

**2012-2013 REPORT**

# **IMPLEMENTING IHL**

**Participation of the American States in  
International Humanitarian Law Treaties  
and their National Implementation**



**ICRC**



ICRC Regional Delegation for Mexico,  
Central America and Cuba  
Presidente Masaryk 29  
Col. Chapultepec Morales  
Delegación Miguel Hidalgo  
C.P. 11570, México D.F. - México  
Tel.: (+52) 55 2581 2110  
mex\_mexico@icrc.org  
www.icrc.org  
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# LEGAL BASIS FOR ICRC ACTION

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

The ICRC, with the support of the International Red Cross and Red Crescent Movement, constantly urges governments to adapt international humanitarian law (IHL) to changing circumstances, in particular to modern developments in the means and methods of warfare, so as to provide more effective protection and assistance for the victims of armed conflict.

Today, the four Geneva Conventions of 12 August 1949, which protect wounded, sick and shipwrecked members of the armed forces, prisoners of war and civilians during armed conflict, have been universally ratified and are binding on all States. Approximately two-thirds of States are bound by the Additional Protocols of 1977, which protect the victims of international and non-international armed conflicts, particularly the civilian population, from the effects of hostilities.

The international community – through the Geneva Conventions and Additional Protocol I – gives the ICRC an important role to play in the event of international armed conflict, which includes visiting prisoners of war and civilian internees. The ICRC is also granted a broad right of initiative.

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

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

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# INTRODUCTION

This report submitted by the International Committee of the Red Cross (ICRC) once again reflects the significant, at times exemplary, progress made in terms of the ratification, implementation and promotion of international humanitarian law (IHL) treaties. One particularly noteworthy development is that, since the last Special Meeting on International Humanitarian Law held by the Committee on Juridical and Political Affairs of the Permanent Council of the Organization of American States (OAS), three of the OAS member States have ratified all the IHL treaties promoted by the ICRC and many other States are well on their way to achieving this goal. First and foremost, this progress is testament to the strength of their conviction and the emergence of a real political commitment.

That commitment hinges on the conviction that respecting and developing IHL is vital, not only to safeguard human life and dignity but also, indirectly, to preserve international peace and security. And the conviction that preventing serious violations of fundamental humanitarian legal provisions, which are binding upon all parties to armed conflicts, can be achieved through universal ratification of IHL treaties and full domestic implementation thereof in peacetime.

Yet, no such positive outcome would have been possible without the unfailing political commitment of all the States to translate that conviction into action – both at the national and multilateral level, and in particular within the OAS.

This initiative draws inspiration from the law itself, which sets out States' duty to respect and ensure respect for humanitarian law in all circumstances. But it is also driven by the burden and consequences of violations of that law, which weigh on the collective conscience of nations. Hence the founding of 19 national committees on IHL. The vital, unfailing support of these permanent inter-ministerial or inter-institutional bodies has channelled the long-term political will of States into the results

described and celebrated in this report. The ICRC is proud to have been involved in both the political and technical aspects of this process and to have contributed to this achievement.

It goes without saying that there is a correlation between a high level of ratification and implementation of treaties and the existence, good running and competencies developed by the national committees on IHL, with the support of their authorities. These bodies are increasingly involved in overseeing the inclusion of IHL in the training and practices of the armed and security forces, and in promoting IHL teaching and research in major universities to encourage them to become renowned centres of excellence and expertise in this field. They are also increasingly called upon to support and advise their governments' humanitarian diplomacy efforts and to take new initiatives to protect people in situations of violence (such as introducing regulations governing the use of force and tracing missing persons).

We are seeing an impressive level of mobilization in the Americas to promote respect for, and the global development of, IHL – whether in terms of pushing for the adoption, ratification and future implementation of the Arms Trade Treaty or in relation to the humanitarian consequences of nuclear weapons. We also welcome the efforts and contribution of the States of the region in supporting various diplomatic processes underway with a view to strengthening protection for people affected by non-international armed conflict.

We have observed that more IHL treaties are being ratified and we are encouraged by efforts to adopt domestic legislation enacting them. Major progress is also being made in other areas such as education and regulations governing the use of force. But much remains to be done, particularly in terms of prosecuting crimes, safeguarding the delivery of health care and protecting cultural property.

This report charts the quantitative and qualitative developments that attest to the importance placed by OAS member States on IHL, humanitarian action and the role of the ICRC, at both the national and multilateral level. It also attests to the ever increasing effectiveness of the national committees and their growing influence and role. But the fragility of this situation cannot be denied, given the manifold priorities and pressures. It is therefore crucial that these bodies and the support for them be maintained into the future.

The recent Second Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas, which was organized by the ICRC in San José, Costa Rica (10-12 September 2013), and held under the auspices of the Ministry of Foreign Affairs and Religion of Costa Rica, demonstrated the importance of holding regular meetings. The results presented, the experiences exchanged and the relevance of the issues addressed attested to the vitality of the committees. The active participation of six countries from the continent as observers and the pledge made by two of them (Haiti and Venezuela) to set up national committees underline this conviction.

We invite you to familiarize yourself with the wealth of conclusions and recommendations adopted in San José, which refer to the growing role of the national committees, including promoting the resolutions of the OAS and contributing to its IHL-related work.

This was also the focus of an initial dialogue between the national committees in San José and the Committee on Juridical and Political Affairs at a meeting on 13 September 2013, whose purpose was to build lasting cooperation between the committees and the Committee on Juridical and Political Affairs. The OAS General Assembly had mandated the Committee on Juridical and Political Affairs to arrange this meeting and it proved fruitful.

Another noteworthy development was the Third Meeting of Representatives of National Committees on International Humanitarian Law of Commonwealth States, which took place in Port-of-Spain, Trinidad and Tobago, in October 2013. Several countries from the Caribbean Community (CARICOM) attended the event, took part in discussions on IHL issues and adopted a document. We urge them to draw inspiration from that text, to step up their performance in terms of ratifying and implementing IHL treaties, and to consider setting up their own national committees on IHL.

Fortunately, the OAS's IHL and humanitarian diplomacy agenda looks set to continue and even gather pace. The ICRC urges States to keep this up.

Regular advanced IHL courses and twice-yearly special IHL sessions are ideal opportunities for dialogue with the ICRC, discussion, and sharing national experiences. It is also important

to adopt robust resolutions that point the way for national action, such as the resolution on "Promotion of and Respect for International Humanitarian Law" or that on "Persons Who Have Disappeared and Assistance to Members of Their Families," both adopted at the 43rd session of the OAS General Assembly in June 2013.

Such results, and the diplomatic efforts behind them, help foster greater respect for IHL both in the continent and around the world.

