

PARTICIPATION IN INTERNATIONAL HUMANITARIAN LAW TREATIES AND THEIR NATIONAL IMPLEMENTATION

Achievements and Activities in the Americas

2006 REPORT

Advisory Service on
international humanitarian law



ICRC

Legal Bases Underlying the Actions of the International Committee of the Red Cross (ICRC)

The work of the 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 the Red Crescent.

At the prompting of the ICRC, governments adopted the initial Geneva Convention in 1864. In the years since, the ICRC, with the support of the entire Movement, has persistently urged the governments to adapt international humanitarian law 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 conflict.

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.

Two Protocols additional to the Geneva Conventions were adopted in June 1977: Protocol I protects the victims of international armed conflicts, while Protocol II protects those of non-international armed conflicts. These Additional Protocols codify the rules that protect the civilian population against the effects of hostilities. Currently, around two-thirds of all States are bound by these Protocols.

The legal bases of any action undertaken by the ICRC can be summarized as follows:

In the four 1949 Geneva Conventions and Additional Protocol I, the international community gives

the ICRC a mandate in the event of international armed conflict. In particular, the ICRC has the right to visit prisoners of war and civilian internees. The Conventions and Additional Protocol I also confer 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 and enshrined in the four Geneva Conventions. In the event of internal disturbances and tensions and 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 Governments, without that offer constituting an interference in the internal affairs of the State concerned.

The role of the ICRC is to “(...) work for the faithful enforcement of international humanitarian law applicable to armed conflicts (...)”.

This report, which was prepared by the ICRC for submission to OAS Member States, is not exhaustive. It only includes the information submitted to the ICRC as at December 31st, 2006. Additional information may be requested from the Advisory Service on International Humanitarian Law (International Committee of the Red Cross, 19 Avenue de la Paix, CH-1202 Geneva), from the Advisory Service Unit for Latin America, in Mexico City, (ICRC Mexico, Calderón de la Barca 210, Col. Polanco, 11550, Mexico, D.F.) or from any other ICRC delegation in the Americas.

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Introduction

This report outlines the main developments concerning the national implementation of international humanitarian law in the Americas during 2006.

Most regulations under this law are set down in international treaties; their effective implementation, however, calls for the adoption of supplementary measures by States Parties, since the failure to do so jeopardizes the very objective and quintessence of international humanitarian law, which seeks to restrain the means and methods of warfare in armed conflict situations and to protect people who do not or no longer take part in hostilities.

International humanitarian law treaties generally enjoy widespread acceptance among States. This is the case with the four 1949 Geneva Conventions, which have been formally ratified by all States, an unprecedented event in contemporary history. These treaties have attained significant acceptance in the Americas, especially in Latin America, where the total number of ratifications exceeds the global average.

Nonetheless, considerable discrepancies still persist between international obligations and their actual implementation, which prevent States from fully honouring their commitments. This situation is a source of concern, as it has a negative impact on the respect for international humanitarian law, thus undermining the protection afforded to victims of armed conflict.

Even though international humanitarian law applies in situations of armed conflict, it is worth noting that each State should adopt measures to implement this law at national level, notwithstanding such State's involvement in a given armed conflict. This is so because whenever a State faces war, or the effects of such war (either because it is a party to the conflict or because it is confronted with the need to make decisions regarding a conflict to which it is not a party), it is already too late to adopt measures that will allow such State to abide by international humanitarian law.

Furthermore, as a result of growing interrelations and interdependencies among countries and societies at all political, economic and social levels, the war-induced humanitarian issues may no longer be considered -let alone be resolved- in isolation. Nowadays, however distant armed conflicts

may be in geographical terms, no one is free from their impacts. Preventing and responding to the suffering caused by armed conflicts is everyone's responsibility. Thus, only when States have the tools necessary to act can we expect the suffering caused by armed conflicts to be mitigated. This specifically entails the timely adoption of national measures for the implementation of international humanitarian law, and peacetime is, unquestionably, the most suitable time for this purpose.

Measures for the implementation of international humanitarian law are as varied as the rules in the treaties they seek to enforce. They generally encompass legislative or regulatory adjustments, guidelines on policies or doctrines, adaptation of educational syllabuses, the development of structures or merely practical measures.

The processes required to develop these measures are often complex, and they involve several State agencies and other players such as the National Societies of the Red Cross or universities; they require States to pay systematic and ongoing attention to the obligations they undertook upon becoming Parties to the treaties.

The concentration of different State competencies has often proven highly effective in making progress towards national implementation of international humanitarian law. To this end, since 1992, 17 States in the region have set up national committees especially entrusted with the task of assisting States in their duty to comply with their commitments in this field, thus allowing them to speed up their work backlog and save resources. The membership of these committees generally includes the different ministries responsible for the adoption of national measures, and often also includes the legislative branch, academia and the National Society of the Red Cross. The latest committee was created in 2006. Worth noting is the fact that the States supported by an international humanitarian law committee are precisely those that have advanced the most in terms of adopting national implementation measures.

A number of actions that are instrumental in the respect for international humanitarian law were adopted in 2006. These include a proposal for a public policy on the issue of forced disappearance in Colombia; publication of a guide on the protection of cultural property in the case of armed conflict in El Salvador; implementation of a permanent plan for the integration of

international humanitarian law by the armed forces in Colombia; Government Agreement No. 246-2006 that created the Committee for the Search of Missing Persons of the Internal Armed Conflict in Guatemala; Legislative Order No. 961 (dated January 10, 2006) that defines war crimes in the Code of Police and Military Justice in Peru; design of guidelines for police training in Colombia; law N° 566 on the punishment of war crimes in the Military Criminal Code of Nicaragua, which became effective on April 5th, 2006; the law on the implementation of the Rome Statute (enacted February 3rd, 2006) (International Criminal Court Act of 2006) in Trinidad and Tobago; Supreme Order No. 011-2006-ED of the Peruvian Government dated June 1st, 2006, which regulates the protection of cultural property in case of armed conflict; law N° 28824 enacted July 21st, 2006 which punishes the use, production and transfer of antipersonnel mines in Peru; and law No. 18026 that punishes war crimes in Uruguay.

The integration of international humanitarian law by the armed forces in Latin America and the Caribbean witnessed significant progress throughout the region. Processes intended to integrate international humanitarian law into military doctrine, tactics, techniques and procedures were consolidated in most countries in the region. Similarly, the integration of this law into the training, education and instruction programs used by the armed forces was reinforced.

On the other hand, other measures are still pending as of the end of 2006. Worth mentioning are laws on the use and protection of the Red Cross emblem in Argentina, Ecuador, Mexico, Peru, Dominican Republic and Venezuela; laws on the implementation of the Geneva Conventions and their Additional Protocols in Jamaica, St. Lucia and Trinidad and Tobago; a law to regulate the use of small arms and light weapons in Colombia; a law on the prohibition of chemical weapons in Argentina; a bill to create a permanent commission to search for persons who disappeared in Guatemala and the identification of several cultural properties in Paraguay.

Moreover, it is worth mentioning that during 2006 fifteen Latin American States drafted bills on the punishment of war crimes as part of their domestic legislation. These bills seek to tailor domestic criminal law to the obligations set forth in the Geneva Conventions and in Additional Protocol I regarding serious violations of international humanitarian law. Additionally, many incorporate the provisions of the 1998 Rome Statute, which

govern the ability of domestic courts to punish crimes that fall under the jurisdiction of the International Criminal Court and, therefore, ensure the application of the complementarity principle set forth in the Statute. There is an increasing number of bills that bring a solution to certain difficulties that may arise from applying the Geneva Conventions and Additional Protocol I, on the one hand, and the Rome Statute, on the other, especially regarding the definition of war crimes.

The Organization of American States (OAS) played a major role throughout 2006 by promoting 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 national level. This 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 commissions, as part of professional training, or by providing information on its web site.

Among those efforts, it is important to mention resolution AG/RES. 2226 (XXXVI-O/06) on the promotion of and respect for international humanitarian law, which was approved by the General Assembly at its thirty-sixth regular session in Santo Domingo, Dominican Republic. This resolution complements a series of twelve resolutions on this subject, initiated in 1994.

Other resolutions from the said session address specific topics related to international humanitarian law. Specifically, the resolutions concerned are AG/RES. 2175 (XXXVI-O/06) on the right to the truth, AG/RES. 2176 (XXXVI-O/06) on the promotion of the International Criminal Court, AG/RES. 2179 (XXXVI-O/06) on the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Munition, Explosives and Other Related Materials, AG/RES. 2180 (XXXVI-O/06) on the Americas as an antipersonnel-land-mine-free zone, AG/RES. 2181 (XXXVI-O/06) on the support for action against antipersonnel mines in Ecuador and Peru, AG/RES. 2229 (XXXVI-O/06) on internally displaced persons, AG/RES. 2231 (XXXVI-O/06) on persons who have disappeared and assistance to members of their families, AG/RES. 2233 (XXXVI-O/06) on the study of the rights and the care of persons under any form of detention or imprisonment and AG/RES. 2238 (XXXVI-O/06) on the protection of human rights and fundamental freedoms while countering terrorism.

Additionally, the Permanent Council's Committee on Juridical and Political Affairs organized a special session on international humanitarian law at OAS headquarters on February 2, 2006. The session was entirely devoted to analyzing current issues faced in the field of international humanitarian law. This Committee also held a meeting on February 3rd, 2006 on issues related to the International Criminal Court, which looked deeper into aspects related to the repression of war crimes at national level, among other topics.

Moreover, the institutional dialogue between the OAS and the ICRC was further strengthened during 2006 both at the level of technical cooperation (especially with the Department of International Legal Affairs) and through several bilateral contacts held by the OAS Secretary General and the President of the ICRC.

The American States and the OAS evidenced a strong commitment towards international humanitarian law throughout this year, which translated into significant outcomes and very fruitful activities to promote respect for this law. However, a closer look reveals that many of the processes undertaken to adopt national implementation measures failed to bridge the gap that still remains between the international obligations stipulated in the treaties and their implementation. Indeed, several projects need to be finalized and approved by the authorities, especially the legislative branches.

The ICRC makes itself available to the authorities to further this important task, particularly through its Advisory Service, which offers the States specialized technical and legal advice.

This support is being provided within the framework of the mandate bestowed on the ICRC by the States as 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 application 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 nine advisors based in Bogotá, Buenos Aires, Guatemala City, Lima, Mexico City and Port of Spain, who report to a coordinator based in Mexico City.

In this regard, it fostered a favourable environment for the protection of the victims of armed conflict and, indirectly, of persons exposed to other situations of violence that are not governed by international humanitarian law. Such situations prevail in Latin America and the Caribbean today. They carry substantial risks for the life, integrity and individual freedoms of persons. Those risks still worsen when there is no clear differentiation between the rules and standards protecting persons in these situations, on the one hand, and international humanitarian law, on the other hand, particularly regarding the rules on the conduct of hostilities. A deeper understanding of international humanitarian law through national implementation processes may very well contribute to acknowledging the limitations inherent to this law as one specifically conceived for situations of armed conflict and whose rules cannot be transposed to other situations of violence.

Anton Camen

*Legal Advisor for Latin America and the Caribbean
Advisory Service*



VICTIMS

BORIS HEGER, CICR

Victims of armed conflicts

International humanitarian law protects persons who do not or no longer take part in the hostilities. It also limits the means and methods of warfare. The principal rules of international humanitarian law are set down in the four 1949 Geneva Conventions and their two Additional Protocols of 1977.

1. Participation in Relevant treaties

1949 Geneva Conventions

The four Geneva Conventions, which are the most widely accepted international treaties, have been ratified by all 194 States.

Each of the four Geneva Conventions protects a specific category of victims of international armed conflicts, i.e., those armed conflicts in which two or more States take part:

- The First Convention protects the sick and wounded of armed forces in the battlefield;
- the Second Convention protects the sick, wounded and shipwrecked of armed forces at sea;
- the Third Convention protects prisoners of war;
- the Fourth Convention protects civilians in the hands of an adverse power.

In addition, all four Conventions contain a common Article 3, which protects victims of non-international armed conflicts.

The Geneva Conventions have been supplemented by three Additional Protocols.

1977 Additional Protocol I

1977 Additional Protocol I also applies in international armed conflicts, including armed conflicts in which peoples in the exercise of their right of self-determination are fighting against colonial domination, alien occupation and racist regimes. This instrument, besides developing the applicable law to protect victims of armed conflicts, sets down fundamental rules concerning the conduct of hostilities. Additional Protocol I has been ratified by 166 States, 33 of which are American. Two American States have not ratified it yet.

1977 Additional Protocol II

1977 Additional Protocol II develops and supplements common Article 3 of the Geneva Conventions. It is the only treaty whose sole purpose is to regulate the protection of victims of non-international armed conflicts.

Additional Protocol II has been ratified by 162 States, 32 of which are American. Three American States have not ratified it yet.

2005 Additional Protocol III

Additional Protocol III to the Geneva Conventions, concerning the adoption of a distinctive emblem additional to the red cross and the red crescent, was adopted on December 8th, 2005.

The adoption of the Third Protocol additional to the Geneva Conventions is a major development in international humanitarian law. On the one hand, the new emblem allows strengthening the protection of victims of armed conflicts, since it contributes to the identification and safety of the medical services and of the International Red Cross and Red Crescent Movement's members in situations where the red cross or the red crescent are difficult to use. On the other hand, it meets a need of certain national relief societies which cannot use the Red Cross or the Red Crescent emblem.

