



**ICRC**

**INTERNATIONAL COMMITTEE OF THE RED CROSS**

**Advisory Service  
on international humanitarian law**

**PARTICIPATION IN RELEVANT TREATIES OF INTERNATIONAL  
HUMANITARIAN LAW (IHL) AND IMPLEMENTATION THEREOF  
AT NATIONAL LEVEL**

**Developments registered and activities conducted  
in countries and organizations of America  
in 2002**

Document prepared by the International Committee of the Red Cross (ICRC)  
for the information of member States of the Organization of American States

March 2003



# ICRC

## The ICRC's mission:

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

The ICRC is mentioned several times in the instruments of international humanitarian law. Its work is therefore defined by texts to which States have subscribed. There are two types of legal basis:

### Treaties

During international armed conflicts the ICRC founds its action on the 1949 Geneva Conventions and 1977 Protocol I additional thereto, which recognize its right to conduct certain activities such as:

- bringing relief to wounded, sick or shipwrecked military personnel;
- visiting prisoners of war;
- taking action in behalf of the civilian population; and
- ensuring that protected persons are treated according to the law.

During internal armed conflicts, the ICRC bases its action on Article 3 common to the four Geneva Conventions and on Protocol II. These recognize its right to make proposals by offering, for example, its services to parties to conflict with a view to:

- undertaking relief operations;
- visiting persons detained in connection with the armed conflict.

### Statutes

In the other violent situations less intense than armed conflicts - internal disturbances for instance - the ICRC bases its action on the Statutes of the Movement, which grant it a right of initiative in humanitarian matters. It may in fact offer its services in any situation which requires the presence of a specifically neutral and independent intermediary.

Taken together, all these rights constitute the permanent mandate assigned to the ICRC by the international community. They endorse the initiatives it has taken throughout its history to bring aid to the victims of war and disturbances, and confirm the acceptance of such initiatives by the international community.

The ICRC also works as "guardian" of international humanitarian law, the law applicable in situations of armed conflict.

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## A. Introduction

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Many States have now assumed commitments under international humanitarian law treaties. However, for millions of people trapped in armed conflicts, those treaties are a dead letter, a distant dream that they never attain.

Effective implementation of and respect for international humanitarian law (IHL), also known as international law of armed conflicts (ILAC), require action and willingness by States in the international and national arenas.

To achieve the common objective of ensuring effective respect for the victims of armed conflicts, the first - and vital - step is international commitment to compliance with IHL treaties, by ratification or accession.

This formal commitment must be accompanied by the adoption of a series of measures by States to ensure the domestic implementation and dissemination of the norms contained in those instruments.

Fortunately, conditions on the American continent are currently favorable for the most part for the processes of bringing domestic legislation into line with the principles of IHL and the obligations inherent in IHL instruments.

The Organization of American States (OAS) has repeatedly stated through its various gatherings the importance of the norms for the protection and safety of the individual in all circumstances.

It has been emphasized since 1994, in particular by resolutions adopted by the General Assembly, that it is necessary and important to reinforce the principles of international humanitarian law through universal acceptance of the relevant instruments, domestic implementation of those instruments and making the rules contained therein as widely known as possible.

In keeping with those principles, resolution AG/RES. 1904 (XXXII-O-02) "Promotion of and Respect for IHL" was adopted recently at the XXXIInd General Assembly of the OAS, held in Bridgetown, Barbados.

The adoption of other IHL-related resolutions in the OAS General Assembly, like those on the International Criminal Court and on the involvement of children in armed conflicts, on anti-personnel mines, and also on light weapons, demonstrates the importance and relevance of IHL and attitudes to it in the OAS.

At the same time, the growing cooperation between the OAS and the International Committee of the Red Cross (ICRC), through the holding of special sessions on IHL, the organization of governmental conferences and a close exchange of information, is certainly a framework for cooperation leading to consolidation in the hemisphere of the regime for the protection of victims of armed conflicts.

The ICRC, for its part, in fulfillment of its commitments recognized in the 1949 Geneva Conventions and in the 1977 Additional Protocols, and as the promoter and guarantor of that body of law, conducts activities designed to bring about universal acceptance of IHL treaties, institutionalization of the dissemination of the norms they contain, adoption of the laws and regulations necessary for their domestic implementation, and the creation of committees or other specific interministerial or interinstitutional agencies that could promote and facilitate the implementation and application of IHL.

Six years after its creation, working either out of its unit at ICRC Headquarters in Geneva, Switzerland, or in its delegations on each continent, the ICRC's *Advisory Service on International Humanitarian Law*, with the help of its qualified staff and national experts, is continuing its constant efforts to provide technical assistance to government authorities that require it.

In particular, the advisory services that the ICRC offers focus on the process of bringing national legislation and regulations into line with international obligations, facilitating the exchange of information on measures adopted and continuing support for the activities of the national commissions or committees for the implementation of IHL, and encouraging the exchange of information and cooperation among them.

It should be noted that the progress made since the creation of the Advisory Service on IHL is mainly due to the ongoing joint efforts of States in fulfillment with their obligations under IHL, National red cross and red crescent Societies, and regional organizations and academic institutions. The ICRC supports those efforts and encourages them to continue.

In the Americas, such progress means greater and better acceptance of IHL by States, by bringing national criminal legislation into line with international IHL treaties and thus permitting the prevention and, where appropriate, the punishment of violations of IHL.

A major development can also be seen in the adoption of laws to protect the red cross and red crescent emblems, the adoption of administrative measures to enforce treaties that have been ratified, and the inclusion of IHL as a compulsory subject in the official training programs of the armed, security and police forces - including its inclusion in full in military doctrine - and also in university curricula.

The same phenomenon can be seen in the gradual development of the IHL being enacted by the various organizations and bodies of the inter-American system, and also by other agencies or institutions in the region.

This third report being submitted to the Member States of the OAS is an account of progress made in the countries of the Americas in 2002.

The report is in four parts providing an overview of: participation in IHL treaties, developments in the implementation of IHL, a broad look at the activities of regional organizations and academic institutions, and the Advisory Service's own activities.

The ICRC, through its Advisory Service, hopes to contribute with this report to the efforts being made by the American countries to bring about effective **promotion of and respect for international humanitarian law**, so as to truly alleviate the suffering of the victims of armed conflicts.

*Anton Camen  
Legal Advisor for Latin America  
Advisory Service on IHL  
International Committee of the Red Cross*



The information contained in this report is not exhaustive. Only information communicated to the ICRC as of 31 December 2002 has been included. Additional information may be obtained on request from the Advisory Service on International Humanitarian Law, International Committee of the Red Cross, 19 Ave. de la Paix, CH-1202 Geneva [advisoryservice.gva@icrc.org](mailto:advisoryservice.gva@icrc.org) or through the Unit for Latin America of the ICRC's Advisory Service on IHL based at the ICRC Regional Delegation for Mexico, Central America, Haiti and the Spanish-speaking Caribbean, in Mexico [mexico.mex@icrc.org](mailto:mexico.mex@icrc.org) or from other ICRC offices in the Americas.





## B. Overview

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### I. PARTICIPATION IN INTERNATIONAL HUMANITARIAN LAW (IHL) TREATIES AND OTHER RELEVANT INSTRUMENTS.

*Universal participation in the IHL treaties is fundamental to ensuring greater and better respect for the victims of armed conflicts.*

As of 31 December 2002, participation by American States in the IHL treaties was as follows:

#### PROTECTING THE VICTIMS OF ARMED CONFLICT<sup>1</sup>

- **1949**      **Geneva Conventions for the Protection of the victims of war.**  
35 States Parties (190) (\*)
- **1977**      **Additional Protocol I** (international armed conflict)  
33 States Parties (160)
- International Humanitarian Fact-Finding Commission (IHFFC)**  
(Declaration under article 90, Additional Protocol I)  
11 States have accepted its competence (62)
- **1977**      **Additional Protocol II** (non-international armed conflict)  
32 States Parties (153)
- **2000**      **Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflicts**  
12 States Parties (45)

(\*)Total number of States Parties

The international instruments that form the cornerstone of contemporary IHL, i.e. *the four 1949 Geneva Conventions and their two 1977 Additional Protocols*, are the subject of almost total acceptance by the 35 countries of the region considered in this report.

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<sup>1</sup> The titles under which the international instruments have been grouped are indicative and do not reflect the ICRC's official position.

*Mexico* had started consultations with the competent authorities with a view to ratifying Additional Protocol II. *Haiti* had started an internal process to move to ratification of both Additional Protocols.

The following States Parties to Additional Protocol I of 1977 had declared their acceptance of the competence of the International Humanitarian Fact-Finding Commission (IHFFC): *Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Panama, Paraguay, Trinidad and Tobago, and Uruguay.*

The possibility of accepting the competence of the IHFFC was being studied in *El Salvador, Guatemala and Peru.*

Many of the victims of armed conflicts are children. Three out of every five victims of armed conflicts where the ICRC is present are children. The 1949 Geneva Conventions and the 1977 Additional Protocols lay down rules for the general and special protection of children. Those and other requirements pursuant to the 1989 Convention on the Rights of the Child (article 38), and other instruments constitute the framework for the legal protection of children in armed conflicts.

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted on 25 May 2000, came into force on 12 February 2002.

Despite the shortcomings of the Protocol, its adoption helped to reinforce the framework of protection, in particular by setting a minimum age of 18 years for direct participation in hostilities (art. 1); specifically prohibiting the conscription of children younger than 18 (art. 2); urging States to raise the minimum age for voluntary recruitment to 15 years (art. 3); and prohibiting armed groups that are distinct from the armed forces of the State from recruiting or using in hostilities persons under the age of 18 years (art. 4)

There was considerable and growing participation during 2002: of the 12 States currently Parties to the Optional Protocol, 10 acquired that status in the period covered by this report.

*Argentina (September), Dominica (September), El Salvador (April), United States of America (December), Guatemala (May), Honduras (August), Jamaica (May), Mexico (March), Paraguay (September) and Peru (May).* *Canada* became a party in 2000 and *Panama* in 2001.

By the end of 2002, the following States of the region had signed the new treaty: *Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Haiti, Dominican Republic, Surinam, Uruguay and Venezuela.*

An internal process aimed at ratification of the Optional Protocol was under way in *Brazil, Bolivia, Chile, Costa Rica, Colombia and Nicaragua.*

## PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

- **1954**      **Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict**  
16 States Parties (103)
- **1954**      **Protocol to the 1954 Convention**  
13 States Parties (85)
- **1999**      **Second Protocol to the 1954 Convention**  
4 States Parties (14)

*Dominican Republic* deposited its instrument of acceptance of the Protocol to the 1954 Convention on 21 March 2002.

*El Salvador* became a Party to both Protocols on 27 March 2002. *Argentina* acceded to the Second Protocol on 7 January.

The process to ratify the 1954 Convention and its two Protocols was started in *Bolivia, Chile, Honduras and Paraguay*.

In *Brazil, Argentina, Costa Rica, Colombia, Guatemala, Peru and Dominican Republic*, which are Parties to the 1954 Convention but are not yet Parties to one or both Protocols, the possibility of accession to the Protocols was being studied by the competent authorities.

## PROTECTION OF THE ENVIRONMENT

- **1976**      **Convention on the prohibition of military or any hostile use of environmental modification techniques**  
13 States Parties (68)

## WEAPONS

- **1972**      **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.**  
31 States Parties (146)

- **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 (CCW) and Protocols I (Non-Detectable Fragments), II (Mines, Booby-Traps and Other Devices), and III (Incendiary Weapons) thereto**  
(CCW) 16 States Parties (90) / PI 16 (88), PII 14 (80), PIII 15 (85)
  
- **1995**      **Additional Protocol 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, "Protocol on Blinding Laser Weapons (Protocol IV)"**  
13 States Parties (66)
  
- **1996**      **Additional Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II to the 1980 Convention as amended on 3 May 1996) 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**  
14 States Parties (68)

*Guatemala* notified its consent to be bound by Protocol IV on 30 August of the year under review.

An internal process for the ratification of the 1980 Convention and/or its four Protocols (including amended Protocol II) was under way in *Chile, Honduras, Paraguay and Dominican Republic*.

- **1993**      **Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction**  
25 States Parties (148)

*St. Vincent and Grenadines* joined the 24 States of the region that are Parties to the 1993 Convention, ratifying on 18 September 2002.

In *Guatemala* the internal process for ratification was on the verge of being concluded.

- **1997**      **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction (Ottawa Convention)**  
31 States Parties (130)

*Surinam* ratified the Ottawa Convention on 23 May 2002.

An internal process to ratify this instrument had started in *Guyana*.

- **2001      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**  
(CCW a) 1 State Party (7)

At the Second Review Conference of the 1980 Convention, held in December 2001, the States Parties, recognizing that the majority of present-day armed conflicts are internal, extended the scope of application of the Convention to non-international armed conflict situations, since the Convention had until then applied only to international armed conflict situations. Consequently, States that consent to be bound by the Amendment will also do so in respect of its Protocols.

*Canada* consented to be bound by the Amendment to the 1980 Convention on 22 July 2002.

A number of States of the region had started internal processes to bring themselves into line with the Amendment.