Patrick Zahnd  
Continental Legal Advisor  
Advisory Service on International Humanitarian Law  
ICRC

# PART I

# PARTICIPATION OF THE AMERICAN STATES IN IHL TREATIES

## A. International humanitarian law treaties

The main treaties providing for the protection of people from the effects of armed conflict are the following:

### Protection of the victims of armed conflict

- Geneva Conventions of 12 August 1949 (GC I-IV 1949)
- 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 1977)
- Declaration recognizing the competence of the International Fact-Finding Commission provided for in Article 90 AP I (AP I – IFFC)
- 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 1977)
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem, 8 December 2005 (AP III 2005)
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000 (OP CAC 2000)
- International Convention for the Protection of All Persons from Enforced Disappearance, 20 December 2006 (ED UN 2006)

### 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 1954)
- Protocol for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954 (HCCP PI 1954)
- Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 26 March 1999 (HCCP PII 1999)

### Environment

- Convention on the prohibition of military or any hostile use of environmental modification techniques, 10 December 1976 (ENMOD 1976)

### International criminal law

- Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 26 November 1968 (CSL 1968)
- Rome Statute of the International Criminal Court, 17 July 1998 (ICC 1998)
- Amendment to Article 8 (2) e) of the Rome Statute (ICC a 2010)

### Weapons

- Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, Geneva, 17 June 1925 (GP 1925)
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, 10 April 1972 (BWC 1972)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 10 October 1980 (CCW 1980) and its Protocols:
  - Protocol on Non-Detectable Fragments, 10 October 1980 (PI)
  - Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, 10 October 1980 (PII)
  - Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons, 10 October 1980 (PIII)
  - Protocol on Blinding Laser Weapons, 13 October 1995 (PIV 1995)
  - Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (PII a 1996)
  - Protocol on Explosive Remnants of War, 28 November 2003 (PV 2003)

- Amendment of 21 December 2001 to article 1 of the CCW of 10 October 1980 (CCW a 2001)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 13 January 1993 (CWC 1993)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997 (OTTAWA 1997)
- Convention on Cluster Munitions, 30 May 2008 (Cluster Munitions 2008)
- Arms Trade Treaty, 2 April 2013 (ATT 2013)

2011, Valle del Cauca, Colombia. An indigenous guard chief shows various bullet shells and explosive devices found near the homes of civilians.



Boris Heger/ICRC

## B. Customary international humanitarian law

The rules contained in international humanitarian law treaties are complemented by customary international humanitarian law. These customary rules, whether arising from treaties or not, reflect State practice. They are applicable in any armed conflict and binding on all parties.

The ICRC was requested by the international community at the 26th International Conference of the Red Cross and Red Crescent held in Geneva (Switzerland) in 1995 to conduct a study on this body of law, which it completed in 2005. The study established 161 rules of customary international humanitarian law, most which are applicable in both international and non-international armed conflicts. The Spanish translation of the first volume of the study was published at the end of 2007, and an event was held in Colombia in March 2008 to present it to the Spanish-speaking countries of the Americas. It was attended by teachers and officials from some ten countries.

Following the publication of the original study in 2008, a first update of State practice was made available for four categories of source material (military manuals, national legislation, national case-law and official statements) for the 2005-2008 period. This update included the American States covered in the original study. As the formation of customary law is an ongoing process, the ICRC has partnered with the British Red Cross to undertake a project to update State practice recorded in Volume II of the study at the University of Cambridge's Lauterpacht Centre for International Law.

The study was updated for the 2008-2010 period in 2011. It currently covers 95 States and includes State practice with regard to international humanitarian law catalogued on the basis of military manuals, national legislation, national case-law and official statements.

The update of the study includes the practice of 14 Latin American countries: Argentina, Brazil, Chile, Colombia, Cuba, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela. The update on Colombia, El Salvador, Mexico, Nicaragua, Peru and the jurisprudence of the Inter-American Court of Human Rights was completed in October 2011. The update on Guatemala and Cuba for the 2008-2011 period was concluded in December 2011.

In August 2010, the ICRC published an online version of the study, which is divided into two parts. The first part presents a comprehensive analysis of existing rules of customary IHL which have been identified as applicable in international and non-international armed conflicts. The second part contains a summary of State practice covering the main aspects of IHL. Since 2011, the database has been updated in three stages. The most recent update, carried out in December 2012, incorporates State practice up to 2007 for a set of 23 countries, including Argentina, Chile, Colombia, El Salvador, Guatemala, Mexico, Peru and Uruguay.

Thanks to the new database, this material is available for the first time from a single online source and can be accessed from anywhere in the world. The database, which will be updated on an annual basis, can be consulted at <http://www.icrc.org/customary-ihl/eng/docs/home>.

## C. Main ratifications in 2012 and 2013

The OAS Member States have continued their efforts to achieve the universal ratification of IHL treaties. Some States have ratified almost all the instruments comprising this body of law.

An increasing number of States have ratified the treaties on weapons and IHL, especially the more recent ones, such as the 2008 Convention on Cluster Munitions. There have also been ratifications of earlier treaties, such as the 1980 Convention on Conventional Weapons and Additional Protocol V in particular. The year 2013 was marked by the adoption of the Arms Trade Treaty by the United Nations General Assembly in April. The vast majority of States in the region have already signed this treaty, and some have ratified it.

The Rome Statute establishing the International Criminal Court has been ratified by a large number of countries in the Americas. The amendment to article 8 of the Statute, adopted at the Review Conference held in 2010, concerning the use of poison, asphyxiating and poisonous gases and bullets that expand or flatten easily in the human body, was ratified by two American States in the period 2012-2013.

Also worth noting is the significant contribution of the American States to ratifications of the International Convention for the Protection of All Persons from Enforced Disappearance, which was adopted in 2006 and came into force in December 2010. Half of the first twenty States to become a party to this convention and half of the States that have recognized the competence of the ICRC are in the Americas. Four more American States ratified the convention in the period 2012-2013.

The ratification process is ongoing; States repeatedly express their commitment to ratify all IHL treaties, their national committees on IHL analyse relevant issues and their parliaments examine the contents of treaties awaiting ratification.

- **Antigua and Barbuda** deposited its instrument of ratification of the Arms Trade Treaty on 12 August 2013.
- **Colombia** ratified the International Convention for the Protection of All Persons from Enforced Disappearance on 11 July 2012.
- **Costa Rica** became a party to the International Convention for the Protection of All Persons from Enforced Disappearance on 16 February 2012; it deposited the instrument of ratification of the Arms Trade Treaty on 25 September 2013.
- **Cuba** became a party to Protocol IV (1995) and Protocol V (2003) to the 1980 Conventional Weapons Convention on 14 November 2012.
- **Grenada** became a party to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict on 6 February 2012.
- **Guatemala** acceded to the Rome Statute on 2 April 2012.
- **Guyana** deposited its instrument of ratification of the Arms Trade Treaty on 4 July 2013.
- **Honduras** ratified the 2008 Convention on Cluster Munitions on 21 March 2012.
- **Mexico** deposited its instrument of ratification of the Arms Trade Treaty on 25 September 2013.
- **Panama** ratified Additional Protocol III of the Geneva Conventions (2005) on 30 April 2012.
- **Peru** became a party to the 2008 Convention on Cluster Munitions and the International Convention for the Protection of All Persons from Enforced Disappearance on 26 September 2012.
- **Suriname** became a party to Additional Protocol III (2005) of the Geneva Conventions on 25 June 2013.
- **Trinidad and Tobago** deposited its instrument of ratification of the Arms Trade Treaty on 25 September 2013.
- **Uruguay** became a party to Additional Protocol III (2005) of the Geneva Conventions on 19 October 2012.



