

**IMPLEMENTING
IHL**

**PARTICIPATION OF AMERICAN STATES IN
INTERNATIONAL HUMANITARIAN LAW TREATIES
AND THEIR NATIONAL IMPLEMENTATION**

2007 REPORT



ICRC

This report, which was prepared by the ICRC **Advisory Service on international humanitarian law** for submission to OAS Member States, is not exhaustive. Please visit www.icrc.org for further information.

LEGAL BASES OF THE ICRC'S ACTION

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

With the support of the International Red Cross and Red Crescent Movement, the ICRC has made constant efforts to urge governments to adapt international humanitarian law (IHL) to changing circumstances, particularly as regards developments in means and methods of warfare, with a view to providing more effective protection and assistance for the victims of armed conflicts.

Today, all States are bound by the four Geneva Conventions of 12 August 1949, which, in times of armed conflict, protect wounded, sick and shipwrecked members of the armed forces, prisoners of war and civilians. Around two-thirds of all States are bound by the Additional Protocols of 1977 protecting the victims of international and non-international armed conflicts, particularly the civilian population, against the effects of hostilities.

In the event of international armed conflict, the international community —through the Geneva Conventions and Additional Protocol I— gives the ICRC the mandate to visit prisoners of war and civilian internees, among other things. It also confers on the ICRC a broad right of initiative.

In situations of non-international armed conflict, the ICRC also has a right of initiative recognized by the States. In the event of internal disturbances or tensions or in any other situation that warrants humanitarian action, the ICRC has a right of humanitarian initiative, which is recognized in the Statutes of the International Red Cross and Red Crescent Movement and allows it to offer its services to the States.

The role of the ICRC is to work for the faithful application of international humanitarian law in armed conflicts.

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This document summarizes the major developments that took place during 2007 regarding the national implementation of international humanitarian law in the Americas.

Concrete examples of these developments are fourteen new ratifications of international humanitarian law treaties; the implementation of two new criminal laws to punish war crimes and the finalization of another ten bills on this subject; two new laws on the use of the Red Cross and the Red Crescent emblems; a new law enforcing the prohibition of chemical weapons and the strengthening of the legal framework in three countries to address the issue of missing persons. All of the above witness to the major efforts made in the region along this year to implement international humanitarian law at a national level, which efforts were supplemented by the work undertaken by the armed forces in the region to integrate international humanitarian law into their military doctrine. Furthermore, it is worth noting that institutions of higher education in the region have made considerable progress in developing international humanitarian law in the curricula of different academic careers.

These measures constitute essential steps towards ensuring respect for international humanitarian law and therefore alleviate the sufferings invariably brought about by armed conflict. The national implementation measures provide the tools that States and the parties to the conflict need to comply with their obligations under international humanitarian law. Said measures appear even more critical when considering that international humanitarian law largely calls for self-regulation on the part of the States. Adopting national implementing measures entails a strategic approach and a concerted, integrated and often times permanent action.

Notwithstanding the progress made, the panorama regarding implementation of international humanitarian law in the region is varied. Much progress has been made in recent years, but much still remains to be done. Prospects are encouraging, since there is a widespread debate on international humanitarian law in the region, and States are generally aware of the obligations stemming from it.

However, the challenge remains to turn awareness into willingness and action. Some roadblocks hinder consistent progress in this field: some of them relate to political factors; others result from the technical complexity of certain national measures or from organizational issues; all of them depend on both the situation in each specific State and on the measure in question. Each State must decide by itself how to proceed to comply with its obligations under the pertinent treaties. In turn, the ICRC undertakes to provide legal and technical advice to the States upon request. The national implementation of international humanitarian law is a challenge that faces us all.

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Advisory Service
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PARTICIPATION OF AMERICAN STATES IN IHL TREATIES

International Humanitarian Law Treaties

The following are the most significant treaties intended to protect persons from the impacts of armed conflict:

Protection of Victims of Armed Conflicts

- Geneva Conventions of 12 August 1949 (GC I-IV 1949)
- Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977 (AP I 1977)
- Statement provided for in Article 90 AP I (AP I - CIHE)
- Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977 (AP II 1977)
- Additional Protocol to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem, 8 December 2005 (AP III 2005)
- Optional Protocol to the Convention on the Rights of the Child, on the Involvement of Children in Armed Conflict, 25 May 2000 (OP CAC 2000)
- International Convention for the Protection of All Persons from Enforced Disappearance, 20 December 2006 (DF ONU 2006)

Protection of Cultural Property in the Event of Armed Conflict

- Convention on the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954 (HCCP 1954)
- Additional Protocol I to the HCCP, 14 May 1954 (HCCP PI 1954)
- Additional Protocol II to the HCCP, 26 March 1999 (HCCP PII 1999)

Environment

- Convention on the Prohibition of the Military or Any Hostile Use of Environmental Modification Techniques, 10 December 1976 (ENMOD 1976)

International Criminal Law

- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, 26 November 1968 (CSL 1968)
- Rome Statute of the International Criminal Court, 17 July 1998 (ICC 1998)

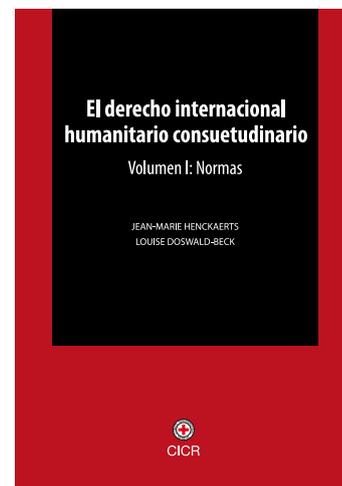
Weapons

- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 17 June 1925 (GP 1925)
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction, 10 April 1972 (BWC 1972)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects, 10 October 1980 (CCW 1980), and its annexed Protocols:
 - Protocol on Non-Detectable Fragments, 10 October 1980 (PI 1980)
 - Protocol on Mines, Booby-traps and other Devices, 10 October 1980 (PII 1980)
 - Protocol on Incendiary Weapons, 10 October 1980 (P III)
 - Protocol on Blinding Laser Weapons, 13 October 1995 (PIV 1995)
 - Protocol on Mines, Booby-traps and other Devices as amended on May 3, 1996 (PII a 1996)
 - Protocol on Explosive Remnants of War, 28 November 2003 (PV 2003)
- Amendment to the CCW, 10 October 1980 (CCW a 2001)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 13 January 1993 (CWC 1993)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997 (OTTAWA 1997)

Customary International Humanitarian Law

The provisions set forth in these treaties are supplemented by customary international humanitarian law. Some treaties, such as the 1907 Convention (II) respecting the Laws and Customs of War on Land and its Annex (not mentioned above), the 1949 Geneva Conventions and a large portion of the Additional Protocol I of 1977, depict the customs applicable in any armed conflict.

Many of the customary rules of international humanitarian law have been identified by a study completed by the ICRC in 2005 pursuant to the mandate bestowed on it by the international community through the XXVI International Conference of the Red Cross and Red Crescent held in Geneva, Switzerland, in 1995. The Spanish translation of said study was published in late 2007.



Main Ratifications during 2007

The above-mentioned treaties generally enjoy widespread acceptance by the American States. During 2007, the participation in international humanitarian law treaties by countries in the region has increased as follows:

- **Argentina** became a party to Protocol I of 1954 on the Protection of Cultural Property on May 10th, 2007;
- **Barbados** became a party to the 1993 Convention on Chemical Weapons on March 7th, 2007;
- **Belize** became a party to Additional Protocol III of 2005 relating to the Adoption of an Additional Distinctive Emblem on April 3rd, 2007;
- **Chile** became a party to the 2001 amendment to Article I of the Convention on Certain Conventional Weapons on September 27th, 2007;
- **Cuba** became a party to the 2000 Optional Protocol on the Involvement of Children in Armed Conflict on February 9th, 2007, and also to the 2001 amendment to Article I of the Convention on Certain Conventional Weapons on October 17th, 2007;
- **El Salvador** became a party to Additional Protocol III of 2005 relating to the Adoption of an Additional Distinctive Emblem and to the 2001 Amendment to Article I of the Convention on Certain Conventional Weapons on September 12th, 2007 and September 13th, 2007, respectively;
- **The United States of America** became a party to Additional Protocol III of 2005 relating to the Adoption of an Additional Distinctive Emblem on March 8th, 2007;
- **Nicaragua** also became a party to the 1976 Convention on Environmental Modification Techniques on September 6th, 2007; on that same day Nicaragua also became a party to the 2001 Amendment to Article I of the Convention on Certain Conventional Weapons;
- **Panama** became a party to the 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity on June 21st, 2007;
- **Trinidad and Tobago** became a party to the 1972 Convention on Biological Weapons on July 19th, 2007;
- **Uruguay** became a party to Protocol II of 1999 on the Protection of Cultural Property on January 3rd, 2007, and also to Protocol V of 2003 on Explosive Remnants of War on August 7th, 2007.