Additional Protocol III has been ratified by 6 States so far. It has been signed by 18 States in the Americas, but none have ratified it yet. The following States have signed Additional Protocol III:

- Argentina (March 13th, 2006)
- Bolivia (December 8th, 2005)
- Brazil (March 14th, 2006)
- Canada (June 19th, 2006)
- Chile (December 8th, 2005)
- Colombia (December 8th, 2005)
- Costa Rica (December 8th, 2005)
- Dominican Republic (July 26th, 2006)
- Ecuador (December 8th, 2005)
- El Salvador (March 8th, 2006)

- Guatemala (December 8th, 2005)
- Honduras (March 13th, 2006)
- Nicaragua (March 8th, 2006)
- Panama (June 19th, 2006)
- Paraguay (March 14th, 2006)
- Peru (December 8th, 2005)
- United States of America (December 8th, 2005)
- Uruguay (March 13th, 2006)

It is worth noting that by Executive Order 82-2006 dated August 2nd, 2006, the Honduran Congress approved a law authorizing the ratification of Additional Protocol III. In turn, bills were submitted to the consideration of the National Congresses in Guatemala and Costa Rica to ratify said Protocol.

1998 Rome Statute

The Rome Statute provides for an International Criminal Court with power to exercise its jurisdiction over persons for the most serious crimes of international concern, including war crimes. The Statute reinforces, but does not substitute, the system set forth by the four Geneva Conventions and Additional Protocol I to punish war crimes. The International Criminal Court does not substitute national jurisdictions. States have the primary duty and responsibility to prosecute alleged war criminals. The International Criminal Court will have jurisdiction only when a State Party to the Rome Statute may not or does not wish to conduct an investigation or trial. Thus, the ICC will have jurisdiction over a case

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provided a State Party has not vindicated its own jurisdiction.

Nowadays, the number of States Parties to this treaty has risen to 102, 23 of which are American. It is worth mentioning that Saint Kitts and Nevis deposited the instrument of ratification on August 22nd, 2006.

1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity

The 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity is another tool to strengthen the system of repression of war crimes. This Convention encompasses the statutory limitations to both public action and penalties and it is retroactive, as it requires existing limitations established by other laws or rules to be abolished. There are 49 States which are Parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. In the Americas, 8 States have ratified this treaty. The number of ratifications has remained unchanged in this region during 2006.

2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

The Optional Protocol to the Convention on the Rights of the Child seeks to prevent any person under the age of 18 from being recruited

to participate in an armed conflict. The Optional Protocol has been ratified by a total of 110 States, twenty-two of them from the Americas.

2. National Implementation of Relevant Treaties

War Crimes

Each of the four 1949 Geneva Conventions contains a provision whereby States Parties undertake to adopt all necessary measures to punish persons who have committed or ordered the commission of any grave breach of said Conventions.

Furthermore, they establish that each State must search for individuals accused of having committed or ordered the commission of serious breaches, regardless of their nationality, in order to have them appear before the States' own courts. At their discretion, and pursuant to their own legal provisions, the States can transfer such individuals to another State for trial as long as the latter has pressed sufficient charges against these individuals.

1997 Additional Protocol I, and more particularly Part V, Section II thereof, supplements these regulations by stipulating that the provisions of the Conventions relating to the repression of breaches shall apply to the rules set forth in the Protocol. Thus, the Protocol develops the rules stipulated by the Geneva Conventions as regards the specification of breaches of international humanitarian law, commission of

... os crimes de maior gravidade que afectam a comunidade internacional no seu conjunto não devem ficar impunes e que a sua repressão deve ser efectivamente assegurada através da adopção de medidas a nível nacional...

Estatuto de Roma, 1998

breach by omission, responsibility of superiors and legal assistance on criminal matters.

War crimes are listed in Articles 50, 51, 130 and 147 of the Four 1949 Geneva Conventions, respectively, and in Articles 11 and 85 of Additional Protocol I of 1977.

On the other hand, it is worth mentioning that the Rome Statute sets down a number of war crimes not always related to a grave breach as defined by the Geneva Conventions or Additional Protocol I. Indeed, Article 8 of the Rome Statute defines fifty war crimes, broken down into four categories, namely (1) grave breaches of the Geneva Conventions, (2) other serious violations of the laws and customs applicable in international armed conflict, (3) serious violations of article 3 common to the Geneva Conventions and (4) other serious violations of the laws and customs applicable in armed conflicts not of an international character.

A comparison between the Geneva Conventions and Additional Protocol I and the Rome Statute shows that the latter identifies a number of war crimes not included in the list of grave breaches. Rather, it relates to part of the serious violations of the laws and customs of international armed conflicts, as well as to all serious violations of the laws and uses of non-international armed conflicts, in the sense of Article 8 of the Rome Statute.

The Rome Statute does not explic-

itly oblige States Parties to punish crimes falling under the jurisdiction of the International Criminal Court. This obligation is however implicit, since the Statute's complementarity mechanism depends on State Parties' ability to punish such crimes at a national level. This brings about legislative consequences for the specification of crimes, and as regards the general rules governing the irrelevance of official capacity, the responsibility of superiors, the non-applicability of statutes of limitations or the grounds for excluding criminal responsibility. It is therefore essential that States Parties to the Rome Statute tailor their criminal law to the Statute so as to internally punish crimes falling under the jurisdiction of the International Criminal Court.

The fact of adapting criminal law to the Rome Statute may not undermine the obligations stemming from the Geneva Conventions and Additional Protocol I. Rather, it should harmonize the regime provided for in both of them with the provisions of the Rome Statute. It means ensuring that criminal legislation allows, at least, punishing war crimes defined by the Geneva Conventions and Additional Protocol I in accordance with the system of repression of war crimes set forth in these treaties. The rules of the Statute may strengthen, but not weaken, the architecture established for the definition of war crimes, the rules on criminal responsibility and those

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concerning the exercise of criminal jurisdiction.

Latin America has witnessed an intense activity during 2006 towards the inclusion of war crimes in domestic law. The different government branches and bodies are debating many projects; these debates frequently include the national committees for the implementation of international humanitarian law. Specifically, the following developments took place in 2006:

- **Nicaragua:** The Military Criminal Code, which includes two chapters specifically dealing with the repression of war crimes, was enacted by Law No. 566 dated November 25th, 2005 and became effective on April 5th, 2006.
- **Peru:** The Legislative passed Order No. 961 dated January 10th, 2006 (published in the Peruvian Official Gazette (“El Peruano”) on January 11th, 2006), which was supplemented by a list of errata published in that same Gazette on January 20th, 2006. It designates war crimes under the heading “Crimes against International Humanitarian Law”, within the scope of the new Code of Military Police Justice. Additionally to the amendment of military law, the Special Committee for the Review of the Criminal Code suggested, effective August 2006, including a Bill on “Crimes against International Human Rights Law and International Humanitarian Law” in the agenda of the new Congress of the Republic of Peru. This is part of a process to develop a new

Criminal Code, and these proposed regulations would constitute a new Volume III of said Code.

- **Trinidad and Tobago:** A law implementing the Rome Statute was enacted on February 3rd, 2006, whereby war crimes falling under the jurisdiction of the International Criminal Court may be punished by domestic courts.
- **Uruguay:** Law No. 18026 (Rules to Implement Cooperation with the International Criminal Court in the Fight against the Crime of Genocide, Crimes against Humanity and War Crimes (Criminal Code) was enacted on September 13th, 2006 and published in the Official Gazette on October 4th, 2006.
- **Argentina:** In December 2006, the Congress passed a law implementing the Rome Statute and punishing the war crimes defined in the Geneva Conventions and Additional Protocol I.

Additionally, bills on the repression of war crimes were considered in **Bolivia, Brazil, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Trinidad and Tobago and Venezuela** by the end of 2006.

Protection of the Emblems

The emblem of the red cross and the red crescent on a white background often is the only form of protection for those trying to alleviate the suffering of victims of armed conflict,

... tomar todas las oportunas medidas legislativas para determinar las adecuadas sanciones penales que se han de aplicar a las personas que hayan cometido, o dado orden de cometer, una cualquiera de las infracciones graves...

Convenios de Ginebra, 1949

and, for the latter, it is the only guarantee that they will receive aid. The emblem must be acknowledged and respected at all times and in all places. For this reason, international humanitarian law contains a stringent set of regulations governing the use of the Red Cross and the Red Crescent emblems. The main regulations are included in the 1949 Geneva Conventions and their two 1977 Additional Protocols, which were supplemented in 2005 with a third Protocol that introduced the red crystal as an additional distinctive emblem.

According to these treaties, only a very small group is entitled to use the emblem, under a strict control system. The States have bound themselves to adopting the necessary legislation to avoid and repress any abuse regarding the emblem, which involves enacting a national law to regulate and protect its use. During 2006, the American States significantly developed their domestic rules concerning the protection of the emblems, in order to abide by their international obligations.

- In **Argentina**, the Senate approved a bill on the use of the Red Cross emblem.
- In **Bolivia**, the Bolivian Red Cross worked to disseminate Law No. 2390 on the use and protection of the Red Cross emblem.
- In **Mexico**, a bill for the use and protection of the red cross and red crescent designations and emblems was passed by the Mexican Senate

on February 28th, 2006. This bill should be approved by the elected Lower House, established in September 2006.

- In **Ecuador**, a bill on the use and protection of the Red Cross and Red Crescent emblems is pending approval by the National Congress.
- In **Peru**, a bill for the use and protection of the Red Cross and Red Crescent emblems is currently in its final wording stage by the National Committee on the Study and Implementation of International Humanitarian Law (CONADIH, as per its Spanish acronym).
- In **Trinidad and Tobago**, a bill has been considered that deals with the implementation of the Geneva Conventions and their Additional Protocols. This bill is also aimed at regulating the use and protection of emblems.
- In **Venezuela**, the Department for Human Rights and International Humanitarian Law reporting to the Ministry of Defence finalized a bill on the use and protection of emblems. This bill has been drafted in cooperation with the Venezuelan Red Cross.

Besides the progress mentioned for the period under review, the following States already have specific legislation on the protection of the emblems, namely **Bolivia, Chile, Colombia, Costa Rica, Cuba, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay and Uruguay.**

... las Altas Partes Contratantes tomarán las medidas necesarias para prevenir y reprimir, en todas las circunstancias, todo empleo abusivo de los signos distintivos...

Protocolo adicional III, 2005

Missing Persons

In the Americas, there are countless people whose relatives have disappeared in an armed conflict or a situation of internal violence. As long as they do not know whether a missing person is alive or dead, they cannot mourn the death of their loved ones. This makes it difficult for them to resume their ordinary lives, and hampers the processes of adjustment and reconciliation both at personal and community level. Want of political will among the authorities concerned, as well as lack of cooperation by those who might convince them to take action, hinder the efforts aimed at prevention and clarification. Competent authorities have a shared responsibility to adopt measures in order to prevent the disappearance of persons and face the consequences thereof, possibly with the aid of national and international humanitarian organizations.

The inertia or inefficiency in solving the problem of missing persons has led the ICRC to take action. It seeks to obtain from the authorities that they do respond to the problem, assume their responsibilities to clarify the fate of missing persons, to assist their families and to prevent disappearances. This effort consisted in extensive consultations with government and non-governmental experts. The results were included in a detailed report which identifies specific recommendations on the measures that need to be implemented to put an end to

the problem of the missing. States Parties to the Geneva Conventions and members of the International Red Cross and Red Crescent Movement endorsed these recommendations at the XXVIII International Conference of the Red Cross and the Red Crescent held in Geneva, Switzerland in December 2003, and committed to attaining a number of goals based on these recommendations within a period of four years. Furthermore, it is worth mentioning that the General Assembly of the Organization of American States adopted two resolutions - AG/RES. 2134 (XXXV-O/05 and AG/RES. 2231 (XXXVI-O/06)- in 2005 and 2006, which urge the States Parties to take specific steps at the national level in order to prevent disappearances, find out the fate of missing persons and assist their families. At the national level, the following efforts are specially worth noticing:

- **Colombia:** The Government drafted a public policy proposal on the issue of forced disappearances. In turn, and given the large number of common graves, the National Commission for the Search of Missing Persons disclosed a National Plan for the Search of Missing Persons. Finally, it is worth noting that the issue of missing persons is a key concern for the National Reconciliation Commission, created under the 2005 Law No. 975, called *Justicia y Paz* ("Justice and Peace"). This became readily apparent in

Boris Heger/CICR



the workshop and seminar called “Hacia un sistema nacional de búsqueda e identificación de personas desaparecidas” (Working for a National System for the Search and Identification of Missing Persons”).

- In September 2006 the National Committee for the Implementation of the International Humanitarian Law in Guatemala set up a working group to discuss the recommendations that the ICRC had submitted to the Government of **Guatemala** in November 2005, dealing with the issue of missing persons and their relatives. This working group is formed by the Presidential Commission on Human Rights, which chairs the group, the Ministry of Defence, the Ministry of Government, the Ministry of Foreign Affairs, the National Attorney General’s Office, the Human Rights Prosecutor and the Guatemalan Bar Association. The working group met twice during 2006. Specific legislative and regulatory proposals to prevent the disappearance of persons and assist their relatives were developed in the course of these meetings.

Moreover, the Committee of the Executive Agency for the Search of Missing Persons during the Internal Armed Conflict was created by Government Agreement No. 246-2006 dated May 25th, 2006 and published in the Official Gazette on May 26th, 2006. The purpose of this Committee is coordinating joint efforts among its members and other Government agencies and institutions,

as well as civil society institutions, to establish mechanisms that will be used to search for, investigate and clarify the fate of persons who were victims of enforced or involuntary disappearance during the internal armed conflict. This Committee will have a mandate of one year, which may be extended by a decision of the President of Guatemala.