## Status of Participation of American States

	Country	Protection of Victims of Armed Conflicts						
		GC I-IV 1949	AP I 1977	AP I - CIHE	AP II 1977	AP III 2005	OP CAC 2000	DF ONU 2006
1	Antigua and Barbuda	06/10/1986	06/10/1986		06/10/1986			
2	Argentina	18/09/1956	26/11/1986	11/10/1996	26/11/1986	16/03/2011	10/09/2002	14/12/2007
3	Bahamas	11/07/1975	10/04/1980		10/04/1980			
4	Barbados	10/09/1968	19/02/1990		19/02/1990			
5	Belize	29/06/1984	29/06/1984		29/06/1984	03/04/2007	01/12/2003	
6	Bolivia	10/12/1976	08/12/1983	10/08/1992	08/12/1983		22/12/2004	17/12/2008
7	Brazil	29/06/1957	05/05/1992	23/11/1993	05/05/1992	28/08/2009	27/01/2004	
8	Canada	14/05/1965	20/11/1990	20/11/1990	20/11/1990	26/11/2007	07/07/2000	
9	Chile	12/10/1950	24/04/1991	24/04/1991	24/04/1991	06/07/2009	31/07/2003	08/12/2009
10	Colombia	08/11/1961	01/09/1993	17/04/1996	14/08/1995		25/05/2005	11/07/2012
11	Costa Rica	15/10/1969	15/12/1983	09/12/1999	15/12/1983	30/06/2008	24/01/2003	16/02/2012
12	Cuba	15/04/1954	25/11/1982		23/06/1999		02/09/2007	02/02/2009
13	Dominica	28/09/1981	25/04/1996		25/04/1996		20/09/2002	
14	Dominican Republic	22/01/1958	26/05/1994		26/05/1994	01/04/2009		
15	Ecuador	11/08/1954	10/04/1979		10/04/1979		07/06/2004	20/10/2009
16	El Salvador	17/06/1953	23/11/1978		23/11/1978	12/09/2007	18/04/2002	
17	Grenada	13/04/1981	23/09/1998		23/09/1998		06/02/2012	
18	Guatemala	14/05/1952	19/10/1987		19/10/1987	14/03/2008	09/05/2002	
19	Guyana	22/07/1968	18/01/1988		18/01/1988	21/09/2009		
20	Haiti	11/04/1957	20/12/2006		20/12/2006			
21	Honduras	31/12/1965	16/02/1995		16/02/1995	08/12/2006	14/08/2002	01/04/2008
22	Jamaica	20/07/1964	29/07/1986		29/07/1986		09/05/2002	
23	Mexico	29/10/1952	10/03/1983			07/07/2008	15/03/2002	18/03/2008
24	Nicaragua	17/12/1953	19/07/1999		19/07/1999	02/04/2009	17/03/2005	
25	Panamá	10/02/1956	18/09/1995	26/10/1999	18/09/1995	30/04/2012	08/08/2001	24/06/2011
26	Paraguay	23/10/1961	30/11/1990	30/01/1998	30/11/1990	13/10/2008	27/09/2002	
27	Peru	15/02/1956	14/07/1989		14/07/1989		08/05/2002	26/09/2012
28	Saint Kitts and Nevis	14/02/1986	14/02/1986		14/02/1986			
29	Saint Lucia	18/09/1981	07/10/1982		07/10/1982			
30	Saint Vincent and The Grenadines	01/04/1981	08/04/1983	04/11/2013	08/04/1983		29/03/2011	
31	Suriname	13/10/1976	16/12/1985		16/12/1985	25/06/2013		
32	Trinidad and Tobago	24/09/1963	20/07/2001	20/07/2001	20/07/2001			
33	United States of America	02/08/1955				08/03/2007	23/12/2002	
34	Uruguay	05/03/1969	13/12/1985	17/07/1990	13/12/1985	19/10/2012	09/09/2003	04/03/2009
35	Venezuela	13/02/1956	23/07/1998		23/07/1998		23/09/2003	
<b>Total</b>	<b>REGION</b>	<b>35</b>	<b>34</b>	<b>12</b>	<b>33</b>	<b>18</b>	<b>25</b>	<b>12</b>
	<b>UNIVERSAL</b>	<b>195</b>	<b>173</b>	<b>74</b>	<b>167</b>	<b>64</b>	<b>152</b>	<b>40</b>

## in Treaties that are of Relevance for IHL (as of 04-Nov-2013)

International Criminal Law			Protection of Cultural Property in the Event of Armed Conflict			Environment
CSL 1968	ICC 1998	ICC 2010	HCCP. 1954	HCCP PI 1954	HCCP PII 1999	ENMOD 1976
	18/06/2001					25/10/1988
26/08/2003	08/02/2001		22/03/1989	10/05/2007	07/01/2002	20/03/1987
	10/12/2002		09/04/2002	02/10/2008	02/10/2008	
	05/04/2000					
06/10/1983	27/06/2002		17/11/2004			
	20/06/2002		12/09/1958	12/09/1958	23/09/2004	12/10/1984
	07/07/2000		11/12/1998	29/11/2005	29/11/2005	11/06/1981
	29/06/2009		11/09/2008	11/09/2008	11/09/2008	26/04/1994
	05/08/2002		18/06/1998	18/06/1998	24/11/2010	
27/04/2009	07/06/2001		03/06/1998	03/06/1998	09/12/2003	07/02/1996
13/09/1972			26/11/1957	26/11/1957		10/04/1978
	12/02/2001					09/11/1992
	12/05/2005		05/01/1960	21/03/2002	03/03/2009	
	05/02/2002		02/10/1956	08/02/1961	02/08/2004	
			19/07/2001	27/03/2002	27/03/2002	
	19/05/2011					
	02/04/2012		02/10/1985	19/05/1994	04/02/2005	21/03/1988
	24/09/2004					
16/08/2010	01/07/2002		25/10/2002	25/10/2002	26/01/2003	16/08/2010
15/03/2002	28/10/2005		07/05/1956	07/05/1956	07/10/2003	
03/09/1986			25/11/1959	25/11/1959	01/06/2001	06/09/2007
21/06/2007	21/03/2002		17/07/1962	08/03/2001	08/03/2001	13/05/2003
23/09/2008	14/05/2001		09/11/2004	09/11/2004	09/11/2004	
11/08/2003	10/11/2001		21/07/1989	21/07/1989	24/05/2005	
	22/08/2006					
	18/08/2010					27/05/1993
09/11/1981	03/12/2002					27/04/1999
	15/07/2008					
	06/04/1999	13/11/2012				
			13/03/2009			17/01/1980
21/09/2001	28/06/2002	26/09/2013	24/09/1999	24/09/1999	03/01/2007	16/09/1993
	07/06/2000		09/05/2005			
<b>12</b>	<b>28</b>	<b>2</b>	<b>22</b>	<b>19</b>	<b>18</b>	<b>16</b>
<b>54</b>	<b>122</b>	<b>14</b>	<b>126</b>	<b>102</b>	<b>65</b>	<b>76</b>

