, Res. 75/184, “Missing Persons”, UN Doc. A/RES/75/184, 16 December 2020.

¹⁵ UNSC, Res. 2474, 11 June 2019.

ADOPTION OF DOMESTIC MEASURES TO PREVENT PEOPLE FROM GOING MISSING OR BECOMING SEPARATED FROM THEIR LOVED ONES

There are various reasons why people may be unaccounted for, but many cases can be prevented. Existing international law comprises a set of rules that seek to ensure that people are accounted for, that families are informed and that people don't go missing during armed conflicts. For example, these rules relate to:

- recording information on those deprived of their liberty,
- the right of people who have been detained or become separated to correspond with their families,
- the obligation of authorities to account for all persons reported missing and to inform their families.

Another important measure is the establishment of NIB.

National Information Bureaux

The purpose of a NIB, the establishment of which is explicitly provided for by the Geneva Conventions, is for states party to an international armed conflict to account for protected persons who find themselves in their hands, dead or alive, by conveying the required information to the other side, through the CTA acting as a neutral intermediary.

The CTA has an interest in the establishment of NIBs, not only because they are part of a set of overarching obligations of the state but also because they constitute an essential component of state preparedness on the issue of the separated, dead and missing. In this regard, the ICRC recommends that states take the necessary measures in peacetime, such as setting out procedures for the creation and functioning of a NIB, so that they can fulfil their obligations in terms of the tasks to be performed by a NIB as soon as possible after an armed conflict starts.

Today, and despite multiple attempts by the ICRC to promote NIBs, only 26 states have put measures for them in place,¹⁶ and most of them only implement the requirements specified in the Third Geneva Convention of 1949, and don't necessarily mention those in the Fourth Geneva Convention. This is a low number, especially considering that the adoption of NIB measures was the object of several resolutions at the 25th International Conference of the Red Cross and Red Crescent in 1986 (Resolutions 13 and 14) and the 28th International Conference, in the context of the Agenda for Humanitarian Action, in 2003, which endorsed the recommendations of the International Conference of Governmental and Non-Governmental Experts on the Missing organized by the ICRC that same year.

In the last two years, UN Security Council Resolution 2474 on the missing and the publication of the ICRC's Commentary of 2020 on the Third Geneva Convention have looked at NIBs, triggering the interest of certain states and National Societies, who requested some guidance from the ICRC.

In this regard, in the context of the CTA Transformation programme, the ICRC has dedicated one specific workstream to NIBs, to support and advise states. One of the issues tackled is the difference between the purposes of NIBs and the role of national mechanisms on missing persons. For the ICRC, NIBs have a unique role in prevention and early action, while other types of national mechanisms on missing persons usually focus on clarifying the fate and whereabouts of persons that are already missing.

Another issue revolves around the choice of who should run the NIB and whether National Societies should or could be entrusted with such a task, as they have been in some states. In this regard, it is important to recall that the Geneva Conventions do not prescribe what entity or service should establish and run the NIB. However, as states are ultimately responsible for the proper functioning of NIBs, NIBs themselves should always maintain a link with their national authorities.

The question of the scope of application of NIBs is also an important one, particularly in terms of the role they could play outside international armed conflicts, and the extent to which the functions of NIBs might be more systematically incorporated as part of state preparedness around the issue of the separated, dead

¹⁶ This number is based on information available to the ICRC at the time of publication of this report.

and missing, regardless of the classification of the situation. While it is clear that there is no obligation to establish NIBs outside of international armed conflict, the ICRC believes that NIB functions could be relevant to managing the issue of the separated, dead and missing (e.g. by collecting, centralizing and transmitting information), and in terms of the overarching obligations of states under IHL and IHRL, as applicable.

The ICRC will continue to engage with states to come up with strong recommendations on how best to run NIBs, including recommendations on data management requirements and data protection, which can be a real challenge for the smooth implementation of NIB tasks. The ultimate outcome of exchanges with states will be the publication of a NIB manual for states and National Society practitioners. In that regard, the ICRC encourages members of national IHL committees to take part in discussions on NIBs, to identify the entity in charge of the NIB file and connect the relevant actors, where appropriate. There is no “one size fits all”: contextualization is key and the ICRC is, of course, ready to support states in their endeavours.

Selected practice

FINLAND

The government of Finland and the Finnish Red Cross have collaborated on establishing a NIB. There have been consultations, based on which it has become clear that, in Finland, the government is best placed to execute tasks assigned to the NIB, such as data collection and its transfer, and the search for missing persons. For its part, the Finnish Red Cross would support the government in these endeavours in any way it could. Given the multifaceted nature of tasks assigned to the NIB (involving military and civilian authorities, as well as relations with foreign states, the ICRC CTA and relatives of the missing abroad) and the need to draft legislation, there have been deliberations as to which entity within the public authorities should lead the establishment of the NIB, as well as the execution of tasks assigned to it.

PARAGUAY

Presidential Decree 5684, signed in 2010,¹⁷ assigns the responsibility for operating the NIB to the Directorate of Legal Affairs, Human Rights and IHL within the Defence Ministry. This Directorate must fulfil the functions provided for by the Third and Fourth Geneva Conventions of 1949 and their Additional Protocols of 1977.

ADOPTION OF DOMESTIC MEASURES TO CLARIFY THE FATE AND WHEREABOUTS OF MISSING PERSONS AND TO RESPOND TO THE NEEDS OF THEIR FAMILIES

Failing to address the issue of missing persons and their families can affect not only those directly involved but wider communities and even entire societies. Families need to know what has become of their loved ones, whether they are alive or dead. This right to know is recognized under both IHL and IHRL. Addressing it requires the involvement of multiple stakeholders. For this reason, in recent decades, states have developed comprehensive legal frameworks on missing persons, including through the adoption of specific laws and the establishment of a variety of national mechanisms on missing persons. The aim of such national mechanisms is, usually, to search for missing persons and provide an individualized answer on their fate and whereabouts to their families. They also seek to provide a more effective response to the needs of the families.

However, in order to identify the measures that remain to be taken, it is important first to identify gaps in the response to the issue of missing persons and to understand the relevant legal and institutional set-ups. This can be done through legal compatibility studies, which can be a useful tool for authorities to formulate

17 Available here: https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/implementingLaws.xsp?documentId=1B306E7C3C7EAE24C1257D430051BD9E&action=openDocument&xp__countrySelected=PY&xp__topicSelected=GVAL-992BUF&from=state

a strategy on what remains to be done to bring the domestic legal and policy framework fully into line with international obligations and standards, and to address the issues.

Selected practice

CROATIA

In 2019, Croatia passed the Law on the Persons Who Went Missing in the Homeland War (1991–1995).¹⁸ This law was adopted following a recommendation of the UN Working Group on Enforced and Involuntary Disappearances. The families of missing persons were involved in drafting it. There are ongoing discussions about the development of a plan of action by the National Committee on International Humanitarian Law (*Nacionalni odbor za međunarodno humanitarno pravo*), which will include considerations on how to follow up implementation of the law and on the best way to contribute to it.

LEBANON

Law 105 on the Missing and Forcibly Disappeared Persons¹⁹ was adopted in 2018. It created the National Commission on the Missing and Forcibly Disappeared Persons, which is a national mechanism on missing persons that administers the case load.

This mechanism faces challenges in clarifying the fate and whereabouts of missing persons three decades after the end of the Lebanese civil war, particularly administrative and logistical difficulties, and it does not have a headquarters. Nevertheless, the mechanism is up and running and has received a great deal of logistical and political support from partners, including other states, the ICRC, the UN and non-governmental organizations (NGOs). The mechanism plans to cooperate with more state entities, including the Lebanese IHL committee.

NIGER

In Niger, a compatibility study was conducted to assess the level of national implementation of rules regarding missing persons and their families. The National Committee for the Implementation of IHL (*Comité national chargé de la mise en œuvre du droit international humanitaire*) potentially has a strong role to play in following up the findings of the study and in implementing the recommendations regarding areas that need further action.

PERU

In 2016, Peru adopted Law No. 30470 on the search for those who went missing during the violence between 1980 and 2000. The law established that the search would be carried out with a humanitarian focus on collection, identification, restitution and dignified burial of the remains of missing persons, without prejudice to the establishment of criminal responsibility, when applicable. Six months later, Peru adopted a National Plan for the Search for Missing Persons through Ministerial Resolution No. 363–2016. In 2018, Peru adopted Legislative Decree No. 1398, which created a centralized genetic database of information on missing persons. In 2020, Peru published a report on missing persons, presented by the Ministry of Justice. As a consequence, a new plan for the search for missing persons was adopted through Supreme Decree No. 011–2021–JUS, which aims to provide answers to families by monitoring progress and establishing a follow-up mechanism to continue the search for missing persons. One of the pillars of the plan is the incorporation of indicators that will facilitate the measurement and monitoring of progress by all authorities involved in the search process. Furthermore, it seeks to increase the participation of the families of missing persons in the search process. In August 2021, a new Directive was adopted to regulate the process of searching for missing persons and give it a humanitarian focus.