It should also be mentioned that the 2006 International Convention for the Protection of All Persons from Enforced Disappearance has been signed by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Granada, Guatemala, Haiti, Honduras, Mexico, Panama, Paraguay and Uruguay ever since it was opened for signature on February 6th, 2007. The Convention has not come into force as yet.

PARTICIPATION OF AMERICAN STATES IN IHL TREATIES

Participation of the American States in Relevant Treaties concerning IHL (as of November 15, 2007)

Country		Protection of Victims of Armed Conflicts (*)						
		GC I-IV 1949	AP I 1977	AP I - CIHE	AP II 1977	AP III 2005	OP CAC 2000	DF ONU 2006
1	Antigua and Barbuda	06.10.1986	06.10.1986		06.10.1986			
2	Argentina	18.09.1956	26.11.1986	11.10.1996			10.09.2002	
3	Bahamas	11.07.1975	10.04.1980		10.04.1980			
4	Barbados	10.09.1968	19.02.1990		19.02.1990			
5	Belize	29.06.1984	29.06.1984		29.06.1984	03.04.2007	01.12.2003	
6	Bolivia	10.12.1976	08.12.1983	10.08.1992	08.12.1983		22.12.2004	
7	Brazil	29.06.1957	05.05.1992	23.11.1993	05.05.1992		27.01.2004	
8	Canada	14.05.1965	20.11.1990	20.11.1990	20.11.1990		07.07.2000	
9	Chile	12.10.1950	24.04.1991	24.04.1991	24.04.1991		31.07.2003	
10	Colombia	08.11.1961	01.09.1993	17.04.1996	14.08.1995		25.05.2005	
11	Costa Rica	15.10.1969	15.12.1983	02.12.1999	15.12.1983		24.01.2003	
12	Cuba	15.04.1954	25.11.1982		23.06.1999		09.02.2007	
13	Dominica	28.09.1981	25.04.1996		25.04.1996		20.09.2002	
14	Dominican Republic	22.01.1958	26.05.1994		26.05.1994			
15	Ecuador	11.08.1954	10.04.1979		10.04.1979		07.06.2004	
16	El Salvador	17.06.1953	23.11.1978		23.11.1978	12.09.2007	18.04.2002	
17	Granada	13.04.1981	23.09.1998		23.09.1998		09.05.2002	
18	Guatemala	14.05.1952	19.10.1987		19.10.1987			
19	Guyana	22.07.1968	18.01.1988		18.01.1988			
20	Haiti	11.04.1957	20.12.2006		20.12.2006			
21	Honduras	31.12.1965	16.02.1995		16.02.1995	08.12.2006	14.08.2002	
22	Jamaica	20.07.1964	29.07.1986		29.07.1986		09.05.2002	
23	Mexico	29.10.1952	10.03.1983				15.03.2002	
24	Nicaragua	17.12.1953	19.07.1999		19.07.1999		17.03.2005	
25	Panama	10.02.1956	18.09.1995	26.10.1999	18.09.1995		08.08.2001	
26	Paraguay	23.10.1961	30.11.1990	30.01.1998	30.11.1990		27.09.2002	
27	Peru	15.02.1956	14.07.1989		14.07.1989		08.05.2002	
28	St. Kitts & Nevis	14.02.1986	14.02.1986		14.02.1986			
29	Saint Lucia	18.09.1981	07.10.1982		07.10.1982			
30	St. Vincent & The Grenadines	01.04.1981	08.04.1983		08.04.1983			
31	Suriname	13.10.1976	16.12.1985		16.12.1985			
32	Trinidad and Tobago	24.09.1963	20.07.2001	20.07.2001	20.07.2001			
33	United States of America	02.08.1955				08.03.2007	23.12.2002	
34	Uruguay	05.03.1969	13.12.1985	17.07.1990	13.12.1985		09.09.2003	
35	Venezuela	13.02.1956	23.07.1998		23.07.1998		23.09.2003	
TOTAL	REGION	35	34	11	33	4	23	
	UNIVERSAL	194	167	70	163	20	119	1

(*) The full title of each Treaty appears on page 7.

IMPLEMENTING IHL

Participation of the American States in Relevant Treaties concerning IHL (as of November 15, 2007)

Country		Protection of Cultural Property in the Event of Armed Conflict (*)			Environment (*)	International Criminal Law (*)	
		HCCP 1954	HCCP PI 1954	HCCP PII 1999	ENMOD 1976	CSL 1968	ICC 1998
1	Antigua and Barbuda				25.10.1988		18.06.2001
2	Argentina	22.03.1989	10.05.2007	07.01.2002	20.03.1987	26.08.2003	08.02.2001
3	Bahamas						
4	Barbados	09.04.2002					10.12.2002
5	Belize						05.04.2000
6	Bolivia	17.11.2004			18.04.1977	06.10.1983	27.06.2002
7	Brazil	12.09.1958	12.09.1958	23.09.2005	12.10.1984		20.06.2002
8	Canada	11.12.1998	29.11.2005	29.11.2005	11.06.1981		07.07.2000
9	Chile				26.04.1994		
10	Colombia	18.06.1998	18.06.1998				05.08.2002
11	Costa Rica	03.06.1998	03.06.1998	09.12.2003	07.02.1996		07.06.2001
12	Cuba	26.11.1957	26.11.1957		10.04.1978	13.09.1972	
13	Dominica				09.11.1992		12.02.2001
14	Dominican Republic	05.01.1960	21.03.2002				12.05.2005
15	Ecuador	02.10.1956	08.02.1961	02.08.2004			05.02.2002
16	El Salvador	19.07.2001	27.03.2002	27.03.2002			
17	Granada						
18	Guatemala	02.10.1985	19.05.1994	04.02.2005	21.03.1988		
19	Guyana						24.09.2004
20	Haiti						
21	Honduras	25.10.2002	25.10.2002	26.01.2003			01.07.2002
22	Jamaica						
23	Mexico	07.05.1956	07.05.1956	07.10.2003		15.03.2002	28.10.2005
24	Nicaragua	25.11.1959	25.11.1959	01.06.2001	06.09.2007	03.09.1986	
25	Panama	17.07.1962	08.03.2001	08.03.2001	13.05.2003	21.06.2007	21.03.2002
26	Paraguay	09.11.2004	09.11.2004	09.11.2004			14.05.2001
27	Peru	21.07.1989	21.07.1989	24.05.2005		11.08.2003	10.11.2001
28	St. Kitts & Nevis						22.08.2006
29	Saint Lucia				27.05.1993		
30	St. Vincent & The Grenadines				27.04.1999	09.11.1981	03.12.2002
31	Suriname						
32	Trinidad and Tobago						06.04.1999
33	United States of America				17.01.1980		
34	Uruguay	24.09.1999	24.09.1999	03.01.2007	16.09.1993	21.09.2001	28.06.2002
35	Venezuela	09.05.2005					07.06.2000
TOTAL	REGION	20	17	14	15	9	23
	UNIVERSAL	118	97	46	73	51	105

(*) The full title of each Treaty appears on page 7.