## INTERNATIONAL CRIMINAL LAW

- **1998      Rome Statute of the International Criminal Court (ICC)**  
19 States Parties (87)

In 2002, the threshold of 60 ratifications required for the entry into force of the Rome Statute was reached. The ICRC urges States to refrain from making use of the opting-out clause contained in article 124 on becoming Parties to the Statute.

States like *Costa Rica, Colombia, Chile, Ecuador, Guatemala and Honduras* had held consultations with various judicial bodies on constitutionality issues in relation to the ratification of the Statute of the ICC.

In *Bolivia*, the Open-Ended Working Group on the Rome Statute of the International Criminal Court concluded its work on 16 April 2002, submitting the report it had been mandated to prepare to the National Senate on 24 April 2002. The report was enacted as Law of the Republic N° 2398 on 24 May 2002. *Bolivia* thus joined the States of the continent that are Parties to the Statute of the ICC.

*Trinidad and Tobago* was the first American State to ratify the 1998 Rome Statute. In 2000 it was followed by *Belize, Venezuela and Canada*, and in 2001 by *Antigua and Barbuda, Argentina, Costa Rica, Dominica, Paraguay and Peru*.

During 2002, the following States of the region became Parties to the Statute: *Barbados* (December), *Bolivia* (June), *Brazil* (June), *Colombia* (August), *Ecuador* (February), *Honduras* (July), *Panama* (March), *St. Vincent and Grenadines* (December) and *Uruguay* (June).

The following American States had signed the 1998 Rome Statute: *Bahamas, Chile, United States of America*<sup>2</sup>, *Guyana, Haiti, Jamaica, Mexico, Dominican Republic and Saint Lucia*.

Ratification of the Statute was under way in *Chile, Haiti, Guatemala, Nicaragua, Dominican Republic and Mexico*.

**This section is accompanied by a list indicating the status of participation by States of the Americas in IHL treaties ( ANNEX I )**

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<sup>2</sup> On 6 May 2002, the Government of the United States of America notified the Secretary General of the United Nations as follows: "This is to inform you, in connection with the Rome Statute of the International Criminal Court adopted on July 17, 1998, that the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000. The United States requests that its intention not to become party, as expressed in this letter, be reflected in the depositary's status lists relating to this treaty. In: <http://untreaty.un.org>

## II. NATIONAL IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW TREATIES.

*The adoption of domestic legislative measures in times of peace is essential to guarantee full respect for IHL in times of armed conflict.*

### a. Legislation

#### PROTECTION OF EMBLEMS

*States must prevent and punish misuse or imitation of the red cross and red crescent emblems, the civil defense symbol and the electronic signals mentioned in IHL instruments. Their domestic measures must also provide for the definition and identification of recognized and protected emblems and the appointment of a national authority to supervise related matters such as who is entitled to use them and for what purposes.*

#### As of 31 December 2002:

A large number of American States had adopted legislation to regulate use of the emblems protected under IHL. Although in some cases this legislation is not consistent with obligations assumed, the laws are an important measure, and such legislation may be amended to bring it into line with IHL. As of 31 December 2002, the following new or amended legislation on the subject had been adopted:

##### *Nicaragua*

Law No. 418.<sup>3</sup>, "Law on the Protection and Use of the Name and Emblem of the Red Cross", adopted on 26 February 2002.

##### *Bolivia*

Law No. 2390<sup>4</sup> of 23 May 2002, on the Use and Protection of the Emblem of the Red Cross.

Legislation or draft legislation on the protection of the emblem was under consideration by the authorities concerned in the following countries of the region: *Argentina, Colombia, Cuba, Honduras, Paraguay and Dominican Republic.*

<sup>3</sup> Law No. 418, published in La Gaceta (Gazette) No. 57 on 22 March 2002.

<sup>4</sup> Law No. 2390 published in the Bolivian Gazette N° 2407 of 19 June 2002.

## PUNISHMENT OF BREACHES OF IHL

Respect for IHL requires, in addition to the political will of States to implement it, punishment of those responsible for serious breaches of that law, i.e. their punishment or disciplinary measures against them.

### National Courts

*In addition to setting out detailed rules aimed at protecting the victims of armed conflict and restricting the means and methods of warfare, IHL also establishes mechanisms to ensure that these rules are respected.*

*In particular, humanitarian law holds individuals responsible for violations of humanitarian law which they commit, or order others to commit. It requires that those responsible for serious violations be prosecuted and punished as criminals. The most serious violations of humanitarian law are termed war crimes. States are required to search for and punish all those who have committed grave breaches regardless of the nationality of the perpetrator or the place where the crime was committed. This principle, called universal jurisdiction, is a key element in ensuring the effective repression of grave breaches.*

*States must thus ensure that their criminal law provides for punishment of:*

- *Grave breaches of the 1949 Geneva Conventions and Additional Protocol I of 1977;*
- *Violations of the 1954 Convention for the Protection of Cultural Property and of its Protocols I and II;*
- *Willful killing of or serious injury to civilians resulting from violations of amended Additional Protocol II (concerning land mines) to the 1980 Convention on Certain Conventional Weapons;*

In 2002, at the request of States, the ICRC Advisory Service on IHL collaborated as a technical expert when the incorporation of penalties for breaches of IHL into their internal regulations was being discussed.

### **As of 31 December 2002:**

*Colombia* had adopted a criminal code that punishes crimes committed against persons and objects protected by IHL, in effect since June 2001. In 2002, adopted under bill 734 of February 5th 2002, the *Codigo Disciplinario Único* that set up the disciplinary regime for public servants, establishing the serious fault caused by committing serious violations to IHL. The mentioned code came into force in May 5th 2002.



*Costa Rica*, following a review process of the Criminal Code, by Law N° 8272<sup>5</sup> of 2 May 2002 had reformed and added to the Code provisions relating to criminal suppression as punishment for war crimes and crimes against humanity. As a result, the current Criminal Code includes in its section on territorial application acts punishable under IHL and the section on offences against human rights includes article 378 entitled "War crimes" and article 379 entitled "Crimes against humanity".

Major progress had been made in the following States, where projects to review the ordinary criminal codes were under consideration by the competent authorities (more specifically, the legislature) or were under study: *Argentina, Brazil, Chile, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Trinidad and Tobago*.

Reforms of military criminal justice were also under consideration in: *Argentina, Chile, Colombia, Guatemala, Honduras, Mexico, Paraguay, Peru and Uruguay*.

### International Courts

The entry into force of the Rome Statute of the International Criminal Court on 1 July 2002 set a landmark in the history of international law. Henceforth, the international community as a whole has a responsibility to surmount the challenges set by effective and total compliance.

*In order to become party to the 1998 Rome Statute of the International Criminal Court (ICC), many States will have to amend their national legislation and, in some cases, their national constitutions. The effectiveness of the International Criminal Court - ICC - will further depend on the extent to which States Party to the Statute adopt adequate implementing measures.*

*More specifically States must amend their national laws and adapt their internal procedures to enable them to cooperate with the ICC (e.g. arrest and surrender, collecting and preserving evidence, enforcing fines, forfeitures and penalties, etc.).*

*They must, in addition, amend their national legislation to grant privileges and immunities to the Court and its officers and to extend to offenses against the ICC national provisions relating to offenses against the administration of justice.*

*In addition to these obligations, States Parties that wish to take advantage of the principle of complementarity will wish to review their national criminal legislation to ensure that proceedings can where appropriate be instituted in national courts for the crimes within the jurisdiction of the ICC – genocide, crimes against humanity and war crimes – as defined in the Statute.*

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<sup>5</sup> Law N° 8272 published in La Gaceta, Gazette N° 97 of Wednesday 22 May 2002.

**As of 31 December 2002:**

*Canada* had had the "Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the ICC and to make consequential amendments to other Acts"<sup>6</sup> since July 2000.

A number of States of the Americas had started the process of analyzing the compatibility of their Constitutions and their ordinary and military domestic legislation with the Statute of the International Criminal Court - ICC - in order to identify the relevant reforms needed to comply with their obligations under the Statute.

In order to examine the ratification of the 1998 Rome Statute, questions on the constitutionality of the Statute had been submitted for consideration to the judiciary or to quasi-judicial bodies in the following countries: *Costa Rica* (November 2000), *Ecuador* (February 2001), *Honduras* (January 2002), *Guatemala* (March 2002), *Chile* (April 2002) and *Colombia* (June 2002).

Several States had also instructed interministerial working groups, or open-ended groups in which sectors of civilian society had also participated, to examine this issue for the same purpose.

In *Argentina*, an interministerial commission mandated to study the Rome Statute of the International Criminal Court had prepared a draft law to implement the Statute; the final version was submitted to Parliament in October 2002 for approval.

In October 2002, in *Brazil*, the "Rome Statute"<sup>7</sup> Working Group that had been working since April of that year had submitted to the Ministry of Justice the initial draft of a law that "defines the crime of genocide, crimes against humanity and war crimes, legislates on cooperation with the International Criminal Court and decrees other measures"<sup>8</sup>. The initial draft Law has two main thrusts: to enable the exercise of primary jurisdiction by the Brazilian State and to establish effective cooperation with the International Criminal Court.

The initial draft had been submitted for consideration to the Ministry of Justice and it is expected that it will be adopted shortly.

In *Peru* a Special Commission mandated to review the text of the Criminal Code, and also amending legislation and alignment with the offences contemplated in the Rome Statute and other international instruments, was created pursuant to Law N°27837<sup>9</sup> effective as of 5 October 2002. Under that Law, the Commission

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<sup>6</sup> Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the ICC and to make consequential amendments to other Acts" BILL C-19 adopted on 29 July 2000 .

<sup>7</sup> Created by Decree of the Ministry of Justice N° 1.036 of 13 November 2001 and pursuant to Decree N° 416 of 23 April 2002.

<sup>8</sup> Initial draft of a law that " define o crime de genocídio, crimes contra a humanidade e crimes de guerra, dispõe sobre a cooperação com o Tribunal Penal Internacional e dá outras providências ". GTER/OUTUBRO/PD.1 of 24 and 25 October 2002.

<sup>9</sup> Law N° 27837. published in the Gazette "El Peruano" on 4 October 2002.

has a mandate to prepare an "Initial Draft Law to Reform the Criminal Code" within one year from its entry into force.

In *Paraguay*, an Inter-institutional Commission to study and assess current legislation concerning the Statute of the International Criminal Court had been set up. Consisting of members of the executive - the Ministries of Foreign Relations, Defense, Justice and Labor - the Commission's mandate is to carry out the necessary studies with the aim of submitting its conclusions and recommendations with the initial draft law required to bring current domestic legislation into line with the provisions of the Rome Statute, within a period of 90 days from the date of its creation.

Technical studies with a view to preparing legislation or draft legislation for implementation of and/or alignment with the Statute of the International Criminal Court were under way and/or preparations for the drafting of such legislation had started in: *Bolivia, Chile, Ecuador, Guatemala, Mexico, Venezuela and Trinidad and Tobago and also in other English-speaking Caribbean States.*

### PROHIBITION OF ANTI-PERSONNEL MINES (1997 OTTAWA CONVENTION)

*States party to the Ottawa Convention – which prohibits the use, stockpiling, production and transfer of anti-personnel mines and provides for their destruction – must enact legislation to prevent and punish violations.*

#### As of 31 December 2002:

*Brazil, Canada, Guatemala, Honduras, Mexico, Nicaragua, Peru (partially) and Trinidad and Tobago* had legislation in place for domestic implementation of the Ottawa Convention.

*Costa Rica* had adopted Law N° 8231 on 17 April 2002<sup>10</sup>, on the Prohibition of Anti-personnel Mines. The objective of the law is to prevent the transfer, production, laying, use and possession of mines so as to eradicate them from its territory. The law provides for criminal penalties for breaches of its provisions.

*Colombia* had adopted Law 759 2002 (25 July)<sup>11</sup>, which establishes provisions to implement the Ottawa Convention and lays down provisions intended to eradicate the use of anti-personnel mines in Colombia. In addition, on 11 December 2002, the *National Intersectoral Commission for Action against Anti-personnel Mines* - a national authority under the Ottawa Convention - adopted its Rules of Procedure to govern its own operations, and also those of the Technical Sub-Commissions that are responsible for specific aspects.

<sup>10</sup> Law N° 8231, published in La Gaceta, Gazette N° 73 on Wednesday 17 April 2002.

<sup>11</sup> Law 759 2002, published in the Gazette No. 44.883 of 30 July 2002.

In *Peru*, the draft Criminal Law on anti-personnel mines that proscribes the use, stockpiling, production and transfer of anti-personnel mines, and also the draft National Plan for the Prevention of Anti-Personnel Mines, which offers a framework for building awareness of the subject and on unexploded ordinance and mines, were under consideration by the competent authorities.

Laws prohibiting the use of anti-personnel mines, on the application of the Ottawa Convention and/or reforms of existing laws on weapons or on criminal legislation for this purpose, had been drafted or preparation for drafting was under consideration in *Argentina, El Salvador and St. Vincent and Grenadines*.