¹⁸ [Law on the Persons Who Went Missing in the Homeland War \(1991–1995\), Official Gazette of the Republic Croatia, No. 70/19, July 2019.](#)

¹⁹ For further information, see the ICRC's "[Guide to Law 105 on the Missing and Forcibly Disappeared Persons: Questions and Answers](#)".

The National Commission on the Study and Application of IHL (*Comisión Nacional de Estudio y Aplicación del Derecho Internacional Humanitario*) has been supporting the efforts of public authorities regarding the missing persons file and has formulated several pledges in this regard, notably during the 29th, 30th and 32nd International Conferences of the Red Cross and Red Crescent. This topic has also been included in IHL training, such as the “Miguel Grau” course.

ZIMBABWE

The Management of the Dead and Missing project aims to clarify the fate of people who go missing in connection with migration. As a result of this project, an Oversight Committee was formed, composed of various stakeholders, including the ICRC, the International Organization for Migration and governmental departments. The Oversight Committee manages the implementation of the project – for example, by coordinating with stakeholders, including neighbouring nations, monitoring the implementation of stakeholder activities and providing recommendations to the government on the activities required.



THE ICRC'S CENTRAL TRACING AGENCY AND ITS TRANSFORMATION

The Central Tracing Agency: Connecting families (on Vimeo)

Today, the CTA employs more than 500 staff based in more than 60 countries. Restoring Family Links partners in more than 150 National Societies around the world also work closely with the CTA, in armed conflict and in the contexts of disasters and migration. The CTA provides direct services, together with the Movement's Family Links Network, to put the separated in touch, find loved ones, provide information on the fate of missing persons and treat the dead with dignity. It acts as a neutral intermediary between states, helping with the transmission of information, repatriation and other needs.

The CTA also plays an advisory role for the International Red Cross and Red Crescent Movement, for states – in their response to people's needs – and for practitioners generally, at the policy and technical levels. The issue of the separated, missing and dead is a collective one and thus requires a collective understanding and effort. The CTA Hub seeks to help states and other actors implement sustainable solutions.

The CTA has transformed itself repeatedly throughout its 150-year history, in order to remain agile enough to adapt when people needed it most. Today, it is, once again, undergoing a process of transformation – largely prompted by the technological changes that are affecting how families interact with each other and with the CTA. The world is becoming increasingly connected but, at the same time, more and more people are falling through the cracks, particularly the most vulnerable, and the numbers of people who have become separated from their loved ones or gone missing are growing. The current CTA transformation programme is a five-year one, aimed at strengthening its service provision, data orchestration and advisory roles.

More specifically, the ICRC wants to improve the CTA's search capacities – for example, by using new methodologies and technologies to reconstruct and visualize the route people took before they went missing, or by using artificial intelligence to automate the search in different databases that are not currently connected (because they are located within different organizations or services). Information needs to be better pieced together to solve cases. The CTA can be the central repository for data from diffuse sources, gathering the myriad pieces of information together to find out what happened. The ICRC – as a neutral, impartial and independent organization that uses data purely for humanitarian purposes – is well placed to do this.

The CTA transformation programme will create a new and permanent forensic surge mechanism that can act immediately and support overwhelmed state structures to manage the dead in emergencies.

The CTA's advisory role to states, National Societies and the broader global community of practitioners will also be strengthened.

- The CTA will advocate for the issue of family separation and missing persons, to increase political will to address the problem. It will be active in multilateral and regional forums to capitalize on diplomatic developments, such as UN Security Council Resolution 2474 (2019), and will build on initiatives, such as the Global Alliance of States.
- The CTA Hub will convene actors and practitioners to stimulate cooperation and innovation, and to share knowledge and best practice, for a more efficient response. For example, the Hub will connect people in online discussions, organize webinars and launch a global website containing all existing resources on the topic. The Hub will also develop cross-disciplinary research to develop our understanding of and narrative on the issue, for the benefit of all actors.
- Finally, and this is particularly interesting for national IHL committees, the Hub will help authorities build their capacities, particularly around preparedness and long-term response. States need to find sustainable solutions and to have access to the latest methodologies and expertise to address systemic issues. The CTA Hub will provide technical support to states to help them adapt and develop their systems/institutions. It will create and provide training opportunities and methodologies, as well as the right tools and guidance.

Selected practice

GERMANY

In the aftermath of the Second World War, the German Red Cross continued to provide its tracing service within a new institutional setting that remains valid today, and emphasized the important role of the ICRC's CTA. Furthermore, the German NIB is run by the German Red Cross, which was assigned this task by the federal government in 1966.

RECOMMENDATIONS FROM SESSION 2

- The ICRC encourages states to launch initiatives to raise awareness of the issue of the separated, missing and dead and the plight of their families, and to disseminate the relevant international law obligations at global, regional and national levels. National IHL committees and similar entities can play an active role in these initiatives.
- The ICRC stresses the importance of states being prepared by adopting the relevant domestic legal, policy and regulatory frameworks in peacetime to prevent people from going missing, to clarify their fate and whereabouts when they do, to inform families and to investigate and prosecute, as appropriate, enforced disappearance and other violations leading to persons going missing during an armed conflict. National IHL committees and similar entities may guide their states in this process in different phases:
 - First, they can support the conduct of legal compatibility studies in this field and follow-up of their findings to identify which measures remain to be taken to bring the domestic legal, policy and regulatory frameworks fully into line with international obligations and standards and to address the issues.
 - Second, they can communicate with relevant state authorities to promote and advocate for the importance of putting in place the necessary legal, policy and regulatory measures regarding the separated, missing and dead.
 - Third, they can provide legal and technical support for the drafting or reform of such measures using the ICRC's Model Law on the Missing, as well as good practice examples from other states, which can be found via the ICRC's *National Implementation of IHL* database.

- Fourth, when a state has decided to set up a national mechanism to search for missing persons and provide an individualized answer on their fate and whereabouts to their families, national IHL committees and similar entities can provide legal and technical advice for setting up and running such a mechanism using the toolbox on national mechanisms on missing persons that is soon to be made available by the ICRC.
- Fifth, they can support the promotion and implementation of the relevant legal, policy and regulatory framework on this topic.
- The ICRC recalls that in order for them to be able to fulfil relevant obligations, a NIB needs to be established before an international armed conflict starts and should be part of a broader preparedness strategy and measures to account for protected persons, prevent people from going missing and inform their families. Thus, all states that have not already done so should establish a NIB during peacetime and ensure that the necessary processes are in place for the NIB to be able to fulfil its functions. In this regard, the ICRC encourages national IHL committees and similar entities to connect with state authorities to ensure that a NIB exists and is able to fulfil its functions when needed, or, where one does not yet exist, to support the establishment of a NIB.

RESOURCES

- [*Missing Persons and their Families*](#) – ICRC factsheet
- [*Humanity after Life: Respecting and Protecting the Dead*](#) – ICRC factsheet
- [*Guiding Principles / Model Law on the Missing*](#) – ICRC factsheet
- [*Missing Persons: A Handbook for Parliamentarians*](#) – ICRC publication
- [“The missing”](#) – article in the *International Review of the Red Cross*
- [“Sustaining the momentum: Working to prevent and address enforced disappearances”](#) – ICRC Humanitarian Law & Policy blog
- [“Looking for answers: accounting for the separated, missing and dead in international armed conflicts”](#) – ICRC Humanitarian Law & Policy blog
- [*Missing Persons Project*](#) – ICRC publication
- [*Mechanisms for Missing Persons: Clarifying the Fate and Supporting Families*](#) – ICRC publication
- [*Overview of the Legal Framework Governing National Information Bureaux*](#) – ICRC publication
- Video: [NIB – Animation video](#)
- Video: [The Central Tracing Agency: Connecting families.](#)

ENSURING THE APPLICATION OF IHL TO WEAPONS, NEW TECHNOLOGIES AND ARMS TRANSFERS

The third session of the Universal Meeting focused on IHL implementation in relation to the use and transfer of weapons, as well as new developments in the technologies and practices of warfare. These include autonomous weapons systems (AWS), cyber operations, the digital emblem project, militarization in outer space, nuclear weapons, chemical weapons, explosive weapons, landmines, cluster munitions and responsible arms transfers.

APPLICATION OF IHL TO DEVELOPMENTS IN THE TECHNOLOGIES OF WARFARE

Autonomous weapon systems

The ICRC considers AWS to be those that select and apply force to targets without human intervention. After initial activation or launch by a person, an AWS self-initiates or triggers a strike in response to information from the environment received through sensors and on the basis of a generalized “target profile”. The loss of human control and judgement in the use of force poses challenges for users in anticipating and limiting the effects of AWS, and raises concerns from humanitarian, legal and ethical perspectives.