Furthermore, the Preparatory Commission for the Drafting of the Legislative Proposal on the Creation of the Committee for the Search of Victims of Forced or Involuntary Disappearance drafted a bill on the creation of a permanent committee for the search of missing persons. This Preparatory Commission is formed by the Human Rights Prosecutor, the Presidential Commission on Human Rights, the Committee on Peace and Demining, Human Rights Committee of the Congress and five NGOs formed by relatives of missing persons. The bill is expected to be submitted to Congress for approval in 2007.

- In **Panama**, the ICRC has promoted, jointly with the authorities, a study that may help to prepare measures that prevent disappearances, clarify the fate of those who are missing and assist their families.

- In **Argentina**, the Directorate for Human Rights reporting to the Ministry of Foreign Affairs, International Trade and Worship is currently working on a research study that would contribute to the preparation of measures to prevent disap-

The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility...

Additional Protocol I, 1977

pearances, clarify the fate of missing persons and assist their families.

- In **Chile** and **Uruguay**, the National Committees for the implementation of international humanitarian law have started to prepare measures to prevent disappearances, clarify the fate of missing persons and assist their families.

- In **Peru**, Supreme Order No. 015-2006-JUS, published on July 6th, 2006, in the Official Gazette “El Peruano”, approved the Regulations of Act No. 28592, creating the Integral Redress Plan (PIR). On one hand, the Regulations establish mechanisms, modalities and procedures allowing the victims of the violence that occurred in the period May 1980 to November 2000 to access the redress programs established by Act No. 28592, according to the conclusions and recommendations of the Final Report of the Truth and Reconciliation Commission. On the other hand, the Regulations stipulate that a Redress Board will be the agency in charge of examining and resolving the claims regarding the application of a Single Victims Register. Ministerial Resolution No. 373-2006-PCM, published on October 20th, 2006 in the Official Gazette “El Peruano”, designated the members of the Redress Board.

In addition, as at December 2006, the Ombudsman’s Office in Peru has issued to relatives of missing persons some 250 certificates of absence due to disappearance. However, the process involving the

exhumation, identification and return of more than 13,000 missing persons is still pending in Peru.

International Fact-Finding Commission

Article 90 of Additional Protocol I provides for the establishment of the International Fact-Finding Commission. This Commission was officially constituted in 1991, after twenty States accepted its jurisdiction. It is a permanent body whose primary purpose is to investigate allegations of grave breaches of international humanitarian law, and to facilitate, through its good offices, the restoration of an attitude of respect for international humanitarian law. Nowadays 68 States, 11 of which are from the Americas, have accepted the competence of the Commission.

... estar motivadas ante todo por el derecho que asiste a las familias de conocer la suerte de sus miembros.

Protocolo adicional I, 1977

PELIGRO
minas



NO PASE

WEAPONS

MARY ANNE ANDERSEN, CICR

Weapons

The parties to an armed conflict do not have an unlimited right to choose the means and methods of warfare. International humanitarian law prohibits in particular the use of weapons that have indiscriminate effects or that cause superfluous damage or unnecessary suffering. Based on these criteria, several instruments of international humanitarian law seek to restrict or ban the use of certain weapons.

1. Participation in Relevant Treaties

1972 Convention on the Prohibition of Biological Weapons

The 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction seeks to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons. It is worth noting that this Convention is supplementary to the 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare.

The 1972 Convention has been ratified by 152 States, 32 of which are American.

1993 Convention on the Prohibition of Chemical Weapons

The 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of

Chemical Weapons and on Their Destruction seeks to exclude completely the possibility of the use of chemical weapons. Similar to the 1972 Convention on Chemical Weapons, this convention complements and reinforces several aspects of the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare.

The 1993 Convention has been ratified by 180 States. In the Americas, 32 States are now Parties to this treaty. It is worth mentioning that on February 22nd, 2006, Haiti deposited its instrument of ratification.

1980 Convention on Certain Conventional Weapons

Together with its five annexed protocols, 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 is one of the main

treaties that set down general customary rules, such as the prohibition of weapons that have indiscriminate effects or cause superfluous injury or unnecessary suffering. It protects the civilian population against the effect of weapons as well as combatants against excessive suffering.

The 1980 Convention has been ratified by 100 States, 20 of which are American.

Non-Detectable Fragments

The Protocol on Non-Detectable Fragments (Protocol I) was annexed to the Convention on Conventional Weapons in 1980. This treaty bans the use of any weapon whose main effect is to injure by means of fragments which cannot be detected in the human body using X-rays. Ninety-eight States are Parties to this instrument worldwide, 20 of which are from the Americas.

Mines, Booby-traps and Other Devices

The Protocol on Mines, Booby-traps and other Devices (Protocol II) was annexed to the Convention on Conventional Weapons in 1980. A new Protocol II was approved in 1996, which expands the regime applicable to said weapons and further enlarges its scope to include non-international armed conflicts (Protocol on the Prohibitions or Restrictions on Mines, Booby-traps

and other Devices, as amended on May 3rd, 1996).

Protocol II, as amended, has been ratified by 86 States, 18 of which are American.

Incendiary Weapons

The Protocol on the Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III) was annexed to the Convention on Conventional Weapons in 1980. This Protocol defines incendiary weapons as any weapon primarily designed to set fire to objects or to cause burn injury to persons through the action of flame or heat, such as flame throwers. The Protocol also bans the use of such weapons against the civilian population, attacks against any military objective located within a concentration of civilians with air-delivered incendiary weapons, and attacks against forests or other kinds of plant cover with incendiary weapons, except when such natural elements are used to conceal combatants or other military objectives.

Protocol III has been ratified by 93 States, 19 of which are American States.

Blinking Laser Weapons

The Protocol on Blinking Laser Weapons (Protocol IV) was annexed to the Convention on Conventional Weapons in 1995. The Protocol bans

... tomarán todas las precauciones que sean factibles en el territorio bajo su control afectado por restos explosivos de guerra para proteger a la población civil, las personas civiles y los objetos civiles contra los riesgos y efectos de los restos explosivos de guerra...

Protocolo V sobre los Restos Explosivos de Guerra, 2003

the use of laser weapons specifically designed to cause permanent blindness, as well as their transfer to any State or any other entity. The treaty further provides that, in the employment of laser systems, the Contracting Parties shall take all feasible precautions to avoid the risk of causing permanent blindness.

This Protocol has been ratified by 83 States, 16 of which are American States.

Explosive Remnants of War

The Protocol on Explosive Remnants of War (Protocol V), annexed to the Convention on Conventional Weapons in 2003, seeks to minimise the perils arising from explosive ordnance that has failed to explode or that has been abandoned, including cluster munitions. Under this Protocol, each party to an armed conflict shall remove explosive remnants of war and facilitate the removal by third parties of the munition used. This Protocol also provides for a series of actions to protect the population from the perils to which they are exposed and to arrange cooperation efforts among States in this field.

Protocol V came into force on November 12th, 2006, and it has been ratified by 26 States worldwide and 2 in the Americas. It is worth mentioning that El Salvador deposited the instrument of ratification on March 23rd, 2006.

The 2001 Amendment

The Amendment to Article I of the Convention on Certain Conventional Weapons was approved in 2001, with a view to further applying the Convention on Conventional Weapons and annexed Protocols to non-international armed conflicts. The Amendment reflects the status of current international law, according to which regulations on weapons must be applicable to armed conflicts of all types. There is no justification to the use in non-international armed conflicts of certain weapons that are prohibited in international armed conflicts due to the unspeakable suffering they cause.

The Amendment to Article I of the Convention on Certain Conventional Weapons has been ratified by 47 States, 5 of which are from the Americas.

1997 Convention on the Prohibition of Anti-Personnel Mines

The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Treaty) seeks the complete eradication of these weapons. It is based on customary rules of international humanitarian law applicable to all States, which prohibit the use of weapons that do not distinguish between civilians and combatants or cause superflu-

Boris Heger/CICR



ous injury or unnecessary damage. The Ottawa Treaty has been ratified by 151 States, 33 of which are American. It is worth noting that Haiti ratified this Convention on February 15th, 2006.

1976 Convention on the Prohibition of Environmental Modification Techniques

The 1976 Convention on the Prohibition of the Military or Any Hostile Use of Environmental Modification Techniques (ENMOD Convention) prohibits the use of the environment as a means of warfare. It is supplemented by certain provisions of Additional Protocol I to the Geneva Conventions that prohibit attacks damaging the environment. This means that the environment may not be a means of warfare nor may it be the object of attack.

The 1976 Convention has been ratified by 72 States, 14 of which are American. No new ratifications took place in the region in 2006.

2. National Implementation of Relevant Treaties

Chemical and Biological Weapons

Both the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction and the 1993 Convention on the

Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction require national measures to ensure their implementation. These measures should include executive or administrative rules and regulations, as well as practical and educational measures. In this scenario, the adoption of criminal legislation to punish violations of these conventions appears of the essence, since the efficacy of prohibitions regarding the use, development, stockpiling or acquisition and withholding of such materials is highly dependant on this. It is also worth noting that by Resolution No. 1540 dated April 28th, 2004, the UN Security Council urged Member States to adopt national rules and regulations to ensure compliance with their commitments under such conventions.

As regards the prohibition on biological weapons, all States in the region have some form of legislation that allows them to enforce certain provisions set forth in the 1972 Convention. Nonetheless, only a very small portion of these sets of rules allows full enforcement of such provisions, especially as regards the protection of labs or education measures aimed at the medical, scientific and military community. In the year under review, no progress was made in this regard by States in the region.

... pôr fim ao sofrimento e à perda de vidas humanas pelas minas antipessoal, que matam ou mutilam centenas de pessoas todas as semanas...

Tratado de Ottawa, 1997

Regarding the ban on chemical weapons, it is worth noting that 30 States in the Americas have a national authority entrusted with the duty to enforce the 1993 Convention. However, only five out of the 32 States Parties to the Convention seem to have measures allowing them to fully enforce the Convention. These are **Brazil, Canada, Colombia, Cuba** and the **United States of America**. In 2006, the House of Representatives of the Argentine Congress approved a law implementing the 1993 Convention, which is now under analysis by the Senate.

Certain Conventional Weapons

The 1980 Convention on Certain Conventional Weapons and its five Protocols require that States Parties adopt a number of measures at national level to enforce the duties set forth therein. These include measures to effectively ban certain weapons. More particularly, these include:

- Any weapon the primary effect of which is to injure by fragments which in the human body escape detection by X-rays. These weapons are prohibited by Protocol I of the 1980 Convention.
- Mines, booby-traps or other devices which employ a mechanism or device specifically designed to detonate the munition by the presence of commonly available mine detec-

tors as a result of their magnetic or other non-contact influence during normal use in detection operations. These devices are prohibited by Protocol II, as amended, of the 1980 Convention on Certain Conventional Weapons.

- Self-deactivating mines equipped with an anti-handling device designed in such a manner that the anti-handling device is capable of functioning after the mine has ceased to be capable of functioning. These mines are prohibited by Protocol II, as amended, of the 1980 Convention on Certain Conventional Weapons.
- Booby-traps and other devices which are in any way attached to or associated with: (a) internationally recognized protective emblems, signs or signals; (b) sick, wounded or dead persons; (c) burial or cremation sites or graves; (d) medical facilities, medical equipment, medical supplies or medical transportation; (e) children's toys or other portable objects or products specially designed for the feeding, health, hygiene, clothing or education of children; (f) food or drink; (g) kitchen utensils or appliances except in military establishments, military locations or military supply depots; (h) objects clearly of a religious nature; (i) historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; or

... l'emploi à la guerre de gaz asphyxiants, toxiques ou similaires, ainsi que de tous liquides, matières ou procédés analogues, a été à juste titre condamné par l'opinion générale du monde civilisé...

Protocole sur le Gaz, 1925

(j) animals or their carcasses. These devices are prohibited by Protocol II, as amended, of the 1980 Convention on Certain Conventional Weapons.

- Booby-traps or other devices in the form of apparently harmless portable objects which are specifically designed and constructed to contain explosive material. These devices are prohibited by Protocol II, as amended, of the 1980 Convention on Certain Conventional Weapons.
- Laser weapons specifically designed to cause permanent blindness. These weapons are prohibited by Protocol IV of the 1980 Convention on Certain Conventional Weapons.

In 2006, **Uruguay** enacted Law No. 18026 (Rules to Implement Cooperation with the International Criminal Court in the Fight against the Crime of Genocide, Crimes against Humanity and War Crimes (Criminal Code) . This law explicitly penalizes the violation of several of these prohibitions.

Anti-personnel Mines

Under the Ottawa Treaty, States Parties must adopt all applicable legal, administrative or other measures, including criminal penalties, in order to fully enforce this treaty. In addition, to facilitate compliance,

in late 2004 the States Parties to the Convention adopted the 2005-2009 Nairobi Action Plan. The Plan proposes specific measures in the following areas: universal ratification of the Convention, the destruction of the existing mine stockpile, the clearance of mined areas, assistance to victims, and other special measures necessary to achieve the objectives set forth by the Convention. In this regard, the Nairobi Plan particularly underscores the measures that States must adopt in order to assist the victims of anti-personnel mines, namely to improve the medical care provided to these victims and their rehabilitation, and to take care of their psychological and social support needs, their economic and social integration, as well as the respect for their human rights, taking age and gender issues into consideration.

In the Americas, **Costa Rica, Guatemala, Honduras and Suriname** have reported to have fully cleared antipersonnel mines from their territories. The deadlines to complete clearance of mined areas are March 1st, 2009 for Peru; October 1st, 2009 for Ecuador and Venezuela; March 1st, 2010 for Argentina; March 1st, 2011 for Colombia and March 1st, 2012 for Chile.

The following States in the region have enacted laws to enforce the Ottawa Treaty: **Belize, Brazil, Canada,**

Marko Kokic/Federación



Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Peru, St. Vincent and the Grenadines and Trinidad and Tobago.