## Status of Participation of American States

	Country	GP 1925	BWC 1972	CCW 1980			
				CCW 1980	CCW PI 1980	CCW PII 1980	CCW PIII 1980
1	Antigua and Barbuda	27/04/1989	29/01/2003	23/08/2010	23/08/2010		23/08/2010
2	Argentina	12/05/1969	05/12/1979	02/10/1995	02/10/1995	02/10/1995	02/10/1995
3	Bahamas		26/11/1986				
4	Barbados	16/07/1976	16/02/1973				
5	Belize		20/10/1986				
6	Bolivia	13/08/1985	30/10/1975	21/09/2001	21/09/2001	21/09/2001	21/09/2001
7	Brazil	28/08/1970	27/02/1973	03/10/1995	03/10/1995	03/10/1995	03/10/1995
8	Canada	06/05/1930	18/09/1972	24/06/1994	24/06/1994	24/06/1994	24/06/1994
9	Chile	02/07/1935	22/04/1980	15/10/2003	15/10/2003		15/10/2003
10	Colombia		19/12/1983	06/03/2000	06/03/2000	06/03/2000	06/03/2000
11	Costa Rica	17/03/2009	17/12/1973	17/12/1998	17/12/1998	17/12/1998	17/12/1998
12	Cuba	24/06/1966	21/04/1976	02/03/1987	02/03/1987	02/03/1987	02/03/1987
13	Dominica		08/11/1978				
14	Dominican Republic	08/12/1970	23/02/1973	21/06/2010	21/06/2010	21/06/2010	21/06/2010
15	Ecuador	16/09/1970	12/03/1975	04/05/1982	04/05/1982	04/05/1982	04/05/1982
16	El Salvador		31/12/1991	26/01/2000	26/01/2000	26/01/2000	26/01/2000
17	Granada	03/01/1989	22/10/1986				
18	Guatemala	03/05/1983	19/09/1973	21/07/1983	21/07/1983	21/07/1983	21/07/1983
19	Guyana						
20	Haiti						
21	Honduras		14/03/1979	30/10/2003	30/10/2003	30/10/2003	30/10/2003
22	Jamaica	28/07/1970	13/08/1975	25/09/2008	25/09/2008		25/09/2008
23	Mexico	28/05/1932	08/04/1974	11/02/1982	11/02/1982	11/02/1982	11/02/1982
24	Nicaragua	05/10/1990	07/08/1975	05/12/2000	05/12/2000		05/12/2000
25	Panamá	04/12/1970	20/03/1974	26/03/1997	26/03/1997	26/03/1997	26/03/1997
26	Paraguay	22/10/1933	09/06/1976	22/09/2004	22/09/2004	22/09/2004	22/09/2004
27	Peru	13/08/1985	05/06/1985	03/07/1997	03/07/1997		03/07/1997
28	Saint Kitts and Nevis	27/04/1989	02/04/1991				
29	Saint Lucia	21/12/1988	26/11/1986				
30	Saint Vincent and The Grenadines	24/03/1999	13/05/1999	06/12/2010	06/12/2010		06/12/2010
31	Suriname		06/01/1993				
32	Trinidad and Tobago	31/08/1962	19/07/2007				
33	United States of America	10/04/1975	26/03/1975	24/03/1995	24/03/1995	24/03/1995	21/01/2009
34	Uruguay	12/04/1977	06/04/1981	06/10/1994	06/10/1994	06/10/1994	06/10/1994
35	Venezuela	08/02/1928	18/10/1978	19/04/2005	19/04/2005	19/04/2005	19/04/2005
<b>Total</b>	<b>REGION</b>	<b>26</b>	<b>33</b>	<b>24</b>	<b>24</b>	<b>18</b>	<b>24</b>
	<b>UNIVERSAL</b>	<b>137</b>	<b>169</b>	<b>117</b>	<b>112</b>	<b>93</b>	<b>108</b>

## in Treaties that are of Relevance for IHL (as of 04-Nov-2013)

## Weapons

CCW PIV 1995	CCW PII a 1996	CCW PV 2003	CCW a 2001	CWC 1993	Ottawa Treaty 1997	Cluster Munitions 2008	ATT 2013
23/08/2010				29/08/2005	03/05/1999	23/08/2010	12/08/2013
21/10/1998	21/10/1998		25/02/2004	02/10/1995	14/09/1999		
				21/04/2009	31/07/1998		
				03/07/2007	26/01/1999		
				01/12/2003	23/04/1998		
21/09/2001	21/09/2001			14/08/1998	09/06/1998		
04/10/1999	04/10/1999			13/03/1996	30/04/1999		
05/01/1998	05/01/1998	19/05/2009	22/07/2002	26/09/1995	03/12/1997		
15/10/2003	15/10/2003	18/08/2009	27/09/2007	12/07/1996	10/09/2001	16/12/2010	
06/03/2000	06/03/2000		20/05/2009	05/04/2000	06/09/2000		
17/12/1998	17/12/1998	27/04/2009	03/06/2009	31/05/1996	17/03/1999	28/04/2011	29/09/2013
14/11/2012		14/12/2012	17/10/2007	29/04/1997			
				12/02/2001	26/03/1999		
21/06/2010	21/06/2010		21/06/2010	27/03/2009	30/06/2000	20/12/2011	
16/12/2003	14/08/2000	10/03/2009	10/03/2009	06/09/1995	29/04/1999	11/05/2010	
26/01/2000	26/01/2000	23/03/2006	13/09/2007	30/10/1995	27/01/1999	10/01/2011	
				03/06/2005	19/08/1998		21/10/2013
30/08/2002	29/10/2001	28/02/2008	13/02/2009	12/02/2003	26/03/1999	03/11/2010	
				12/09/1997	05/08/2003		04/07/2013
				22/02/2006	15/02/2006		
30/10/2003	30/10/2003	16/08/2010		29/08/2005	24/09/1998		
25/09/2008	25/09/2008	25/09/2008	25/09/2008	08/09/2000	17/07/1998		
10/03/1998			22/05/2003	29/08/1994	09/06/1998	06/05/2009	25/09/2013
05/12/2000	05/12/2000	15/09/2005	06/09/2007	05/10/1999	30/11/1998	02/11/2009	
26/03/1997	03/10/1999	29/11/2010	16/08/2004	07/10/1998	07/10/1998	29/11/2010	
03/12/2008	22/09/2004	03/12/2008	03/12/2008	01/12/1994	13/11/1998		
03/07/1997	03/07/1997	29/05/2009	14/02/2005	20/07/1995	17/06/1998		
				21/05/2004	02/12/1998		
				09/04/1997	13/04/1999		
06/12/2010	06/12/2010	06/12/2010		18/09/2002	01/08/2001	29/10/2010	
				28/04/1997	23/05/2002		
				24/06/1997	27/04/1998	21/09/2011	25/09/2013
21/01/2009	24/05/1999	21/01/2009	21/01/2009	25/04/1997			
18/08/1998	18/08/1998	07/08/2007	07/08/2007	06/10/1994	07/06/2001	24/09/2009	
	19/04/2005			03/12/1997	14/04/1999		
<b>23</b>	<b>21</b>	<b>16</b>	<b>18</b>	<b>35</b>	<b>33</b>	<b>12</b>	<b>6</b>
<b>102</b>	<b>100</b>	<b>84</b>	<b>79</b>	<b>190</b>	<b>161</b>	<b>84</b>	<b>8</b>

# **PART II**

# NATIONAL IHL IMPLEMENTATION MEASURES IN THE AMERICAS

## A. Supplementary action by States

States must take prompt action to adopt the measures required to make the provisions of IHL treaties fully effective, so that they can be applied by the parties in the event of an armed conflict. Although most treaties take direct effect, it is essential to ensure that their provisions are not only known, but also implemented nationally as soon as possible. In some cases, this does not happen. Some of the rules also require States to take supplementary practical measures to ensure that international humanitarian law is effectively applied in practice if an armed conflict breaks out.