Since 2015, the ICRC has been urging states to establish internationally agreed limits on AWS that effectively ensure protection of civilians, compliance with IHL and ethical acceptability. In May 2021, the ICRC recommended that all states adopt, in a timely manner, new legally binding rules prohibiting unpredictable AWS and anti-personnel AWS, and regulating all other AWS through a combination of limits on targets; duration, geographical scope and scale of use; situations of use; and a requirement for human-machine interaction.

Cyber operations

Cyber operations have become a reality in contemporary armed conflict. The ICRC is concerned about their disruptive and destructive effects, including the cutting off of electricity, water and hospital services, and the disruption of nuclear facilities. The ICRC welcomes the reference by the UN Group of Governmental Experts in its 2021 report to the application of IHL in the context of the use of information and communication technologies (ICTs) by states. States should now build on this agreement and discuss how and when IHL applies, and ensure that existing rules are interpreted in a manner that ensures sufficient protection for civilians and civilian infrastructure, ICT systems and data in our increasingly digitalized societies.

The ICRC is embarking on a project that aims to assess the technical feasibility of, prospects for and risks of developing a “digital emblem”, meaning a way to digitally identify protected actors, entities and objects in cyberspace. Having identified technological solutions for marking digital equipment and data, the ICRC is currently convening consultations with experts to evaluate the prospects for and risks of developing a digital emblem based on these solutions. Ultimately, it will be up to states to decide whether a digital emblem should be incorporated into the existing legal framework.

Militarization in outer space

Military activities, including use of weapons, in outer space increase the likelihood of hostilities in outer space and pose significant threats to civilians on Earth. In the ICRC’s view, these activities do not occur in a legal vacuum but are constrained by existing international law, notably the Outer Space Treaty, the UN Charter and IHL. The ICRC has submitted a position paper pursuant to General Assembly Resolution 75/36 and will participate in the Open-Ended Working Group to discuss “reducing space threats through norms, rules and principles of responsible behaviours”.

Selected practice

AUSTRIA

Since 2014, the Austrian National Commission for the Implementation of IHL (*Nationale Kommission zur Umsetzung des Humanitären Völkerrechts*) has discussed the issue of new technologies of warfare and organized IHL seminars on weapons issues. The Commission also advises the Austrian government on the issue of new technologies, including AWS and cyber warfare.

COLOMBIA

Colombia's War College offers a degree course in cyber security and cyber defence, and has published a book entitled *Cyber Conflict under IHL* to motivate different think tanks and military schools to speak on this issue.

The IHL and Armed Conflict Subsystem (*Grupo Técnico de DIH y Conflicto Armado*), together with the Ministry of Defence, has taken the lead in bringing together all institutions involved in policymaking. The objective is to gain understanding of the dynamics between states, with a view to creating rules governing offensive and defensive cyber operations. They have created a cybernetic command in all of their military forces, which is in charge of preventing any scenario of attack and protecting those who do not directly participate in hostilities.

COSTA RICA

The Costa Rican Commission on IHL (*Comisión Costarricense de Derecho Internacional Humanitario*) is part of the National Campaign for the Peaceful Uses of Artificial Intelligence and the International Campaign against Killer Robots.

OTHER WEAPONS AND WEAPONS TREATIES

Nuclear weapons

The Treaty on the Prohibition of Nuclear Weapons (TPNW), which entered into force in January 2021, comprehensively prohibits – for the first time in a global norm – the use and threat of use of nuclear weapons, in addition to a number of related activities. The TPNW is part of a broader nuclear disarmament architecture, together with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Comprehensive Nuclear-Test-Ban Treaty and regional treaties establishing nuclear-weapon-free zones.

Chemical weapons

At the last Conference of the States Parties to the Chemical Weapons Convention, the ICRC reiterated the absolute prohibition of chemical weapons in all circumstances and urged states to adopt the decision of the Executive Council of the Organization for the Prohibition of Chemical Weapons (EC-96/DEC.7 of 11 March 2021) recommending that the Conference “decide that the aerosolized use of CNS-acting chemicals is understood to be inconsistent with law enforcement purposes as a ‘purpose not prohibited’ under the Convention”. Since 2013, the ICRC has made clear its view that the use of toxic chemicals as weapons for law enforcement should be limited to riot-control agents only, in light of humanitarian and legal concerns. The ICRC has urged states parties to adopt both national policies and legislation to this effect and to clarify this understanding in international forums.

Explosive weapons with wide-area effects

While the use of explosive weapons with wide-area effects in populated areas is not prohibited by IHL, in many cases, such use will be contrary to the rules on conduct of hostilities – in particular, the prohibitions on indiscriminate and disproportionate attacks. Thus, such 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. As such, since 2011, the ICRC has been calling on states and all parties to armed conflict to

avoid, as a matter of policy, using explosive weapons with a wide impact area in populated areas. A diplomatic process to develop a political declaration in this respect is underway, led by Ireland, and is expected to conclude in early 2022. In January 2022, the ICRC published a [major report](#) on explosive weapons with wide-area effects in populated areas, which contains good practice recommendations on the implementation of an avoidance policy.

Landmines, cluster munitions, explosive remnants of war

These weapons have distinct and potentially long-lasting catastrophic effects on conflict-torn societies. In response to existing challenges facing mine action, the ICRC encourages all states to: a) join and implement the 1997 Anti-Personnel Mine Ban Convention, Protocol V of 2003 additional to the Convention on Certain Conventional Weapons and the 2008 Convention on Cluster Munitions; b) place victims and affected communities at the centre of mine action, to reduce suffering; c) establish an informed, coordinated and well-planned humanitarian and development response to address contamination by explosive remnants of war; d) invest in risk education; and e) take national ownership to address the human cost of these weapons.

Selected practice

IRAN

The National Committee on Humanitarian Law of the Islamic Republic of Iran (جمهوری اسلامی ایران) (کمیته ملی حقوق بشر دوستانه) has supported the accession to and implementation of various weapons treaties by Iran. For instance, the Committee holds workshops and seminars on weapons treaties, including for ministries and the military forces, with the support of the Iranian Red Crescent Society, and its members approach key decision-making bodies within government to advocate for the ratification and implementation of treaties. The Committee has signed a Memorandum of Understanding with the Ministry of Defence, allowing the Committee to disseminate IHL and conduct training.

MALAYSIA

The Malaysian National IHL Committee (*Jawatankuasa Undang-undang Kemanusiaan Antarabangsa Malaysia* or JUKAM) has a special subcommittee on weapons. JUKAM is actively pursuing disarmament and arms-control regimes, with respect to four types of weapons in particular: chemical, biological, radiological/nuclear and explosive. Furthermore, Malaysia is working regionally with its partners to eradicate weapons of mass destruction and calling on other states to work together to reduce the consequences of weapons used for illegal purposes.

SRI LANKA

The National IHL Committee's current priority is determining the extent to which Sri Lanka's obligations relating to weapons have already been implemented. The Committee has selected a few treaties to be prioritized, including the Anti-Personnel Mine Ban Convention (APMBC), the Convention on Cluster Munitions (CCM) and the Convention on Biological Weapons (CBW). Concerning the APMBC, the Committee, in coordination with the ICRC, has assisted various ministries and the Attorney General in drafting national legislation. Regarding the CCM, the Committee facilitated a workshop with the ICRC for the purpose of drafting legislation. Finally, concerning the CBW, the Committee, with the ICRC's support, has assisted the Ministry of Defence with the drafting of national legislation.

RESPONSIBLE ARMS TRANSFERS

The widespread availability of arms and poor regulation of international arms transfers have devastating humanitarian consequences. The ICRC supports the universalization of the Arms Trade Treaty (ATT) and works for the faithful implementation of its provisions, in line with the treaty's humanitarian objective. The ATT and regional instruments are mutually reinforcing. Recognizing the specificities of regional arms

flows, the ICRC welcomes opportunities to discuss the ATT at regional and subregional levels and encourages states parties to share their experiences in implementing the treaty with neighbouring states.

National IHL committees and similar entities can play a key role in advising and assisting governments in establishing an effective and transparent national control system (required by Article 5, ATT). This includes adopting legislation that fully reflects IHL requirements, developing practices that enable a robust assessment of the risk of exported arms being used to commit or facilitate a serious violation of IHL (required by Article 7, ATT), and establishing mechanisms to prevent authorization of any transfer of arms that would be used in the commission of war crimes or other international crimes (to comply with Articles 5, 6, 14, ATT).

Importantly, even if a state is not a party to the ATT or any regional arms transfer instrument, its arms transfers do not occur in a legal vacuum. At a minimum, they are covered by the state's obligation to comply with and ensure respect for IHL in all circumstances. In the view of the ICRC, states must refrain from transferring weapons where there is a substantial or clear risk that they would be used to commit IHL violations.

Selected practice

FRANCE

France's National Consultative Commission on Human Rights (*Commission Nationale Consultative des Droits de l'Homme (CNCDH)*) includes a group on "IHL – Humanitarian Action", which has been active in supporting the implementation of weapons treaties.