Law No. 28824 was enacted in Peru. This law, which incorporates Article 279-D that penalizes the use, production and transfer of antipersonnel mines, was enacted on July 21st, 2006 and published in “El Peruano”, the Peruvian Official Gazette, on July 22nd, 2006.

In September 2006, the Committee for the Implementation of International Humanitarian Law of Guatemala created a working group to discuss the actions required to assist victims of anti-personnel mines in the country. This is a follow-up of the Nairobi Action Plan and the experts’ meeting held in Buenos Aires in August 2006 to discuss “Weapons in International Humanitarian Law”. This group, which is formed by the Ministry of Foreign Affairs and the Congress Committee on Peace and Demining, receives ICRC advice. Its first activity was planning a survey to assess the number of anti-personnel mine victims and where they are located.

At the end of the year, the Argentine Senate is still discussing a bill on anti-personnel mines, and the national administrations of Panama and Paraguay are also working on bills to enforce the Ottawa Treaty.

Cultural Property in the Event of Armed Conflict

International humanitarian law also seeks to protect the cultural heritage of nations from the effects of armed conflicts. This goal seems particularly relevant today, since many armed conflicts are ethnically motivated and even translate into attacks against cultural expressions. States have pledged to safeguard and respect cultural property from the effects of armed conflicts. This requires the States to take measures to safeguard cultural property. Respect for Cultural Property requires the States to refrain from any use of the property and its immediate surroundings for purposes which are likely to expose them to destruction or damage in the event of armed conflict, as well as to refrain from any hostile act directed against such property, particularly from attacking them.

1. Participation in Relevant Treaties

1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict

This Convention establishes a general framework for the protection of cultural property.

It has been ratified by 116 States, 20 of which are from the Americas.

...queda prohibido cometer actos de hostilidad dirigidos contra los monumentos históricos, las obras de arte o los lugares de culto que constituyen el patrimonio cultural o espiritual de los pueblos, y utilizarlos en apoyo del esfuerzo militar.

Protocolo adicional II, 1977

1954 Protocol for the Protection of Cultural Property in the Event of Armed Conflict

This Protocol is aimed at preventing the export of cultural property from occupied territories and regulates the return of such property.

This protocol has been ratified by 93 States, 16 of which are American.

1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict

This Protocol developed the protection of cultural property in the event of armed conflict. In particular, it established an enhanced protection system for cultural property of the greatest importance, provided further guidelines on safeguarding measures, specified the conditions to which the obligation to protect cultural heritage is subject and the prohibition of any illicit removal or transfer of ownership of cultural property, and introduced a regime to punish serious violations of rules protecting cultural property similar to the system in force for war crimes.

It has been ratified by 42 States, 13 of which are American.

Committee for the Protection of Cultural Property in the Event of Armed Conflict

It is worth noting that the Second Protocol provides for the creation

of a Committee for the Protection of Cultural Property in the Event of Armed Conflict. Its main role is to apply the Second Protocol of 1999 and grant enhanced protection to cultural property that is deemed cultural heritage bearing the utmost importance for mankind. The membership of this Committee includes three Latin American States (namely, **Argentina**, **El Salvador** and **Peru**).

2. National Implementation of Relevant Treaties

In order to abide by the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols, States Parties have undertaken to adopt a series of legislative, administrative, educational, organizational and practical measures on this issue. These measures include identifying and taking an inventory of cultural property; regulating the use of distinctive signs provided for in the Convention; preparing plans to transfer the cultural property in case of an emergency or for their on-site protection; establishing shelters; appointing and training the personnel responsible for the protection of cultural property in case of armed conflict; integrating rules on the protection of this property into military doctrine; and drafting

Adrian Pérez/CICR



criminal laws to penalize the violation of the rules that protect cultural property, among others.

The following were the main developments during 2006 regarding the implementation of the 1954 Convention and its two Protocols:

- In **Peru**, Supreme Order No. 011-2006-ED published in the Official Gazette (El Peruano) on June 1st, 2006 approved the Regulations for the National Law on Cultural Heritage (Law No. 28296, published in “El Peruano” on July 22nd, 2004). Moreover, the text of Executive Order No. 011-2006-ED was published on June 2nd, 2006 by way of Exhibit. This includes nine articles on the protection of cultural property in case of armed conflict.
- In **El Salvador**, the Inter-Institutional Committee for International Humanitarian Law published in May 2006 the «Guide for the First Phase in the Process to Identify Cultural Property Items located in El Salvador with the Emblem adopted by the 1954 Hague Convention in case of Armed Conflict». This publication gathers the expertise gained by Salvadoran authorities regarding the identification of cultural property, and sets itself up as a means to disseminate the above-mentioned Convention. The mentioned Committee also published the Final Report of the Project for the Identification of Cultural Property in El Salvador, Phase 1.

- In **Mexico**, the Mexican Lower House approved on December 13th, 2005, a draft Executive Order to reform and adopt the Federal Act on Archaeological, Artistic and Historical Monuments and Areas. This initiative incorporates several provisions to apply the Convention and its Protocols.

- In **Paraguay**, the Inter-Ministerial Committee for the Implementation of International Humanitarian Law continued its campaign for cultural property identification, which had started in 2005, by identifying the monument to independence located in the city of Asunción with the protecting emblem. New cultural properties, including the Caacupé Church, were identified during 2006.



DISSEMINATION

BORIS HEGER, CICR

Dissemination of International Humanitarian Law

Irrespective of the rule to be applied in a given situation, the parties to a conflict need to be familiar with such rule before actually being in a position to observe it. Therefore, the Geneva Conventions and their Additional Protocols, as well as other international humanitarian law treaties, regularly urge States to disseminate their rules as much as possible. Though essential, the fact of disseminating international humanitarian law rules does not suffice. In furtherance of the very objective of international humanitarian law, i.e., limiting violence, dissemination of international humanitarian law entails a comprehensive and consistent strategy which takes into account the specific aspects of the context where it is deployed. It may not be imposed externally; rather, it should be a part of the ongoing effort that States and their societies make. It implies cross-sectional integration of international humanitarian law into military doctrine of the armed forces and into course syllabuses as far as academic teaching is concerned.

Integration of International Humanitarian Law by the Armed Forces

The integration of international humanitarian law by the armed forces is a mandatory part of the national implementation of the treaties. 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 integrated in military doctrine, military training,

instruction, behaviour, systematic operational procedures and choice of weapons.

Argentina has a national plan in the form of a series of hierarchically organized orders and provisions intended to ensure compliance with the dissemination and teaching of international humanitarian law at all levels. In 2006, the Ministry of Defence started assessing the progress made in the integration of international humanitarian law.

In **Bolivia**, the armed forces assessed the progress made in their attempt to integrate international humanitarian law by reformulating the per-

manent integration plan using as a basis the experience gained in this area. Thus, they intend to integrate international humanitarian law in their handbooks, orders for military operations and their instruction and training for individual combat (at least in two documents every year). During 2006 the Bolivian armed forces developed a matrix to cross-sectionally integrate international humanitarian law into three regulations, and drafted a proposed curriculum on international humanitarian law for military academies.

In **Brazil**, the armed forces have provisions for the dissemination and teaching of international humanitarian law. The most significant development in 2006 was the consolidation of efforts undertaken during 2005, which allowed reaching out to a sufficient number of high-level instructors specialized in international humanitarian law belonging to the three armed forces and the Ministry of Defence.

Chile has a national plan under 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. A study is being conducted by the Chilean Army on the status of integration of international humanitarian law into the armed forces.

Boris Heger/CICR



In **Colombia**, as a part of its commitment to ensuring a more efficient teaching and implementation of international humanitarian law in military operations, during 2006 the Inspectorate of the Armed Forces completed an extensive review of the process to integrate and apply international humanitarian law. Based on this review, all course syllabuses where integration of international humanitarian law is relevant will be adjusted, and so will the military training handbooks used to train students and assist them in their future role as military officers. The Inspectorate has also organized combat drills on lessons learnt to analyze the proper implementation of international humanitarian law in specific military operations.

Thanks to these analyses and reviews of the integration of and training in international humanitarian law, it has been possible to further improve the quality of the hands-on training received by troops and the implementation of international humanitarian law by the troops. Moreover, it has enabled to further reinforce the training in and knowledge of this law by instructors and platoon officers responsible for integrating international humanitarian law into the planning and conduct of hostilities.

The Ministry of National Defence

of Ecuador, the ICRC and the Ecuadorian Red Cross entered into an inter-institutional cooperation agreement to update, develop and promote autonomy in the cross-sectional integration of international humanitarian law into the doctrine, strategic, operational and tactical handbooks, training and instruction plans, as well as into the equipment used by the armed forces. The army chief of staff issued a guideline intended to implement international humanitarian law and human rights into the training of army personnel. Also during 2006, the Ecuadorian Armed forces developed a draft manual on international humanitarian law for the army and a draft handbook on international humanitarian law.

El Salvador continued strengthening the inclusion of international humanitarian law aspects in regular military training courses delivered through its computerized tactic centre.

In Guatemala, a process is under way to cross-sectionally integrate international humanitarian law through a study centre, including the strengthening of the integration of international humanitarian law aspects into normal IHL training courses.

Both the Salvadorian and Guatemalan armed forces have an integration program based on guidelines that suggest teaching international humanitarian

law as a stand-alone course at all levels of military education through instructors trained by the armed forces themselves under the supervision of a responsible agency.

Regarding Mexico, the year 2006 was characterized by significant developments in the field of international humanitarian law integration. Worth noting is the progress made in the plans at all Regional Training Centres (CAR, *Centros de Adiestramiento Regional*); this is done through theoretical instruction followed by a training course in international humanitarian law and a troop exercise that presents aspects of international law in armed conflicts. In addition, there is a gradual integration of theoretical aspects and practical training on international humanitarian law into the plans of the Regional Basic Individual Training Centres (CABIR, *Centros de Adiestramiento Básico Individual Regional*). Moreover, the role of the legal advisors as part of the work performed by the chiefs of staff and the decision-making process has been promoted, and there are now two permanent annual training courses.

The Secretariat of National Defence through its Study Centre for the Mexican Army and the Mexican Air Force delivers two annual courses to train instructors on international

... se comprometen a difundir lo más ampliamente posible, tanto en tiempo de paz como en tiempo de guerra, el texto del presente Convenio...

Convenios de Ginebra, 1949

humanitarian law. Armed Force officials from Central America and the Spanish-speaking Caribbean are invited to take part in this course.

The role of the legal advisor trained in international humanitarian law and human rights has been promoted in **Nicaragua** as part of the work performed by the chiefs of staff and of the decision-making process at the level of the largest units. Moreover, several checklist workshops were carried out for Chiefs of Staff to integrate the law of war into decision-making activities and tasks. Also at the level of the Chiefs of Staff, a one-year post-graduate course was delivered on international humanitarian law. In addition, the armed forces have an integration programme in place which is based on guidelines that uphold the teaching of international humanitarian law as a stand-alone course at every level of military instruction; such training is provided by instructors trained by the armed forces themselves, under the supervision of a responsible agency.

The Joint Chiefs of Staff of **Paraguay** have established a unit in charge of ensuring the implementation of their plan for the dissemination and teaching of international humanitarian law. This unit continued assessing the scope of such plan during 2006.

In **Peru**, the armed forces developed proposals to integrate international humanitarian law into the relevant handbooks and regulations, in line with the permanent integration plan currently in force. Moreover, the Centre for International Humanitarian Law of the Armed Forces continued providing courses on this topic at elementary and advanced training levels.

The **Dominican Republic** authorities transformed the Military Institute of Humanitarian Law and Human Rights into a graduate school of international humanitarian law and human rights; to this end, they organized a postgraduate course on international humanitarian law. In addition, the armed forces have set up an integration programme based on guidelines that put forward the teaching of international humanitarian law as a stand-alone subject at every level of military instruction, with instructors trained by the armed forces themselves and acting under the supervision of a responsible agency.

Venezuela is still pursuing the joint efforts between the ICRC and the Ministry of Defence to promote the integration of international humanitarian law into the instruction, the training and the procedure manuals used by the National Armed Forces. It should also be mentioned that a

... se certifiquem de que os membros das forças armadas colocadas sob o seu comando conheçam as suas obrigações...

Protocolo adicional I, 1977

forum of Military Chiefs from the **CARICOM Member States** was created in 2006, where participants stressed the relevance and importance of integrating international humanitarian law into operations and training. They pledged to develop additional mechanisms to support such goals. The regulations applicable in case of riots and internal tension, as well as in other vio-

lence situations, were also included in the list of topics debated during the above mentioned meeting. On the other hand, two specialized groups were created with the **Central American Armed Forces Conference (CFAC, *Conferencia Centroamericana de las Fuerzas Armadas*)** in order to study international humanitarian law and international human rights law.

Integration of International Human Rights Law and Humanitarian Principles by Security and Police Forces

Unlike the armed forces, the mission of security and police forces is to enforce the law. This is materially different from the conduct of military operations in an armed conflict, or from ensuring humane treatment to protected persons in such a context. Therefore, the performance of the police role is not, in principle, governed by international humanitarian law, but rather by international human rights law and national law, especially regarding the protection of people. International humanitarian law applies solely in the case of armed conflict. It does not apply to any other situation of violence, however serious it may be. Respect for the life, integrity and dignity of people in situations of violence calls for rigorous application of international human rights law by law enforcement authorities.

The integration of international human rights law by security and police forces is currently at different stages of development in Latin America and the Caribbean. This integration must be reflected in instruction, doctrine, training and equipment, as well as in the punishment mechanisms used to ensure compliance with this law.

The year 2006 has witnessed certain developments in the field of integration of international humanitarian law by the following police forces:

In **Bolivia**, talks are still in progress with the authorities in order to

develop the international human rights law integration programme applicable to the police role.