PARTICIPATION OF AMERICAN STATES IN IHL TREATIES

Participation of the American States in Relevant Treaties concerning IHL (as of November 15, 2007)

Country		Weapons (*)											
		GP 1925	BWC 1972	CCW 1980							CCW a 2001	CWC 1993	OTTAWA 1997
				CCW	PI	PII	PIII	PIV 1995	PII a 1996	PV 2003			
1	Antigua and Barbuda	27.04.1989	29.01.2003									29.08.2005	03.05.1999
2	Argentina	12.05.1969	27.11.1979	02.10.1995	x	x	x	21.10.1998	21.10.1998		25.02.2004	02.10.1995	14.09.1999
3	Bahamas		26.11.1986										31.07.1998
4	Barbados	16.07.1976	16.02.1973									07.03.2007	26.01.1999
5	Belize		20.10.1986									01.12.2003	23.04.1998
6	Bolivia	13.08.1985	30.10.1975	21.09.2001	x	x	x	21.09.2001	21.09.2001			14.08.1998	09.06.1998
7	Brazil	28.08.1970	27.02.1973	03.10.1995	x	x	x	04.10.1999	04.10.1999			13.03.1996	30.04.1999
8	Canada	06.05.1930	18.09.1972	24.06.1994	x	x	x	05.01.1998	05.01.1998		22.07.2002	26.09.1995	03.12.1997
9	Chile	02.07.1935	22.04.1980	15.10.2003	x		x	15.10.2003	15.10.2003		27.09.2007	12.07.1996	10.09.2001
10	Colombia		19.12.1983	06.03.2000	x	x	x	06.03.2000	06.03.2000			05.04.2000	06.09.2000
11	Costa Rica		17.12.1973	17.12.1998	x	x	x	17.12.1998	17.12.1998			31.05.1996	17.03.1999
12	Cuba	24.06.1966	21.04.1976	02.03.1987	x	x	x				17.10.2007	29.04.1997	
13	Dominica		08.11.1978									12.02.2001	26.03.1999
14	Dominican Republic	08.12.1970	23.02.1973										30.06.2000
15	Ecuador	16.09.1970	12.03.1975	04.05.1982	x	x	x	16.12.2003	14.08.2000			06.09.1995	29.04.1999
16	El Salvador		31.12.1991	26.01.2000	x	x	x	26.01.2000	26.01.2000	23.03.2006	13.09.2007	30.10.1995	27.01.1999
17	Granada	03.01.1989	22.10.1986									03.06.2005	19.08.1998
18	Guatemala	03.05.1983	19.09.1973	21.07.1983	x	x	x	30.08.2002	29.10.2001			12.02.2003	26.03.1999
19	Guyana											12.09.1997	05.08.2003
20	Haiti											22.02.2006	15.02.2006
21	Honduras		14.03.1979	30.10.2003	x	x	x	30.10.2003	30.10.2003			29.08.2005	24.09.1998
22	Jamaica	28.07.1970	13.08.1975									08.09.2000	17.07.1998
23	Mexico	28.05.1932	08.04.1974	11.02.1982	x	x	x	10.03.1998			22.05.2003	29.08.1994	09.06.1998
24	Nicaragua	05.10.1990	07.08.1975	05.12.2000	x		x	05.12.2000	05.12.2000	15.09.2005	06.09.2007	05.11.1999	30.11.1998
25	Panama	04.12.1970	20.03.1974	26.03.1997	x	x	x	26.03.1997	03.10.1999		16.08.2004	07.10.1998	07.10.1998
26	Paraguay	22.10.1933	09.06.1976	22.09.2004	x	x	x		22.09.2004			01.12.1994	13.11.1998
27	Peru	13.08.1985	05.06.1985	03.07.1997	x		x	03.07.1997	03.07.1997		14.02.2005	20.07.1995	17.06.1998
28	St. Kitts & Nevis	27.04.1989	02.04.1991									21.05.2004	02.12.1998
29	Saint Lucia	21.12.1988	26.11.1986									09.04.1997	13.04.1999
30	St. Vincent & The Grenadines	24.03.1999	13.05.1999									18.09.2002	01.08.2001
31	Suriname		06.01.1993									28.04.1997	23.05.2002
32	Trinidad and Tobago	31.08.1962	19.07.2007									24.06.1997	27.04.1998
33	United States of America	10.04.1975	26.03.1975	24.03.1995	x	x			24.05.1999			25.04.1997	
34	Uruguay	12.04.1977	06.04.1981	06.10.1994	x	x	x	18.09.1998	18.08.1998	07.08.2007		06.10.1994	07.06.2001
35	Venezuela	08.02.1928	18.10.1978	19.04.2005	x	x	x		19.04.2005			03.12.1997	14.04.1999
TOTAL	REGION	25	33	20	20	17	19	16	18	3	9	33	33
	UNIVERSAL	133	159	103	101	89	96	87	88	35	56	183	155

(*) The full title of each Treaty appears on page 7.

Humanitarian Commitment

During the 30th International Conference of the Red Cross and Red Crescent held in Geneva from 26 to 30 November 2007, ten American States signed pledges to take concrete measures intended to reinforce IHL implementation during the period 2008 to 2011.



MEASURES FOR THE NATIONAL IMPLEMENTATION OF IHL IN THE AMERICAS

Complementary Measures by the States

Specific measures are required to implement the provisions of international humanitarian law treaties so that they can be applied by the parties to armed conflicts. Although many treaty norms can be directly applied, it is always crucial that their provisions be at least known. Moreover, there are numerous rules that require some sort of supplementary action by the States for the law to be effectively put into practice once armed conflict has erupted. The measures that States have committed to adopt vary in nature, ranging from legislative adjustments to administrative, practical and educational measures.



Legislative and Regulatory Measures

In the year under review States in the region developed the following legislative and regulatory measures intended to implement key norms of international humanitarian law at the national level:

- **Argentina:** an amendment to the criminal law was completed by the publishing of Law No. 26000 on January 9th, 2007 (enacted January 17th, 2007). This law specifically penalizes war crimes contemplated in the Rome Statute of the International Criminal Court, and includes certain war crimes defined by the Additional Protocol I of 1977 that are not provided for in the Rome Statute. Furthermore, it adapts the crime of recruiting children to the wording of the 2000 Optional Protocol on the Involvement of Children in Armed Conflict.
Moreover, Law No. 26247 implementing the 1993 Convention on Chemical Weapons was adopted on April 25th, 2007. The Law was published on May 22nd, 2007 and entered into force on May 30th, 2007.
- **Brazil:** A government work team has been working to finalize a bill condemning war crimes as they are set forth in the 1949 Geneva Conventions, the Additional Protocol I of 1977 and the Rome Statute.
- **Colombia:** Regulatory Decree No. 929 dated March 23rd, 2007 was adopted. This Decree, together with Law No. 589 of the year 2000, allowed the Comisión Nacional de Búsqueda de Personas Desaparecidas (National Commission on Missing Persons) to draft the Plan Nacional de Búsqueda de Personas Desaparecidas (National Plan to Find out the Fate of Missing Persons). This Plan, which defines inter-institutional and multidisciplinary strategies developed to find persons deemed 'missing', was enacted on February 15th, 2007. Moreover, on August 23rd, 2007, the Attorney General's Office passed Resolution No. 02889 creating a sub-unit to support the Unidad Nacional de Fiscalía para la Justicia y la Paz (Prosecution Unit for Justice and Peace) to encourage the search for missing or dead persons within the framework of Act 975/2005. In addition, 90 anti-personnel mines were destroyed in August 2007.
- **Costa Rica:** The National Assembly finalized a bill amending the criminal code. Said bill intends to punish war crimes set forth in the 1949 Geneva Conventions, Additional Protocol I of 1977 and the Rome Statute. It also includes a series of grave breaches of international humanitarian law. This bill does not draw any distinction between crimes committed during international armed conflict and those committed in relation to non-international armed conflicts.
- **Bolivia:** A Supreme Order was drafted regarding suitable operational practices to deal with human remains, information on missing persons, and the judicial reporting on absences due to enforced disappearance. This Order is aimed at developing suitable operational practices to deal with human remains and information on missing persons with a view to promoting the clarification of cases of enforced disappearance in violent situations (internal violence and armed conflicts). In addition, it provides for civil proceedings to report absences due to enforced disappearance in court. This bill is likely to give momentum to the work carried out by the CIEDEF - Consejo Interinstitucional para el Esclarecimiento de Desapariciones Forzadas (Inter-institutional Council for the Clarification of Enforced Disappearances) created by Supreme Order No. 27089 dated June 18th, 2003 —as amended by S.O. No. 27309 dated January 9th, 2004 and S.O. No. 27556 dated June 4th, 2004. Moreover, a bill on the implementation of the Rome Statute is still pending at the Comisión Mixta de Constitución y Justicia (Joint Committee on Constitution and Justice) of the Lower House of Parliament.