**b. Other domestic implementation measures**

*States party to international humanitarian law treaties are also required to take a variety of administrative measures :*

- *Translation of the treaties into national languages*
- *The appointment and training in civilian authorities of personnel specialized in IHL/ILAC and the appointment of official legal advisers to assist military commanders in implementing IHL/ILAC.*
- *Cultural property, civil defense works and installations containing dangerous forces must be identified by the special signs stipulated under IHL instruments. Identity cards protecting the bearer must be issued to medical and religious personnel, journalists and staff assigned to special tasks.*
- *IHL must be disseminated as widely as possible and the study of IHL must be included in military and civilian training programs.*
- *New weapons and methods of warfare must be checked for compatibility with IHL. Military planning must avoid military objectives being located within or near densely populated areas; IHL principles must be incorporated into military manuals and regulations.*
- *The structures prescribed in IHL instruments for their implementation must be established, such as a National Information Bureau or Civil Defense Organizations.*

**As of 31 December 2002:**

**PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT**

In *Argentina, Bolivia, Chile, Costa Rica, Guatemala, Honduras, Nicaragua, Panama and Paraguay*, the protection of cultural property was on the agenda of their national IHL commissions or of the authorities concerned, and steps had been taken to improve the protection of their cultural heritage in the event of armed conflict.

In *Nicaragua* and *Costa Rica* awareness-building and information courses on the obligations contained in the 1954 Convention and its Protocols had been held on the initiative of the competent authorities on the subject.

In order to continue its efforts to implement the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict - including its two Protocols of 1954 and 1999, *El Salvador's* Inter-institutional Committee for IHL (CIDIH-ES) had launched a pilot plan in one district of the country with a view to raising awareness among the civilian population and local authorities of the need to protect the country's cultural heritage and the importance of respecting the principles contained in those treaties and of implementing the measures required by them, such as the identification, recording and marking of such property.

**This section is accompanied by a list of the cultural property on the "World Heritage List" located on the continent (ANNEX II).**

#### STUDIES ON THE IHL COMPATIBILITY OF NATIONAL LAW

With the support of national legal experts and/or university lecturers, studies on the compatibility of national domestic law with IHL obligations had been carried out in *Brazil, Honduras, Mexico and Peru*.

Studies were in preparation in the following countries: *Guatemala, Ecuador, El Salvador, and Panama*.

In addition to giving an account of the status of implementation of IHL in the countries concerned, the purpose of the studies is to be, through the suggestions they often include, an instrument to support the competent authorities in the adoption of domestic measures to implement IHL.

#### DISSEMINATION OF INTERNATIONAL HUMANITARIAN LAW AND ITS INCORPORATION INTO OFFICIAL TRAINING AND/OR EDUCATIONAL PROGRAMS (ARMED FORCES, SECURITY AND POLICE FORCES AND UNIVERSITIES)

*If IHL is to be complied with, it must become familiar to all concerned. Combatants must receive instruction in IHL so that they can incorporate its rules into their behavior. At the operational level, the emphasis is on the automatic incorporation of the principles of IHL into decision-making, planning, and command and control processes.*

*Civil servants, government officials, medical personnel and members of the media, in particular, should be aware of their rights and obligations in the event of armed conflict. Students and teachers should learn its principles.*

*The 1949 Geneva Conventions and their Additional Protocols of 1977 therefore require the States Parties to promote and spread knowledge of the rules and principles they contain as widely as possible and in particular to incorporate teaching of the subject into the official training programs of the armed forces and police and in universities.*

Peru, in order to comply with its obligations under the IHL treaties to which it is a State Party, had adopted by Law N° 27741 of 9 May 2002 the *Law establishing Educational Policy on Human Rights and creating a National Plan for its Dissemination and Teaching*, in force since 5 October 2002.

The law makes the teaching of human rights and international humanitarian law compulsory throughout the civilian and military education systems and higher education, both university and non-university. By that law, the Executive assumes a commitment to draft and put into effect a National Plan consistent with the provisions of the law.

### **Armed Forces**

#### **As of 31 December 2002:**

##### *Incorporation of ILAC*

Most of the States of the Americas had included IHL/ILAC as a compulsory subject in their educational and training programs. A particular effort had been made to promote its incorporation at all levels of training and also into military doctrine.

Follow-up by the ICRC with the Defense Ministers of the States that participated in the "Pan-American Seminar" held in Otavalo, Ecuador, in October 2001, had met with a favorable response from most of them, so the importance that they attach to ILAC can be stressed, as can their willingness to incorporate that body of law into military doctrine.

In Peru, for example, Ministry of Defense Law N° 27860<sup>12</sup>, in addition to defining the nature, competence, functions and structure of the Ministry of Defense, stipulates that it is the responsibility of the Defense Minister to establish the objectives and policies of the Armed Forces on matters of the defense and promotion of human rights and international humanitarian law.

Also in Peru, an Agreement on Inter-institutional Cooperation between the Ministry of Defense and the ICRC was signed on 11 July 2002, with the aim of prompting, encouraging and promoting thinking on, research into, and the incorporation and teaching of International Law of Armed Conflicts (ILAC) in the Armed Forces.

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<sup>12</sup> Law N° 27860. Law of the Ministry of Defense, published in the Gazette "El Peruano", on 12 November 2002.

The Center for the Law of War created pursuant to the Agreement had started its mandate and activities had been conducted to incorporate ILAC into Doctrine and the Operations and Tactics Manuals of the Armed Forces.

Elsewhere, ILAC-related subjects had been discussed at the Vth Conference of Ministers for Defense of the Americas, held in Chile from 19 to 22 November 2002, and two paragraphs on the incorporation of ILAC, in particular, were included in the final document adopted, the "Declaration of Santiago"<sup>13</sup>. The text of the two paragraphs is reproduced below:

*The Ministers of Defense of the Americas and the Heads of participating Delegations ...  
Declare:*

...

*17. Our complete adherence to the international humanitarian law and our absolute condemnation of the attacks against civilian populations in conflict situations, as well as the participation of boys and girls in armed conflicts, and the use of boys and girls by irregular forces.*

...

*23. To strengthen the implementation, integration and continuity of education programs regarding human rights and international humanitarian law for members of the armed forces and security forces, as this contributes to consolidating democracy and the rule of law. In this regard, we express our satisfaction with advances achieved by states in the region, and take note of the agreements reached during the Meeting of Ministers of Defense, Public Security, and the Heads of Delegation of Central America, Belize, Panama and the Dominican Republic, held in San José, Costa Rica, on October 16, 2002, which resulted in a "Consensus Document" establishing standards on these matters.*

The ICRC had collaborated in the ILAC incorporation processes in most of the countries of the region. The ICRC welcomes the efforts made and reiterates its offer of support to Armed Forces that so require to achieve and/or enhance their independence in the field of such incorporation, which is, in peacetime, an essential precondition for proper and professional behavior in times of armed conflict.

### Dissemination of ILAC

In the year under review, military IHL/ILAC instructors had been trained and courses had been run autonomously or semi-autonomously by the Armed Forces of *Brazil, Canada, Chile, Cuba, El Salvador, Ecuador, Guatemala, Guyana, Honduras, Nicaragua, Dominican Republic, Uruguay and Venezuela*. Officials from military justice offices or agencies participated frequently.

In *Argentina*, the Center for Training for Peacekeeping Operations (CAECOPAZ) ran a course for instructors with participation by officers from the three services of *Argentina, Chile and United States*.

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<sup>13</sup> Adopted on 22 November 2002, in Santiago de Chile. In addition to the paragraphs relating to the incorporation of ILAC, others relating to arms limitation were included, in particular, paras. 15, 20, 22(4) and 26.

Representatives from *El Salvador, Mexico, United States, Cuba, Guatemala, Belize, Colombia, Costa Rica, Honduras Panama, Nicaragua and Dominican Republic* met in Guatemala City from 22 to 27 July on the first course for intelligence officers - the first of its kind - for officers from the countries of the region.

The Armed Forces of Canada organized a course for 90 officers from 16 countries, mostly members of NATO and the Commonwealth; representatives from *Argentina, Brazil, Colombia and Peru*, whose contribution should be specially noted, also participated.

Representatives from *Costa Rica, El Salvador, Guatemala, Honduras, Mexico Nicaragua, Panama and Dominican Republic* attended the VIth Annual Meeting for officials responsible for the incorporation of ILAC, held this year in Costa Rica, to exchange experience, information and progress achieved on the subject in their countries.

In the United States, in the context of the working relationship in the Western Hemisphere Institute for Security and Cooperation (WHINSEC) in Fort Benning, two courses were given for students of the command and headquarters course, and also for instructing officers. Other presentations were made at the National War College and at the Inter-American Defense College; ICRC delegates also took part in exercises with the Marine Corps (USMC) during which they played their own role in conflict situations.

#### Support for international exercises

The ICRC contributes to this type of international exercise by giving presentations on IHL/ILAC, the work of the International Red Cross and Red Crescent Movement - including its component organizations, and also other related subjects, the overall aim of which is improved protection for the victims of armed conflicts, the safety of personnel and humanitarian action.

There was a growing trend visible in 2002 in the development of international exercises in which armed forces of the region participated. Conflict scenarios with complex situations were often recreated and ICRC delegates had participated in them, playing their own role, during incidents forming part of the scenario.

In *Uruguay*, from 4 to 8 January and from 5 to 10 May, the "PKO South" Exercise sponsored by the United States (SOUTHCOM) had been held with the participation of 200 officers from 12 countries: *Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, and Venezuela* and observers from *El Salvador and Mexico*.

In *Chile*, the Cabañas 2002 Exercise had been held with the participation of 1,400 officers and troops from 10 countries. The exercise was based on a United Nations Peacekeeping Mission scenario with participants from *Argentina, Bolivia, Brazil, Chile, Ecuador, Paraguay, and United States*, and international observers from *El*



*Salvador, Guatemala, Honduras, Nicaragua and France.* The next exercise will be held in Central America.

In other regions covered by the Southern (SOUTHCOM) and Pacific (USPACOM) Commands, exercises attended by ICRC delegates had been held.

### **Security and Police Forces**

The objective of the training activities conducted by the ICRC for the security and police forces is to incorporate into every phase of policing - including the training and operations phase - the principles of international humanitarian law and human rights, by promotion of both a theoretical and practical knowledge and understanding of it.

#### **As of 31 December 2002:**

In *Brazil*, the project started in 1998 for officers of the *Brazilian Military Police* and conducted in cooperation with the Ministry of Justice had ended. By that time, some 1,000 trainer instructors had been trained, the subject had become a part of police training, a group of specialized instructors had been formed, and the program was running autonomously.

In most of the countries that had started programs for their security or police forces, the content had been incorporated into their police training and instruction plans and courses, or workshops had been held autonomously or semi-autonomously.

Such courses, which had been supported to a greater or lesser extent by the specialized group of Brazilian law enforcement officers and some of the instructors from the countries involved, and also ICRC delegates, had been run for the security and/or police forces of the following countries: *Argentina, Bolivia, Costa Rica, Colombia, Ecuador, Guatemala, Mexico, Panama, Peru, Guyana, Surinam and Venezuela.*

During the period covered by this report, some 360 instructors had been trained in the context of the courses mentioned.

In addition, processes had been started in some countries to revise instruction, operations and tactical manuals, with the aim of bringing them up to date and/or into line with the principles of IHL and human rights.

In *Peru*, for example, by Ministerial Resolution N° 1223-2002-IN, of 4 July 2002, the Inter-institutional Cooperation Agreement between the Interior Ministry and the ICRC had been approved, which, in addition to contemplating a program of specialized training, makes provision for the review, updating and production of

police manuals and teaching materials intended to incorporate the principles of IHL and human rights.

In addition, with the aim of giving a boost to training procedures on the subject and also to encourage an exchange of experience and form a group of specialized instructors on the continent, particularly those from the countries mentioned above, 3 meetings had been held in Brazil: Sao Paulo 2001, Belo Horizonte 2002 and Sao Paulo 2003. They were attended by 109 specialized instructors.

The ICRC views with satisfaction the initiatives taken by States to enhance policing and reiterates its offer of support, within the limits of its mandate, to countries that so require.

### Universities

The objectives of IHL teaching activities are to make potential future political leaders or decision-makers aware of the existence of international humanitarian law, and of its principles and norms, by incorporating IHL into curricula or study plans as a compulsory or optional subject, or even into existing subjects, and also to promote debate and thinking about IHL, its application and its practical relevance to contemporary contexts.

#### As of 31 December 2002:

The majority of the Latin-American countries had included IHL in the curricula of course in Public International Law, Human Rights or International Relations and Political Sciences.

In 2002, IHL was being taught, in particular, as a compulsory course in the law faculties of universities and other academies of the following countries: *Argentina, Bolivia, Brazil, Chile, Costa Rica, El Salvador, United States of America, Guatemala, Mexico* (partly), *Nicaragua, Panama, Paraguay, Peru, Uruguay*. In *Peru*, the University of Lima was thinking of offering an optional IHL course.

Some universities were offering specific IHL courses at Master level.