For instance, in 1988, the CNCDH adopted an [opinion on the use of chemical weapons](#). In addition, in June 2021, the CNCDH adopted a [declaration on the use of explosive weapons in populated areas](#). Since 1998, the CNCDH has provided its [opinions](#) regarding the development of an EU code of conduct with common criteria regulating the export of weapons.

Furthermore, in 2005, the CNCDH encouraged France to participate actively in the drafting of the ATT, emphasizing the necessity of not transferring weapons when it can reasonably be expected that they will be used to commit IHL or human rights violations. The CNCDH made precise recommendations in 2011 and 2013, just before the diplomatic conference at which the ATT was adopted. Finally, at the time of publication of this report, the CNCDH was preparing an opinion for publication in the first quarter of 2022 on the domestic implementation of the ATT. In it, the CNCDH will address the question of control of and transparency around the sale of weapons.²⁰

KENYA

The National Committee for the Implementation of International Humanitarian Law coordinates with ministries to work with parliament regarding accession to the ATT. The Committee has partnered with the Kenyan national focal point on small arms and light weapons in order to evaluate the country's accession to the ATT. It has also participated in various seminars with the ICRC and other organizations.

SOUTH AFRICA

South Africa has a long history in regulating the arms trade and has developed a domestic framework on arms transfers. Between 1961 and 1994, South Africa struggled to acquire arms because of international sanctions imposed by the UN Security Council. As a consequence, a major arms manufacturing capability was inherited by the new democratically elected government in 1994, whose awareness was growing of the moral need to export arms responsibly, which was then encompassed in the South African Constitution. South Africa set up a National Conventional Arms Control Committee, tasked with limiting the spread of conventional weapons and regulating the conventional arms sector.

20 For further information, please consult [the opinions of the French National Consultative Commission on Human Rights \(CNCDH\) regarding the ATT](#).

Executive action on arms control was strengthened by the National Conventional Arms Control Act in 2002, followed by the ratification of the ATT in 2014. Subsequent amendments have been adopted to fine-tune the arms control regime, which remains consistent with the ATT's provisions.

RECOMMENDATIONS FROM SESSION 3

- The ICRC emphasizes that states should implement their international legal obligations to safeguard civilian populations from cyber harm and should continue to engage in multilateral discussions, including at the UN, on how and when IHL applies to cyber operations. National IHL committees and similar entities can take a role in influencing debates and policy on the application of IHL to cyber operations.
- National IHL committees can engage in discussions with their state authorities to urge them to establish internationally agreed limits on AWS that prohibit unpredictable AWS and anti-personnel AWS, and to regulate all other AWS through a combination of limits on targets; duration, geographical scope and scale of use; situations of use; and a requirement for human-machine interaction.
- National IHL committees can disseminate the ICRC's messages on the application of IHL to developments in the technologies of warfare to relevant scientific and technology communities, who are often implicated in this sphere.
- The ICRC encourages further consultations with states on the prospect of a "digital emblem"; national IHL committees and similar entities can play a role in furthering these discussions.
- The ICRC values continued multilateral discussions on security in outer space and encourages national IHL committees to be involved as coordination mechanisms in shaping these discussions with their governments.
- National IHL committees can call for their states to become party to the various weapons treaties and support their incorporation into, and the full implementation of, domestic laws and policies. For example, to support treaty implementation, these entities can play an important role in drafting domestic legislation, holding workshops and forwarding draft legislation to relevant government agencies.
- National IHL committees and similar entities can encourage their states to attend the first meeting of states party to the Treaty on the Prohibition of Nuclear Weapons, due to take place in 2022, either as a state party, if they have joined the Treaty, or as an observer.
- The ICRC urges states party to the Chemical Weapons Convention to adopt both national policies and legislation to limit the use of chemicals as weapons for law enforcement to riot-control agents only. National IHL committees can be involved in discussions with states on this matter.
- The ICRC encourages all states to engage with the ongoing diplomatic process aimed at developing a political declaration to restrict or limit the use of heavy explosive weapons in populated areas, and to strengthen the protection of civilians. National IHL committees can work with their governments to encourage their engagement in this process and to help implement the resulting policy recommendations.
- The ICRC encourages national IHL committees and similar entities to cooperate at both global and regional levels through diplomatic processes to ensure that weapons continue to be banned and regulated.

RESOURCES

- [*ICRC Position on Autonomous Weapon Systems*](#) – ICRC position and background paper, 12 May 2021
- [*International Humanitarian Law and Cyber Operations during Armed Conflicts*](#) – ICRC position paper, November 2019
- [*Avoiding Civilian Harm from Military Cyber Operations during Armed Conflicts*](#) – ICRC report, June 2021
- [*The Potential Human Cost of the Use of Weapons in Outer Space and the Protection Afforded by International Humanitarian Law*](#) – ICRC position paper submitted pursuant to UNGA Res. 75/36, April 2021
- [*Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*](#) – ICRC report, January 2022
- [*Treaty on the Prohibition of Nuclear Weapons – Ratification Kit*](#) – ICRC publication, 24 April 2018
- [*“View of the ICRC on interpretation of the Treaty on the Prohibition on Nuclear Weapons”*](#) – ICRC, 24 April 2019
- [*“Working paper submitted by the ICRC to the 10th Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons”*](#) – ICRC, 16 December 2021
- [*“Views and recommendations of the ICRC for the Sixth Review Conference of the Convention on Certain Conventional Weapons”*](#) – ICRC, 8 November 2021
- [*Understanding the Arms Trade Treaty from a Humanitarian Perspective*](#) – ICRC publication, September 2016
- [*Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria – A Practical Guide*](#) – ICRC publication, August 2016.

PROMOTING A COUNTER-TERRORISM FRAMEWORK THAT IS COHERENT AND CONSISTENT WITH IHL

The session focused on the importance of promoting counter-terrorism frameworks that are coherent and consistent with IHL and the obligation to facilitate humanitarian action.

Each of the speakers in this session shared PowerPoint presentations that can be accessed by national IHL committees and similar entities via the [Online Community page](#). Observers who attended this meeting may request the presentations by emailing GVA_advisoryservice@icrc.org.

ADOPTING IHL-COMPLIANT COUNTER-TERRORISM LEGISLATION

In recent years, states have had to confront threats emanating from individuals and non-state armed groups that resort to acts of terrorism. In response, states have developed increasingly robust counter-terrorism measures. There is no doubt that it is legitimate and necessary for states to act at the national, regional and international levels to ensure their security and that of their population. In this regard, many states have passed comprehensive criminal counter-terrorism legislation, which generally applies in situations of armed conflict, raising issues related to how this legislation interacts with IHL.

As reflected in UN Security Council Resolution 2462, the ICRC is of the view that counter-terrorism measures must always comply with IHL.²¹ This means that counter-terrorism legislation should not contradict the humanitarian principles that states have supported politically or endorsed through IHL treaties and should not hinder impartial humanitarian organizations from carrying out their activities in a principled manner.

Recent experience has shown that corrective or mitigating measures can carve out a humanitarian space in the counter-terrorism realm. A number of “humanitarian exemptions” have been adopted in recent instruments. The objective of such exemptions is to exclude from the scope of application of counter-terrorism measures exclusively humanitarian activities undertaken by impartial humanitarian organizations such as the ICRC. They have proven to be an effective way to preserve humanitarian activities, in line with the letter and spirit of IHL. They also demonstrate that fighting terrorism and preserving IHL and humanitarian activities are perfectly compatible. Commonwealth states should consider adopting such humanitarian exemptions in their counter-terrorism legislation.

The broadness of counter-terrorism legislation may also result in the criminalization of belligerents’ actions governed but not prohibited by IHL, such as attacks against military objectives or against individuals not entitled to protection from direct attack. The ICRC considers that such actions should not be labelled “terrorist” at the domestic level. Attacks against lawful targets constitute the very essence of an armed conflict and should not be legally defined as “terrorist” under another legal regime. To do so would be contrary to the reality of armed conflicts and the rationale of IHL, which does not prohibit attacks against lawful targets, and may ultimately disincentivize compliance with IHL by parties to an armed conflict, especially non-state armed groups. The ICRC welcomes the adoption of “IHL saving clauses” in national counter-terrorism legislation, which clarify that such legislation cannot derogate from IHL.

²¹ ICRC, *IHL and the Challenges of Contemporary Armed Conflicts – Recommitting to Protection in Armed Conflict on the 70th Anniversary of the Geneva Conventions 2019*, ICRC, Geneva, 2019: <https://www.icrc.org/en/document/icrc-report-ihl-and-challenges-contemporary-armed-conflicts>, p. 58.

Selected practice

CHAD

On 20 May 2020, Chad adopted a new law on the criminal repression of terrorist acts (003/PR/2020), which revises the former counter-terrorism law of 2015 and includes a humanitarian exemption clause, as well as an IHL saving clause. The new law was adopted to ensure compliance between Chad's counter-terrorism legislation and its international obligations under IHL and IHRL.