IMPLEMENTING IHL

- **Ecuador:** A law governing the use and protection of the Red Cross, Red Crescent and Red Crystal emblems was passed on June 26th, 2007. In turn, a criminal bill on anti-personnel mines was drafted. Also, the Comisión Nacional para la Aplicación del Derecho Internacional Humanitario (National Committee for the Implementation of International Humanitarian Law) resumed the assessment of a bill to implement the Rome Statute, with a view to submitting it to the consideration of the Honourable National Congress in 2008.
- **El Salvador:** A bill providing for the inclusion of war crimes into the criminal code was drafted.
- **Guatemala:** A bill was drafted with a view to penalizing war crimes in the criminal code. Moreover, the Congress is currently discussing a bill to establish the Comisión Nacional de Búsqueda de Víctimas de Desaparición Forzada y de otras Formas de Desaparición (National Committee for the Search of Victims of Enforced Disappearance and other Forms of Disappearance), in addition to a bill to provide for comprehensive compensation under a Programa Nacional de Resarcimiento (National Redress Programme).
- **Honduras:** A draft reform of the criminal code was finalized. It includes punishment of war crimes and other violations of international humanitarian law.
- **Jamaica:** A bill was drafted to implement the four Geneva Conventions, the two Additional Protocols of 1977 and the 2005 Additional Protocol (the Geneva Conventions Bill).
- **Mexico:** The process to draft a law governing and protecting the Red Cross, Red Crescent and Red Crystal emblems came to an end. The decree enacting said law was published on March 23rd, 2007 and the law became effective on March 24th, 2007.
- **Nicaragua:** On November 13th, 2007, the National Assembly passed a new criminal code containing several provisions on the punishment of war crimes.
- **Panama:** Law No. 14 providing for a new criminal code was adopted on May 18th, 2007, and published on May 22nd, 2007. The new code, which is to be enacted on May 22nd, 2008, penalizes war crimes set forth in the 1949 Geneva Conventions, Additional Protocol I of 1977 and the Rome Statute, as well as other violations of international humanitarian law, including breaches of treaties prohibiting or restricting certain weapons or protecting certain property, especially cultural property. In accordance with the code, said crimes may be committed both in the framework of international and non-international armed conflicts. It is also worth noting that for all war crimes defined by it, the new criminal code provides for universal jurisdiction, the responsibility of superiors for acts committed by their subordinates, the non-applicability of statutory limitations to punishments and the exclusion of superior orders or prescription of law as a defence.
- **Paraguay:** A bill for the implementation of the Rome Statute was finalized, which provides for war crimes defined in the treaty and adds certain war crimes included in Additional Protocol I but not set forth in the Rome Statute. The bill also defines the crime of recruiting children pursuant to the 2000 Optional Protocol on the Involvement of Children in Armed Conflict.

MEASURES FOR THE NATIONAL IMPLEMENTATION OF IHL IN THE AMERICAS

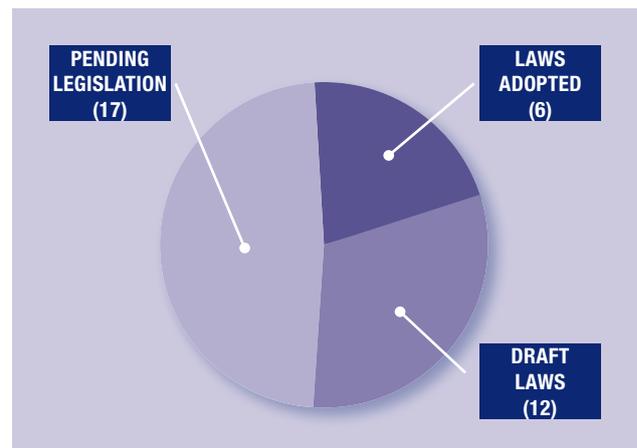
- **Peru:** Resolution No. 041-2007-MP-FN-JFS, issued by the Junta de Fiscales Supremos (Board of Senior Prosecutors) and published on September 10th, 2007 in the Peruvian Official Gazette, created the Fiscalía Provincial Penal Supraprovincial de Huancavelica (Huancavelica Provincial Criminal Prosecutor's Office) having jurisdiction over the Judicial District of the region to prosecute crimes against humanity provided for in Chapters I, II and III of Title XIV-A of the Criminal Code that may have been committed, as well as ordinary crimes that may have amounted to violations of human rights, enforced disappearances, extrajudicial killings and exhumation of clandestine graves. On the occasion of the project 'Memorias de los desaparecidos 2007' (Memoirs of the Missing – 2007), funded by the ICRC, the Peruvian Forensic Anthropology Team (EPAF, as per its Spanish acronym) collected over 1000 ante-mortem forms—in addition to the 487 forms collected in 2006 for the same project—in Lima, Ayacucho, Junín, Huancavelica and Ica. Said ante-mortem forms are intended to assist in the process of searching, identifying and delivering the human remains of missing persons. The State encourages these processes and supports the 'right to know' of the relatives of missing persons, who are given a copy of the relevant form. In turn, as part of the project 'Acompañamiento Psicosocial a familiares de personas desaparecidas 2007' (Psycho-social Assistance to Relatives of Missing Persons 2007), funded by the ICRC, the Red para la Infancia y la Familia – REDINFA (Child and Family Network) carried out activities to provide emotional support to the relatives of missing persons—both related and non-related—to face the forensic anthropology investigations and to increase their influence and discussion power in relation to their demands and grievances. Additionally, efforts were made to raise the awareness of the staff of health networks and micro-networks and of both public and private forensic teams on psychosocial support and assistance to the relatives of missing persons. Moreover, on October 11th, 2007, the bill on crimes against international human rights law and international humanitarian law was brought before the National Congress again under No. 1701/2007-CR.
- **Dominican Republic:** The National Congress passed Law No. 220-07 on August 2nd, 2007, which regulates the use and protection of the Red Cross, the Red Crescent and the Red Crystal emblems.
- **Suriname:** A bill was drafted on the implementation of the Rome Statute. The bill contemplates the punishment of war crimes.
- **Trinidad and Tobago:** A bill on the implementation of the Geneva Conventions (Geneva Conventions bill) was drafted, which provides for the penalization of war crimes set forth in the 1949 Geneva Conventions and Additional Protocol I of 1977. It also regulates the use of the Red Cross and Red Crescent emblems.
- **Venezuela:** A bill on the use and protection of the Red Cross, Red Crescent and Red Crystal emblems was finalized.



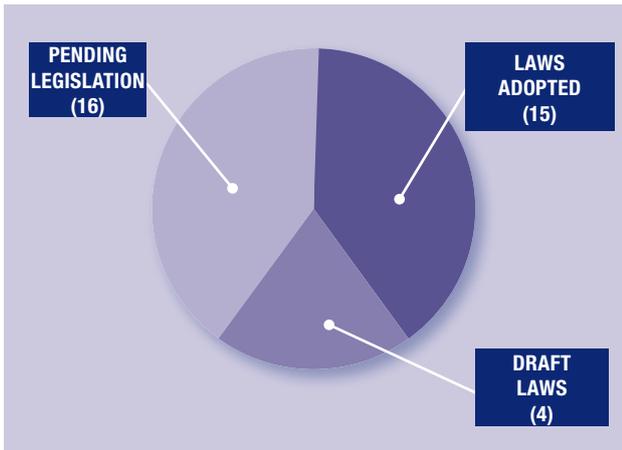
Punishment of War Crimes

Penal laws in six American States (Argentina, Canada, Colombia, Panama, United States of America, Uruguay) allow them to punish war crimes according to their international undertakings.