In **Brazil**, the Military Police of the States of Rio Grande del Norte, Pará, Pernambuco and Rondonia are furthering the development of integration programmes, with special emphasis on the academic curricula and the training system of already trained officers.

In **Ecuador**, a review of the National Police doctrine was conducted by preparing a police practice handbook, which integrates in a cross-sectional fashion international human rights law into police technical procedures. The implementation of programs cross-sectionally integrated by the provisions of international human rights law is pending approval by the respective authorities.

In **Mexico**, the Federal District Police is still working on human rights training for their operative staff. Over 30 instructors work full time teaching courses on the topic, paying special attention to practical procedures associated to police intervention; so far, 5,800 police officers have been trained. On the other hand, students from several courses taught at the Police Technical Institute are following a program that was cross-sectionally integrated with international standards taken from human right law. The Federal Support Forces attended two courses on Human Rights and Humanitarian Principles applied to police operations for keeping public order.

In **Nicaragua**, a special training course took place in 2006, addressed to the anti-riot forces and dealing with international standards of human rights law related to the use of force in police operations for maintaining public order.

In **Paraguay**, the ICRC signed an agreement with the Home Ministry and the National Police in order to develop a program to integrate international human rights law into the police function.

In **Peru**, a review was conducted of the National Police doctrine by preparing a police practice handbook, which integrates in a cross-sectional fashion international human rights law into police technical procedures. The implementation of programs which are cross-sectionally integrated by the provisions of international human rights law is pending approval by the respective authorities.

In **Venezuela**, the Ministry of Internal Security and Justice of the Boli-

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varian Republic of Venezuela issued on September 21st, 2006 – through resolution No. 364, published in issue No. 38,527 of the Official Journal – a “Code of Conduct for Civil Servants and Military Officers with police duties at the National, State and Municipal level” which includes many important references to human rights.

Integration of International Humanitarian Law in Academic Teaching

As regards university instruction, the incorporation of international humanitarian law into existing courses or as an independent subject in schools of law, international relations, political science and journalism will enable future generations of leaders and opinion makers to understand the relevance of this legal body, become involved in its implementation and enforcement and influence the humanitarian debate and development of law. The ICRC supports the efforts undertaken by the States to this end through a training programme in international humanitarian law for teachers at universities and other higher education institutions.

During 2006, the integration of international humanitarian law in the study programmes of these institutions in Latin America and the Caribbean has had the following outcomes:

- In **Argentina**, some 160 univer-

sity teachers integrated international humanitarian law in some fifty schools in which they work, and post-graduate courses in international humanitarian law were delivered in several national and private universities. Teams made up of students and teachers from the University of Buenos Aires and the University of La Plata took part in various contests related to international humanitarian law, such as the Jean Pictet, Jiménez de Aréchaga and Philip Jessup contests.

- In **Bolivia**, international humanitarian law was introduced in the regular syllabus of 10 mandatory subjects and of 3 optional subjects offered at the law schools of three universities in La Paz, in one university in Sucre and in a mandatory course of the School of Social Communication at La Paz University.
- In **Brazil**, over 60 teachers have been teaching international humanitarian law in schools of law, international relations and journalism schools of twenty universities for the past five years.
- Most of **Chile's** law schools have

integrated this topic. In 2006, the Bernardo O'Higgins University included international humanitarian law as a special research subject.

- **Colombia** continued working to implement a process to integrate international humanitarian law into universities through strategies such as elective courses, humanitarian topics for research, diplomas or postgraduate courses and internships for university students focused on victim care. The latter approach comprises legal and psychological advisory services for the victims of the Colombian armed conflict, as well as health care provided in rural areas by health care students.

Moreover, the National Police Directorate decided to include international humanitarian law in the training of the whole force and of special groups that are directly involved in combat actions throughout the country. Within the framework of integrating international humanitarian law into police instruction, and in order to facilitate the teaching task of police trainers, the Police devised a guide for the teaching of international humanitarian law.

- In **Ecuador**, international humanitarian law was incorporated into the regular syllabus of four mandatory subjects and seven optional

courses taught at the law schools of four universities in Quito and one in Guayaquil.

- One university in **Guatemala**, includes the subject of IHL on a mandatory basis in the law course offered in several educational institutions throughout the country and in one of its post-graduate courses.

- One university in **Mexico** frequently underscores the importance of disseminating, researching, understanding and enforcing international humanitarian law in the manifold academic activities undertaken to protect human beings.

- Over ten teachers in five law schools in **Paraguay** teach international humanitarian law topics in the course "Public International Law".

- In **Peru**, international humanitarian law was integrated into the regular syllabus of 18 mandatory courses and 15 elective courses taught at the law schools of five universities in Lima, in one optional course at the University of Lambayeque and another optional course delivered at the communication sciences school at Lima University.

- In **Uruguay**, international humanitarian law is still being taught in the law and international relations curricula at the five most important universities.

- In **Venezuela**, the ICRC delegation in Caracas held a training

As Altas Partes contratantes cuja legislação não seja suficiente no momento presente tomarão as medidas necessárias...

Convenção de Genebra I, 1949

seminar on international humanitarian law for teachers working in Social Communication or Journalism schools. Having affirmed the commitment to start teaching international humanitarian law in their courses, 25 professors from nine universities in Caracas and the rest of the country attended the seminar. Moreover, the ICRC kept in touch with 13 law schools in the capital and the rest of the country by distributing information, reading material and documentation on international humanitarian law and its development.

It should also be stressed that many students and recent graduates from some twenty universities in **Argentina, Brazil, Chile, and Uruguay** took part in the Moynier Essay Contest on international humanitarian law, held by the ICRC. On the other hand, in October 2006, the ICRC held in Barbados the second seminar for law school professors from **CARICOM** Member States, the aim of which was to strengthen the integration of international humanitarian law into universities in the region. Likewise, in Central America, lecturers from ten universities in **Costa Rica, Mexico, Nicaragua and Panama** attended a training seminar on international humanitarian law. A special note should be made of the fact that professors were in-

cluded from the political science and international relations schools for the first time ever. The course was supported by faculty from Costa Rican, Mexican and Peruvian universities, as well as by representatives of the Inter-American Court of Human Rights, the Inter-American Institute for Human Rights and members of diplomatic corps specialized in the field.

Integration of International Humanitarian Law in High School Teaching

Just over six years ago, the ICRC launched a program called “Exploring Humanitarian Law” (EHL), which consists in teaching modules that include teaching lessons based on issues related to international humanitarian law and IHL principles. The proposal was submitted to educational authorities with a view to improving the understanding of humanitarian issues regarding situations of armed conflict, and also of general violence, among teachers and students –the citizens-to-be. The main contents of the program relate to values such as tolerance, respect and sympathy, and may be integrated by the different countries into the current curricula of courses such as civic education, history, social science or philosophy. EHL provides

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teachers with teaching resources suitable to respond to the new guidelines included in educational reforms undertaken in most countries all over Latin America, where social and humanistic contents, as well as interactive, highly participatory teaching methods, play a major role.

After a five-year effort, several countries have actually taken this program to school classrooms. Work was undertaken in Bolivia, Brazil, Chile, Colombia, El Salvador, Guatemala, Honduras, Peru and Uruguay during 2006. To date, 1300 teachers have received training. In turn, these have worked with more than 100,000 students.

National Committees for the Implementation of International Humanitarian Law

Taking a stance on international humanitarian law treaties and fully honouring the obligations that stem from such instruments require specialized knowledge and coordination among the different State agencies. This is especially true in connection with the adaptation of domestic law and the adoption of practical measures in many areas such as the ratification of treaties, punishment of war crimes integrated into domestic law, the regulation of bans and limitations on the use

of weapons, the integration of international humanitarian law into the education of the different groups, etc. In order to respond to this challenge, most States have established inter-ministerial committees specializing in the national implementation of international humanitarian law. Usually, such committees meet at inter-secretariat level and their members represent the different government bodies involved in the implementation of international humanitarian law rules (ministries of foreign affairs, defence, justice, culture, education, health, the legislative, etc.) and other related institutions (National Societies of the Red Cross and the Red Crescent, universities, civil society, among others). It is important to mention that, in countries where such committees have been established, the decision-making process to adopt national implementation measures has become simpler.

Nowadays there are seventeen committees of this nature in the Americas, in **Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago and Uruguay.** The latest committee was created in 2006. The National Committee for the Implementation of Interna-

Las Altas Partes contratantes y las Partes en conflicto adoptarán sin demora todas las medidas necesarias para cumplir las obligaciones que les incumben en virtud de los Convenios y del presente Protocolo.

Protocolo adicional I, 1977

tional Humanitarian Law was created in Ecuador by Executive Order No. 741, signed by the President on August 16th, 2006. On the other hand, it should be mentioned that in **Honduras**, the Secretariat of Foreign Affairs is completing – with the help of an inter-secretariat working group – an executive agreement to set up an international humanitarian law committee.

Throughout 2006, the international humanitarian law committees made great efforts in different fronts related to the implementation of international humanitarian law, including its dissemination. Such committees contributed to most of the progress achieved in terms of treaty adoption as well as their national implementation.

Argentina's Committee for the Implementation of International Humanitarian Law endorsed several bills, among which there is a project to repress war crimes, another on the use and protection of the red cross, the red crescent and the red crystal emblems, and yet another on the banning of anti-personnel mines. This Committee also conducted a research study on the compatibility of domestic legislation applicable to the issue of missing persons and their relatives. Furthermore, it is worth mentioning that the Argentine Committee

co-hosted, together with the Argentine Ministry of Foreign Affairs, International Trade and Worship, the Argentine Ministry of Defence and the ICRC, a meeting of experts on weapons in international humanitarian law. The meeting, which took place in Buenos Aires, on August 22nd-23rd, 2006, was attended by 68 experts from 18 countries and many organizations, including the OAS; all the Latin American international humanitarian law committees were represented.

Bolivia's National Standing Committee for the Implementation of International Humanitarian Law is working on a constitutional draft text on the hierarchy of treaties on international humanitarian law and international human rights law, as well as on the relevant legal framework for exception regimes, with the purpose of submitting such draft to the Constituent Assembly. It is also evaluating the possibility of a project in the criminal field on anti-personnel mines.

Chile's National Committee on Humanitarian Law has been working on a bill to repress war crimes, to be included in the country's domestic criminal law, in accordance with the Geneva Conventions, Additional Protocol I and the Rome Statute. A comparative study on domestic regulations applicable to

missing persons and their relatives is also under way.

The Costa Rican Committee on International Humanitarian Law was involved in the preparation of a bill on the repression of war crimes, to be included in Costa Rica's domestic criminal law, and a bill on the adoption of Additional Protocol III to the Geneva Conventions. Both were submitted to the Parliament in July 2006.

El Salvador's Inter-institutional Committee on International Humanitarian Law contributed to the State's ratification of Protocol V on explosive remnants of war in March 2006. This Committee also worked on measures for the implementation of the 1954 Convention and both of its Protocols. Moreover, it compiled and distributed essential book collections on international humanitarian law among 15 public libraries in El Salvador.

The Guatemalan Committee for the Implementation of International Humanitarian Law set up, in September 2006, a working group whose task was to identify the measures to be adopted in order to solve the problem of missing persons and their relatives in Guatemala. This working group met twice, and came up with specific legislation and regulation proposals. In addition, the Committee set up another work-

ing group to analyze the necessary steps to provide care to victims of anti-personnel mines.

Nicaragua's National Committee for the Implementation of International Humanitarian Law has been working on a bill to repress war crimes, to be included in the country's criminal law. It also fostered the development of domestic measures to implement the 1954 Convention and its two protocols, especially in the field of identification and marking of cultural property.

Panama's National Standing Committee for the Implementation of International Humanitarian Law has been working on different bills, among which there is one on the repression of war crimes under domestic criminal law, in accordance with the Geneva Conventions, their Additional Protocol I and the Rome Statute, and another to ban anti-personnel mines. The Committee held, on June 27th 2006, the "*Foro Vigencia de Tratados de Derecho Internacional Humanitario aprobados por la Asamblea Nacional en sus Cien Años*" (Forum: Validity of International Humanitarian Law Treaties adopted by the National Assembly throughout its 100 Years), the purpose of which was to encourage, among Panama's and Central America's lawmakers, the ratification of international hu-

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manitarian law treaties and their national implementation.

Paraguay's Inter-Ministerial Committee for the Implementation of International Humanitarian Law drafted a bill to include war crimes into military criminal law, and submitted it to the Congress for approval. It worked on a bill to punish such crimes also within the sphere of ordinary criminal law. It also encouraged the marking of several cultural properties with the 1954 Convention emblem.

Peru's National Committee for the Study and Implementation of International Humanitarian Law carried out the First Course on International Humanitarian Law "Miguel Grau" (Lima, April 24th – 28th, 2006), addressed to representatives of the three government branches, as well as representatives from the Armed Forces, the Public Ministry, the Constitutional Court, the Supreme Council of Military Justice and civil society. In the same vein, the Committee signed a Cooperation Agreement with the International Humanitarian Law and Peacekeeping Institute of the Bochum University (Germany). Otherwise, the Committee is still working on projects related to the use and protection of the Red Cross and the Red Crescent emblems and to the amendment of the Children and Adolescents Code, in relation to ban-

ning the involvement of children in armed conflicts. It also supports the following up of the Bill on "Crimes Against International Human Rights Law and International Humanitarian Law" which is pending adoption by the National Congress.

Dominican Republic's National Standing Committee for the Implementation of International Humanitarian Law fostered the adoption of a law on the use and protection of the red cross, the red crescent and the red crystal emblems. It also strived to follow up the reform of the criminal code so that it will allow the punishment of war crimes in accordance with the Geneva Conventions, their Additional Protocol I and the Rome Statute.