Article 1 of the 2020 law provides for the repression of acts of terrorism in the Republic of Chad. The article states that the law shall not be interpreted as a derogation from IHL and IHRL. It also contains a humanitarian exemption clause, which excludes activities of an exclusively humanitarian and impartial nature, carried out by neutral and impartial humanitarian organizations, from the scope of this law. This exemption clause does not protect all NGOs, only those with a humanitarian mandate that act in conformity with the principles of neutrality and impartiality, such as the ICRC and the Red Cross of Chad.

ETHIOPIA

Ethiopia approved its first anti-terrorism legislation in 2009. However, the definition of "terrorism" within the law was susceptible to misinterpretation and misapplication. The law was criticized by human rights defenders and civil society, because its broad definition of "terrorism" could be used to criminalize free speech and freedom of assembly, and even to prosecute humanitarian action. As a result, this law was replaced with a new law in 2020.

Under the new counter-terrorism law (proclamation 1176/2020), anyone who aids or supports terrorist activities is liable to prosecution. However, the new legislation contains a "humanitarian exemption clause", which exempts principle-based humanitarian activities from liability. This clause grants immunity from counter-terrorism measures for individuals and entities engaged in principled humanitarian action. "Principled" in this context shall be understood to refer to the following humanitarian principles: humanity, impartiality, independence and neutrality. This clause allows organizations like the ICRC to carry out their mandate and provide humanitarian aid. This type of clause prevents counter-terrorism measures (in the form of law, policy or regulations – international or national) from being interpreted or applied in ways that could impede humanitarian action.

GERMANY

The German Red Cross, which is a member of the National Committee on International Humanitarian Law (*Fachausschuss Humanitäres Völkerrecht*), has provided expert opinion to the German Federal Constitutional Court concerning the implementation of humanitarian projects in areas under the *de facto* power of "groups who direct themselves against the concept of international understanding".

In its expert opinion, the German Red Cross gives an overview of the IHL framework relevant to humanitarian assistance, in particular Articles 70 and 71 of Protocol I additional to the Geneva Conventions, concerning the obligations to coordinate humanitarian and impartial relief actions for civilian populations, and to protect relief personnel. It also refers to Article 3 common to the Geneva Conventions of 1949, which allows an impartial humanitarian body, such as the ICRC, to offer its services to the parties to a conflict, and to Article 18 of Protocol II additional to the Geneva Conventions, which allows relief societies to offer their services under specific circumstances. The expert opinion further refers to protection of humanitarian assistance under customary international law (namely, rules 31, 32, 53, 54, 55 and 56 – see the [ICRC's customary IHL database](#)).

Based on the expert opinion of the German Red Cross, the German Constitutional Court delivered its decision on 13 July 2018. It decided that a prohibition of association with "groups who direct themselves against the concept of international understanding", according to German law, cannot serve to prohibit humanitarian action that is mandated under international law. This humanitarian action will

be protected and cannot be prosecuted, provided that it is necessitated by the humanitarian situation and that it respects the general principles of humanity, neutrality and impartiality. Compliance with the German Constitution is not the only parameter to determine whether counter-terrorism measures are lawful. In particular, these measures are not lawful when they render impossible humanitarian action that is mandated under international law.

THE PHILIPPINES

The Philippines adopted its Anti-Terrorism Act in 2020, introduced as a result of the Philippines' "war on terrorism". Section 12 of the Act criminalizes the provision of material support to terrorism. Material support is defined in Section 3, as is an international organization.

The legislation presents some challenges. For instance, the definition of material support under Section 3 is broad enough to include some activities of humanitarian organizations, such as the provision of IHL training to non-state armed groups that have been designated as terrorists. Section 3 would also prohibit humanitarian organizations from providing, in accordance with their mandate, transport for non-state armed groups. In order to avoid these consequences, which could hamper humanitarian action, Section 13 of this Act contains a humanitarian exemption clause, which protects the ICRC, the Philippine Red Cross and other state-recognized impartial humanitarian organizations that act in conformity with IHL from prosecution under Section 12 of the Act. This clause expressly states that humanitarian activities carried out by these organizations do not fall within the scope of Section 12.

SWITZERLAND

The Swiss Penal Code includes provisions regarding the financing of terrorism and participation in criminal terrorist organizations. Both provisions contain humanitarian exemption clauses, which protect humanitarian action.

Article 260/4 of the Swiss Penal Code prohibits the financing of terrorism. However, this provision does not apply if the financing is intended to support acts that do not contradict the rules of IHL in the event of armed conflict.

Furthermore, a humanitarian exemption clause is included in the new Article 260/2 of the Swiss Penal Code, adopted in September 2020, which prohibits participation in criminal and terrorist organizations. This provision does not apply to humanitarian services provided by impartial humanitarian bodies, such as the ICRC, in accordance with Article 3 common to the Geneva Conventions of 1949.

Finally, under the Swiss Federal Act on the Application of International Sanctions (Embargo Act), the Federal Council has the power to enact compulsory measures. However, this law includes exceptions to support humanitarian activities or to safeguard Swiss interests. These exceptions relate to the delivery of food products, medicines and therapeutic products for humanitarian purposes.

Additional remarks made during the session presented the following practice.

LEAGUE OF ARAB STATES

The League of Arab States (LAS) has long been active in the field of IHL and counter-terrorism. For instance, it adopted the Arab Convention for the Suppression of Terrorism in 1998 and the Arab Convention on Combating Money-laundering and the Financing of Terrorism in 2019. The LAS also conducts workshops on the relationship between IHL and counter-terrorism. In all, 22 national IHL committees or similar entities representing member states of the LAS assist their respective states in verifying the conformity between laws in Arab states and IHL. The LAS also recommends that states develop a declaration of principle clarifying the relationship between IHL, IHRL and counter-terrorism.

FRANCE

The humanitarian conference organized by France in 2020 provided space for prosecutors to consider exempting neutral humanitarian activities from the scope of counter-terrorism laws. In parallel, France's National Consultative Commission on Human Rights (*Commission Nationale Consultative des Droits de l'Homme*) urges France to do more to promote respect for IHL during counter-terrorism activities. For instance, the CNCDH is in discussion with the authorities on the insertion of a humanitarian exemption clause into France's counter-terrorism legislation. In the summer of 2021, the French parliament drafted a law on the different situations of humanitarian organizations regarding their financial systems.²²

SYRIA

Syria is a party to counter-terrorism conventions and, in 2012, it adopted laws on counter-terrorism (Laws No. 19 and No. 20 of 2012), which established a new court to rule on terrorist crimes. The law contains an exemption clause, exempting from punishment anyone who informs the authorities beforehand of their activities.

Furthermore, Syria works with the UN and other entities to exchange information regarding terrorist entities and regarding the work of the penalties commission. Syria facilitated humanitarian access by the ICRC, the Syrian Arab Red Crescent and some NGOs, which have been able to reach many areas, including besieged areas.

UNITED KINGDOM

The United Kingdom Counter-Terrorism and Border Security Act of 2019 updated existing legislation to meet evolving threats posed by terrorism. This includes the scenario of a future conflict that attracts foreign fighters from the United Kingdom. To address this possibility, an offence was created of entering, or remaining in, an area outside the United Kingdom that has been designated in regulations made by the Home Secretary. Such a power is intended to have a deterrent effect on some of those who would seek to travel abroad to take part in or help sustain future foreign conflicts. It would also be a helpful disruptive and punitive tool upon return. The Act contains a number of exempted purposes for travelling to such a designated area, including providing aid of a humanitarian nature. This humanitarian exemption clause, contained in Section 4, exempts aid workers from committing an offence where they provide humanitarian support in designated areas overseas. It can be accessed [here](#). As it is an exemption, a person providing such support is not required to apply for permission to benefit from this provision. However, such activity must conform to "the internationally recognized principles and standards applicable to the provision of humanitarian aid".

22 Some of the work of France's CNCDH on counter-terrorism may be accessed here: [Avis en français sur l'incidence de la législation relative à la lutte contre le terrorisme sur l'action humanitaire](#) (in French); [Statement of opinion on the impact of counter-terrorism legislation on humanitarian action](#) (in English); [Avis sur le respect et la protection du personnel humanitaire](#) (in French); [Avis sur la PPL sur la préservation de l'espace humanitaire](#) (in French).

RECOMMENDATIONS FROM SESSION 4

- The ICRC urges states that have not yet done so to exempt neutral and impartial humanitarian action from the scope of counter-terrorism legislation through humanitarian exemption clauses. The inclusion of these clauses is an important step in ensuring that the civilian population affected by armed conflicts is able to benefit from humanitarian assistance and protection, while also allowing the state to respond to the terrorist threat. National IHL committees and similar entities have a vital role to play in communicating the importance of humanitarian exemption clauses to their respective governments, and in assisting their governments in the creation and subsequent implementation of humanitarian exemption clauses.
- The ICRC reminds states that situations of armed conflict are regulated by IHL, even when they involve groups and individuals designated as terrorists. National IHL committees and similar entities can play a role in reminding state authorities of the applicability of IHL in this regard – for example, by facilitating training on the subject.