This was particularly the case of *Argentina* (Master's Degree in International Foreign Relations at the University of Buenos Aires, a 40-hour course per class); *Chile, Colombia* (*Universidad Externado de Colombia*, specialization in IHL with 360 hours per class that started in November 2001); *Costa Rica* (*Heredia National University / Peace-keeping University* and at the *Instituto de Servicio Exterior* in cooperation with the *University of Costa Rica* for students taking Masters in diplomatic studies); *El Salvador* (*Universidad de El Salvador*, 30-hour course per class); *Mexico* (*Universidad Iberoamericana*) 4-hour course per class; and *Guatemala* (*Universidad Rafael Landívar* 30-hour course per class).

A regional course had also been organized for university lecturers from the *Central-American region, Mexico, Cuba and Venezuela* in November 2002 in Havana, *Cuba*.

By the end of 2001, some 220 lecturers from the region consisting of *Argentina, Bolivia, Chile, Paraguay and Uruguay* were part of systematic refresher training in IHL, having received support and update material on the subject on three occasions during the period covered by this report.

At the request of the universities or academic institutions themselves, and with the support and/or participation of government authorities, IHL experts and ICRC legal staff, a number of special academic events or seminars on IHL or related topics and humanitarian action had been organized in the following countries of the Americas: *Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, El Salvador, United States of America, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Uruguay*.

The topics discussed included punishment for breaches of IHL, war crimes, the International Criminal Court, terrorism and IHL, humanitarian agreements, and the protection of refugees and internally displaced persons.

In July 2002, the *First Latin-American IHL Course*, lasting 10 days, for 18 high-level academics from *Argentina, Brazil, Bolivia, Chile, Colombia, Costa Rica, Cuba, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, El Salvador, Uruguay and Venezuela* was held in Guadalajara, Mexico.

On 6 November, an inaugural lecture on IHL was delivered as part of the Masters course in International Law and Human rights of the United Nations University for Peace, which has its headquarters in San José, Costa Rica. Course students from *Australia, Germany, Bolivia, Canada, United States, Malawi, Nigeria and Zimbabwe*, among others, benefited from the lecture.

It should be noted that, under the Memorandum of Understanding signed between the ICRC and the University, a 40-hour IHL course is scheduled for the first quarter of 2003.

### Information Bureaus

In *Argentina*, a process for the creation of the National Information Bureau was under consideration by the competent authorities. The process was expected to end with a ministerial resolution in 2003.

### III. NATIONAL COMMISSIONS OR OTHER BODIES CONCERNED WITH THE APPLICATION OF INTERNATIONAL HUMANITARIAN LAW.

#### *THE KEY TO GUARANTEEING THE EFFECTIVE APPLICATION OF IHL IS CAREFUL PLANNING AND PERIODIC CONSULTATIONS*

*Many States have successfully set up commissions or other specific national bodies for this purpose. The commissions, made up of representatives from various Ministries and other governmental agencies, provide general coordination of the adoption of measures for the domestic implementation of IHL and act as advisory bodies to governmental authorities on the application, development and dissemination of international humanitarian law.*

#### **As of 31 December 2002:**

Of the 62 National IHL Commissions and/or Committees currently in existence in the world, 14 are on the American continent: *Argentina, Bolivia, Canada, Chile, Colombia, El Salvador, Guatemala, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Trinidad and Tobago and Uruguay.*

*Costa Rica* had started an internal process during the year under review to set up a similar body. Significant progress had been made and it is hoped that the process will be formalized and finalized shortly.

In *Paraguay*, after the Presidential Decree of 2001 that, among other mandates, had resumed its operations, the *Interministerial Commission on the Implementation of IHL (CIADIH)* had held a ceremony for the purpose at which, in addition to starting preparatory work, it had adopted its rules of procedure. The CIADIH had established an agenda that included consideration of reforms of the Criminal Code and a review of the law on protection of the emblem.

In addition to *Paraguay*, the commissions of *Nicaragua, Guatemala and Dominican Republic* had embarked on processes to review or amend their internal regulations with a view to strengthening their functions.

In 2002, the *Interinstitutional Committee on International Humanitarian Law (CIDIH-ES)* of *El Salvador* celebrated its fifth anniversary. In the context of that event, it submitted for the attention of the national authorities a consolidated report on its five years of work, which highlighted progress made and obstacles encountered, working strategies, and the challenges it had to tackle to consolidate its work.

The National Commissions of a number of States of the Americas have shown that they are an appropriate mechanism for facilitating fulfillment by the State of its international obligations under international IHL instruments.

In 2002, for example, in order to fulfill their mandate, IHL commissions or committees in the region continued to:

**advise the authorities** on the ratification of IHL treaties and other related issues,

**organize research** on topics relating to the punishment of IHL violations,

**prepare draft laws** on the domestic implementation of IHL,

**make legislators aware** of IHL-related matters so as to facilitate the adoption of domestic implementation laws, and

**support IHL dissemination activities** at all levels of society.

To that end, the commissions or committees of the region had relied on the following tools:

- establishment of plans of action or work plans  
(*Argentina, Bolivia, Chile, El Salvador, Guatemala, Nicaragua, Panama, Paraguay, Peru, Dominican Republic and Uruguay*)
- establishment of sub-commissions, sub-committees or working groups to study more specific topics  
(*Argentina, Bolivia, Chile, Colombia, El Salvador, Guatemala, Paraguay*)
- institution of monthly or annual reporting  
(*Argentina, Bolivia, Chile, El Salvador, Paraguay, Panama, Peru and Dominican Republic*)

**This section is accompanied by a summary of the key articles of the main IHL instruments that require domestic implementation measures (ANNEX III), and also a document giving a chronological account of the creation of IHL Commissions or Committees in the region (ANNEX IV).**

## **C. Activities of regional organizations and academic institutions to promote respect for IHL and national implementation thereof**

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The ICRC noted with satisfaction that regional organizations and academic institutions in the Americas had shown an increasing interest in international humanitarian law, had made specific efforts to ensure respect for IHL, and had included IHL-related questions and topics on their agendas. The efforts made by regional organizations and academic institutions to promote respect for IHL included the following:

### **I. Organization of American States (OAS)**

#### **a) General Assembly**

Since 1994, the General Assembly of the Organization of American States (OAS), has repeatedly stated its commitment to IHL and has urged Member States to promote and respect IHL.

It had been underscored since then and - by Resolution AG/RES. 1904 (XXXII-O-02) " *Promotion of and respect for international humanitarian law* " adopted by the XXXII General Assembly on 4 June 2002 in Bridgetown, Barbados (**ANNEX V**) during the period covered by this report - that it was necessary and important to strengthen the principles of IHL through universal acceptance of the relevant instruments, their enforcement at the national level and the widest possible dissemination of the rules they contain.

Resolution 1904 reiterates the importance and commitment that the Member States of the OAS should attach to the protection and safety of the individual in all circumstances.

In particular, it repeats the invitation made in earlier resolutions to the Member States of the OAS to become Parties to the IHL instruments, to disseminate their content, to enact domestic legislation to implement the norms they contain, and very particularly urges the enactment of criminal legislation required to punish those responsible for war crimes, crimes against humanity and other grave breaches of IHL.

It also invites the Member States to enact legislation to regulate the use of emblems protected under IHL and to punish the improper use thereof; stresses the obligation of States, in the study, development or acquisition of new weapons, to determine their legality, and also invites them to consider establishing specific national advisory structures to facilitate and coordinate those tasks.

To disseminate and reinforce the implementation of IHL and of related inter-American conventions, Resolution 1904 requests that governmental conferences continue to be organized similar to the one held in March 2001, which was the first of its kind.

Similarly, and to reaffirm the pertinence and timeliness of IHL, Resolution 1904, stresses and requests the continued holding of special meetings on the subject.

It also requests the Secretary General to present a report to the General Assembly at its thirty-third regular session on the implementation of the resolution.

It should be noted that the XXXII General Assembly also adopted other resolutions on topics directly related to IHL. They included: *"Support for the program of integral action against antipersonnel mines in Central America"* (AG/RES. 1878 XXXII-O/02); *The Protection of refugees, returnees and internally displaced persons in the Americas* (AG/RES. 1892 (XXXII-O/02); *"Promotion of the International Criminal Court"* (AG/RES. 1900 XXXII-O/02); "The Western Hemisphere as an anti-personnel-mine-free zone" (AG/RES. 1889 XXXII-O/02) and other weapons-related resolutions.

To strengthen support for IHL and unite efforts to achieve this common goal, the President of the ICRC and the Secretary General of the OAS signed an agreement in May 1996 whereby the two institutions pledged to cooperate in areas of common interest, in particular to promote adherence to IHL treaties, their domestic implementation and their dissemination.

#### **b) Committee on Juridical and Political Affairs (CJPA)**

The Committee on Juridical and Political Affairs agreed to convene a special session to study the mandates of the General Assembly contained in resolutions AG/RES. 1770(XXXI-O/01) "Promotion of the International Criminal Court" and AG/RES. 1771 (XXXI-O/01) "Promotion of and Respect for International Humanitarian Law".

The special session of the CJPA to promote IHL was held on 6 March 2002 and was opened by Dr. Cesar Gaviria Trujillo, Secretary General of the OAS. In his statement, the Secretary General said that conditions in the hemisphere, with some exceptions, were allowing progress towards the consolidation of IHL. He added that for this to continue, States must, among other measures, make progress on the signing and ratification of the relevant treaties, on incorporation of those treaties into domestic law and also on their dissemination, and on training in the content and scope of their provisions.

At the session, in addition to discussions on a variety of topics, there was a review of the status of participation in IHL treaties and their domestic implementation in the Member States of the OAS, based on a report prepared by the ICRC with information provided by States and available to the ICRC.

The special session stressed the importance of continuing to hold governmental conferences to reinforce IHL and of the related Inter-American Conventions and consequently of the strengthening of the inter-American system for the protection of individuals.

States and the ICRC were also invited to increase their cooperation with the OAS to reaffirm the pertinence of IHL and to promote greater respect for it. The dissemination of IHL within the armed and security forces was felt to be of fundamental importance, as were the mine-clearance efforts in the region.

It was also pointed out that the efforts to ensure better protection for children who were involved in or victims of armed conflicts should be stepped up in the hemisphere. The topic of the legality of new weapons was considered by the session and the need was noted for States to study their legality so as not to contravene the provisions relating thereto under IHL treaties.

Finally, the importance was stressed at the special session of the role of the commissions on the implementation of IHL as mechanisms for internal coordination.

The report that emerged from the special session was referred to the IV Meeting of Ministers of Justice of the Americas.

The ICRC welcomes the OAS initiative through the CJPA, and also the cooperation of the Member States, to organize the special sessions on IHL.

### **c) Department of Legal Cooperation and Information**

Relations between the Department and the ICRC's Advisory Service on IHL continued and were intensified in the year under review. As a follow-up to the March 2001 Conference, the proceedings of the meeting, as compilations of the papers by governmental experts, were prepared in Spanish and English, published and distributed in a timely fashion.

A decision was also taken on new information for inclusion on the website that hosts the OAS IHL page, and preparations continued on drafting an agenda for joint work. At that time, preparations had started for holding a meeting of national commissions on the implementation of IHL on the continent in the first half of 2003.

The ICRC would like to record its appreciation and recognition of the fruitful framework of collaboration built up with the Department of Legal Cooperation and Information.



## II. Inter-American Court of Human Rights (IACHR)

An "Agreement of Cooperation and for the Exchange of Public Information" was signed between the ICRC and the Inter-American Court of Human Rights on 18 August 2000.

By that Agreement, the ICRC and the IACHR established a framework for the exchange of scientific and public information relating to Human rights and IHL topics.

The aim of the Agreement is to boost the promotion of international humanitarian law and human rights and thus to improve the protection of the individual in all circumstances.

As part of the Agreement, the second "Study and Exchange Day on IHL and Related Topics" was held at IACHR Headquarters on 29 November 2002. The meeting between IACHR judges and staff and ICRC lawyers gave them an opportunity to exchange information and discuss topical IHL issues in which the IACHR had expressed interest.

The following topics were discussed on that occasion: the work of the ICRC in Peru and Colombia and the implementation of IHL in those contexts, IHL and action to combat terrorism, biological, bacteriological and chemical weapons, and IHL-related jurisprudence of the IACHR.

## III. Inter-American Institute of Human Rights (IAIHR)

The ICRC has maintained relations with the Inter-American Institute of Human Rights since it was founded, on the basis of a cooperation agreement signed in San José, Costa Rica, in 1985, and a Protocol annexed to the original agreement. This cooperation agreement was reconfirmed and amended in 1998.

Under these agreements the parties undertook to cooperate with each other in their respective areas of activity, on joint projects and in the organization of events to promote IHL, international human rights law and international refugee law, and domestic implementation and enforcement of these bodies of law.

The ICRC was invited in 2002 to participate in the XXth Interdisciplinary Course on Human Rights organized by the Institute as a service to the Chair in IHL (*Jean Pictet Professorship*), focusing on the topic "Exploring Humanitarian Law". The exhibition was based on the ICRC's worldwide "EHL" educational program for young people.

The exhibition was accompanied by a workshop on IHL education that enabled participants to gain a deeper knowledge of the objectives and scope of the project and to share information and expectations. The ICRC was also able once again to set up an information and documents distribution stand.