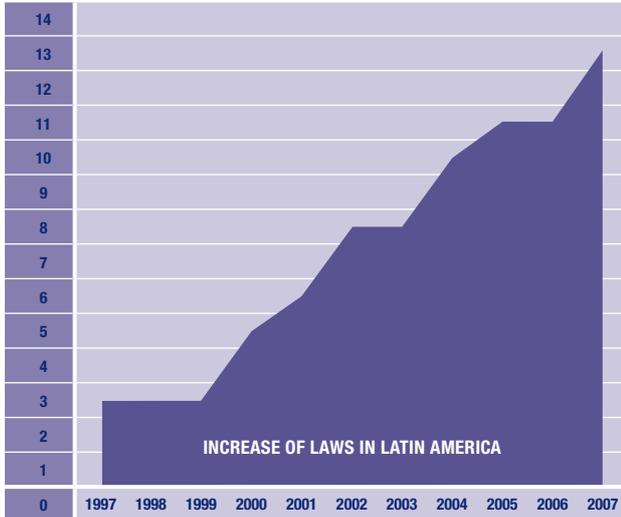
Bills have been drafted in twelve American States (Bolivia, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, Trinidad and Tobago) to adapt criminal legislation to international humanitarian law treaties in order to punish war crimes.



Protection of the Emblems

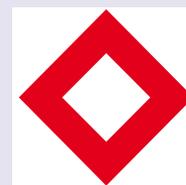


Laws in fifteen American States,¹ thirteen of them Latin American, govern the use and protection of the Red Cross and Red Crescent emblems as provided for in the 1949 Geneva Conventions and their Additional Protocols of 1977. Bills on this issue were drafted in another four American States.²



The number of laws governing the use and protection of the Red Cross and Red Crescent emblems increased between 1997 and 2007 in Latin America.

Given the growing number of States becoming parties to Additional Protocol III of 2005 to the 1949 Geneva Conventions, State Parties have to review their legislation related to the emblems. The Red Crystal on a white background is given the same protection as the Red Cross and the Red Crescent emblems.



The Red Crystal

¹ Bolivia, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, United States of America, Uruguay.

² Argentina, Ecuador, Trinidad and Tobago, Venezuela.

Integration of IHL by the Armed Forces

Integration of international humanitarian law by the armed forces is a mandatory requirement to implement the treaties at a national level. It seeks to translate international rules into specific mechanisms that ensure the protection of people and property in the event of armed conflict. For members of the armed forces to act in accordance with the rules of international humanitarian law, these must be fully integrated in military doctrine, training, instruction, systematic operative procedures and the choice of weapons.

Developments in the actions undertaken by the armed forces to incorporate international humanitarian law throughout 2007 were as follows:

- **Argentina:** There is a national plan in the form of a series of hierarchically organized orders and provisions intended to ensure compliance with the obligation to disseminate and teach international humanitarian law at all levels.
- **Bolivia:** The armed forces conducted four workshops with the purpose of developing proposals to integrate international humanitarian law into the handbooks on the military decision making process of all three armed forces (army, navy, air force). The proposals have been submitted to the relevant authorities for approval.
- **Brazil:** The armed forces have provisions instructing to disseminate and teach international humanitarian law. The most significant development in 2007 was the preparation of a guideline to integrate international humanitarian law which is now in its final stage, awaiting approval by the Ministry of Defence and the three armed forces.
- **Chile:** There is a national plan in the form of a series of hierarchically organized orders and provisions that see to the dissemination and teaching of international humanitarian law at all levels. In 2007, the Chilean Army launched a review process of all its doctrine handbooks to ensure that international humanitarian law is included in them, as applicable.
- **Colombia:** Based on the recommendations made by the UN and other external organizations, such as the ICRC, the armed forces passed Guideline No. 051 of 2007 which supplements Guideline No. 800-4 of the Permanent Interaction Plan for International Humanitarian Law of 2004. This guideline sets out specific missions for the Office of the Inspector General of the Armed Forces, the Office for Training and Doctrine and the instruction, training and re-training schools of the armed forces. Similarly, through guideline No. 14 issued in compliance with the recommendations made by the UN and other external organizations such as the ICRC, the armed forces are implementing the role of an operational legal advisor. The training of sixty-eight lawyers started this year. They are currently undergoing a preliminary training stage at the Escuela Militar de Cadetes (Military Cadet School). In a second phase, they will be trained at the Universidad Militar Nueva Granada (Nueva Granada Military University). Moreover, on many occasions the Office of the Joint Chiefs of Staff organized drills on “war games” and lessons learnt to properly implement international humanitarian law in specific military operations. Thanks to these analyses and reviews of the integration of and training on international humanitarian law, it has been possible to further improve the quality of the hands-on training received by troops and of their implementation of international humanitarian law. Additionally, it has enabled to further reinforce the training in and knowledge of this law by instructors and platoon commanders responsible for integrating international humanitarian law into the planning and conduct of hostilities.

MEASURES FOR THE NATIONAL IMPLEMENTATION OF IHL IN THE AMERICAS

- **Ecuador:** The armed forces conducted two workshops with the purpose of formulating proposals to integrate international humanitarian law into the Army Decision-Making Process Handbook and in the chapters on offensive and defence of the Infantry Brigade Campaign Handbook. The proposals received have been submitted to the relevant authorities for approval. Moreover, the Academia de Guerra de la Fuerza Terrestre (Army War College) has included a 32-hour graded subject on international humanitarian law and human rights in the basic course (intended for future captains) and in the advanced curriculum (intended for future majors) as well. In turn, the Naval War College and the Air War College have included a 16-hour module on international humanitarian law in their Chief of Staff training course.
- **El Salvador:** Efforts are still being made to strengthen the autonomy of the armed forces for the dissemination and integration of international humanitarian law into military teachers' regional training courses. Thanks to this, international humanitarian law has been included in the exercises conducted at the Centro de Entrenamiento Táctico Computarizado (Computerized Tactical Training Centre), where the Salvadoran army commanders are trained.
- **Guatemala:** An assessment of the integration of international humanitarian law at different levels and institutions of the military training system resulted in a strategy to methodologically integrate international humanitarian law into military education and training. High-ranking military officers were trained to undertake this process.
- **Honduras:** An assessment was undertaken to determine the relevance of integrating international humanitarian law into the military doctrine.
- **Mexico:** The first workshops on the integration of international humanitarian law offered in 2006 allowed redirecting efforts and developing a new joint strategy to strengthen and further expand the process. The High Command has directed key educational establishments in the Army and Air Force Education Systems to become involved in the process. As to training, the twelve Centros Regionales de Entrenamiento (Regional Training Centres) include aspects of international humanitarian law in their existing operational tactics exercises. Concurrently, the Secretariat for National Defence is addressing the issue of grave breaches to international humanitarian law by delivering –since 2006– two annual courses for lawyers at the Servicio de Justicia Militar (Military Justice Service).
- **Nicaragua:** The integration of international humanitarian law was undertaken together with the Escuela Superior del Estado Mayor (Chiefs of Staff Higher Education School) and with the Escuela Nacional de Sargentos (National Sergeant Training School) allowing work to be done at both the operative and tactical levels of the Army.
- **Paraguay:** The Joint Chiefs of Staff have established a unit in charge of ensuring the implementation of their plan for the dissemination and teaching of international humanitarian law. During 2007, this unit continued monitoring and developing the activities scheduled in its international humanitarian law dissemination and teaching plan.



IMPLEMENTING IHL

- **Peru:** The armed forces conducted four workshops intended to formulate proposals to integrate international humanitarian law into the relevant military decision-making handbook of the Joint Chiefs of Staff, and other three workshops to validate the proposals developed by the three armed forces (army, navy, air force) to integrate international humanitarian law. In addition, the Centro de Derecho Internacional Humanitario de las Fuerzas Armadas (International Humanitarian Law Centre of the Armed Forces) continued delivering IHL courses at basic and advanced levels.
- **Venezuela:** The Ministry of Defence continued its efforts to promote the integration of international humanitarian law into both the instruction and training of the National Armed Forces, as well as into the procedure manuals used by them.