RESOURCES

- [*IHL and the Challenges of Contemporary Armed Conflicts*](#), in particular the section on “Terrorism, counter-terrorism measures and IHL” – ICRC report, November 2019
- [*“Counterterrorism, sanctions and war”*](#) – edition of the *International Review of the Red Cross*, No. 916–917, February 2022
- [*Statement*](#) given by the ICRC during the United Nations General Assembly, 76th Session, Sixth Committee Plenary Meeting on Measures to Eliminate International Terrorism, 8 October 2021
- For members of the Online Community for National IHL Committees, the [*ICRC’s two-pager on IHL, Principled Humanitarian Action and Counter-terrorism*](#).

CLOSING SESSION

Dr Cordula Droege, the ICRC's Chief Legal Adviser and Head of the Legal Division, closed the Universal Meeting by thanking the event speakers, participants and hosts. Dr Droege's speech is reproduced in its entirety below.

Esteemed speakers, participants and friends,

Let me start by thanking our hosts for the excellent stewardship of this Universal Meeting. It has, indeed, been an intense week of important deliberations, which will not only feed into the next Universal Meeting, in 2025, but also the 34th International Conference of the Red Cross and Red Crescent, which is due to take place in two years' time, in 2023.

I would like to commend everyone for your active participation. This is the first time we have held an entirely virtual Universal Meeting. Your engagement, despite the challenging circumstances, demonstrates your commitment to the work we are all doing, and we thank you for that.

Over the past four days, we have discussed various themes (covering domestic implementation of IHL, missing persons, weapons and counter-terrorism).

Yet, one common thread underlying all our deliberations is the vital role of national committees and similar entities on IHL in "Bringing IHL home" and implementing the terms of Resolution 1 from the 33rd International Conference.

We have seen that a lot has already been done to bring IHL home. Owing to limited time this week, we were not able to be exhaustive in acknowledging every accomplishment – which is a very good sign, as it shows just how much has been achieved.

Looking back: Achievements in relation to Resolution 1

New or revived NCIHLs

Resolution 1 encourages states that have not yet done so to consider establishing a national committee or similar entity on IHL. As highlighted by Helen during the opening session, we have had the pleasure of welcoming 14 newly established or revived entities since our last Universal Meeting, in 2016, and there are already a few more in the making.

To name just a few examples, we have heard from **Mozambique, Italy and Colombia** on the recent steps that they have taken to create or reactivate their national committees, and their reflections on the process.

This achievement, in expanding our community of active national committees and similar entities, is a vital first step. All of your other accomplishments in implementing IHL and ensuring its respect would not have been possible had it not been for your work in establishing such an entity in the first place.

Ratifications of/accessions to IHL treaties

For example, from January 2017 to mid-November 2021, there were 209 treaty ratifications across the five regions. This is in line with the Resolution, which also encourages states to ratify or accede to IHL treaties to which they are not yet party.

Yesterday, a few of you took the floor to explain your experiences in supporting the ratification of or accession to weapons treaties. Among other points, you highlighted the important role that national committees can play in coordinating government departments and providing advice on the implementation of treaty

obligations. For example, we heard from **Kenya** about efforts to ratify the ATT, and we will continue to support you in these endeavours.

Adoption of necessary legislative, administrative and practical measures

States are further called on to adopt “necessary legislative, administrative, and practical measures at the domestic level to implement IHL”, as per the Resolution. From January 2017 to December 2020, we saw at least 85 domestic statutes that implement IHL and other relevant instruments.

On the separated, the missing and the dead, it was emphasized how important it is for states to be prepared and take the relevant measures in peacetime to prevent people from going missing, clarify their fate and whereabouts when they do, inform families and investigate and prosecute, as appropriate, enforced disappearance and other violations leading to persons going missing during an armed conflict. For instance, **Finland** referred to its plans regarding the possible creation of a National Information Bureau. There have been a number of domestic laws passed that address the issue of missing persons and grant rights to families of the missing, such as the laws in **Croatia, Lebanon** and **Peru**. Other states have also explained their ongoing projects in this field, such as **Zimbabwe**’s Management of the Dead and Missing project. Overall, our speakers highlighted the importance of involving families of missing persons in the drafting process, and the importance of cooperating with different actors in ensuring that laws on the missing can be passed and effectively implemented. Nevertheless, the adoption of a legal framework is one of many measures that must be taken – **Peru**’s presentation highlighted the importance of adopting other measures, such as national plans for the search for missing persons or having relevant databases in place to support the search for missing persons.

On the subject of weapons, we know that many domestic laws have been adopted. For example, **South Africa** spoke about its longstanding arms-control legislation, while **Sri Lanka** told us about the role of its national committee in helping to draft laws relating to cluster munitions and landmines.

Regarding the need to comply with IHL and principled humanitarian action while fighting terrorism, we have listened to the efforts undertaken in **Chad, Ethiopia, Philippines, Switzerland** and **Germany** to exempt neutral and impartial humanitarian action from the scope of CT legislation, in order to ensure that the civilian population affected by armed conflicts is able to benefit from humanitarian assistance and protection.

Analysis of areas requiring further domestic implementation

The Resolution further encourages “states to carry out, with the support of the National Society where possible, an analysis of the areas requiring further domestic implementation”.

We already have an inventory of studies that have been conducted across the globe in order to achieve this objective.

For instance, **Mongolia** shared with us in writing during the meeting that it has just signed an agreement with the ICRC to start working on an assessment study looking at the harmony of domestic laws with international obligations. We have also seen that a number of compatibility studies has been conducted to help shape a state’s strategy in addressing missing persons. **Niger** highlighted the important role that national committees could play in following up the findings.

Promotion and dissemination of IHL among different actors

States are encouraged to promote and disseminate IHL to different actors, and we know that your national committees have an important role to play in this regard.

In our first session, we heard from **Nepal** about its training for parliamentarians, from **Ecuador** on its IHL courses for civil servants, and from **Kuwait** on its plan of action to give effect to the regional plan adopted by the Arab states on the implementation of IHL.

On the missing, we heard from **Switzerland** on the launch of a Global Alliance, which, among other objectives, helps raise awareness of the issue of missing persons and of IHL obligations in this regard.

Iran, Austria and **France** also spoke about the role that national committees can play in engaging with government authorities on weapons treaties, arms transfers or even on new technologies of warfare.

Looking ahead

What more can be done?

This meeting offers an opportune moment for reflection, as we are currently midway between the last International Conference of 2019, and the next one in 2023. We therefore have two more years to make further advances.

There is still a long road ahead of us towards the universalization of all IHL-related treaties. As a priority, we note that next year will be the 45th anniversary of the adoption of the two Protocols of 1977 additional to the Geneva Conventions, and, in that respect, we call on states that have not done so to consider acceding to the Protocols.

We also received ideas from the **UK** and **Burkina Faso** on the possibility of submitting a contribution to the report of the UN Secretary-General on the Status of the Additional Protocols. The next report will be issued next year, and we recall the existing template provided by the UK, which was mentioned in the first session, as a good basis for states interested in submitting such a contribution.

The Resolution also recalls that states may declare that they recognize the competence of the IHFFC. However, the IHFFC, which is present as an observer in this meeting, has informed us that since the International Conference in 2019, no new state has recognized the competence of the IHFFC, nor has any state accepted the Commission's numerous offers to use its good offices or fact-finding services. While the IHFFC was unable to take the floor owing to time constraints, it asked us to mention that the IHFFC would like to encourage states that are drafting voluntary reports on the national implementation of IHL to include a reference to the IHFFC.

Regional conferences scheduled for 2022

The Resolution further calls for the strengthening of cooperation between national committees at the international, regional and cross-regional levels.

In February 2021, national committees in the Americas met and adopted a declaration with a plan of action. As mentioned during yesterday's session, in 2021, **Slovenia** also organized a meeting of national committees in Europe, contributing to the strengthening of regional cooperation. **Malaysia** also highlighted the importance of regional cooperation on weapons and other IHL treaties.

Subject to the evolution of the global pandemic, there are already plans to host other regional meetings of national committees in 2022. As announced by **Kuwait** during the opening session, it hopes to be able to hold a regional NCIHL meeting in May 2022. There are plans to host a Western European regional meeting in **Vienna** in October 2022, and a conference of **Eastern European and Central Asian** committees. Further details on these conferences, including the exact dates, will be confirmed in due course. We hope that these meetings will be occasions for states to continue the discussions on concrete actions to be taken and will lead to further advances in the domestic implementation of IHL.