#### **IV. United Nations Organizations and Specialized Agencies.**

##### **Latin-American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), and the United Nations Children's Fund (UNICEF).**

Exchanges of information between the two agencies and the ICRC on their respective programs and activities, and also for cooperation in fields of mutual interest, continued in 2002.

##### **United Nations High Commissioner for Refugees (UNHCR)**

The collaborative framework, particularly on matters relating to the dissemination of international law on refugees and international humanitarian law, that has developed between UNHCR and the ICRC through their regional offices intensified in 2002.

In addition to the exchange of information on programs under development and of joint interest, an expert from the agency delivered a module on the protection of refugees as part of the First Latin-American Course for Academics, held in Guadalajara, Mexico in July 2002.

##### **United Nations Educational, Scientific and Cultural Organization (UNESCO)**

The ICRC maintained close contacts with UNESCO in Paris, and also with its office in Peru in order to coordinate the Regional Meeting of Governmental Experts on the Protection of Cultural Property in the Event of Armed Conflict, held in Lima, Peru, on 13 and 14 May 2002.

Exchanges of information on joint projects between both agencies also continued.

#### **V. Central-American Educational and Cultural Coordinating Group (CECC)**

Relations between the ICRC and the CECC intensified in 2002. One demonstration of this is that, during the XXIst Regular Meeting of the CECC, held in Guatemala City on 5 and 6 April, the Ministers of Education and Culture of Central America meeting there adopted Resolution CECC/RM/(OR)/GUA-2002/RES/002 on the protection of cultural property in the event of armed conflict.

The ICRC also contributed to the Meeting with an exhibition on the subject and particularly on the objectives and scope of existing instruments relevant to the subject.

Also at the Meeting, and by Agreement N° 13, the importance was highlighted of the resolution adopted, the major dissemination work being done by the ICRC on the subject, and the need to manage funds to identify and mark cultural property in the Central-American region with the blue shield.

## **VI. Non-Governmental Organizations**

During 2002, there were frequent exchanges between the ICRC - particularly the decentralized Unit for Latin America of the Advisory Service on International Humanitarian Law - and international non-governmental organizations - particularly the International Coalition for the International Criminal Court - to coordinate their efforts to promote ratification of the Rome Statute, and also to advise governments in analyzing the Statute and preparing implementing legislation. Cooperation was particularly close at the many seminars and workshops organized at the regional or national level on the topic of the International Criminal Court.

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## **D. Assistance offered and advisory activities conducted by the International Committee of the Red Cross in the countries of the Americas**

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### **I. DIALOG WITH COMPETENT AUTHORITIES AND TECHNICAL ASSISTANCE**

During 2002, the ICRC delegations in the Americas, assisted by the legal staff of the Advisory Service on IHL and national legal experts, continued to build up a dialog with the government authorities of States in the Americas with a view to creating the conditions needed to ensure respect for IHL in all circumstances.

#### **a. Promotion of adherence to IHL treaties**

ICRC delegations continued in particular to approach States that are not yet Parties to the 1977 Additional Protocols I and/or II to urge them to accede to those treaties. States that had not yet done so were also urged to accept the competence of the International Humanitarian Fact-Finding Commission (IHFFC).

The ICRC has also continued its efforts with particular emphasis on promoting accession to and/or ratification of the following instruments:

*1954 Hague Convention for the Protection of Cultural Property and its Second Protocol adopted in March 1999.*

*1980 United Nations Convention on Certain Conventional Weapons together with its annexed Protocols, particularly amended Protocol II (on landmines) and Protocol IV (on blinding laser weapons).*

*Amendment to Article 1 of the 1980 Convention, adopted in December 2001.*

*1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction.*

*1998 Rome Statute of the International Criminal Court.*

*2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts.*

**b. Technical assistance with the adoption of legislative and regulatory measures**

Closely following up the process of legislative reform in a number of States in the Americas, particularly in criminal law, the ICRC has continued to urge the adoption or amendment of domestic laws and regulations so that States acquire a set of judicial and regulatory instruments consistent with the requirements of IHL.

To this end, contacts with members of National Congresses or legislatures were stepped up 2002, particularly in relation to raising their awareness and their role in respect of IHL.

Contacts with the judiciary to raise awareness of IHL topics among those responsible for the administration of justice, with particular emphasis on aspects related to serious violations of IHL were also intense and productive.

ICRC legal advisors continued to offer legal advice on and technical assistance with the drafting of ordinary and military criminal legislation enabling prosecution for war crimes, and the drafting of laws or the amendment of existing legislation regulating and protecting the red cross and red crescent emblems and other signs protected under IHL instruments.

Similar support was given in drafting legislation for domestic implementation of the Ottawa Convention on Anti-personnel Mines.

During 2002, further progress in the field of IHL had been discussed with the competent authorities, who were also supplied with specific information, particularly in relation to the amendment of article 1 of the 1980 Convention, and also to the ICRC Appeal on Biotechnology, Weapons and Humanity.

**c. Support to National IHL Committees**

A close working relationship was maintained during 2002 with existing National IHL Committees or similar bodies and, at the request of national authorities, the establishment of new committees, like the one in Costa Rica, was supported. The committees were encouraged and assisted in their activities, and training of their members on IHL-related issues continued in the year under review. They were also given specific technical documentation and advice to facilitate their work. To this end also, ICRC legal advisors regularly participated in working meetings of existing committees and advised their members on drawing up and implementing their yearly plans of action.

Contacts and exchanges between IHL Committees of various countries were facilitated. Their members were also invited to take part in international or regional events on IHL-related issues or on the establishment of the International Criminal Court. Some examples of this were the useful participation in the Meeting

of Representatives of National Committees for International Humanitarian Law held in Geneva from 25 to 27 March 2002 (see page. 39), and also the participation by a number of members of those Committees in the Regional Expert Meeting on the protection of cultural property in the event of armed conflict, held in Lima on 13 and 14 May 2002 (see page 40).

**d. Collection and exchange of information on laws for the domestic implementation of IHL**

As part of its activities the Advisory Service continued to collect information in 2002 on legislation adopted or in preparation for the domestic implementation of IHL and to facilitate exchanges of such information between States of the Americas. Information on the incorporation of IHL into domestic law, on IHL-related court decisions and on other IHL-related administrative measures continued to be included in public documents and added to a database that had been set up by the ICRC to promote the exchange of information on IHL. The database can be consulted at the following site:

<http://www.icrc.org/ihl-nat>

As of 31 December, the database contained information on legislation and jurisprudence of the following States of the Americas:

*Argentina*  
*Costa Rica*  
*Nicaragua*

*Canada*  
*United States*  
*Trinidad and Tobago*

*Chile*  
*Ecuador*  
*Venezuela*

**II. NATIONAL WORKSHOPS, TRAINING SEMINARS AND INFORMATION SESSIONS**

Besides maintaining regular contacts, participating in regular working sessions and meetings of National IHL Committees and making the relevant documentation available, the ICRC delegations in the Americas, assisted by legal staff, held several training and refresher workshops and/or national sessions on specific topics related to IHL implementation and the development of the rules of IHL.

Activities were organized in close cooperation with the authorities concerned and, where they existed, the National IHL Committees. The activities were attended in general by civil servants, academics, legislators and members of the judiciary.

**In addition to the events already mentioned in the earlier sections of this report, those organized in 2002 included the following:**

### ***Argentina***

On 7 October, the ICRC organized, in cooperation with the Lower and Upper Houses and under the auspices of the Inter-parliamentary Union, Parliamentarians for Global Action and the Commission on the Implementation of IHL of the Republic of Argentina (CADIH), a Seminar to reinforce measures for the domestic implementation of IHL. The event was held in the "Manuel Belgrano" auditorium of the Senate Annex and was attended by approximately 250 participants, including a number of Deputies and Senators, national authorities, criminal judges and international law academics.

### ***Bolivia***

On 23 April, during the ninth Regular Meeting and First High-Level Meeting of the National Standing Committee for the Implementation of International Humanitarian Law (CNPADIH), the ICRC not only participated in the meetings but also delivered a paper on "The challenges of international humanitarian law and its implementation in Latin America". As well as the members of CNPADIH, relevant authorities of the Foreign Ministry attended the meetings.

### ***Chile***

On 14 October, the ICRC organized, together with the National Humanitarian Law Committee of Chile (CNDH), a Day to mark the 25th anniversary of the adoption of the 1977 Additional Protocols. Approximately 120 participants (authorities associated with various IHL implementation topics) attended the event, which was held at the Chilean Foreign Ministry. The program consisted of three discussion panels on topics relating to: the Additional Protocols, domestic measures for the implementation of IHL, and the International Criminal Court.

### ***Colombia***

In March and June, at the request of the Government, the ICRC gave awareness-building, information and refresher courses on the IHL and the domestic implementation thereof, for staff of the Foreign Ministry with responsibilities in that area.

As part of the work of the IHL study group set up in the National Prosecutor's Office, the ICRC contributed courses on the subject for its members.

In July, to publicize the IHL-related aspects of the new Colombian Criminal Code, the ICRC made presentations at the University of Medellín.

### ***Costa Rica***

In October, with the support and for the benefit of the authorities responsible for the protection of the cultural heritage, the ICRC organized an information session on the protection of cultural property in the event of armed conflict.

### **Guatemala**

In February, a five-day workshop was given for 120 officials of the Guatemalan Foreign Ministry at which such topics as IHL and international human rights law were discussed.

In July, the ICRC and authorities from the Guatemalan armed forces, particularly legal advisors, held an introductory course on IHL, domestic implementation thereof and the role of those officials on the subject.

In August, the ICRC, in coordination with the Human Rights Bureau of the Archbishopric of Guatemala (ODHAG) and the National Committee on the Search for Disappeared Children (consisting of NGOs and the human rights Prosecutor) gave lectures on IHL and the protection of children in armed conflict.

The third round of training days for members of the public defense service (lawyers and magistrates) were organized in October jointly between the ICRC and the Guatemalan Institute of Public Defense. The topic of the ICC and its implementation was discussed during the days.

### **Mexico**

The ICRC and the Institute for Legal Research (IIJ) commemorated the 25th Anniversary of the 1977 Additional Protocols with an academic day that included a teaching lecture by Mr. Jakob Kellenberger, President of the ICRC, and also by experts from the continent and from the Institute that hosted the event.

### **Nicaragua**

In August, a session on the ICC was held during a meeting of the National Committee for the Implementation of IHL.

In October, with the support of the National Committee for the Implementation of IHL, and also of the National Institute of Culture, the ICRC gave an awareness-building course on the legal context of the protection of cultural property in the event of armed conflict and its domestic implementation.

### **Panama**

As part of the 53rd Anniversary of the Geneva Conventions of 12 August 1949, the ICRC, in conjunction with the National Standing Committee for the Implementation of IHL, gave lectures on topical IHL subjects at the University of Panama and the Latin-American University of Science and Technology.

### **Peru**

The *Refresher Seminar on International Humanitarian Law and Human rights*, organized by the Institute of Legal Defense (IDL) with the support of the ICRC, was held in April, May and August 2002 in *Chiclayo*, *Ayacucho* and *Lima* respectively. During the Seminar, 150 authorities concerned with the



administration of justice received training in the human rights and IHL obligations assumed by Peru.

The officials also discussed, in the following order: diagnosis of the problems encountered by staff of the judiciary in relation to due process and judicial guarantees, justice and cultural diversity, due process and judicial guarantees, consideration of the applicability of IHL in the inter-American system for the protection of human rights and in the context of the International Criminal Court.

On 27 June, the ICRC, in cooperation with the Embassy of Switzerland in Peru and CONADIH, organized an event to commemorate the 25th Anniversary of the 1977 Additional Protocols.

In November, the Supreme Council of Military Justice and the ICRC organized a Seminar on "International Humanitarian Law and Military Justice, elements for a reform of the Code of Military Justice". During the three days of the Seminar, there was discussion of topics relating to the IHL obligations assumed by the Peruvian State, and also the need to bring the Code of Military Justice into line with those obligations.

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## **Solemn appeal by the ICRC on "Biotechnology, Weapons and Humanity"**

Alarmed by the potential hostile uses of biotechnology, the ICRC issued a solemn appeal in September 2002 to all political and military authorities to strengthen their commitment to the international humanitarian law norms which prohibit the hostile uses of biological agents, and to work together to subject potentially dangerous biotechnology to effective controls. The Appeal was also addressed to the scientific and medical communities, industry and civil society in general to ensure that potentially dangerous biological knowledge and agents be subject to effective controls.

In the context of the Appeal and to raise the awareness of those concerned, conferences on the subject were held in:

### **Colombia, 25 October 2002**

Attended by governmental authorities, members of the scientific community, particularly members of the Colombian Intersectoral Bioethics Committee.

### **Peru, 21 November 2002**

For the members of the National Committee on the Implementation of International Humanitarian Law (CONADIH) and heads of university departments.

### **Mexico, 27 January 2003.**

Attended by heads of department of the Institute of Legal Research of UNAM, professional chemists and biologists, military and civilian authorities, and also the general public.