At the level of the Central American region, the efforts made together with the Conference of Central American Armed Forces (CFAC, Conferencia Centroamericana de las Fuerzas Armadas) were based on the development of an IHL basic training course for Legal Advisors to the Armed Forces that are members to the Conference, plus Dominican Republic, based on Article 82 of Additional Protocol I to the Geneva Conventions.

It should also be stressed that a forum of Military Chiefs of CARICOM Member States was created in 2006, where participants underscored the significance and importance of integrating international humanitarian law into military operations and training. In 2007, during a meeting sponsored by the ICRC, Operations Officers of the Chiefs of Defence Staff of CARICOM Member States agreed to prepare an exhibit integrating international humanitarian law into the operations order. Applicable regulations in the event of internal disturbances and tensions and in any other violent situation were also part of the discussion.

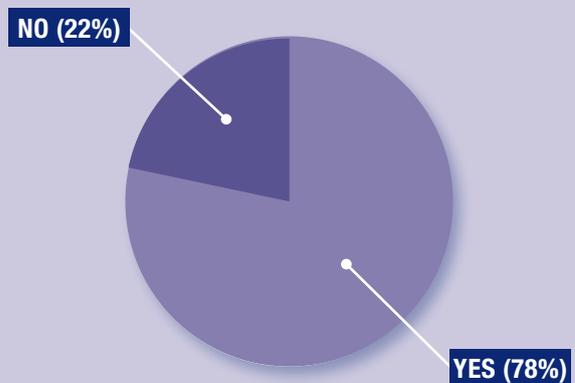


Integration of IHL in Academic Teaching

By ratifying international humanitarian law treaties, the States have undertaken to give their provisions as much dissemination as possible. This commitment also entails ensuring that future leaders or decision-makers will be aware of their responsibilities under international humanitarian law and will act accordingly. Many policy makers whose policies influence or affect persons protected by international humanitarian law have received academic training. Integrating international humanitarian law into academic teaching provides them with the tools and knowledge needed to observe the law.

Although teaching of international humanitarian law witnesses to a confirmed interest in this issue by academic teaching institutions, progress to integrate IHL into their syllabuses in the region was uneven in the year under review. A significant number of universities in Argentina, Chile, Colombia, Ecuador, Peru and Uruguay offer international humanitarian law courses systematically so that their graduates have basic knowledge on this branch of public international law. Postgraduate courses —Masters and PhD programs— often provide a deeper knowledge on this subject. In Bolivia, Brazil, Costa Rica, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama and Peru, international humanitarian law is taught at certain universities, especially at law schools. On the other hand, international humanitarian law is not a mandatory course in the university syllabus of English-speaking Caribbean States, Honduras, Paraguay, Suriname and Venezuela.

In the United States of America, the ICRC and the Washington College of Law of the American University have carried out a nation-wide research on the teaching of international humanitarian law in 77 law colleges. Seventy-eight per cent of respondents said that IHL should be taught more systematically in their academic institutions.



SHOULD IHL BE TAUGHT MORE THOROUGHLY AT YOUR SCHOOL?

Integration of IHL in Secondary School Education

In 2000, the ICRC launched a program called “Exploring Humanitarian Law” (EHL), which consists in a series of teaching modules based on issues related to international humanitarian law and IHL principles. This program is a proposal to educational authorities to improve the understanding by teachers and students –the citizens-to-be– of humanitarian issues regarding situations of armed conflict, but also of general violence.

The most important program contents relate to values such as tolerance, respect and sympathy, and may be integrated into the current curricula of courses such as civic education, history, social science or philosophy. EHL provides teachers with highly participatory teaching and methodological resources.

Efforts were furthered along 2007 in the field of teacher training and the assessment of the work done in the countries where EHL is taught in secondary school classrooms. New workshops for teachers were offered in Bolivia, Brazil, Honduras, Peru, Trinidad and Tobago, and Uruguay. In addition, the Ministries of Education of Honduras and Trinidad and Tobago signed cooperation agreements with the ICRC aimed at scheduling activities for many years to come.

Over 2,000 teachers have received EHL training in Latin America and the Caribbean to date. They have worked with more than 100,000 students in the classrooms ever since the program was launched in the region.



Boris Heger / ICRC

NATIONAL COMMITTEES FOR IHL IMPLEMENTATION

IMPLEMENTING IHL

In recent years, an increasing number of States have established mechanisms to readily respond to international humanitarian law requirements and to comply with that law. Said mechanisms have generally taken the form of inter-ministerial or inter-secretarial committees. In general, these committees are composed of government agencies having responsibilities in international humanitarian law issues, such as the Foreign Offices and the Departments of Defence, Justice, Governance, Health, Education and Culture. They are not necessarily limited to the Executive Power; they can also integrate the Legislative and the Judiciary. They frequently receive the contribution of other agencies, such as the National Societies of the Red Cross or the academia.

It is worth noting that the processes for the national implementation of international humanitarian law have been considerably strengthened in those countries that have created a national IHL committee. The States that have made the biggest progress in the adoption of national measures have often been those that enjoyed the support of an international humanitarian law committee. Judging by the outcomes, these committees allow States to work more efficiently by streamlining resources and concentrating usually scattered competencies. Moreover, they allow keeping a permanent focus on IHL irrespective of any special situation or different priorities.

With the addition of Honduras, which established an international humanitarian law committee during 2007, there are seventeen States in the Americas with such committees to date.

COUNTRY	COMMITTEE ESTABLISHED IN
Argentina	1994
Bolivia	1992
Brazil	2003
Canada	1998
Chile	1994
Colombia	2000
Costa Rica	2004
Dominican Republic	1995
Ecuador	2006
El Salvador	1997
Guatemala	1999
Honduras	2007
Nicaragua	1999
Panama	1997
Paraguay	1995
Peru	2001
Uruguay	1992

The international humanitarian law committees of the Americas met on March 19th – 21st, 2007 in Geneva, Switzerland with their counterparts from all over the world, at the Second Universal Meeting of National International Humanitarian Law Committees. More than 80 Committees took part of the event, where they discussed current international humanitarian law issues with a particular focus on national measures that need be implemented to solve the problem of missing persons and their relatives.

THE OAS AND IHL

Promotion of IHL

Throughout 2007, the Organization of American States (OAS) played a major role by promoting the respect for international humanitarian law in the region and encouraging Member States to become Parties to treaties governing this law as well as to adopt any necessary measures for its implementation at a national level. The Organization continued offering forums that allowed Member States to discuss issues related to international humanitarian law in greater depth, either through the work performed by the committees, as part of professional training, or even by allowing access to information available on a Web site.

At the thirty-seventh regular session held in Panama on June 5th, 2007, the General Assembly of the OAS approved resolution AG/RES. 2293 (XXXVII-O/07) on the promotion of and respect for international humanitarian law. This resolution is the most recent of a series that began to be adopted in 1994.

The following are other major resolutions on the promotion of international humanitarian law approved by the General Assembly in 2007:

- **AG/RES. 2261 (XXXVII-O/07)** - Support for Action Against Antipersonnel Mines in Ecuador and Peru;
- **AG/RES. 2264 (XXXVII-O/07)** - Inter-American Program for the Development of International Law;
- **AG/RES. 2267 (XXXVII-O/07)** - Right to the Truth;
- **AG/RES. 2269 (XXXVII-O/07)** - The Americas as an Antipersonnel-Land-Mine-Free Zone;
- **AG/RES. 2271 (XXXVII-O/07)** - Protecting Human Rights and Fundamental Freedoms while Countering Terrorism;
- **AG/RES. 2272 (XXXVII-O/07)** - Support for the Work of the Inter-American Committee against Terrorism;
- **AG/RES. 2277 (XXXVII-O/07)** - Internally Displaced Persons;
- **AG/RES. 2279 (XXXVII/O/07)** - Promotion of the International Criminal Court;
- **AG/RES. 2291 (XXXVII-O/07)** - Strengthening of Human Rights Systems pursuant to the Mandates Arising from the Summits of the Americas;
- **AG/RES. 2295 (XXXVII-O/07)** - Persons Who Have Disappeared and Assistance to Members of their Families.