Exchange of good practice

The Resolution also invites states to share examples of national implementation measures and exchange good practice. This meeting was an excellent occasion to share such good practice from across the globe. In the session on Monday, we discussed the benefits of voluntary reports and recalled the many reports that already exist, including from **Poland, UK, Switzerland, Germany, Niger, Burkina Faso, Spain, Costa Rica,**

Bulgaria and Romania. Others have expressed willingness to start drafting a voluntary report, including **Croatia, Italy, Kuwait and Syria.**

We urge you to continue exchanging good practice, even after this meeting, including by joining our Online Community for National IHL Committees. This platform is particularly useful, especially during these COVID-19 times, for direct exchange with each other on IHL matters. Via this community, members have shared their voluntary reports, they have engaged in discussion on terms of reference and plans of action, and they have received updates from the ICRC on relevant tools and information.

Themes

Finally, from this week's sessions, I wish to recall a few short takeaways on each theme.

On the missing, we emphasized the utility of compatibility studies in identifying changes that should be made to domestic frameworks to ensure compliance with IHL. We emphasized the important role of national IHL committees in encouraging states to implement findings from these studies. We also concluded that your entities can push for the adoption of domestic laws, policies and structures to account for protected persons, prevent people from going missing, and inform families in armed conflict situations. One of these measures, for instance, is the establishment of a National Information Bureau in each state.

Regarding weapons, great emphasis was placed on the role that national IHL committees can play in providing expert advice to governments on arms transfers or cutting-edge new technologies. On existing weapons, while there is wide consensus that many weapons cause indiscriminate or unnecessary suffering, engagement with parliament or work on legislative drafting arrangements are needed to ensure that international obligations can be applied in each country.

Finally, earlier today, we concluded that it is possible to respond to the terrorist threat while ensuring that humanitarian relief and protection reach those in need. The inclusion of humanitarian exemption clauses in CT legislation represents an important step in this direction.

While we have chosen these themes for discussion, we note that there are other areas for which national IHL committees are ideally placed to ensure such areas receive the attention they deserve. For instance, we urge all states to implement the prohibition of sexual violence under IHL into domestic frameworks; to this end, we have produced a legislative checklist that national IHL committees may easily use.

We have also produced guidelines on the protection of the natural environment in armed conflict, and we are in the process of producing a related checklist. I take this opportunity to also mention the Climate Charter and to note that we now have more than 160 organizations signed up, which is a great achievement.

Conclusion

We commend the great work that you have done, and continue to do, in encouraging compliance with IHL, in order to ultimately ensure that civilians are protected in times of armed conflict.

With that, I encourage you to keep up the good work and I urge you to engage more with us and among yourselves on these issues.

Thank you once again for joining us this week and participating in the discussions.

Dr Cordula Droege's speech is available in [Arabic](#), [English](#), [French](#), [Russian](#) and [Spanish](#) on the ICRC website.

ANNEX 1: AGENDA

Monday 29 November, 15:00–15:30 CET

Opening and explanation of format

Chair: Kelisiana Thynne, Senior Legal Adviser, ICRC

Expert

- Dr Helen Durham, Director of International Law and Policy, International Committee of the Red Cross

Monday 29 November, 15:30–17:30 CET

Follow-up to the International Conference of the Red Cross and Red Crescent: “Bringing IHL home” and voluntary reporting

Chair: Dr Anne Quintin, Head of Advisory Services, ICRC

Experts

- Graça Nhate, National Deputy Director, Human Rights and Citizen Affairs (Mozambique)
- Min. Filippo Formica, President of the Commission for the Study and Development of IHL (Italy)
- David Ivan Fernandez Barreto, Adviser, Presidential Advisory for Human Rights and International Affairs (Colombia)
- Koshal Chandra Subedi, Joint Secretary, Office of the Prime Minister and Council of Ministers (Nepal)
- Silvia Espíndola Arellano, Director of Human Rights and Peace, Ministry of External Relations and Human Mobility (Ecuador)
- Dr Ahmed Mekled, Judge in the Kuwaiti Appeal Court and Member of the Technical Secretariat of the Kuwaiti National Commission for IHL (Kuwait)
- Preslava Lilova, Director of International Cooperation and Programmes, Bulgarian Red Cross (Bulgaria)
- Ambassador Carmen Claramunt, Honorary President of the Costa Rican National Commission on IHL (Costa Rica)
- Andrew Murdoch, Legal Director, Foreign, Commonwealth and Development Office (United Kingdom)
- Julie Francine Yonli Yameogo, Permanent Secretary, Inter-ministerial Committee on Human Rights and IHL (Burkina Faso)

Tuesday 30 November, 16:00–18:30 CET

Enhancing protection for the missing and their families in and after armed conflict

Chair: Alexandra Ortiz, Legal Adviser, ICRC

Experts

- Karen Loehner, National Information Bureau Manager, ICRC
- Florence Anselmo, Head of the Central Tracing Agency, ICRC
- Dr Jonas Belina, Diplomatic Officer, Federal Department of Foreign Affairs (Switzerland)
- Jani Leino, Legal Adviser, Finnish Red Cross (Finland)
- Amalia Quintana, President, Inter-ministerial Committee on the Study and Application of IHL (Paraguay)
- Dr Maman Aminou Amadou Koundy, President, High Court of Niamey (Niger)
- Tihana Bališa, Head of the Department for Human Rights, Ministry of Foreign and European Affairs (Croatia)
- Dr Ziad Achour, Vice-President of the National Commission on the Missing and Forcibly Disappeared Persons (Lebanon)
- Dr Guillermo Vargas Jaramillo, Deputy Minister for Human Rights and Access to Justice, Ministry of Justice and Human Rights (Peru)
- Crispin Lifa, Assistant Commissioner, Zimbabwe Republic Police (Zimbabwe)

Wednesday 1 December, 09:00–11:00 CET

Ensuring the application of IHL to weapons, new technologies and arms transfers

Chair: Kelisiana Thynne, Senior Legal Adviser, ICRC

Experts

- Laurent Gisel, Head of Arms and Conduct of Hostilities Unit, ICRC
- Bernhard Schneider, Head of Legal Affairs and Migration, Austrian Red Cross, and Co-Chair of the National Commission for the Implementation of IHL (Austria)
- Dr Javier Alberto Ayala Amaya, Brigadier-General of the Strategic Command of Transition, General Command of the Military Forces (Colombia)
- Dr Jabbar Aslani, Director-General of the Principles, Law and IHL Department, Iranian Red Crescent Society (Iran)
- Mohammed Amran bin Hasan, Under-Secretary, Policy and Strategic Planning Division, Ministry of Defence (Malaysia)
- Tilanie Silva, Deputy Legal Adviser, Foreign Ministry, and Chairperson of the National IHL Committee (Sri Lanka)
- Thomas Ribémont, Member of the National Consultative Commission on Human Rights and Rapporteur of the IHL-Humanitarian Action Group (France)
- Lulu Hayanga Fregoni, Deputy Chief State Counsel, Office of the Attorney General and Department of Justice (Kenya)
- Andre Smit, State Legal Adviser (International Law), Department of International Relations and Cooperation (South Africa)

Thursday 2 December, 10:00–11:30 CET

Promoting a counter-terrorism framework coherent and consistent with IHL and the obligation to facilitate humanitarian action

Chair: Paola Forgione, Legal Adviser, ICRC

Experts

- Lt. Col. Joven Capitulo PA, Department of Defence, and Co-chair of the National IHL Committee (Philippines)
- Belayhun Yirga, Director-General of the Legal Studies, Drafting and Consolidation Department, Ministry of Justice (Ethiopia)
- Jonathan Cuenoud, Legal Adviser, IHL and International Criminal Justice section, Directorate for Public International Law, Department of Foreign Affairs (Switzerland)
- Carlos Rotta Dingamadji, Magistrate and Director of Legislation and International Cooperation, Ministry of Justice (Chad)
- Heike Spieker, Director of the Liaison Office, German Red Cross, and German Federal Office for Civil Protection and Disaster Relief (Germany)

Thursday 2 December, 11:30–12:00 CET

Closing

Chair: Dr Anne Quintin, Head of Advisory Services, ICRC

Expert

- Dr Cordula Droeger, Chief Legal Adviser and Head of the Legal Division, ICRC

ANNEX 2: LIST OF PARTICIPANTS

List of participants: Fifth Universal Meeting of National Committees and Similar Entities on IHL: “Bringing IHL home” through domestic law and policy

As all participants listed below are members of their state's national IHL committee, specific references to their function within the committee have been omitted, except where such function was the sole function reported upon registration.

For entries marked (*), the names and functions of the representative(s) have been omitted to respect the participants' preferences regarding protection of personal data.