More information on the topic can be found on the ICRC website:

<http://www.icrc.org/>

### III. MEETINGS OF EXPERTS

In order to advise the relevant authorities more effectively on domestic measures for the implementation of IHL and to exchange ideas on related subjects of interest, the ICRC Advisory Service on IHL has been organizing meetings of experts since 1996.

At the regional level, the ICRC Advisory Service on IHL, through its Unit for Latin America, had also organized meetings of experts on topical subjects that were attended by experts from the Member States of the Organization of American States.

The first meeting, held in March 2001, was the *Conference of Governmental Experts on the Domestic Implementation of International Humanitarian Law and related Inter-American Conventions*. (San José, Costa Rica).

The proceedings of the 2001 Conference were published in Spanish and English in October 2002.

**As of 31 December 2002, the following meetings of experts had been held and representatives of the countries of The Americas had participated:**

#### INTERNATIONAL

**International Meeting of Representatives of National Committees for International Humanitarian Law, Geneva, 25 to 27 March 2002.**

Representatives from 53 countries of the world, 8 representatives from observer(\*) countries and ICRC staff participated in the meeting to: examine the changes that had occurred since the 1996 meeting on the subject; facilitate the exchange of specific experience between Committees and work out practical means of direct cooperation between them; propose ways and means to support, strengthen or diversify their action; and to discuss whether to set up an information system on domestic implementation, and their active participation in it.

An introductory topic: *Activities conducted and prospects for action by the Committees* and two keynote topics: *Improving the effectiveness of the work of Committees* and *Systems for the exchange of information on domestic implementation*, guided the work of the meeting through a series of round tables.

It should be noted that the meeting made it possible to bring together committees from different continents and legal systems and revealed the importance of the role of the committees in the field of the implementation of IHL.

Representatives from the following committees and/or countries of the Americas had attended:

<i>Canada</i>	<i>Dominican Republic</i>	<i>Panama</i>	<i>Trinidad &amp; Tobago</i>
<i>Chile</i>	<i>El Salvador</i>	<i>Paraguay</i>	<i>Argentina*</i>
<i>Colombia</i>	<i>Guatemala</i>	<i>Peru</i>	

A complete report is in the process of publication for participants and other interested parties.

#### REGIONAL

**Regional Expert Meeting: To protect cultural property in the event of armed conflict: implementation of international regulations in this field at national level (Lima, Peru, 13 and 14 May 2002)**

The meeting was attended by participants from *Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, El Salvador, Spain, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru and Venezuela*. They included experts in the protection of cultural heritage, archives and museums; archeologists; architects; civilian and military legal advisors; and government representatives.

The meeting was organized by the ICRC through the Advisory Service on IHL, Unit for Latin America, the Peruvian Government through the Peruvian Foreign Ministry, the Peruvian National Institute of Culture (INC), the Peruvian National Commission for the Study and Application of IHL (CONADIH) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

In general, the meeting showed that there were structures and legislation on the subject in existence in the participating countries and revealed the need for greater interaction between the competent agencies, authorities and entities to reinforce the progress that had been made.

A Report of the meeting was published in October 2002.

**Copies of reports mentioned are available on request from the  
ICRC Advisory Service on IHL, through ICRC  
delegations on the continent or by  
visiting the ICRC website**

<http://www.icrc.org/>

#### **IV. PARTICIPATION BY ICRC LEGAL ADVISORS IN CONFERENCES, COURSES AND OTHER IHL-RELATED EVENTS**

During 2002, ICRC legal advisers and other representatives participated in and spoke at several IHL-related regional and national conferences, seminars and other meetings organized on the American continent by other organizations. In addition to the events mentioned in earlier sections, they contributed to the work of the following regional events, among others:

##### **VII Latin-American Congress on Constitutional Law, Mexico City, Mexico, 12 to 15 February 2002.**

Participants from more than 30 countries of the continent attended the Congress, which has become a tradition in Latin America. Constitutional law as a basis was discussed from various angles. During the debate on international law, the ICRC was invited to deliver a lecture on IHL and domestic law, particularly constitutional law.

##### **“Regional Conference on the Ratification and Domestic Implementation of the Statute of the International Criminal Court”, Mexico, D.F., 7 and 8 March, 2002.**

The Office of the Secretary for Foreign Affairs of Mexico, with the support of the non-governmental organization “No Peace Without Justice” and the revolving Presidency of the European Union (Spain), convened the meeting for Mexican legislators to make them aware of the Statute of the ICC and to encourage ratification of the Statute by Mexico. The ICRC was given an opportunity to present its role in the process of the establishment of the ICC, and also the support that it had given to some of the countries of the region in their ratification processes and their implementation of domestic laws, especially on the subject of the war crimes covered by the Statute.

##### **Seminar on the ICC. Santo Domingo, Dominican Republic, 16 April 2002.**

Convened by the National Standing Committee for the Implementation of IHL, and also by the Foreign Ministry, the aim of the seminar was to make the participants aware of the most relevant aspects of the Rome Statute. The ICRC was invited to speak on an IHL topic and the ICC.

##### **Refresher Seminar on IHL and Human Rights. Asunción, Paraguay, 25 and 26 April, 2002.**

The Seminar was organized by the Ministry of Foreign Affairs of Paraguay for government officials, heads of university departments, and diplomats accredited in Paraguay. Three hours of the twelve-hour seminar were devoted to IHL and also to the work of the ICRC.

**Meeting /workshop on the ICC. Tegucigalpa, Honduras, 28 May 2002.**

The ICRC was invited to participate in the meeting for Honduran legislators, which was convened by the Commission for Foreign Relations of the Legislative Assembly. Relevant aspects of the Statute and the IHL were addressed by the ICRC.

**Annual Meeting of the National Union of Cuban Jurists, Havana, Cuba, 21 and 22 June 2002.**

During the Meeting, which brought together participants from more than 10 countries of the region, the ICRC was invited to deliver a lecture on the 1977 Additional Protocols 25 years after their adoption, and the development of IHL.

**Meeting on the "International Criminal Court, universalization of the battle against impunity", Guatemala City, 17 July 2002.**

The event was organized by the Myrna Mack Foundation, to mark the 4th anniversary of the adoption of the Rome Statute and brought together more than 250 attendees from the academic world, government authorities, officials of international agencies, the judiciary and the legislature, and also members of organized civilian society. The ICRC delivered a statement entitled "Ratification of the Rome Statute and its effect on the strengthening of the Guatemalan justice system".

**International Seminar: "The International Criminal Court: Alignment of Peruvian Legislation ", Lima, Peru, 21 to 23 August 2002.**

During this International Seminar, which was convened by the Office of the Attorney General, the ICRC gave a presentation on war crimes in the context of IHL instruments, and also in the context of the Rome Statute and the domestic legal system.

**First International Meeting on Justice and Law 2002, Havana, Cuba, 1 to 3 October 2002.**

With participants from *Argentina, Bolivia, Brazil, Canada, Ecuador, Guatemala, Mexico, Dominican Republic, Venezuela*, and also others from *Europe and Africa*, the main topic of the meeting was the processes of judicial reform and criminal law. The ICRC attended the event as a participant.

## ANNEXES







**INTERNATIONAL COMMITTEE OF THE RED CROSS**

Advisory Service on international humanitarian law

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**STATE OF PARTICIPATION OF AMERICAN STATES  
IN IHL TREATIES AND OTHER RELEVANT INSTRUMENTS**

- As at 31 December, 2002-

( \* ) The titles under which the instruments are placed are of indicative nature and do not reflect the ICRC's official position. For more information, please visit us at: [www.icrc.org](http://www.icrc.org)

***State of participation of America States in relevant  
International Humanitarian Law Treaties***

*As at 31 December, 2002*

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**Protection of victims of armed conflicts**

- Four 1949 Geneva Conventions of 12 August 1949 (**GC I – IV**)
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed conflicts, 8 June 1977. (**AP I**)
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed conflicts, 8 June 1977. (**AP II**)
- International Humanitarian Fact Finding Commission) (Article 90, Additional Protocol I) (**IHFFC**)
- Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts. Adopted by the General Assembly of the United Nations on 25 May 2000 (**OP CAC**)

**Protection of Cultural Property in the Event of Armed Conflict**

- Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954, (**HCCP**)
- Protocol I of 1954 to the Convention, (**HACCP P.I**)
- Protocol II of 1999 to the Convention of 1954, (**HCCP P. II**)

**Environment**

- Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques. Adopted by the General Assembly of the United Nations on 10 December 1976 (**ENMOD**)

**Arms**

- Convention on the prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, Opened for Signature at London, Moscow and Washington, 10 April 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 (**and Protocols**). Concluded at Geneva on 10 October 1980 (**CCW**)
- Additional Protocol 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. Adopted at the 8th Plenary meeting of the States Parties on 13 October 1995 (laser weapons) (P-IV) (**CCW P. IV**).
- Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol II as amended on 3 May 1996) annexed 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. Adopted by the Conference of the States Parties to the Convention at Geneva on 3 May 1996 (**PIIa (1980)**).
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. Opened for signature at Paris on 13 January 1993. (**CWC**)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction. Oslo, 18 September 1997 (**Ottawa**).
- Amendment to the Convention on Prohibitions or Restrictions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (**with Protocols I, II and III**) Concluded at Geneva on 10 October 1980 (**CCW**)

**International Criminal Law**

- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity. Adopted by the General Assembly of the United Nations on 26 November 1968 (**CSL WC & CAH**)
- International Convention Against the Recruitment, Use, Financing and Training of Mercenaries. Adopted by the General Assembly of the United Nations on 4 December 1989 (**Mercenaries**)
- Rome Statute of the International Criminal Court. Adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court. (**ICC**)

**Level of acceptance of States of America in the relevant IHL treaties (as at 31 Decembre, 2002)**

Country		Protection of victims of armed conflicts					Protection of Cultural Property in the Event of armed conflict			Environment
		GC I – IV 1949	AP I 1977	AP I - CIHE (ART.90)	AP II 1977	OP CAC 2000	HCCP 1954	HCCP PI 1954	HCCP PII 1999	ENMOD 1976
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.					
6.	Bolivia	10.12.1976.	08.12.1983.	10.08.1992.	08.12.1983.					
7.	Brazil	29.06.1957.	05.05.1992.	23.11.1993.	05.05.1992.		12.09.1958	12.09.1958		12.10.1984
8.	Canada	14.05.1965.	20.11.1990.	20.11.1990.	20.11.1990.	07.07.2000	11.12.1998			11.06.1981
9.	Chile	12.10.1950.	24.04.1991.	24.04.1991.	24.04.1991.					26.04.1994
10.	Colombia	08.11.1961.	01.09.1993.	17.04.1996.	14.08.1995.		18.06.1998	18.06.1998		
11.	Costa Rica	15.10.1969.	15.12.1983.	02.12.1999	15.12.1983.		03.06.1998	03.06.1998		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.		02.10.1956	08.02.1961		
16.	El Salvador	17.06.1953.	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					
18.	Guatemala	14.05.1952.	19.10.1987.		19.10.1987.	09.05.2002	02.10.1985	19.05.1994		21.03.1988
19.	Guyana	22.07.1968.	18.01.1988.		18.01.1988.					
20.	Haiti	11.04.1957.				27.09.2002				
21.	Honduras	31.12.1965.	16.02.1995.		16.02.1995.	14.08.2002				
22.	Jamaica	20.07.1964.	29.07.1986.		29.07.1986.	09.05.2002	07.05.1956	07.05.1956		
23.	Mexico	29.10.1952.	10.03.1983.			15.03.2002				
24.	Nicaragua	17.12.1953.	19.07.1999		19.07.1999		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	
26.	Paraguay	23.10.1961.	30.11.1990.	30.01.1998	30.11.1990.					
27.	Peru	15.02.1956.	14.07.1989.		14.07.1989.	08.05.2002	21.07.1989	21.07.1989		
28.	Saint Kitts and Nevis	14.02.1986.	14.02.1986.		14.02.1986.					
29.	Saint Vicent and Grenadines	01.04.1981.	08.04.1983.		08.04.1983.					27.04.1999
30.	Saint Lucia	18.09.1981.	07.10.1982.		07.10.1982.					27.05.1993
31.	Suriname	13.10.1976.	16.12.1985.		16.12.1985.					
32.	Trinidad and Tobago	24.09.1963.	20. 07.2001	20.07.2001	20.07.2001					
33.	United States of America	02.08.1955.				23.12.2002				17.01.1980
34.	Uruguay	05.03.1969.	13.12.1985.	17.07.1990.	13.12.1985.		24.09.1999	24.09.1999		16.09.1993
35.	Venezuela	13.02.1956.	23.07.1998		23.07.1998					
TOTAL	REGION	35	33	11	32	12	16	13	4	13
	UNIVERSAL	189	160	62	153	45	103	85	14	68