National Committees on IHL have a key role to play in this task, and the ICRC is available to work with them on it.

States are required to take a variety of measures, ranging from legislative and regulatory action to administrative, practical and educational measures.

## B. Legislative, regulatory, practical and public policy measures

### 1. Penal repression

#### Legislation adopted

- **Colombia**
  - Congress passed Legislative Act no. 01 of 31 July 2012, establishing transitional justice instruments, particularly penal sanctions and/or alternative measures. It is known as the “Legal framework for peace”.
  - Congress passed Legislative Act no. 02 of 27 December 2012, amending the Political Constitution of Colombia and reforming the military and police criminal justice systems. The act provides that *“in no case shall the military and police criminal justice systems have jurisdiction to prosecute crimes against humanity or the crimes of genocide, enforced disappearance, extrajudicial execution, sexual violence, torture and forced displacement. Violations of international humanitarian law committed by members of the armed forces or police, other than those referred to above, shall be prosecuted by courts martial or military or police tribunals”*.
  - The Public Prosecutor issued Directive no. 0001 of 4 October 2012, establishing criteria for prioritising situations and cases and creating a new criminal investigation and management system.
  - The Public Prosecutor issued Directive no. 0001 of 22 May 2013, establishing the basis in law for the implementation of Legislative Act no. 02 of 2012 in the Public Prosecutor’s Office.

### Draft legislation pending

- **Argentina.** In 2013, the Ministry of Justice and Human Rights initiated a process to review and reform the country's Penal Code, which contains a chapter defining war crimes. Argentina has already enacted a law (26,200/06) incorporating the war crimes listed in article 8 of the Rome Statute, by reference, into domestic criminal law. The list is completed with the serious breaches of the Geneva Conventions of 1949 and Additional Protocol I of 1977 that are not mentioned in the Rome Statute.
- **Bolivia.** A draft bill that will give domestic effect to the Rome Statute is currently being studied by the Ministry of Justice.
- **Brazil.** Several years ago, an expert working group, led by the former Deputy Military Prosecutor General, finalized a draft bill to incorporate the crimes provided for in the 1998 Rome Statute into domestic legislation, although it has not yet been studied by the Chamber of Deputies. The draft bill codifies war crimes as defined in the Geneva Conventions of 1949, Additional Protocol I and article 8 of the Rome Statute. Various draft bills concerning this subject have been brought before Parliament, including a draft bill for a major reform of the Brazilian Penal Code, with a whole chapter on serious violations of IHL, along the lines of the above-mentioned draft bill.
- **Colombia.** Congress approved a statute law bill establishing the implementing regulations for Legislative Act no. 02 of 2012. It is currently being reviewed by the Constitutional Court before being sent to the President of the Republic for approval.
- **Costa Rica.** The bill to include war crimes in the Penal Code is awaiting approval by Congress.
- **El Salvador.** The legislative proposal drafted by the National Committee on IHL to include a chapter on war crimes in the Penal Code is awaiting submission to Congress for consideration.
- **Guatemala.** At the beginning of 2012, the National Committee on IHL submitted a draft bill to the working group coordinated by the Guatemalan Coalition for the International Criminal Court, which brings together more than 25 civil society organizations, government institutions and international organizations, including the ICRC. The aim of the group is to draft a bill codifying the crimes defined in the Rome Statute and establishing mechanisms for cooperation with the International Criminal Court. The bill is due to be submitted to Congress in 2014.
- **Honduras.** In March 2013, the National Committee on IHL, with the support of the ICRC, created a working group, headed by the President of the Congressional Human Rights Committee, to draft a bill incorporating the war crimes provided for in the Rome Statute and other IHL treaties. The bill is expected to be submitted shortly to Congress for consideration.
- **Mexico.**
  - In October 2011, after a year's work, the National Committee on IHL approved a bill incorporating war crimes into domestic law. It has been submitted to the Federal Executive Branch and is currently being reviewed.
  - On 2 December 2012, the new government and the country's main political parties signed the "Pact for Mexico", which proposes the creation of a new unified Penal Code "to classify crimes uniformly across the country, with a view to achieving better coordinated and more effective action by the police and justice systems".
  - The working group, created by the National Committee on IHL on 26 August 2013, began its work in the last quarter of 2013 to examine the contents of the amendments to the Rome Statute, adopted at the Review Conference held in Kampala, and assess them in the light of domestic legislation, with a view to determining whether they should be ratified by the Mexican Government.
- **Paraguay.** A draft bill, prepared by an expert committee several years ago, for the national implementation of the Rome Statute, incorporating war crimes as defined in the Statute and the crimes listed in the Geneva Conventions of 1949 and Additional Protocol I of 1977, is currently being reviewed by the Department for Human Rights and International Humanitarian Law of the Ministry of Foreign Relations, with a view to updating it before it is submitted to Congress.
- **Peru.**
  - Bill no. 1615/2012-CR on the implementation of the Rome Statute of the International Criminal Court, entitled "Human rights: violations of international human rights law and international humanitarian law" was submitted to various parties. It was drafted by a working group formed by representatives of civil society organizations, the Coalition for the International Criminal Court and the ICRC.
  - The final version of the draft of the prohibition on the recruitment of children and their participation in hostilities, prepared by the National Committee on IHL, was submitted to the plenary session of the Human Rights Council.

## 2. Missing persons

### Legislation adopted

- **Colombia.**
  - Congress passed Law 1531 of 23 May 2012, providing for the issuance of certificates of absence owing to enforced disappearance or other forms of involuntary disappearance and its civil effects.
  - The government, with the participation of the Ministry of the Interior, the National Institute of Legal Medicine and Forensic Science, the Civil Registry Office and the Public Prosecutor's Office, has signed agreements concerning the identification of missing persons. In 2012, an agreement was signed to locate and identify the remains of missing persons in cemeteries across the country and return them to their families.

- **Mexico.**

- On 9 January 2013, the Law on victims' rights was passed, establishing a comprehensive system of measures to prevent disappearances, search for missing persons, identify their remains, return them to their families, establish the truth about the circumstances of their disappearance and support their families.
- On 17 April 2012, the Law concerning the Registry of Missing and Disappeared Persons was enacted. The purpose of the law is to establish and regulate the operation, administration and management of a unified national registry recording the details of all the country's missing persons.
- On 30 September 2013, the ICRC signed an information exchange agreement with the Office of the Inspector General to create a system based on a software programme to trace missing persons.
- **Peru.** Ministerial decision no. 299-2012/MINSA was adopted, approving the technical document "Guidelines on psychosocial support for the families of missing persons", published on 16 April 2012.