Country	Title and Name	Position	Affiliation
Algeria	Mr Ben Ali Mohamed BEN ALI	Central Inspector	Ministry of Higher Education and Scientific Research
Algeria	Mr Saïd KHELIFI	Director	Ministry of Foreign Affairs
Algeria	Ms Kahina MERZELKAD	Legal Adviser	Algerian Red Crescent
Algeria	Mr Nabil MOSTEFAI	Director	Ministry of the Interior, Local Collectivities and Territory Planning
Algeria	Mr Boubekeur AJAILIA	Manager in the National Gendarmerie	Ministry of National Defence (National Gendarmerie)
Angola*			
Angola	Ms Constância OLIM	Head, Department of Specialized Agencies	Ministry of External Relations
Argentina	Dr Anabel ALFONSÍN CANO	Human Rights Secretariat	Ministry of Foreign Affairs, International Trade and Worship
Argentina	Mr Eduardo CAGNONI	Legal Affairs Secretariat	Ministry of Foreign Affairs, International Trade and Worship
Argentina	Dr Eduardo JOZAMI	National Director of the Department of Human Rights and IHL	Ministry of Foreign Affairs, International Trade and Worship
Argentina	Dr Mariana MAURER	National Department of Human Rights and IHL	Ministry of Foreign Affairs, International Trade and Worship
Australia	Ms Keilin ANDERSON	Legal Officer	Attorney General's Department
Australia	Ms Szabina HORVATH	Legal Adviser	Government of Australia
Australia	Ms Pranamie MANDALA-WATTA	IHL Legal Adviser	Australian Red Cross
Australia	Mr Jahan NAVIDI	Assistant Director, International Law Branch	Department of Foreign Affairs and Trade
Australia	Ms Yvette ZEGENHAGEN	Head of International Humanitarian Law	Australian Red Cross
Austria	Dr Bernhard SCHNEIDER	Head of Legal Affairs and Migration	Austrian Red Cross
Bahrain	H.E. Mohamed AL HAIDAN	Director of the Legal Affairs Directorate	Ministry of Foreign Affairs
Bahrain	Mr Ahmed ALHADDAD	Attaché	Ministry of Foreign Affairs
Bahrain	Mr Mansour EL MANSOUR	Deputy Head	National IHL Committee

Bangladesh	Dr A M Pervez RAHIM	Joint Secretary (Autism Cell), Health Services Division	Ministry of Health and Family Welfare
Bangladesh	Mr Shameem HASAN	Deputy Secretary, Public Security Division	Ministry of Home Affairs
Bangladesh	Major Fariha Tabassum SIMU	General Staff Officer-2 (Legal), Armed Forces Division	Prime Minister's Office
Belarus	Mr Aleksandr BASALYGA	Deputy Head of Department	Ministry of Justice
Belarus	Ms Tatyana KOTENEVA	Deputy Head of Division	Ministry of Justice
Belgium	Mr Frédéric CASIER	Legal Adviser – IHL	Belgian Red Cross
Belgium	Ms Laurence DE GRAEVE	Head of Section	Ministry of Defence
Belgium	Ms Laura DE GRÈVE	Legal Adviser – IHL	Belgian Red Cross
Belgium	Mr Alexis GOLDMAN	Adviser	Federal Public Service Foreign Affairs
Belgium	Ms Laurence GRANDJEAN	Attaché	Federal Public Service Foreign Affairs
Belgium	Ms Julie LATOUR	IHL Dissemination	Belgian Red Cross
Belgium	Ms Lieve PELLENS	Chair	Inter-ministerial Commission for Humanitarian Law
Belgium	Mr Jonas PÉRILLEUX	Attaché	Federal Public Service Justice
Belgium	Ms Pascale REYFENS	Attaché – International Division	Federal Public Service Interior
Belgium	Ms Alessia VERI	Attaché	Federal Public Service Foreign Affairs
Bolivia	Ms Maysa UREÑA	Chair of the National Committee on International Humanitarian Law	Ministry of Foreign Affairs
Bolivia	Ms Carola Cinthia ZAMBRANA BALTA	Director-General of Human Rights and Interculturalism for the State Armed Forces	Ministry of Defence
Brazil	Ms Marcela CAMPOS	Second Secretary, Deputy Head of United Nations III Department	Ministry of Foreign Affairs
Brazil	Mr Ricardo RIZZO	Head of the United Nations III Department and First Secretary	Ministry of Foreign Affairs
Bulgaria	Mrs Preslava LILOVA	Director, International Cooperation and Programmes	Bulgarian Red Cross
Bulgaria	Mrs Ana PASKALEVA	Counsellor	Ministry of Foreign Affairs
Burkina Faso	Mr Dramane KOUSSOUBE	Head of the Department for Monitoring and Evaluation	Ministry of Justice
Burkina Faso	Mrs Julie Francine YONLI YAMEOGO	Permanent Secretary	National IHL Committee and Ministry of Justice
Cabo Verde	Mr Arlindo SANCHES	Legal Adviser	National Committee on Human Rights and Citizenry
Canada	Ms Jennifer MCKEEN	Legal Officer	Department of National Defence
Canada	Ms Sarah O'BLENES	Lawyer	Legal Officer – Global Affairs

Canada	Dr Sophie RONDEAU	IHL Senior Legal Adviser	Canadian Red Cross
Chile*			
Chile	Mr Luis Alberto SERRANO	Senior Counsel, Legal Affairs and Treaties Department	Ministry of Foreign Affairs
China*			
China	Ms Jun XIAO	Programme Coordinator, Staff of the External Liaison Department	Red Cross Society of China
Colombia	Mr Michael Eduardo GUERRERO LÓPEZ	Coordinator	National Human Rights System of the Presidential Advisory for Human Rights and International Affairs
Colombia	Ms Jhonatta Alexander HOYOS SEPÚLVEDA	Group Coordinator of Legal Doctrine and Services, Department for Human Rights and International Humanitarian Law	Ministry of Defence
Colombia	Ms Diana Alexandra MEDINA CETINA	Adviser	Ministry of Foreign Affairs
Colombia	Mr Juan Carlos MORENO GUTIÉRREZ	Coordinator of the Group of Attention to International Instances of Human Rights and IHL	Ministry of Foreign Affairs
Cook Islands*			
Costa Rica	Mr Javier CARVAJAL MOLINA	Head of International Cooperation	Ministry of Culture and Youth
Costa Rica	H.E. Carmen Isabel CLARAMUNT GARRO	Deputy Director	Diplomatic Academy
Côte d'Ivoire	Mr Botty Jérôme TRABI	Magistrate/Public Servant	Ministry of Justice and Human Rights
Croatia	Ms Branka ARLOVIC	Adviser on IHL and Humanitarian Diplomacy	Croatian Red Cross
Croatia	Ms Tihana BALIJA	Head of Department for Human Rights	Ministry of Foreign and European Affairs
Cyprus	Mr Constantinos CONSTANTINOU		Ministry of Foreign Affairs
Cyprus	H.E. James DROUSHIOTIS	President	National IHL Committee
Czech Republic	Mr Pavel CABAN	Lawyer, International Law Department	Ministry of Foreign Affairs
Czech Republic	Dr Petra DITRICHOVA	Legal Adviser	Ministry of Defence
Denmark	Ms Louise HELLER	Restoring Family Links Adviser	Danish Red Cross
Denmark	Ms Rikke ISHØY	Cooperation and Partnership Adviser	Danish Red Cross
Denmark	Mr Jeppe Mejer KJELGAARD	Head of Section	Ministry of Foreign Affairs
Denmark	Ms Helene MIDTGAARD	Head of Section	Ministry of Foreign Affairs

Denmark	Mr Jonathan SOMER	Legal Adviser	Danish Red Cross
Ecuador*			
Ecuador	Dr Silvia ESPÍNDOLA	Director of Human Rights and Peace	Ministry of External Relations and Human Mobility
Ecuador	H.E. Diego MOREJÓN PAZMIÑO	Under-Secretary for Multilateral Affairs	Ministry of Foreign Affairs and Human Mobility
Egypt*			
Egypt	Judge Amal AMAR	Head of Technical Secretariat	National Committee on International Humanitarian Law
Egypt	Colonel Tamer SOLIMAN	Military Judge	Egyptian Armed Forces
El Salvador	Ms Elsa MORALES	Head of the Department for Human Rights	Ministry of Defence
El Salvador	Ms Juliá María SOMOZA	Head of Department	Ministry of Foreign Affairs
Finland*			
Finland*			
Finland	Mr Jani LEINO	Legal Adviser	Finnish Red Cross
Finland	Ms Elina LEMMETTY	Adviser	Ministry of Foreign Affairs
Finland	Mr Ilkka MYLLYMÄKI	Attaché	Ministry of Foreign Affairs
Finland	Ms Anu SAARELA	Legal Service, Deputy Director-General	Ministry of Foreign Affairs
France	Mr Thomas RIBÉMONT	Rapporteur of the IHL-Humanitarian Action Group	National Consultative Commission on Human Rights
France	Ms Anaïs SCHILL	IHL Adviser	National Consultative Commission on Human Rights
Gambia	Ms Kumba JOW	Principal State Counsel	Ministry of Justice
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