**Level of acceptance of States of America in the relevant IHL treaties (as at 31 December, 2002)**

Country		Arms									International criminal law				
		BWC 1972	CCW 1980			Pila (1980) 1996	CCW PIV 1995	CWC 1993	Ottawa 1997	CCW a 2001	CSL WC & CAH 1968	Mercenaries 1989	ICC 1998		
1)	Antigua & Barbuda								03.05.1999				18.06.2001		
2)	Argentina	05.12.1979	02.10.1995	x	x	x	21.10.1998	21.10.1998	02.10.1995	14.09.1999			08.02.2001		
3)	Bahamas	28.11.1986								31.07.1998					
4)	Barbados	16.02.0973								26.01.1999		10.07.1992	10.12.2002		
5)	Belize	20.10.1986								23.04.1998			05.04.2000		
6)	Bolivia	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	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	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	22.04.1980							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		20.09.2001	07.06.2001		
12)	Cuba	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	23.02.1973							30.06.2000						
15)	Ecuador	12.03.1975	04.05.1982	x	x	x	14.08.2000		06.09.1995	26.04.1999			05.02.2002		
16)	El Salvador	31.12.1991	26.01.2000	x	x	x	26.01.2000	26.01.2000	30.10.1995	27.01.1999					
17)	Grenada	22.10.1986								19.08.1998					
18)	Guatemala	19.09.1973	21.07.1983	x	x	x	29.10.2001	30.08.2002		26.03.1999					
19)	Guyana								12.09.1997						
20)	Haiti														
21)	Honduras	14.03.1979								24.09.1998			01.07.2002		
22)	Jamaica	13.08.1975							08.09.2000	17.07.1998					
23)	Mexico	08.04.1974	11.02.1982	x	x	x		10.03.1998	29.08.1994	09.06.1998	15.03.2002				
24)	Nicaragua	07.08.1975	05.12.2000	x		x	05.12.2000	05.12.2000	05.11.1999	30.11.1998	03.09.1986				
25)	Panama	20.03.1974	26.03.1997	x	x	x	03.10.1999	26.03.1997	07.10.1998	07.10.1998			21.03.2002		
26)	Paraguay	09.06.1976							01.12.1994	13.11.1998			14.05.2001		
27)	Peru	05.06.1985	03.07.1997	x		x	03.07.1997	03.07.1997	20.07.1995	17.06.1998			10.11.2001		
28)	Saint Kitts and Nevis	02.04.1991								02.12.1998					
29)	Saint Vicent Grenadines	13.05.1999							18.09.2002	01.08.2001	09.11.1981		03.12.2002		
30)	Saint Lucia	26.11.1986							07.04.1997	13.04.1999					
31)	Suriname	06.01.1993							28.04.1997	25.05.2002					
32)	Trinidad and Tobago								24.06.1997	27.04.1998			06.04.1999		
33)	United States of America	26.03.1975	24.03.1995	x	x		24.05.1999		25.04.1997						
34)	Uruguay	06.04.1981	06.10.1994	x	x	x	18.08.1998	18.09.1998	06.10.1994	07.06.2001	21.09.2001	14.07.1999	28.06.2002		
35)	Venezuela	18.10.1978							03.12.1997	14.04.1999			07.06.2000		
TOTAL		REGION	31	16	16	14	15	14	13	25	31	1	6	3	19
		UNIVERSAL	146	90	88	80	85	68	66	148	130	7	46	24	87

## ANNEX II

### CULTURAL PROPERTIES INSCRIBED ON THE WORLD HERITAGE LIST<sup>1</sup>

#### LOCATED IN AMERICA

**ARGENTINA:** Jesuit Missions of the Guaranis, San Ignacio Mini, Santa Ana, Nuestra Señora de Loreto and Santa Maria Mayor (1984), Cueva de las Manos, Río Pinturas (1999) Jesuit Block and Estancias of Córdoba(2000).

**BOLIVIA:** City of Potosí (1987), Jesuit Missions of the Chiquitos (1990), Historic City of Sucre (1991), Forte de Samaipata (1998) y Tiwanaku (2000).

**BRAZIL:** Historic Town of Ouro Preto (1980), Historic Centre of the Town of Olinda, Ruínas de São Miguel das Missoes (1984), Historic Centre of Salvador de Bahia (1985), Sanctuary of Bom Jesus do Congonhas (1985), Brasília (1987), Serra da Capivara (1991) Historic Centre of São Luis (1997), Historic Centre of the Town of Diamantina (1999) and the Historic Centre of the Town of Goiás (2001).

**CANADA:** L'Anse aux Meadows National Historic Site (1978), SGAang Gwaii (Anthony Island) (1981), Head – Smashed – In Buffalo Jump (1981), historic District of Québec (1985), old Town Lunenburg (1995)

**CHILE:** Rapa Nui National Park (1995), Churches of Chiloé (2000).

**COLOMBIA:** Port, Fortresses and Group of Monuments, Cartagena (1984), San Agustín Archaeological Park (1995), National Archaeological Park of Tierradentro (1995) Historic Centre of Santa Cruz de Mompox (1995).

**CUBA:** Old Havana and its Fortifications(1982), Trinidad and the Valley de los Ingenios (1988), San Pedro de la Roca Castle, Santiago de Cuba (1997) Archaeological Landscape of the First Coffee Plantations in the Southeast of Cuba

**DOMINICAN REPUBLIC:** Colonial City of Santo Domingo (1990).

**ECUADOR:** City of Quito (1978) Historic Centre of Santa Ana de los Ríos de Cuenca (1999).

**EL SALVADOR:** Joya de Ceren Archaeological Site (1993).

**GUATEMALA:** Antigua Guatemala (1979), Tikal National Park (1979) y Archaeological Park and Ruins of Quirigua (1981).

**HAITI:** National History Park – Citadel, Sans Souci, Ramiers (1982)

**HONDURAS:** Maya Site of Copan (1980).

**MEXICO:** Historic Centre of Oaxaca and Archaeological Site of Monte Alban (1987), Pre-Hispanic City of Teotihuacan(1987), Historic Centre of Mexico City and Xochimilco (1987), Pre-Hispanic City and National Park of Palenque (1987), Historic Centre of Puebla (1987), Historic Town of Guanajuato and Adjacent Mines (1988), Pre-Hispanic City of Chichen-Itza(1988), Historic Centre of Morelia (1991), El Tajin, Pre-Hispanic City (1992), Rock Paintings of the Sierra de San Francisco (1993), Historic Centre of Zacatecas (1993), Earliest 16th-Century Monasteries on the Slopes of Popocatepetl(1994), Prehispanic Town of Uxmal (1996), Historic Monuments Zone of Querétaro(1996), Hospicio Cabañas, Guadalajara (1997), Archeological Zone of Paquimé, Casas Grandes (1998), Historic Monuments Zone of Tlacotalpan(1998), Archaeological Monuments Zone of Xochicalco (1999), Historic Fortified Town of Campeche(1999) Ancient Maya City of Calakmul, Campeche (2002).

**NICARAGUA:** Ruins of León Viejo (2000).

**PANAMA:** Fortifications on the Caribbean side of Panama. Protobelo – San Lorenzo (1980), Historic District of Panamá, with the Salón Bolívar (1997)

**PARAGUAY:** Jesuit Missions of La Santísima Trinidad de Parana and Jesus de Tavarangue (1993).

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<sup>1</sup> The World Heritage List was established under terms of The Convention Concerning the Protection of the World Cultural and Natural Heritage adopted in November 23, 1972/UNESCO. The properties inscribed on this List could benefit by the enhanced protection provided by the 1999 Second Protocol to the 1954 Convention on the protection of cultural property in the event of armed conflict. /More information about the List: [www.unesco.org/culture/legalprotection/](http://www.unesco.org/culture/legalprotection/) See also: [www.icrc.org](http://www.icrc.org)

**PERU:** City of Cuzco (1983), Historic Sanctuary of Machu Picchu (1983), Chavin (Archaeological site) (1985), Chan Chan Archaeological Zone (1986), Historic Centre of Lima (1988), Lines and Geoglyphs of Nasca and Pampas de Jumana (1994), Historical Center of the City of Arequipa (2000).

**ST. KITTS AND NEVIS:** Brimstone Hill Fortress National Park (1999).

**SURINAME:** Historic Inner City of Paramaribo (2002)

**UNITED STATES OF AMERICA:** Mesa verde (1978), Independence Hall (1979), Cahokia Mounds State Historic Site (1982), La Fortaleza and San Juan Historic Site in Puerto Rico (1983), Statue of Liberty (1984), Chaco Culture National Historical Park (1987), Monticello and University of Virginia in Charlottesville (1987), Pueblo de Taos (1992).

**URUGUAY:** Historic Quarter of the City of Colonia del Sacramento (1995).

**VENEZUELA:** Coro and its Port (1993); Ciudad Universitaria de Caracas (2000).

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ICRC

## ANNEX III

### Key articles that require implementation at national level

	1949 Geneva Conventions				1977 Additional Protocols		The 1954 Convention on Cultural Property	Second Protocol of The Hague Convention, 1999
	I	II	III	IV	I	II		
<b>Translation</b>	48	49	41, 128	99, 145	84		26	37
<b>Dissemination and Training</b>	47	48	41, 127	99, 144	80, 82-83, 87	19	7, 25	30
<b>Violations of IHL</b>								
General Provisions	49-54	50-53	129-132	146-149	85-91		28	15-21
War crimes	49-50	50-51	129-130	146-147	11, 85-90			
Compensations					91			
<b>Protection</b>								
Fundamental guarantees		3, 12	3, 13-17	3, 27-34	11, 75-77	4-5, 7		
Judicial and disciplinary guarantees, rights of people deprived of freedom	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	40, 41	42		20	15-16, 18	10, 12		
Medical units and establishments	19, 36, 39, 42-43	22, 24-27, 38-39, 41, 43		18, 21-22	12, 18, 21-23	12		
Cultural property					53	16	3, 6, 10, 12	5
Dangerous forces					56	15		
Identity cards	27, 40, 41, Annex II	42, Annex	17, Annex IV	20	18, 66-67, 78-79, Annexes I-II			
Internment and capture cards			70, Annex IV	106, Annex III				

	1949 Geneva Conventions				1977 Additional Protocols		The 1954 Convention on Cultural Property	Second Protocol of The Hague Convention, 1999
<b>Misuse of the emblems and signals</b>	44, 53-54	44-45	.	.	18, 37-38, 66, 85, Annex I	12	6, 10, 12, 17	.
<b>Specialists and advisers</b>	.	.	.	.	.	.	.	.
Qualified personnel	.	.	.	.	6	.	7, 25	.
Legal advisers	.	.	.	.	82	.	.	.
<b>Organizations</b>	.	.	.	.	.	.	.	.
National Societies	26	.	.	63	81	18	.	.
Civil defence	.	.	.	63	61-67	.	.	.
National Information Bureau	.	.	122-124	136-141	.	.	.	.
Mixed Medical Commissions	.	.	112, Annex II	.	.	.	.	.
<b>Military planning</b>	.	.	.	.	.	.	.	.
Weapons and military tactics	.	.	.	.	36	.	.	.
Military sites	.	.	.	.	57-58	.	.	8
<b>Protected zones and localities</b>	23, Annex I	.	.	14, 15	59-60, Annex I	.	.	.

Last modified : 18.06.2002



## ANNEX IV

### CHRONOLOGICAL LIST ON THE ESTABLISHMENT OF NATIONAL COMMITTEES FOR INTERNATIONAL HUMANITARIAN LAW

AS AT 31 DECEMBER 2002

Country	Name of committee	Year established / Legal basis / Operation
<b>Uruguay</b>	<i>Comisión Nacional de Derecho Humanitario (CNDH-Ur)</i>  c/o Ministerio de Relaciones exteriores, Dirección de Derechos Humanos Colonia 1206 11600 Montevideo Tel. +5982 902 7806 or +5982 902 1327 (2215)	<u>Established:</u> <b>1992</b>  <u>Legal basis:</u> Executive Decrees No. 677/992 of 24 November 1992 and No. XXX/996 of 3 June 1996
<b>Bolivia</b>	<i>Comisión Nacional Permanente para la aplicación del Derecho Internacional Humanitario (CNPADIH)</i>  c/o Ministerio de Relaciones Exteriores y Culto Plaza Murillo, Ingavi esqu. Junín La Paz	<u>Established:</u> <b>1992</b>  <u>Legal basis:</u> Decree No. 23.345 of 2 December 1992; reorganized pursuant to Resolution No. 218.456 of 17 August 1998 issued by the President of the Republic and the Ministry of Justice and Human Rights, which came into force on 30 October 1998
<b>Argentina</b>	<i>Comisión de Aplicación del Derecho Internacional Humanitario (CADIH)</i> c/o Ministerio de Defensa Azopardo 250, Piso 13° 1328 Buenos Aires Tel. +5411 43468877	<u>Established:</u> <b>1994</b> <u>Legal basis:</u> Executive Decree No. 933/94 of 16 June 1994
<b>Chile</b>	<i>Comisión Nacional de Derecho Humanitario (CNDH)</i>  c/o Ministerio de Relaciones Exteriores, Dirección Jurídica Catedral 1158 3° Piso, Oficina 339 Santiago Tel. +562-6794237/8 or Fax +562-699-5517	<u>Established:</u> <b>1994</b>  <u>Legal basis:</u> Decree No. 1229 of 31 August 1994
<b>Paraguay</b>	<i>Comisión Interministerial de Aplicación del Derecho Internacional Humanitario</i>  c/o Ministerio de Defensa Nacional Edificio del Ministerio de Defensa Mcal. López esquina Vicepres. Sánchez Asunción	<u>Established:</u> <b>1995</b>  <u>Legal basis:</u> Presidential Decree No. 8802 of 12 May 1995; reorganization by Presidential Decree No. 15926 of 28 December 2001
<b>Dominican Republic</b>	<i>Comisión Nacional Permanente para la Aplicación del Derecho Internacional Humanitario</i>  c/o Secretaría de Estado de Relaciones Exteriores Avenida Independencia 752 Santo Domingo Tel. +1 809 535 6280 Fax +1 809 535 6848	<u>Established:</u> <b>1995</b>  <u>Legal basis:</u> Presidential Decree No. 131-99 of 30 March 1999