#### Draft legislation pending

- **Brazil.** The Senate is studying a draft bill to incorporate the crime of enforced disappearance into Brazil's legislation.
- **Guatemala.** On 5 July 2013, the Congressional Foreign Relations Committee issued a favourable opinion on the 2006 International Convention for the Protection of All Persons from Enforced Disappearance. The document was submitted to the Congressional Legislative Office in August to be brought to the knowledge of the plenary pending approval.
- **Mexico.** In October 2013, the President of Mexico sent six legislative proposals concerning human rights to the legislative. They included the amendment of the provisions relating to enforced disappearance contained in the Federal Penal Code in order to bring them into line with international rules and the withdrawal of Mexico's reservation relating to military jurisdiction to the Inter-American Convention on Forced Disappearance of Persons.
- **Peru.** The Vice-Ministry of Human Rights and Access to Justice (Ministry of Justice and Human Rights) has drafted a bill on tracing missing persons, which it will submit to Congress.

#### Soft law

- **Argentina.** In June 2013, the Director of Human Rights of the Ministry of Foreign Relations presented the draft Good practice guide for the use of forensic genetics in investigations into human rights and international humanitarian law violations, prepared by the Ministry of Foreign Relations, with the support of the ICRC and human rights organizations, at the MERCOSUR (common market of the South) high-level human rights meeting.

### 3. Weapons

#### Legislation adopted

- **Colombia.** The Government issued Decree 0019 of 2012 for the adoption of measures relating to firearms regulation and transfer, the updating of the firearms registry and licensing to own or carry a firearm.
- **Guatemala.** By virtue of Decree 22-2012 of 7 September 2012, Congress passed the Law on cluster munitions and explosive bomblets, in fulfilment of its obligations under the Convention on Cluster Munitions.
- **Peru.**
  - Ministerial decision no. 031-2012-PRODUCE was adopted, approving standard formats for all procedures relating to Law no. 29239 on measures to control chemical substances that can be used to make chemical weapons, published on 19 January 2012.
  - Supreme decree no. 016-2012-JUS was adopted, regulating the use, registration and possession of firearms authorized for the National Penitentiary Institute, published on 26 October 2012.
  - Supreme decree no. 008-2013-IN, published on 4 May 2013, establishing the procedures required for the implementation of Law no. 29858, which granted an amnesty on the irregular or illegal possession of weapons for civilian use, weapons for use in armed conflict, homemade firearms, munitions, grenades and explosives. It also makes provision for those possessing firearms to regularize their situation.
- **Venezuela.** The disarmament and arms and munitions control law was passed by the National Assembly and published in Official Gazette no. 40,190 of 17 June 2013, at which time it came into force. Article 124 of the law provides for prison sentences of between 20 and 25 years for arms trafficking.

#### Draft legislation pending

- **Bolivia.** On 2 January 2013, the Defence Ministry's bill on firearms, munitions and explosives was submitted to the Legislative Assembly. The bill defines fourteen punishable offences in this connection, regulates production and establishes sanctions for illegal arms trading, illegal arms manufacturing and the theft of weapons, among others.
- **Peru.** A bill was submitted to amend paragraph 11 of article 20 of the Penal Code on the use of weapons and other means of defence.
- **Uruguay.** The National Committee for the Implementation of IHL recently prepared a draft bill to incorporate violations of the Convention on Cluster Munitions into domestic criminal law. The purpose of the draft bill is to incorporate the rules established in the convention into Law 18,026, which gives domestic effect to the Rome Statute and codifies all the violations of human rights and IHL treaties ratified by Uruguay, including those prohibiting or restricting certain types of weapons.

## Other measures

- **Argentina.**
  - Following the signing of the Arms Trade Treaty, the Ministry of Defence created a working group tasked with proposing national measures prior to ratification of the treaty.
  - The Department for the Control of Military Goods (Ministry of Defence), which is a member of the National Committee for the Implementation of IHL, worked on various questions relating to the adoption of measures to limit the humanitarian consequences of the use of certain weapons, including the preparation of national reports in accordance with article 7 of the Ottawa Treaty, implementation of the Cartagena Action Plan, adopted in 2009 at the Second review conference of the States party to the treaty, and an assessment of the weapons contamination situation in the country.

## 4. Protection of the emblems

### Legislation adopted

- **Colombia.** The government, through the Ministry of Health and Social Protection, issued Decision 4481 of 2012, adopting the Medical Services Manual and establishing rules on identification, marking and use of the emblem.

### Draft legislation pending

- **Argentina.** The National Committee for the Implementation of IHL prepared a new draft bill on the protection of the Red Cross and Red Crescent emblems, with an open formula allowing for the future incorporation of new emblems, such as the emblem provided for in Additional Protocol III of 2005. The draft bill is currently being studied by the relevant Ministries, before it is brought before the national legislative body.
- **Guatemala.** Decree 102/97 on the protection and use of the Red Cross emblem was amended by Decree 27/2011, which includes the red crystal as a protective emblem. In 2012 and 2013, the National Committee on IHL worked on the draft implementing regulations for the law on the Red Cross emblem, which are currently being studied by the Legal Department of the Ministry of Foreign Relations. Once it has been approved, it will be submitted to the executive for approval as a government decision.
- **Honduras.** The National Committee on IHL is continuing with its analysis of the draft implementing regulations for the emblem law.
- **Mexico.** On 26 September 2012, the plenary of the National Committee on IHL approved the preliminary draft regulations submitted by the working group formed by the institutions represented on the Committee, together with the Ministry of Health, the Mexican Red Cross and the ICRC. The document is now in the process of being approved by the legal department of each institution in compliance with the requirements established in the guidelines issued by the Federal Executive Branch on the preparation, review and passage of regulations. Publication of the regulations in the Official Gazette is expected shortly.

- **Dominican Republic.** In 2012 and 2013, the National Committee on IHL continued its work to prepare draft implementing regulations for Law 220-2007 on the protection and use of the Red Cross and Red Crescent emblem.
- **Uruguay.** The National Committee for the Implementation of IHL prepared a draft bill to amend the Law on the use of the Red Cross emblem, which incorporates the provisions of Additional Protocol III. It is currently awaiting passage through Parliament.

## 5. Protection of cultural property

Various National Committees on IHL are working on the implementation of The Hague Convention and its two Additional Protocols, mainly with regard to the identification and marking of cultural property.

### Identification and marking processes

- **Argentina.** The National Committee for the Implementation of IHL resumed its efforts to identify cultural property to be registered and marked, with a view to ensuring their protection in the event of armed conflict. Pursuant to Decision no. MD 754/12 adopted by the Ministry of Defence, a working group on cultural property was created to identify objects that could feasibly be eligible for protection under the 1954 Hague Convention for the Protection of Cultural Property. The work is being carried out on the basis of collaboration agreements between the Ministry of Defence and the Department of Culture.
- **Chile.** The National Committee for the Implementation of IHL continued its work to identify cultural property to be registered and marked, through a special working group on the implementation of the 1954 Hague Convention and its Protocols. At present, the working group is in the process of determining which objects could be eligible for general protection or enhanced protection as provided for under the relevant international instruments. A preliminary list of objects has been drawn up and work is scheduled to begin on having them marked as protected objects and carrying out publicity activities. Work is also in progress to register these objects as provided for under the Convention.
- **El Salvador.** As at September 2013, a total of 43 cultural objects in the country had been marked, in three phases, with the Blue Shield emblem for the protection of cultural objects in the event of armed conflict. With financial support from UNESCO (United Nations Educational, Scientific and Cultural Organization), teaching materials, guides and leaflets were also produced on the obligations arising from the 1954 Hague Convention and its Protocols. Work is also in progress to construct a website concerning the protection of cultural property in the event of armed conflict.
- **Guatemala.** In 2013, the National Committee on IHL worked with the National Council for the Protection of Antigua Guatemala to organize the marking of eleven palaces, temples and squares in La Antigua with the protective

emblem provided for in the 1954 Hague Convention. They include Belén, the Capuchin Convent, the Cathedral of San José, City Hall, Central Park, San Sebastián and Santa Teresa. The National Committee on IHL also worked with the Ministry of Culture and Sports to organize the marking of seven archaeological sites and historic buildings, for example, Q'u' markaaj (El Quiché), Yaxhá Nakum Naranjo and Tikal National Park in Petén, and ten museums including the Museum of Archaeology and Ethnology, the Museum of Modern Art, the Museum of Colonial Art, the Museum of Old Books, the Museum of Democracy in Escuintla and the Dolores Museum in Petén. In July and August 2013, the National Committee on IHL, together with various private and public institutions, decided to study the possibility of creating a National Blue Shield Committee, with a view to coordinating efforts for the protection of cultural property in the event of armed conflict, natural disasters and any other event likely to affect them.