THE OAS AND IHL

Pursuant to the mandate bestowed by resolution AG/RES. 2226 (XXXV-O/06) adopted on June 6th, 2006, the Permanent Council, with the support of the General Secretariat, entrusted to the Committee on Juridical and Political Affairs the organization of a special meeting on international humanitarian law, which took place at the OAS headquarters on February 1st, 2007. This meeting offered an opportunity for analysis and exchange regarding the current concerns on international humanitarian law related to Resolution 2226. The ICRC was privileged to make a contribution to this meeting, which was also attended by several government and non-governmental experts from all over the region.

On August 6th - 7th, 2007 the OAS, the Mexican Secretariat for Foreign Affairs and the ICRC convened a regional meeting on the national implementation of international humanitarian law in the Americas. The meeting, held in Mexico City, was intended for OAS Member States and was part of the processes to adjust national laws to international humanitarian law treaties.



Training on IHL

On January 31st, 2007 the Committee on Juridical and Political Affairs of the Permanent Council offered a course on international humanitarian law for the staff of the OAS and of Member States' Permanent Missions. The course was held in Washington D.C., and it was organized with the support of the Department of International Legal Affairs of the OAS in cooperation with the ICRC.

In turn, the Inter-American Juridical Committee favoured the inclusion of two classes on international humanitarian law at the XXXIV Course on International Law conducted in Rio de Janeiro, Brazil, between July 30th and August 24th 2007. Both classes were delivered by ICRC staff.

Moreover, the ICRC had the opportunity to make a contribution by delivering one module on international humanitarian law at the International Law Sessions organized by the OAS with the support of Canada's College of the Americas and the Universidad Centroamericana in Managua, Nicaragua, on November 19th – 23rd, 2007.

ICRC ADVISORY ACTIVITIES IN THE AMERICAS

IMPLEMENTING IHL

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

This is a mandate bestowed on the ICRC by the States and established in Article 5(2) (c) of the Statutes of the International Red Cross and Red Crescent Movement. Pursuant to this article, the ICRC has to “work for the faithful implementation of international humanitarian law”. That mandate was reasserted in Resolution 1 of the 26th International Conference of the Red Cross and Red Crescent, which endorsed the Final Declaration of the International Conference for the Protection of War Victims, adopted on September 1st 1993, and the recommendations drawn up by the Intergovernmental Group of Experts at a meeting held on 23rd - 27th January 1995 in Geneva, Switzerland.

The Advisory Service works in a decentralized fashion with a team of experts based at ICRC headquarters in Geneva and legal advisors in various regions of the world. In the Americas, the Advisory Service works with seven advisors based in Bogotá, Buenos Aires, Caracas, Guatemala City, Lima, Mexico City and Port of Spain, who report to a coordinator based in Mexico City.

During 2007 the Advisory Service provided legal and technical advice to the authorities of 22 American States, encouraged the exchange of information among all 17 international humanitarian law national committees in the region and promoted the implementation of IHL in all 35 States of the Americas. Specific activities carried out during the year under review consisted of the following:

- **advising** States on the content of international humanitarian law treaties to which they are not a party, in order to facilitate their ratification;
- **guiding** States on the consistency between their national legislation and international humanitarian law treaties;
- **issuing** legal opinions for States on bills of law to ensure their conformity with international humanitarian law treaties, especially in the area of international criminal law;
- **advising** States on the development of legislative and regulatory measures to prevent the disappearance of persons and respond to the needs of the families of missing persons;
- **designing**, together with the competent authorities, strategies intended to strengthen national international humanitarian law committees and support the implementation of said strategies;
- **facilitating** the exchange between international humanitarian law national committees and external experts;
- **informing** States on the developments in the field of international humanitarian law, for example about the Red Crystal emblem and the discussions on cluster munitions;
- **organizing** meetings of government experts on issues related to international humanitarian law and its national implementation;
- **delivering** conferences on issues related to international humanitarian law and its national implementation;
- **organizing** or contributing to professional training courses for the authorities;
- **sharing** information on national measures implementing international humanitarian law, including through the ICRC's Advisory Service data bank made available to States and to the public at large. This data bank is updated regularly with information on all 35 American States. The data bank can be accessed at: <http://www.icrc.org/ihl-nat>.

ANNEX

AG/RES. 2293 (XXXVII-0/07) Promotion of and Respect for International Humanitarian Law

(Adopted at the fourth plenary session, held on June 5, 2007)

THE GENERAL ASSEMBLY,

RECALLING its resolutions AG/RES. 1270 (XXIV-0/94), AG/RES. 1335 (XXV-0/95), 1408 (XXVI-0/96), AG/RES. 1503 (XXVII-0/97), AG/RES. 1565 (XXVIII-0/98), AG/RES. 1619 (XXIX-0/99), AG/RES. 1706 (XXX-0/00), AG/RES. 1709 (XXX-0/00), AG/RES. 1770 (XXXI-0/01), AG/RES. 1771 (XXXI-0/01), AG/RES. 1904 (XXXII-0/02), AG/RES. 1944 (XXXIII-0/03), AG/RES. 2052 (XXXIV-0/04), AG/RES. 2127 (XXXV-0/05), AG/RES. 2226 (XXXVI-0/06), and AG/RES. 2231 (XXXVI-0/06);

RECALLING ALSO that, under the Charter of the Organization of American States (OAS) and pursuant to all applicable provisions of international humanitarian law and international human rights law within their respective spheres of application, human rights and fundamental freedoms must always be respected, including in situations of armed conflict;

DEEPLY CONCERNED about the persisting violations of international humanitarian law that continue to cause suffering to all victims of armed conflict;

WELCOMING the goals of resolution 61/89 of the United Nations General Assembly; and urging states to consider participation in discussions on the feasibility, scope, and parameters of a broad, legally binding draft instrument on trade in conventional weapons;

RECALLING that it is the obligation of all member states, in all circumstances, to respect and ensure respect for the 1949 Geneva Conventions;

CONSIDERING that international humanitarian law contains provisions that reflect customary international law that states must observe;

EMPHASIZING that in cases of serious violations of international humanitarian law constituting crimes under international law, states have the duty to investigate, and if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations, and if said person is found guilty, the duty to punish him/her;

EMPHASIZING ALSO the obligation of states to take all necessary measures, including, when applicable, penal sanctions, for the suppression of other breaches;

UNDERSCORING the need to strengthen the rules of international humanitarian law by means of their universal acceptance, their broader dissemination, and the adoption of national measures for their application;

WELCOMING the universal adoption of the four 1949 Geneva Conventions on the protection of victims of war, to which 194 states are parties to date;

RECALLING that June 8, 2007, will be the 30th anniversary of the adoption of Additional Protocols I and II, of 1977, to which 34 and 33 OAS member states, respectively, are parties;

RECALLING ALSO that 11 member states have issued the declaration envisioned in Article 90 of Additional Protocol I, of 1977, on recognition of the competence of the International Humanitarian Fact-Finding Commission, and that on December 7, 2006, its 15 members were elected, including representatives of Chile, Colombia, and Uruguay;

AWARE of the Hemisphere's rich cultural heritage, which contains cultural assets recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as world heritage, and which could benefit from the systems for the promotion and protection of international humanitarian law;

WELCOMING the entry into force, on January 14, 2007, of the third Additional Protocol to the 1949 Geneva Conventions, on the adoption of the red crystal as a distinctive emblem additional to the red cross and the red crescent, and its ratification by Honduras on December 8, 2006, and by the United States of America on March 8, 2007;

OBSERVING the entry into force, on November 12, 2006, of the 2003 Protocol on explosive remains of war (Protocol V) to the 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects;

RECALLING the adoption, on December 20, 2006, by the United Nations General Assembly, of the International Convention for the Protection of All Persons from Enforced Disappearance;

RECOGNIZING the important advisory work of the national committees or commissions on international humanitarian law in support of the efforts of states in the area of promotion of and respect for that law through the adoption of national enacting measures, and that 17 member states of the Organization have such organizations;

NOTING the Second Universal Meeting of National Committees or Other National Bodies on International Humanitarian Law, on legal measures and mechanisms for preventing the disappearance of persons, elucidating the fate of all persons who have disappeared, and helping their family members, held in Geneva from March 19 to 21, 2007, in which the General Secretariat actively participated, and in which some member states that have national committees or are establishing them also took part;