Uruguay's National Committee on Humanitarian Law worked very hard in 2006. It followed up several international humanitarian law treaties that were submitted to the Congress for adoption; it fostered the bill on the implementation of the Rome Statute and analyzed the adoption of new national implementation measures. In particular, the Committee began to prepare a comparative study on domestic regulations applicable to the problem of missing persons and their relatives.

The OAS, the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, the Inter-American Institute of Human Rights and other regional or sub-regional organizations and institutions such as CARICOM continued to strongly support the promotion of international humanitarian law in the Americas. During the period under review, such support was reflected in the following events:

Organization of American States

Several agencies within the OAS have devoted a great deal of space to and produced many documents on various humanitarian issues, international humanitarian law, and the national implementation of measures concerning such law, by cooperating regularly with the ICRC. Worthy of note is the fact that the relationship between the OAS and the ICRC is based on the Cooperation Agreement signed on May 10th, 1996, as supplemented by a memorandum of understanding on April 3rd, 2003.

General Assembly

On June 6th, 2006, the General Assembly of the OAS, during its thirty-sixth regular session held in Santo Domingo, Dominican Republic, adopted Resolution AG/RES.2226

(XXXVI-O/06) on the “Promotion of and Respect for International Humanitarian Law”.

This resolution is a reaffirmation of the General Assembly’s concern about repeated violations of international humanitarian law that, to this date, cause indescribable suffering to countless victims of armed conflict. The General Assembly has stated its strong conviction about the pressing need to strictly observe international humanitarian law so as to prevent and reduce such suffering. The General Assembly has found that one of the most suitable means to strengthen the respect for the rules of international humanitarian law is by means of their universal acceptance, their broader dissemination, and their adoption at national level.

Particularly, the resolution urges the States to become Parties to all the treaties on international humanitarian law which they have not adhered to as yet. Moreover, it underscores the duty to put these treaties into practice by adopting a number of legislative, administrative as well as educational and practical measures.

Among them, the Resolution reminds Member States of their obligation to punish war crimes pursuant to the regime set forth by the four 1949 Geneva Conventions

and Additional Protocol I of 1997, which implies developing legislation that allows for the punishment of those responsible for committing such crimes, regardless of who such persons are or where or against whom the crimes were committed. The Resolution calls upon Member States to enact appropriate laws on the use and protection of the red cross and red crescent emblems, as well as the recently adopted red crystal emblem. It urges Member States to prevent the disappearance of persons, to determine the fate of those who have disappeared, and to attend to the needs of their family members. It insists on the need by Member States to bring about the widest possible dissemination of the rules of international humanitarian law, in particular by their incorporation into the military doctrine and manuals of their armed forces. Furthermore, the Resolution encourages Member States to effectively prohibit chemical and biological weapons, as well as to implement the ban on anti-personnel mines. The Resolution also reminds Member States of their obligation to establish procedures for determining the legality of new means or methods of warfare. Moreover, the Resolution insists on the adoption of the necessary measures to protect cultural property from the ef-

fects of armed conflict. It also calls upon Member States to prohibit the recruitment of children younger than 18 years of age to directly take part in hostilities.

During its thirty-sixth regular session, in addition to this Resolution, the OAS also adopted a number of other resolutions related to international humanitarian law. Many of them reinforce the commitments stated by Resolution AG/RES.2226 (XXXVI-O/06) and list Member States' obligations.

In the case of resolution AG/RES. 2231 (XXXVI-O/06), "Persons Who Have Disappeared and Assistance to their Relatives", it is worth recalling that this resolution seeks to clarify that dealing thoroughly with the issue of persons who have disappeared as a result of an armed conflict or any situation of internal violence implies adopting measures to prevent this phenomenon and find out the fate of missing persons, manage information and handle files, adequately deal with human remains and take due consideration of the needs of the missing persons' relatives. In this regard, resolution AG/RES. 2175 (XXXVI-O/06) "The Right to the Truth" sheds light on important aspects related to States' duty to find a solution to the problem.

Resolutions dealing with questions

related to the respect for international humanitarian law include Resolution AG/RES. 2176 (XXXVI-O/06) on the promotion of the International Criminal Court; AG/RES. 2179 (XXXVI-O/06) on the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Munition, Explosives, and Other Related Materials; AG/RES. 2180 (XXXVI-O/06) on the Americas as an Anti-personnel-land-mine-free Zone, AG/RES. 2181 (XXXVI-O/06) on the support for action against antipersonnel mines in Ecuador and Peru, AG/RES. 2229 (XXXVI-O/06) on internally displaced persons, AG/RES. 2233 (XXXVI-O/06) on the study of the rights and the care of persons under any form of detention or imprisonment and AG/RES. 2238 (XXXVI-O/06) on the protection of human rights and fundamental freedoms while countering terrorism.

General Secretariat

The dialogue between the OAS General Secretariat and the ICRC was strengthened in 2006. The two highest officials from both organizations, the OAS Secretary General and the President of the ICRC met in January, May and October to discuss various humanitarian issues affecting the region.

Committee on Juridical and Political Affairs

Pursuant to the mandate bestowed by resolution AG/RES. 2127 (XXXV-O/05) adopted on June 7th, 2005, 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 2nd, 2006. This meeting offered an opportunity for analysis and exchange regarding the current concerns on international humanitarian law. The ICRC had the privilege of contributing to this meeting, which was also attended by several government and non-governmental experts from all over the region.

The special session dated February 2nd, 2006, was a specially appropriate opportunity to discuss the challenges posed by the protection of people in situations of internal disturbance and tension; the problem of the uncontrolled availability of weapons; ICRC relationships with international organizations, more specifically the United Nations and the OAS; the meaning of the adoption of a new distinctive emblem subject to the same regulations that govern the red cross or the red crescent on a white background;

the integration of international humanitarian law into academic syllabuses; and progress in the region as regards the implementation of this law, more particularly the punishment of war crimes.

Moreover, on February 3rd, 2006, the Committee on Juridical and Political Affairs organized a work meeting on the International Criminal Court which became a forum to clarify a number of questions regarding operation of the International Criminal Court, specifically Member States' cooperation with the Court, and the immunity agreements. Also, the meeting underscored the need to adapt national criminal laws to effectively enforce the mechanism of complementarity provided for in the Rome Statute. The meeting was attended by a high official of the International Criminal Court, representatives from the Coalition for an International Criminal Court, government experts and the ICRC.

Department of International Legal Affairs

During 2006, this Department was involved in most efforts intended to promote international humanitarian law at the OAS level, supplied information and fostered several activities related to this topic. It cooperated significantly in or-

ganizing both the special session of the Committee on Juridical and Political Affairs held on February 2nd, 2006, and the working meeting on the International Criminal Court on February 3rd. Moreover, together with the Inter-American Juridical Committee, it encouraged a class on international humanitarian law during the XXXIII course on international law held in Rio de Janeiro on July 31st - August 25th this year. This course, held since 1973, is addressed to young professionals from the OAS Member States who work in the fields of law and international relations.

Finally, it is worth noting that through the Office of Legal Cooperation, the Department of International Legal Affairs makes available to the public a section within its Web page devoted to international humanitarian law. Here, it is possible to find information on OAS treaties and resolutions on this law, documents issued by the special sessions of the Committee on Juridical and Political Affairs that dealt with this law, a table with the national committees for the implementation of international humanitarian law, links to databases with national legislation on international humanitarian law developed by the ICRC and full texts of the reports from expert meetings organized by

the OAS and the ICRC. This page is available at:

http://www.oas.org/dil/esp/derecho_internacional_humanitario.htm

Inter-American System for the protection of human rights

Inter-American Court of Human Rights

The Inter-American Court of Human Rights and the ICRC held regular meetings during 2006. The relationship between both agencies is based on the formal cooperation agreement dated August 18th, 2000 that favours the exchange of public and scientific information between the Court and the ICRC. In this scenario, the organizations met on December 1st, 2006 in San José, Costa Rica, to consider current issues in the field of human rights law and international humanitarian law. Legal and practical aspects of the problems that arise from the issue of missing persons and their relatives, as well as from the protection of persons in situations of internal disturbance or tension, were discussed at the meeting.

Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights and the ICRC met

several times during 2006 in order to discuss issues of mutual interest in the field of the protection of persons.

Inter-American Institute of Human Rights

The Inter-American Institute of Human Rights and the ICRC continued their mutual cooperation in the promotion of international humanitarian law and human rights law in the region during 2006. Specifically, the Institute invited the ICRC to lecture at the “Jean Pictet” chair as part of the 23rd Interdisciplinary Course on Human Rights held in San José, on August 18th - September 8th, 2006. The course dealt with “Education in Human Rights”.

The Caribbean Community (CARICOM)

Throughout 2006, the CARICOM Secretariat and the ICRC continued cooperating to promote and implement international humanitarian law, with a view to facilitating the adherence of Caribbean States to the applicable treaties in this field and the adoption of measures for their national implementation. The General Secretariat and the ICRC analyzed the advisability of further reinforcing such cooperation through a formal agreement.

Organization of Eastern Caribbean States (OECS)

With a view to promoting the implementation of the main international humanitarian law treaties such as the Geneva Conventions and their Additional Protocols among OECS Member States, the ICRC was invited to speak during the 12th meeting of Attorneys General of OECS Member States. The meeting, which was held in St. John's, Antigua and Barbuda, on May 18th, 2006, further strengthened the relationship between the OECS Secretariat and the ICRC, especially regarding co-operation to assist in the development of legislation for the national implementation of international humanitarian law treaties by Member States.

thoughts about the current state of affairs regarding the national implementation of international humanitarian law treaties in PARLATINO member countries.

Latin American Parliament (PARLATINO)

The ICRC had several contacts with PARLATINO representatives during the year under review. More particularly, it was invited to attend the 6th Meeting of the Commission for Human Rights, Justice and Prison Policies held in Montevideo, Uruguay, on October 19th-20th. On this occasion, the ICRC had the opportunity to share a number of

During 2006, the ICRC carried out intense activities across Latin America and the Caribbean to provide legal and technical assistance on international humanitarian law. It operated from its delegations in Bogotá, Buenos Aires, Caracas, Lima, Mexico and Port-au-Prince, with the support of its offices in Brasilia, Guatemala City and Port of Spain.

Specific activities consisted, in particular, of the following:

- Bilateral consulting to solve problems related to the adoption of national measures implementing international humanitarian law treaties.
- Advice to facilitate the ratification of international humanitarian law treaties.
- Legal opinions on the compatibility of draft laws and international humanitarian law treaties, particularly with reference to international criminal law.
- Recommendations to integrate in domestic law measures to prevent the disappearance of persons in the event of armed conflicts or other situations of internal violence and to respond to the needs of families of missing persons.
- Guidance on the implementation and operation of structures assist-

ing governments in complying with international humanitarian law, particularly through inter-ministerial committees.

- Support to national committees for the implementation of international humanitarian law, in particular regarding the definition of action plans, training, and the exchange between committees.
- Compilation and exchange of information on measures for the national implementation of international humanitarian law, including through the ICRC's Advisory Service data bank on such measures. This data bank was updated regularly with information on all 35 American States. The data bank can be accessed at:
<http://www.icrc.org/ihl-nat>.
- Organization of and support to events dealing with international humanitarian law.

In 2006, the ICRC organized or contributed to the organization of the following meetings, seminars and courses:

- Presentation of the book "El sistema de garantías judiciales con especial referencia a la justicia penal militar" (The system of legal guarantees with special reference to military criminal justice) and the study on customary international humanitar-

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ian law, addressed to officials from the Attorney General's Office, Bogotá, Colombia, February 27th.

- "Latin American and Caribbean Parliamentary Seminar, the Impact of the Rome Statute of the International Criminal Court on the States' juridical order", City of Mexico, March 16th-17th, held by the Mexican Senate and Global Parliamentary Action.
- International Seminar "The Role of the press in events of armed conflict and internal violence", La Paz, Bolivia, March 24th-25th.
- Open event on International Criminal Law topics, Lima, Peru, March 30th.
- "Hemispheric Seminar on Small Arms and Light Weapons in Latin America and the Caribbean", Santiago, Chile, April 17th-18th. The event was organized by FLACSO.
- Presentation: "Bolivia's stance related to international humanitarian law. Analysis of the compatibility between its domestic juridical framework and IHL provisions", La Paz, April 19th.
- Course on International Humanitarian Law "Miguel Grau" by the National Committee for the Study and Implementation of International Humanitarian Law, Lima, Peru, April 24th-28th.
- "Training Session on International Humanitarian Law for students from the Diplomatic Studies Academy", San Salvador, El Salvador, May 17th, organized by the El Salvador's Inter-institutional Committee for International Humanitarian Law.
- International Seminar "The Role of the press in events of armed conflict and internal violence", Guayaquil, Ecuador, May 20th-21st.
- Seventh Regional Meeting of National Authorities from Latin America and the Caribbean, Mexico, DF, May 22nd-23rd. Held by the Organisation for the Prohibition of Chemical Weapons (OPCW) and the Mexican Secretariat of Foreign Affairs.
- International Conference on International Human Rights Law, Mexico, DF, May 23rd-26th. Organized by Spain's Hispanic Portuguese American Philippine Institute of International Law and the Juridical Research Institute of the UNAM (the National Autonomous University of Mexico).
- First Latin American Seminar on human rights and international humanitarian law, organized by Argentina's Ministry of Defence, the Argentine Navy and the Inter-American Institute for Human Rights (IIHR). Buenos Aires, Argentina, May 29th – June 2nd.
- Presentation "Ecuador and inter-

national humanitarian law (IHL). Study on the compatibility between the Ecuadorian legal framework and IHL provisions”, Quito, Ecuador, May 31st.