- **Honduras.** In March 2012, the National Committee on IHL and the ICRC provided training for members of the Institute of Anthropology and History, and a project was initiated for the marking and registration with UNESCO of three cultural objects: the Copan ruins, Trujillo and the historical centre of Tegucigalpa.
- **Mexico.** In June 2012, the National Committee on IHL created a working group formed by the four institutions represented on the Committee, the Institute of Anthropology and History and the ICRC, with the National Institute of Statistics and Geography participating in an advisory capacity. As a result of its work, on 26 August 2013, the plenary of the National Committee on IHL approved the designation of twelve archaeological sites for UNESCO registration. They are Calakmul, Chichen-Itzá, Kabah, Labna, Monte Albán, Palenque, Paquimé, Sayil, Tajín, Teotihuacán, Uxmal and Xochicalco.

## 6. Other measures

### Implementation of the Geneva Conventions

- **Jamaica.** It continued its work to draft a bill for the implementation of the four Geneva Conventions and the three Additional Protocols (*Geneva Convention bill*).

### Victims of armed conflict

- **Colombia.** The government, through the National Protection Unit and the Ministry of the Interior, adopted Decision no. 805 of 2012, establishing the Specific protocol on gender issues and women's rights under the Programme for the protection of people facing extraordinary or extreme risk as a result of internal armed conflict or other situations of violence and the prevention of such risks. The government, through the Ministry of Health and Social Protection, adopted Decision no. 888 of 2012, creating the Institutional Committee for the Health and Social Protection of Armed Conflict Victims. Bill no. 37/12, currently passing through Congress, establishes measures to guarantee the right to access to justice of victims

of sexual violence, particularly sexual violence associated with the internal armed conflict.

### Children in armed conflicts

- **Colombia.** The government, through the Colombian Agency for the Reintegration of Armed Insurgent Groups and Individuals, adopted Decision no. 0346 de 2012, establishing provisions for the implementation of strategies for social youth participation, early prevention of the recruitment and use of children and young people in hostilities and reintegration into the community within the framework of the reintegration process.

### Rules of procedure of National Committees on IHL

- **Argentina.** The National Committee for the Implementation of IHL is studying the possibility of changing its composition to involve more Ministries in the adoption of national measures for the implementation of IHL.
- **Panama.** In 2012 and 2013, Panama's National Committee on IHL, with the support of the ICRC, worked on a draft decree to amend the mandate and functions of the committee and on draft rules of procedure to align its operations with the requirements of its new mandate.

### National Information Bureaux

- **Chile.** The National Committee for the Implementation of IHL is actively working with the Ministry of National Defence to set up a National Information Bureau as provided for in Part V of the Third Geneva Convention relative to the Treatment of Prisoners of War, 12 August 1949. This initiative is undertaken in fulfilment of a pledge made by Chile at the 31st International Conference of the Red Cross and Red Crescent.

### Use of force and firearms

- **Guatemala.** In July 2013, the National Committee on IHL created a working group to study the possibility of creating a legal framework for the use of force in the maintenance of law and order (human rights).
- **Panama.** In August 2013, the ICRC provided advanced training in IHL and the use of force for 25 prosecutors from the Public Prosecutor's Office.

### Migration

- **Bolivia.** The Senate passed the Law regarding the protection of refugees on 6 June 2012.
- **Ecuador.** The Regulations for the implementation of refugee law in the country were passed on 30 May 2012.

### Other measures

- **Bolivia.** The Ministry of the Interior is preparing a bill on the prison system, which will be brought before the Plurinational Legislative Assembly.

- **Mexico.**
  - The National Committee on IHL, with the support of academics and the ICRC, held the 3rd and 4th annual specialized course on IHL in 2012 and 2013 respectively, essentially aimed at 200 government officials throughout Mexico.
  - The Institute of the Federal Judiciary, together with the Supreme Court of Justice and the ICRC, held a training course on IHL in 2012 and a course on the International Criminal Court in 2013, combining face-to-face and videoconference delivery, for judiciary personnel in 40 cities around the country. Both events were attended by some 3,500 officials from all levels of the judiciary.
- **Peru.**
  - Supreme Decree no. 004-2011-IN was issued, approving the National action plan against human trafficking 2011-2016, published on 18 October 2011. This plan classifies the recruitment of child soldiers in armed conflicts as a form of human trafficking.
  - Law no. 29986 was passed, amending article 239 of the Procedure Code, adopted by Legislative Decree no. 638, and article 195 of the new Criminal Procedure Code, adopted by Legislative Decree no. 957. This law, published on 18 January 2013, provides that in areas where a state of emergency has been declared and the situation prevents the public prosecutor from reaching the scene immediately, armed forces and national police personnel may issue the authorization to remove the body, once the Public Prosecutor's Office has been informed.
  - Supreme Decree no. 001-2013-DE/EP and Supreme Decision no. 098-2013/DE, published on 20 March 2013, approve the extraordinary call for the voluntary enlistment of persons born in 1995 (aged 18) or earlier for military service in 2013.
- **Venezuela.** The Special Law to prevent and punish torture was passed, enacted and published in Official Gazette no. 40,212 on 22 July 2013. It should be noted that this law was adopted after a long delay, as this was a constitutional requirement dating to 1999, the year in which the country's Constitution was enacted.

## C. Integrating IHL in the armed forces

The integration of IHL into military doctrine and training is a compulsory measure required for the national implementation of IHL treaties. IHL rules must be translated into concrete mechanisms which ensure respect for protected persons and property in armed conflicts.

In order to ensure that the members of the armed forces act in accordance with the rules of IHL, they must be faithfully reflected in military doctrine, education, instruction and training and taken into account in systematic operational procedures and choice of weapons.

Ministries of Defence form part of the National Committees on IHL and chair them in some cases. As part of their duties, they produce reports on progress made in this regard. The ICRC contributes, through its programme with the armed forces, to efforts aimed at incorporating the rules of IHL into military doctrine and manuals.