NOTING ALSO the results achieved at the following meetings in which representatives of member states and OAS officials took part:

- a. United Nations Conference to Review Progress in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (New York, June 26–July 7, 2006);
- b. Regional Meeting of Experts on Weapons in International Humanitarian Law (Buenos Aires, August 22–23, 2006);
- c. Third Review Conference of the States Parties to the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Geneva, November 7–17, 2006);
- d. Sixth Review Conference of the States Parties to the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Geneva, November 20– December 8, 2006);
- e. Special meeting of the Committee on Hemispheric Security on combating the proliferation of nuclear, chemical, and biological weapons, their delivery systems, and related materials (Washington, D.C., December 11, 2006);
- f. Second Universal Meeting of National Committees or Other National Bodies on International Humanitarian Law (Geneva, March 19–21, 2007);

IMPLEMENTING IHL

g. Regional Seminar of National Committees on International Humanitarian Law for Latin America and the Caribbean (San José, Costa Rica, January 18–19, 2007); and

h. Oslo Conference on Cluster Munitions (Oslo, February 22–23, 2007);

COMMENDING in that sense the holding on January 31, 2007, of the first specialized course on international humanitarian law for staff of the permanent missions and of the OAS, and of the Special Meeting of the Committee on Juridical and Political Affairs on Current Issues in International Humanitarian Law, on February 1, 2007; and

EMPHASIZING the special role of the International Committee of the Red Cross (ICRC) as a neutral, impartial, and independent institution working to protect and assist the victims of armed conflicts and other situations of armed violence, as well as to promote respect for international humanitarian law and the principles underlying it,

RESOLVES:

1. To urge member states and the parties engaged in armed conflict to honor their obligations under international humanitarian law, including those pertaining to safeguarding the well-being and dignity of protected persons and property, and the proper treatment of prisoners of war.

2. To urge member states that have not yet done so to consider becoming parties to the following treaties:

a. The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and its 1954 and 1999 Protocols, respectively;

b. The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological Weapons Convention);

c. The 1977 Additional Protocols I and II to the 1949 Geneva Conventions and the 2005 Additional Protocol III, including the declaration envisaged in Article 90 of Additional Protocol I;

d. The 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, including the amendment to its Article I adopted in 2001 and its five protocols;

e. The 1989 Convention on the Rights of the Child, and its 2000 Optional Protocol on the involvement of children in armed conflicts;

f. The 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention);

g. The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction;

h. The 1997 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA);

i. The 1998 Rome Statute of the International Criminal Court;

j. The 1999 Inter-American Convention on Transparency in Conventional Weapons Acquisitions;

k. The 1994 Convention on the Safety of United Nations and Associated Personnel; and

- I. Additional Protocol III to the Geneva Conventions of August 12, 1949, relating to the adoption of an additional distinctive emblem, approved on December 8, 2005.
3. To invite member states to bring about the widest possible dissemination of the rules of international humanitarian law, in particular by incorporating them into military doctrine and manuals, so that armed forces will have the means and mechanisms necessary for their effective application; and by making use of the pertinent media so that such law may be familiar to the civilian population.
4. To urge member states to adapt their criminal law in order to meet their legal obligations under the 1949 Geneva Conventions and, in the case of the states parties thereto, the 1977 Additional Protocol I thereto with respect to the definition of war crimes, the complementary universal jurisdiction, and the responsibility of superiors.
5. To invite member states that are parties to the Rome Statute to cooperate fully with the International Criminal Court and to define under their criminal law the crimes that are within its jurisdiction.
6. To call upon member states to enact laws to regulate the use of and to prevent and, when applicable, punish the misuse of the red cross, red crescent, and, where applicable, red crystal emblems, as well as their denominations, as established in relevant treaties.
7. To urge member states, in keeping with their obligations under international law, to adopt effective measures to prevent the disappearance of persons in cases of armed conflict or other situations of armed violence, to determine the fate of those who have disappeared, and to attend to the needs of their family members.
8. To encourage member states to ensure the adoption of the necessary measures and mechanisms to protect cultural property from the effects of armed conflict, in accordance with their international obligations, and in particular to give consideration to the adoption of preventive measures related to the preparation of inventories, the planning of emergency measures, the appointment of competent authorities, and the enactment of laws to ensure respect for such property.
9. To remind those member states that are parties to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction of their obligation to prevent and suppress any activity prohibited therein when it is carried out by persons or in territory under their jurisdiction or control and of the importance of addressing the needs of victims of antipersonnel mines and, where appropriate, victims of explosive remnants of war, considering, as part of those needs, medical care, rehabilitation, and economic and social reintegration of the victims; and to invite member states to participate actively in the eighth meeting of states parties to the Convention, from November 18 to 22, 2007.
10. To urge member states to adopt, in accordance with their constitutional processes, legislative and other measures, including penal legislation, to implement fully the provisions of the 1925 Geneva Protocol, the 1972 Biological Weapons Convention, and the 1993 Chemical Weapons Convention, as well as to consider ways and means to enhance national implementation and regional and subregional cooperation on implementation of the Biological Weapons Convention.
11. To call upon member states to adopt all necessary measures to comply with their respective international legal obligations regarding the recruitment and use of children in armed forces or armed groups and to prevent their participation in hostilities, in accordance with recognized standards of international humanitarian law, international human rights law, and international refugee law.

IMPLEMENTING IHL

- 12.** To invite member states to consider adopting the appropriate measures, at the national and international levels, to address the grave humanitarian consequences of the unregulated availability of arms, in particular the enactment of laws aimed at strengthening control over the illicit manufacturing of and trafficking in firearms and other related materials, bearing in mind the pertinent provisions of international humanitarian law as one of the criteria for the manufacturing and transfer of weapons, as well as the Programme of Action adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001) and the results of its 2006 Review Conference.
- 13.** To encourage member states to establish procedures for determining, when studying, developing, acquiring, or adopting a new weapon or new means or methods of warfare, whether using, manufacturing, stockpiling, exporting, or transferring them would be contrary to international humanitarian law, and, in that event, to prohibit their use by the armed forces and their manufacture for such purposes.
- 14.** To appeal to the member states of the Organization of American States (OAS) to address the problems identified in resolution 61/89 of the United Nations General Assembly.
- 15.** To recognize the humanitarian consequences of the use of cluster munitions; and to invite states to participate, in the pertinent forum, in ongoing discussions about how to address these consequences.
- 16.** To invite member states to participate actively in the 30th International Conference of the Red Cross and Red Crescent Societies and to consider presenting pledges concerning the promotion of and respect for international humanitarian law.
- 17.** To invite member states to continue to support the work of national committees or commissions responsible for the dissemination and implementation of international humanitarian law; and to urge states where such bodies do not exist to consider establishing them, as a means of strengthening conflict prevention and the role those bodies play in times of peace.
- 18.** To request the Inter-American Juridical Committee to prepare and propose model laws supporting efforts to implement treaty obligations concerning international humanitarian law, on the basis of priority topics identified in consultation with the member states and the ICRC, and to present a progress report on this matter prior to the thirty-eighth regular session of the General Assembly.
- 19.** To express its satisfaction over the cooperation between the Organization and the International Committee of the Red Cross in promoting respect for international humanitarian law and the principles that govern that law; and to urge the General Secretariat to continue to strengthen such cooperation.
- 20.** To request the General Secretariat to continue organizing, in the context of the Committee on Juridical and Political Affairs, through the Office of International Law of its Department of International Legal Affairs, and in coordination with the ICRC, courses and seminars for staff of the permanent missions of the member states to the Organization of American States and for General Secretariat staff and the general public, in order to promote knowledge of and respect for international humanitarian law and related inter-American conventions, including measures for their effective implementation.
- 21.** To instruct the Permanent Council to hold a special meeting, with support from the Office of International Law of the Department of International Legal Affairs, and in cooperation with the ICRC, on topics of current interest in international humanitarian law, including a high-level dialogue, prior to the thirty-eighth regular session of the General Assembly.

22. To instruct the Permanent Council to follow up on this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report to the General Assembly at its thirty-eighth regular session on the implementation of this resolution.

MISSION

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



ICRC

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