- “Seminar on the National and International Legal Framework to prevent, fight and eradicate illicit small arms and light weapons trafficking”, Mexico City, June 5th, organized by the Mexican Secretariat of Foreign Affairs and the campaign called “Armas Bajo Control” (“Control Arms”).

- “Forum: Validity of International Humanitarian Law Treaties adopted by the National Assembly throughout its 100 years”, Panama City, June 27th, organized by Panama’s National Assembly and the National Standing Committee for the Implementation of International Humanitarian Law, supported by the ICRC.

- Workshop on the role of CARICOM in achieving the goals of the Ottawa Convention, Port of Spain, Trinidad and Tobago, June 29th-30th. This event was organized by Trinidad and Tobago’s Ministry of Foreign Affairs and the Geneva International Centre for Humanitarian Demining.

- II Winter Course on International Law, held by the Brazilian Centre for the Study of International Law.

Milton Campos University at Belo Horizonte, Minas Gerais, Brazil, July 10th-28th.

- “Series of conferences on crimes against archaeological, artistic and historical heritage”, Mexico City, July 12th, organized by the National Institute of Criminal Science.

- “International Seminar on Human Rights and International Humanitarian Law”, Central University of Venezuela, Caracas, Venezuela, July 19th-21st.

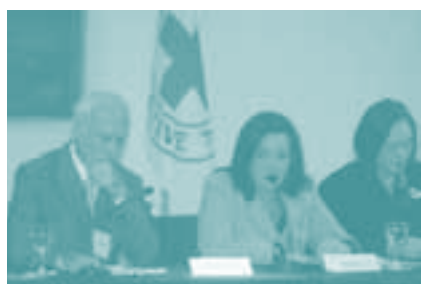
- XXXIII Course on International Law, organized by the Inter-American Juridical Committee and the Department of International Legal Affairs of the OAS. Rio de Janeiro, Brazil, July 31st-August 25th.

- Regional meeting of experts: “Weapons in International Humanitarian Law”, Buenos Aires, August 22nd-23rd. Organized by the Argentine Ministry of Foreign Affairs, International Trade and Worship and the ICRC.

- Round Table: “Forced disappearance in Peru: about Ernesto Castillo Páez’s case”, at the Pontifical Catholic University of Peru, Lima, August 31st.

- Seminar: “Forced Disappearance, criminal policy and restoration processes: dilemmas and challenges for truth, justice and redress in the Colombian context”, Bogotá, Colombia, September 5th-6th.

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- “Seminar: Terrorism and Human Rights”, Mexico City, September 11th-13th, organized by the Ibero-American University, the Office of the UN High Commissioner for Human Rights and the European Union.
- “International Seminar: Implementation of the International Criminal Court Statute in Mexican Law”, Mexico City, November 6th-8th, organized by the Ibero-American University, the Konrad Adenauer Foundation and the Coalition for the International Criminal Court.
- Presentation of the study on customary law before auxiliary judges of the Colombian Constitutional Court, Bogotá, Colombia, September 20th.
- VI Meeting of the Commission for Human Rights, Justice and Prison Policies of the Latin American Parliament (PARLATINO), Montevideo, Uruguay, October 19th-20th.

Annex 1

AG/RES. 2226 (XXXVI-O/06)

PROMOTION OF AND RESPECT FOR INTERNATIONAL HUMANITARIAN LAW

(Adopted by the Plenary at its fourth session, held on June 6, 2006)

THE GENERAL ASSEMBLY,

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

RECALLING ALSO that, under the Charter of the Organization of American States, 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 cause suffering to all victims of armed conflict;

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

RECALLING ALSO that 33 and 32 OAS member states, respectively, are parties to the 1977 Additional Protocols I and II to the 1949 Geneva Conventions;

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

WELCOMING the adoption on December 8, 2005, of the third Additional Protocol to the Geneva Conventions of 1949, regarding approval of an additional emblem;

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;

EMPHASIZING the obligation of states to punish all violations of international humanitarian law;

RECOGNIZING the important contribution by the national committees or commissions on international humanitarian law that exist in various member states to the application and dissemination or the adoption, as the case may be, of national measures to implement international rules within internal legal systems;

NOTING the holding of the First Meeting of States Parties to the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, in Paris, on October 26, 2005;

EXPRESSING ITS SATISFACTION with the cooperation between the Organization of American States and the International Committee of the Red Cross with regard to promoting respect for international humanitarian law and the principles behind said law, one example of which was the holding of a special meeting of the Committee on Juridical and Political Affairs on current topics in international humanitarian law, at OAS headquarters on February 2, 2006; and taking note of the results of that meeting, contained in the rapporteur's report (CP/CAJP-2326/06);

TAKING INTO ACCOUNT that, in the Declaration of Mar del Plata, adopted in the framework of the Fourth Summit of the Americas, in November 2005, the Heads of State and Government recognized that "respect for international law, including international humanitarian law, international human rights law, and international refugee law are essential to the functioning of democratic societies";

RECALLING that the Third Review Conference of the States Parties to the 1980 Convention on Prohibitions or Restrictions on the Use of Cer-

tain Conventional Weapons Which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects will take place this year;

RECALLING ALSO that the Conference to Review Progress Made in the Implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects will take place this year; and

EMPHASIZING the special role of the International Committee of the Red Cross 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 protection of the well-being and dignity of victims 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;*
- c. The 1977 Additional Protocols I and II to the 1949 Geneva Conventions; and the 2005 Additional Protocol III;*
- 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 conflict;*
- f. The 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;*
- g. The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction;*
- h. The 1998 Rome Statute of the International Criminal Court.*

- i. The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA), of 1997; and*
- j. The 1994 Convention on the Safety of United Nations and Associated Personnel.*

3. To urge member states that are parties to Additional Protocol 1 of 1977 to consider recognizing the competence of the International Humanitarian Fact-Finding Commission by means of the declaration contemplated in Article 90 of said Protocol, and those that have done so to take part in the election of the new members of the Commission.

4. To urge member states to bring about the widest possible dissemination of the rules of international humanitarian law, in particular by their incorporation into military doctrine and manuals, as well as among the entire civilian population.

5. To urge member states to adapt their criminal law in order to meet their legal obligations under the 1949 Geneva Conventions and their 1977 Additional Protocol I with respect to the definition of war crimes, universal jurisdiction, and the responsibility of superiors.

6. To invite member states to play an active part in the Third Review Conference of the States Parties 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.

7. 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.

8. To call upon member states to enact laws to prevent the misuse of the red cross and red crescent emblems and denominations, as well as the emblem adopted in the Third Additional Protocol, of December 8, 2005, as established in relevant treaties.

9. To urge member states 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.

10. 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, planning of emergency measures, appointment of competent authorities, and the enactment of laws to ensure respect for such property.

11. To urge 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 to prevent and suppress any activity prohibited therein when it is carried out by persons or in territory under their jurisdiction or control and to pay attention to 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 reintegration of the victims;

12. To urge member states to enact laws punishing acts prohibited by the Geneva Protocol of 1925, the Biological and Toxin Weapons Convention of 1972, and the 1993 Chemical Weapons Convention.

13. To call upon member states to prohibit the compulsory recruitment of children under 18 years of age into the armed forces or armed groups, and to take all feasible measures to prevent their direct participation in hostilities, in accordance with the 2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts.

14. To urge member states to consider adopting the appropriate measures, at the national level, to address the grave humanitarian consequences of the unregulated availability of arms, including the enactment of domestic laws aimed at strengthening control over the illicit manufacturing of and trafficking in firearms and other related materials, and to bear in mind the Programme of Action adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (New York, July 9-20, 2001); and to invite them to play an active part in the Review Conference of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, to be held in New York from June 26 to July 7, 2006, in order to help strengthen the international commitment made in the area.

15. 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, or exporting them would be contrary to international humanitarian law, and, in that event, to refrain from incorporating them for use by the armed forces or from manufacturing them for such purposes.

16. 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.

17. To request the General Secretariat to consider, through the International Law Office of its Department of International Legal Affairs, and in coordination with the ICRC, its Advisory Service in particular, organizing governmental conferences, as well as courses and seminars for staff of the permanent missions of the member states to the OAS and General Secretariat staff, in order to disseminate international humanitarian law and related inter-American conventions and strengthen their implementation.

18. To instruct the Permanent Council to continue, with support from the International Law Office of the Department of International Legal Affairs of the General Secretariat, and in cooperation with the ICRC, to organize special meetings on topics of current interest in international humanitarian law.

19. 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 to present a report to the General Assembly at its thirty-seventh regular session on the implementation of this resolution.

Annex 2

Advisory Service on International Humanitarian Law

Status Report on the Ratification of International Humanitarian Law Treaties in the Americas

As of November 30, 2006

Protection of Victims of Armed Conflicts

- Geneva Conventions of August 12, 1949 (GC I-IV)
- Additional Protocol to the Geneva Conventions of August 12, 1949 concerning the protection of victims of international armed conflicts (June 8, 1977) (AP I);
- Statement provided for in Article 90 of said Protocol (AP I – CIHE ART. 90)
- Additional Protocol to the Geneva Conventions of August 12, 1949 concerning the protection of victims of non-international armed conflicts (June 8, 1977) (PA II).
- Additional Protocol to the Geneva Conventions of August 12, 1949 concerning the adoption of a distinctive emblem of December 8, 2005 (PA III).
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts of May 25, 2000 (OP CAC)

Protection of Cultural Property in the Event of Armed Conflict

- Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, May 14, 1954 (HCCP)
- Additional Protocol I of 1954 (HACCP P. I)
- Additional Protocol II to the HCCP strengthening the punishment of breaches (HCCP P. II)

Environment

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

Weapons

- Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, June 17, 1925 (G. BC)
- Convention on the Prohibition of the Development, Production and

** International Humanitarian Law treaties are enumerated in this report following their respective subject. This must not be interpreted as an ICRC official position.*

This report is updated on a monthly basis and is available on the ICRC website: www.icrc.org. You can also get it at your nearest delegation in the Americas

Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction, April 10, 1972 (BWC)

- 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, October 10, 1980 (CCW)
- Additional Protocols: Non-Detectable Fragments (P I) Prohibitions or Restrictions on Mines, Booby-traps and other Devices (P II), Prohibitions or Restrictions on the Use of Incendiary Weapons (P III)
- Protocol IV on Blinding Laser Weapons annexed to the CCW (Protocol IV annexed to CCW), October 13, 1995 (P IV)
- Protocol on Prohibitions or Restrictions on Mines, Booby-traps and other Devices as amended on May 3, 1996 (Protocol II amended on May 3, 1996) (P IIa) (1980)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, January 13, 1993 (CWC)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, September 13, 1997 (Ottawa)
- Amendment to the 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 (and their relevant Protocols I, II and III), Geneva, October 10, 1980 (CCW a 2001)
- Protocol on Explosive Remnants of War (Protocol V to the 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 28, 2003 (P V REG 2003)

International Criminal Law

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

ADDENDUM

Status of Participation of American States in International Humanitarian Law Treaties (as of December 31, 2006)

Country		Protection of Victims of Armed Conflicts					Protection of Cultural Property in the Event of Armed Conflict			Environ- ment	
		GCI – IV 1949	API 1977	API – CIHE (ART.90)	AP II 1977	AP III 2005	OP CAC 2000	HCCP 1954	HCCP PI 1954		HCCP PII 1999
1	Antigua & Barbuda	06.10.1986	06.10.1986		06.10.1986						25.10.1988
2	Argentina	18.09.1956	26.11.1986	11.10.1996	26.11.1986		10.09.2002	22.03.1989		07.01.2002	20.03.1987
3	Bahamas	11.07.1975	10.04.1980		10.04.1980						
4	Barbados	10.09.1968	19.02.1990		19.02.1990			09.04.2002			
5	Belize	29.06.1984	29.06.1984		29.06.1984		01.12.2003				
6	Bolivia	10.12.1976	08.12.1983	10.08.1992	08.12.1983		22.12.2004	17.11.2004			
7	Brazil	29.06.1957	05.05.1992	23.11.1993	05.05.1992		27.01.2004	12.09.1958	12.09.1958	23.09.2005	12.10.1984
8	Canada	14.05.1965	20.11.1990	20.11.1990	20.11.1990		07.07.2000	11.12.1998	29.11.2005	29.11.2005	11.06.1981
9	Chile	12.10.1950	24.04.1991	24.04.1991	24.04.1991		31.07.2003				26.04.1994
10	Colombia	08.11.1961	01.09.1993	17.04.1996	14.08.1995		25.05.2005	18.06.1998	18.06.1998		
11	Costa Rica	15.10.1969	15.12.1983	02.12.1999	15.12.1983		24.01.2003	03.06.1998	03.06.1998	09.12.2003	07.02.1996
12	Cuba	15.04.1954	25.11.1982		23.06.1999			26.11.1957	26.11.1957		10.04.1978
13	Dominica	28.09.1981	25.04.1996		25.04.1996		20.09.2002				09.11.1992
14	Dominican Republic	22.01.1958	26.05.1994		26.05.1994			05.01.1960	21.03.2002		
15	Ecuador	11.08.1954	10.04.1979		10.04.1979		07.06.2004	02.10.1956	08.02.1961	02.08.2004	