Country	Name of committee	Year established / Legal basis / Operation
<b>Panama</b>	<i>Comisión Nacional Permanente para la Aplicación del Derecho Internacional Humanitario (CPDIH)</i>  c/o Ministerio de Relaciones Exteriores Altos del Cerro Ancón Edificio 95 Ciudad de Panamá Tel. +507 211 4296 or Fax +507 211 4296	<u>Established:</u> <b>1997</b>  <u>Legal basis:</u> Executive Decree No. 154 of 25 August 1997, amended by Executive Decree No. 165 of 19 August 1999
<b>Trinidad and Tobago</b>	Inter-Ministerial Committee on International Humanitarian Law  c/o Ministry of Enterprise Development and Foreign Affairs 1 Queen's Park West Port of Spain Tel. +1 868 623 4116 Fax +1 868 624 4220	<u>Established:</u> <b>1997</b> (ad hoc), 2001 (ad hoc)  <u>Legal basis:</u> Cabinet Decision No. 211 of 21 February 2001
<b>El Salvador</b>	<i>Comité Interinstitucional de Derecho Internacional Humanitario (CIDIH-ES)</i>  c/o Ministerio de Relaciones Exteriores Edificio 3, 2da. Planta, Centro de Gobierno San Salvador Tel. +503 22 24 447	<u>Established:</u> <b>1997</b>  <u>Legal basis:</u> Presidential Decree No. 118 of 4 November 1997
<b>Canada</b>	Canadian National Committee for Humanitarian Law  c/o Canadian Red Cross Society 170 Metcalfe St., Suite 300 Ottawa, Ontario K2P 2P2	<u>Established:</u> <b>1998</b>  <u>Legal basis:</u> Memorandum of understanding of 18 March 1998
<b>Nicaragua</b>	<i>Comisión Nacional para la Aplicación del Derecho Internacional Humanitario</i>  c/o Ministerio de Relaciones Exteriores Apartado postal No. 127 Managua Tel. +505 266 6512 or Fax +505 266 6512	<u>Established:</u> <b>1999</b>  <u>Legal basis:</u> Presidential Decree No. 54-99 of 23 April 1999
<b>Guatemala</b>	<i>Comisión Guatemalteca para la Aplicación del Derecho Internacional Humanitario (COGUADIH)</i>  c/o Ministerio de Relaciones Exteriores 2 Avenida Reforma 4-47, Zona 10 Ciudad Guatemala Tel. +502 331-9610 or Fax +502 331-7938	<u>Established:</u> <b>1999</b>  <u>Legal basis:</u> Government Agreement No. 948-99 of 28 December 1999
<b>Colombia</b>	<i>Comisión Intersectorial Permanente para los Derechos Humanos y el Derecho Internacional Humanitario</i>  c/o Vicepresidencia de la República Carrera 8 No. 7-27, Bogotá Tel. +5714442120/2864126 or Fax +571 2863589	<u>Established:</u> <b>2000</b>  <u>Legal basis:</u> Presidential Decree No.321 of 25 February 2000
<b>Peru</b>	<i>Comisión Nacional de Estudio y Aplicación del Derecho Internacional Humanitario (CONADIH)</i>  c/o Ministerio de Justicia Scipión Llona 350, Miraflores Lima Fax +511 441 05 47	<u>Established:</u> <b>2001</b>  <u>Legal basis:</u> Resolution (Resolución Suprema) No. 234-2001-JUS of 1 June 2001

## **ANNEX V**

### **PROMOTION OF AND RESPECT FOR INTERNATIONAL HUMANITARIAN LAW AG/RES. 1904 (XXXII-O/02)**

(Adopted at the fourth plenary session held on June 4, 2002)

THE GENERAL ASSEMBLY,

RECALLING resolutions AG/RES. 1270 (XXIV-O/94), AG/RES. 1335 (XXV-O/95), AG/RES. 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), and AG/RES. 1771 (XXXI-O/01);

DEEPLY DISTRESSED over the terrorist attacks perpetrated against innocent people from many nations that occurred in the United States of America on September 11, 2001;

DEEPLY DISTRESSED ALSO over the terrorist attacks committed in various member states;

DEEPLY CONCERNED over persistent violations of international humanitarian law throughout the world and, in particular, over attacks on the civilian population, which at times finds itself forced into displacement or compelled to seek refuge in other countries;

RECALLING that it is the obligation of all states to observe and enforce, in all circumstances, the provisions established in the 1949 Geneva Conventions and, where applicable, for those States that are Parties thereto, those contained in the 1977 Additional Protocols to those Conventions, and noting that this year marks the 25th anniversary of their adoption;

UNDERSCORING the need to reinforce the provisions of international humanitarian law by achieving their universal acceptance, and their widest possible dissemination and application;

AWARE of the need to punish those responsible for war crimes, crimes against humanity, and other grave breaches of international humanitarian law;

TAKING INTO ACCOUNT the entry into force, on July 1, 2002, of the Statute of the International Criminal Court, which has been ratified or acceded to by 12 states in this Hemisphere;

RECOGNIZING the importance of developing international humanitarian law by drafting updated provisions that enable it to address today's challenges;

TAKING INTO CONSIDERATION the decision taken in December 2001 by the States Parties to the 1980 UN 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, to extend the scope of application of this Convention to all existing Protocols applicable to non-international armed conflict;

CONSIDERING the importance of the Convention on the Safety of United Nations and Associated Personnel, the purpose of which is to protect both military and civilian staff of United Nations operations;

CONVINCED that the particular protection and assistance needs of women and children in situations of armed conflict must be effectively addressed, and welcoming in this regard the adoption, in May 2000, of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

CONCERNED over the disappearance of persons and the taking of hostages particularly during armed conflict and the suffering this causes for families and loved ones during and after the conflict has ended;

DISMAYED by the negative impact of the illicit production of and trafficking in firearms, ammunition, explosives, and related materials on personal safety and the stability of our societies, as well as on domestic conflicts and peace processes;

RECOGNIZING that the illicit trade in small arms and light weapons in all its aspects undermines respect for international humanitarian law and impedes the humanitarian assistance to victims of armed conflict;

CONVINCED that the fight against terrorism must be undertaken with full respect for the law, for human rights, for international humanitarian law, and for democratic institutions in order to preserve the rule of law, freedoms, and democratic values in the Hemisphere;

EMPHASIZING once more the ongoing efforts of the International Committee of the Red Cross (ICRC) to promote and disseminate knowledge of international humanitarian law and the activities it carries out as an organization that is impartial, neutral, and independent under any and all circumstances;

RECOGNIZING the important part played by the national committees or commissions established in numerous countries for the dissemination and application of international humanitarian law in ensuring that the Geneva Conventions and, where applicable, the Additional Protocols thereto, as well as the other instruments of international humanitarian law, are incorporated into the domestic law of the member states that are Parties to those instruments, so that compliance with those instruments and the dissemination thereof are ensured;

EXPRESSING its satisfaction with the increasing cooperation between the General Secretariat of the Organization and the ICRC, resulting from the agreement signed on May 10, 1996, and illustrated by common achievements such as the Governmental Experts' Meeting on "The Implementation of International Humanitarian Law and Related Inter-American Conventions," held in March 2001, in San José, Costa Rica;

EXPRESSING also its satisfaction over the special meeting of the Committee on Juridical and Political Affairs held at OAS headquarters on March 6, 2002, on the promotion of and respect for international humanitarian law, which received support from the ICRC and other institutions, the conclusions of which were presented to the Fourth Meeting of Ministers of Justice or of Ministers or Attorneys General of the Americas for consideration; and

HAVING SEEN the report of the General Secretariat on the promotion of and respect for international humanitarian law (CP/doc.3576/02),

#### RESOLVES:

1. To note the increase in the number of member states that, in the past year, have ratified or acceded to various instruments of international humanitarian law, particularly the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction (Ottawa Convention) and the Statute of the International Criminal Court.

2. To invite those member states that have not yet done so to consider ratifying or, if applicable, acceding to the 1977 Additional Protocols I and II to the 1949 Geneva Conventions, and to consider making the declaration provided for in Article 90 of Protocol I.

3. Also to urge those member states that have not yet done so to consider signing or ratifying, as appropriate, the Statute of the International Criminal Court. <sup>1</sup><sup>[1]</sup>

4. Further, to invite those member states that have not yet done so to consider ratifying or, if applicable, acceding to the following instruments relating to weapons which may be excessively injurious or have indiscriminate effects:

- a. 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 and the Protocols thereto; and
- b. The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction.

5. To invite those member states that have not yet done so to consider becoming Parties to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and to its 1954 Protocol, as well as to its 1999 Second Protocol on enhanced protection.

6. To urge those member states that have not yet done so to consider becoming Parties to the 1989 Convention on the Rights of the Child, and to its Optional Protocol on the involvement of children in armed conflicts, which includes the participation of children in hostilities, as well as their recruitment into armed forces and armed groups.

7. To urge those member states that have not yet done so to sign or ratify the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA).

8. To urge states, as applicable and in accordance with the international legal obligations they have assumed, to pay special attention, in times of peace as well as times of armed conflict, to the following provisions:

- a. The widest possible dissemination of international humanitarian law throughout the population, particularly among the armed forces and security forces, by including it in official instruction programs and in the training of permanent armed forces personnel (Articles 47, 48, 127, and 144, respectively, of the four Geneva Conventions, and Articles 83 and 11, respectively, of the two Additional Protocols);
- b. The enactment of criminal legislation required to punish those responsible for war crimes, crimes against humanity, and other grave breaches of international humanitarian law (Articles 49, 50, 129, and 146, respectively, of the four Geneva Conventions, and Article 85 of Additional Protocol I);

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- c. The enactment of legislation to regulate the use of emblems protected under international humanitarian law and to punish the improper use thereof (Articles 54 and 45, respectively, of the first and second Geneva Conventions, and Article 38 of Additional Protocol I and its Annex containing the regulations thereto); and
- d. The obligation, in the study, development, acquisition, or adoption of a new weapon, or of new means or methods of war, to determine whether their use would contravene international humanitarian law and, if it would, not to adopt it for use within the armed forces or security forces and not to manufacture it for other purposes (Article 36 of Additional Protocol I to the Geneva Conventions).

9. To urge member states to continue to support the work of national advisory committees or commissions or similar bodies for the dissemination and implementation of international humanitarian law, where they already exist, and to consider establishing such bodies where they do not, with support from the International Committee of the Red Cross (ICRC).

10. To urge member states to consider taking appropriate steps at the national level to address the grave humanitarian consequences of the unregulated availability of arms, in keeping with the Programme of Action adopted at the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York in July 2001.

11. To urge those member states that have not yet done so to consider ratifying or acceding to, as the case may be, the 1994 Convention on the Safety of United Nations and Associated Personnel.

12. To urge member states and all parties to an armed conflict to respect the impartiality, independence, and neutrality of humanitarian action in accordance with the guiding principles adopted by the United Nations General Assembly in its resolution 46/182 of December 19, 1991, and to ensure that the staff of humanitarian missions are protected, whether they be in the employ of governments, international organizations, nongovernmental organizations, or the International Committee of the Red Cross.

13. To invite member states to facilitate the work of the ICRC, in particular by using its advisory services to support states' efforts to apply international humanitarian law, and to further invite member states and parties to armed conflict to continue to cooperate with the ICRC in its various spheres of responsibility.

14. To urge the parties to an armed conflict to take immediate measures to determine the identity and status of persons reported as missing.

15. To urge the member states and all parties to an armed conflict to observe their obligations under the 1949 Geneva Conventions, in particular those that are applicable to the protection of the civilian population.

16. To request the General Secretariat, through the Secretariat for Legal Affairs, and in coordination with the ICRC, to continue to organize governmental conferences similar to the one held in San José, Costa Rica, in March 2001, to disseminate and reinforce the implementation of international humanitarian law and of related inter-American conventions.

17. To instruct the Permanent Council, with support from the General Secretariat and in cooperation with the ICRC, to continue to organize special meetings to reaffirm the pertinence and timeliness of international humanitarian law.

18. To encourage member states to adopt appropriate legislative, judicial, and administrative measures for the domestic implementation of international humanitarian law

instruments, enlisting, as necessary, the technical assistance of appropriate international organizations, including the ICRC.

19. To invite the member states to report to the Permanent Council on the activities they have carried out pursuant to this resolution.

20. To request the Secretary General to present a report to the General Assembly at its thirty-third regular session on the implementation of this resolution.