16	El Salvador	17.06.1953	23.11.1978	23.11.1978	23.11.1978	18.04.2002	19.07.2001	27.03.2002	27.03.2002			
17	Grenada	13.04.1981	23.09.1998	23.09.1998	23.09.1998							
18	Guatemala	14.05.1952	19.10.1987	19.10.1987	19.10.1987	09.05.2002	02.10.1985	19.05.1994	04.02.2005	21.03.1988		
19	Guyana	22.07.1968	18.01.1988	18.01.1988	18.01.1988							
20	Haiti	11.04.1957	20.12.2006	20.12.2006	20.12.2006							
21	Honduras	31.12.1965	16.02.1995	16.02.1995	16.02.1995	08.12.2006	25.10.2002	25.10.2002	26.01.2003			
22	Jamaica	20.07.1964	29.07.1986	29.07.1986	29.07.1986	09.05.2002						
23	Mexico	29.10.1952	10.03.1983			15.03.2002	07.05.1956	07.05.1956	07.10.2003			
24	Nicaragua	17.12.1953	19.07.1999	19.07.1999	19.07.1999	17.03.2005	25.11.1959	25.11.1959	01.06.2001			
25	Panama	10.02.1956	18.09.1995	26.10.1999	18.09.1995	08.08.2001	17.07.1962	08.03.2001	08.03.2001	13.05.2003		
26	Paraguay	23.10.1961	30.11.1990	30.01.1998	30.11.1990	27.09.2002	09.11.2004	09.11.2004	09.11.2004			
27	Peru	15.02.1956	14.07.1989	14.07.1989	14.07.1989	08.05.2002	21.07.1989	21.07.1989	24.05.2005			
28	St. Kitts & Nevis	14.02.1986	14.02.1986	14.02.1986	14.02.1986							
29	St. Vincent & The Grenadines	01.04.1981	08.04.1983	08.04.1983	08.04.1983					27.04.1999		
30	Saint Lucia	18.09.1981	07.10.1982	07.10.1982	07.10.1982					27.05.1993		
31	Suriname	13.10.1976	16.12.1985	16.12.1985	16.12.1985							
32	Trinidad & Tobago	24.09.1963	20.07.2001	20.07.2001	20.07.2001							
33	United States of America	02.08.1955				23.12.2002				17.01.1980		
34	Uruguay	05.03.1969	13.12.1985	17.07.1990	13.12.1985	09.09.2003	24.09.1999	24.09.1999		16.09.1993		
35	Venezuela	13.02.1956	23.07.1998	23.07.1998	23.07.1998	23.09.2003	09.05.2005					
TOTAL		REGION	35	34	11	33	1	22	20	16	13	14
		UNIVERSAL	194	167	68	163	9	111	116	93	42	72

Status of Participation of American States in International Humanitarian Law Treaties (as of December 31, 2006)

Country	Weapons											International Criminal Law	
	G. BC 1925	BWC 1972	CCW 1980			PII a (1980) 1996	CCW PIV 1995	CWC 1993	Ottawa 1997	CCW a 2001	PV REG 2003		
			CCW 1980	PI	PII								PIII
1	Antigua & Barbuda	27.04.1989	29.01.2003						29.08.2005	03.05.1999			18.06.2001
2	Argentina	12.05.1969	27.11.1979	02.10.1995	X	X	X	21.10.1998	21.10.1998	02.10.1995	14.09.1999	25.02.2004	26.08.2003 08.02.2001
3	Bahamas		26.11.1986								31.07.1998		
4	Barbados	16.07.1976	16.02.1973								26.01.1999		10.12.2002
5	Belize		20.10.1986						01.12.2003	23.04.1998			05.04.2000
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	06.10.1983	27.06.2002
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		20.06.2002
8	Canada	06.05.1930	18.09.1972	24.06.1994	X	X	X	05.01.1998	05.01.1998	26.09.1995	03.12.1997	22.07.2002	07.07.2000
9	Chile	02.07.1935	22.04.1980	15.10.2003	X		X	15.10.2003	15.10.2003	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		05.08.2002
11	Costa Rica		17.12.1973	17.12.1998	X	X	X	17.12.1998	17.12.1998	31.05.1996	17.03.1999		07.06.2001
12	Cuba	24.06.1966	21.04.1976	02.03.1987	X	X	X		29.04.1997			13.09.1972	
13	Dominica		08.11.1978						12.02.2001	26.03.1999			12.02.2001
14	Dominican Republic	08.12.1970	23.02.1973							30.06.2000			12.05.2005
15	Ecuador	16.09.1970	12.03.1975	04.05.1982	X	X	X	14.08.2000	16.12.2003	06.09.1995	29.04.1999		05.02.2002

16	El Salvador	31.12.1991	26.01.2000	X	X	X	X	26.01.2000	26.01.2000	30.10.1995	27.01.1999	23.03.2006
17	Grenada	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	29.10.2001	30.08.2002	12.02.2003	26.03.1999	
19	Guyana									12.09.1997	05.08.2003	24.09.2004
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	01.07.2002
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	29.08.1994	09.06.1998	15.03.2002 28.10.2005
24	Nicaragua	05.10.1990	07.08.1975	05.12.2000	X		X	05.12.2000	05.12.2000	05.11.1999	30.11.1998	15.09.2005 03.09.1986
25	Panama	04.12.1970	20.03.1974	26.03.1997	X	X	X	03.10.1999	26.03.1997	07.10.1998	07.10.1998	16.08.2004 21.03.2002
26	Paraguay	22.10.1933	09.06.1976	22.09.2004	X	X	X	22.09.2004		01.12.1994	13.11.1998	14.05.2001
27	Peru	13.08.1985	05.06.1985	03.07.1997	X		X	03.07.1997	03.07.1997	20.07.1995	17.06.1998	11.08.2003 10.11.2001
28	St. Kitts & Nevis	27.04.1989	02.04.1991							21.05.2004	02.12.1998	22.08.2006
29	St. Vincent & The Grenadines	24.03.1999	13.05.1999							18.09.2002	01.08.2001	09.11.1981 03.12.2002
30	Saint Lucia	21.12.1988	26.11.1986							09.04.1997	13.04.1999	
31	Suriname		06.01.1993							28.04.1997	23.05.2002	
32	Trinidad & Tobago	31.08.1962								24.06.1997	27.04.1998	06.04.1999
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	18.08.1998	18.09.1998	06.10.1994	07.06.2001	21.09.2001 28.06.2002
35	Venezuela	08.02.1928	18.10.1978	19.04.2005	X	X	X	19.04.2005		03.12.1997	14.04.1999	07.06.2000
TOTAL	REGION	25	32	20	20	17	19	18	16	32	33	5 2 8 23
	UNIVERSAL	133	155	102	100	89	95	87	84	181	152	49 28 50 104

Annex 3

Chronological list of the creation / formation of national committees for international humanitarian law in the Americas

As of november 30, 2006

For further information, please visit the ICRC website: <http://www.icrc.org/spa>

Country	Name of Commission	Date of Establishment and Legal Basis
Uruguay	Comisión Nacional de Derecho Humanitario (CNDH-Ur) c/o Ministerio de Relaciones Exteriores, Dirección de Derechos Humanos Colonia 1206. 11600 Montevideo	1992 Executive Decrees No. 677/992 of November 24, 1992 and No. XXX/996 of June 3, 1996
Bolivia	Comisión Nacional Permanente para la Aplicación del Derecho Internacional Humanitario (CNPADIH) c/o Ministerio de Relaciones Exteriores y Culto. Plaza Murillo, Ingavi esqu. Junín. La Paz	1992 Decree No. 23345 of December 2, 1992; reorganized pursuant to Resolution No. 218456 of August 17, 1998 issued by the President of the Republic and the Ministry of Justice and Human Rights, which came into force on 30 October 1998.
Argentina	Comisión de Aplicación del Derecho Internacional Humanitario (CADIH) c/o Ministerio de Relaciones Exteriores Comercio Internacional y culto Dirección de consejería Legal (DICOL) Esmeralda 1212, Piso 15 C1007 ABP Buenos Aires	1994 Executive Decree No. 933/94 dated June 16, 1994
Chile	Comisión Nacional de Derecho Humanitario (CNDH) c/o Ministerio de Relaciones Exteriores, Dirección Jurídica Catedral 1158 3° Piso, Oficina 339 Santiago	1994 Decree No. 1229/94 of August 31, 1994
Paraguay	Comisión Interministerial de Aplicación del Derecho Internacional Humanitario c/o Ministerio de Defensa Nacional Edificio del Ministerio de Defensa Mcal. López esquina Vicepres. Sánchez Asunción	1995 Presidential Decree No. 8802 of May 12, 1995; reorganization by Presidential Decree No. 15926 of December 28, 2001
Dominican Republic	Comisión Nacional Permanente para la Aplicación del Derecho Internacional Humanitario c/o Secretaría de Estado de Relaciones Exteriores, Avenida Independencia 752 Santo Domingo	1995 Presidential Decree No. 101-03 of February 6, 2003 that amends Presidential Decree No. 131-99 of March 30, 1999

Panama	Comisión Nacional Permanente para la Aplicación del Derecho Internacional Humanitario (CPDIH) c/o Ministerio de Relaciones Exteriores Palacio Bolívar, Casco Antiguo, Ciudad de Panamá	1997 Executive Decree No. 154 of August 25, 1997, amended by Executive Decree No. 165 of August 19, 1999
Trinidad and Tobago	Inter-Ministerial Committee on International Humanitarian Law c/o Ministry of Enterprise Development and Foreign Affairs 1 Queen's Park West, Port of Spain	1997 (ad hoc) 2001 (ad hoc) Cabinet Decision No. 211 of February 21, 2001
El Salvador	Comité Interinstitucional de Derecho Internacional Humanitario (CIDIH-ES) c/o Ministerio de Relaciones Exteriores 17 Avenida Norte, Alameda Juan Pablo II, Centro de Gobierno, Edificio B-2, 2° nivel San Salvador	1997 Presidential Decree No. 118 of November 4, 1997
Canada	Canadian National Committee for Humanitarian Law a/s Croix-Rouge canadienne 170, Metcalfe, suite 300 Ottawa, Ontario, K2P 2P2	1998 Memorandum of Understanding of March 18, 1998
Nicaragua	Comisión Nacional para la Aplicación del Derecho Internacional Humanitario c/o Ministerio de Relaciones Exteriores Apartado postal No. 127, Managua	1999 Presidential Decree No. 54-99 of April 23, 1999
Guatemala	Comisión Guatemalteca para la Aplicación del Derecho Internacional Humanitario (COGUADIH) c/o Ministerio de Relaciones Exteriores 2a Avenida Reforma 4-47, Zona 10, Ciudad Guatemala	1999 Government Agreement No. 948-99 of December 28, 1999
Colombia	Comisión Intersectorial Permanente para los Derechos Humanos y el Derecho Internacional Humanitario c/o Vicepresidencia de la República Carrera 8 No. 7-27 Bogotá	2000 Presidential Decree No. 321 of February 25, 2000
Peru	Comisión Nacional de Estudio y Aplicación del Derecho Internacional Humanitario (CONADIH) c/o Ministerio de Justicia, Scipión Llona 350, Miraflores, Lima	2001 Resolution (Resolución Suprema) No. 234-2001-JUS of June 1, 2001 Operation: Ministerial Resolution No. 240-2001-JUS of July 23, 2001 (regulations of procedure and operation)
Brazil	Comissão Nacional para Difusão e Implementação do Direito Internacional Humanitário no Brasil c/o Ministério das Relações Exteriores, Divisão de Nações Unidas - DNU Palácio Itamaraty, Anexo II, 70170-900, Brasília	2003 Executive Order dated November 27, 2003
Costa Rica	Comisión Costarricense de Derecho Internacional Humanitario c/o Ministerio de Relaciones Exteriores y Culto, Casa Amarilla Apartado 10027-1000, San José	2004 Executive Order No. 32077-RE dated May 21, 2004, released in the Official Gazette (Diario Oficial) on November 4, 2004.
Ecuador	Comisión Nacional para la Aplicación del Derecho Internacional Humanitario c/o Ministerio de Relaciones Exteriores Avenida 10 de agosto y Carrión, Quito	2006 Executive Order No. 741 of August 16, 2006.

Annex 4

Key articles in the 1949 Geneva Conventions and the 1977 Additional Protocols requiring national implementation measures						
	1949 Geneva Conventions				1977 Protocols	
	I	II	III	IV	I	II
Translation	48	49	41,128	99,145	84	
Dissemination and training	47	48	41,127	99,144	80, 82-83, 87	19
Infractions						
General provisions	49-54	50-53	129-132	146-149	85-91	
War crimes	49-50	50-51	129-130	146-147	11, 85-90	
Compensation					91	
Protection						
Fundamental guarantees		3, 12	3, 13-17	3, 27-34	11, 75-77	4-5,7
Legal and discipline guarantees; detainees' rights	3	3	3, 5, 17, 82-90, 95-108, 129	3, 5, 31-35, 43, 64-78, 99-100, 117-126	44-45, 75	6
Medical and religious personnel, medical mission	40, 41	42		20	15-16, 18	10, 12
Medical transports and units	19, 36, 39, 42-43	22, 24-27, 38-39, 41, 43		18, 21-22	12, 18, 21-23	12
Cultural property					53	16
Dangerous forces						
Identity cards	27, 40, 41, Anexo II	42, Annex	17, Annex IV	20	18, 66-67, 78-79, Annex I&II	
Capture cards and internment cards			70, Annex IV	106, Annex III		
Use and misuse of emblems and signals	44, 53-54	44-45			18, 37-38, 66, 85, Annex I	12
Specialists and advisers						
Qualified persons					6	
Legal advisers					82	
Organizations						
National Societies	26			63	81	18
Civil defence				63	61-67	
Information Bureaux			122-124	136-141		
Mixed Medical Commissions			112, Annex II			
Military Planning						
Weapons and tactics					36	
Military facilities					57-58	
Protected zones and localities	23, Annex I			14, 15	59-60, Annex I	

The mission of the ICRC

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 International Red Cross and Red Crescent Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Movement.



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