- **Argentina.** The country has a national plan establishing a set of hierarchically organized orders and provisions, which ensure that the teaching and dissemination of IHL is carried out effectively at all levels. The Joint Chiefs of Staff provide courses to train military instructors in IHL. The National Institute of Air and Space Law runs post-graduate courses on the subject of IHL for military personnel and civilians. The Argentine Joint Peacekeeping Operations Training Centre provides IHL training for all Argentine military personnel to be deployed on United Nations peacekeeping operations.
- **Brazil.** The Ministry of Defence ordered the publication, in 2011, of the first edition of the IHL manual for the armed forces as a whole. Using this manual as a model, the army, navy and air forces are currently preparing a separate manual for each branch of the armed forces.
- **Chile.** The country has a national plan establishing a set of hierarchically organized orders and provisions, which ensure that the teaching and dissemination of IHL is carried out effectively at all levels. The army has integrated the rules of IHL, as part of its operational doctrine, into doctrine formation, educational and training processes and the definition of responsibilities. An operational law manual was published for the Army, together with a booklet on IHL implementation, containing the key principles and rules of this body of law.
- **Colombia.**
  - The government, through the Ministry of National Defence, issued Permanent Directive no. 0181 of 2012, which strengthens the military legal coordination offices, so that they can provide effective guidance when a military operation is being prepared.
  - The Ministry of National Defence and the Joint Forces Command, with the support of the ICRC, carried out a series of activities and workshops with the aim of incorporating

IHL into the preparation, design and execution of operations implemented by the armed forces. In this connection, two thematic roundtable events were held in 2012 and 2013 on interpreting the rules of IHL, which were attended by 21 people attached to the Ministry of National Defence.

- **Mexico.** In the two-year period covered by the report, the Ministry of National Defence and the Ministry of the Navy, in collaboration with the ICRC, disseminated the basic rules of IHL to over 4,000 members of the Army and Navy.
- **Paraguay.** The Joint Chiefs of Staff created a unit responsible for ensuring the implementation of its IHL dissemination and teaching plan. This unit is currently monitoring and managing the activities established in the plan.
- **Uruguay.** In accordance with the national plan, designed as a set of hierarchically organized orders and provisions to ensure that the teaching and dissemination of IHL is carried out effectively, the different branches of the armed forces are planning training courses for military IHL instructors, using their own resources.

## D. Integration and dissemination of international human rights law and relevant humanitarian principles in police and security forces

With a view to preventing and mitigating the effects of other situations of violence on victims, the ICRC promotes the knowledge of and respect for international human rights law and humanitarian principles applicable in law enforcement, with special reference to the use of force, the use of firearms, arrest, detention and assistance for the victims of violence and people affected by the use of force.

In its work with the police and security forces, including the national, state, department and municipal forces of more than twelve countries, the ICRC uses the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as tools to provide guidance on professional law enforcement practice that ensures respect for the life, physical integrity and dignity of all human beings.

The ICRC works to ensure that these tools are incorporated and effectively implemented by the police and security forces with which it works in all areas, including doctrine, education, training, enforcement, sanctions and equipment. To this end, the ICRC organizes awareness raising, training and advisory activities aimed at all hierarchical levels.

The ICRC also carries out awareness raising and training efforts in some countries where the armed forces support the police and security forces in their duties, with a focus on promoting constructive dialogue, so that it can convey its humanitarian concerns to both military and law enforcement actors.

The ICRC maintains a confidential dialogue with weapon bearers for the sole purpose of mitigating the humanitarian consequences associated with the use of force and firearms in other situations of violence, in which the armed forces and police and security forces intervene.

With the support and advice of the ICRC, some countries in the Americas have started to review their doctrine and education and training plans, with a view to integrating humanitarian rules and improving respect for them.

In the period 2012-2013, police and security forces in Mexico and Central America continued efforts to incorporate and disseminate rules on the use of force and human rights applicable in law enforcement. Senior officers in Mexico's federal, state and municipal police forces, operational officers in the national police forces of El Salvador, Guatemala and Honduras and senior officers in Panama's police and security forces now have a better understanding of the humanitarian consequences of the use of force and the relevance of international human rights law in police and security operations.

The armed forces and the police and security forces in Mexico and Central America are pressing ahead with their efforts to integrate the rules of IHL and human rights relating to the use of force, arrest, detention and the treatment of vulnerable groups (migrants, medical personnel, etc.) into their doctrine, instruction, training and operations. For example, the Conference of Central American Armed Forces, with the support of the ICRC, organized six regional events to promote the integration of IHL

2012, Ayacucho, Peru. Soldiers receive information about international humanitarian law.



and international human rights law and address humanitarian issues associated with the management of unidentified human remains in natural disasters.

- **Belize.** In view of the increasing involvement of the armed forces in operations to maintain law and order, in 2013 the ICRC began working with both the police and the armed forces, providing practical instruction on international rules relating to the use of force.
- **Colombia.**
  - The Joint Forces Command issued a Strategic planning guide 2012-2014, which establishes strategies for prevention, respect for, dissemination and promotion of human rights and the treatment of specific groups.
  - In 2012-2013, the national police force, in collaboration with the ICRC, organized various events focusing on the planning, preparation and execution of operations to maintain and restore law and order. They included six after-action-review workshops for 399 members of the armed and police forces; an international workshop on the human rights framework applicable in use-of-force operations, attended by 31 officers from Colombia's national police force and four military officers, ten police officers from Brazil and one police officer from Chile; four awareness workshops on international human rights law and the use of force, attended by 240 national police officers assigned to special units; information sessions on operational communications for 750 members of the armed and police forces to increase their understanding of the activities of the ICRC and the Colombian Red Cross Society, their roles and principles and the need to guarantee free access to victims in conflict areas.
- **Guatemala.** With the support of the ICRC, the armed forces provided training for over 600 soldiers deployed in public safety squads, which support the national civilian police force, on their obligations pursuant to the rules governing the use of force.
- **Honduras.** Activities were carried out for 400 members of the military police, assigned to support the civilian authorities, to raise their awareness about the humanitarian issues and consequences associated with the use of force.
- **Mexico.**
  - In 2012 and 2013, with the support of the ICRC, the Ministry of National Defence and the Ministry of the Navy disseminated the basic rules arising from human rights principles governing the use of force among over 6,000 members of the Army and Navy. Two high-level working groups were also set up with the Army and the Navy to move forward with their respective processes for the integration of international human rights law, with the support and technical assistance of the ICRC.

- The ICRC is maintaining a strategic dialogue with the federal police, the federal district police, the Guerrero state police and the Ciudad Juárez municipal police to initiate or continue the process of incorporating international human rights law into the instruction provided at their training centres for police officers and commanders. With the assistance of the ICRC, Mexico City's preventive and investigative police force and the federal police force are in the process of bringing their operational doctrine into line with the rules and principles of international human rights law.
- **Trinidad and Tobago.** In 2013, the ICRC began working with the country's police and military forces, providing them with practical training in international rules relating to the use of force.

**Draft legislation pending**

- **Ecuador.** The Joint Forces Command presented draft regulations for the armed forces of Ecuador on human rights, incorporating the rules contained in the *Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*.

2013, Francisco Morazán, Honduras. Military police receive information about the ICRC.



Miguel Ramirez/ICRC

## E. Integrating IHL into academic teaching

On becoming a party to IHL treaties, States undertake to disseminate and promote their provisions as widely as possible and to take steps to implement them nationally. In order to fulfil this commitment, academic institutions in each country must teach IHL and encourage research into the subject, particularly in faculties of law and post-graduate education. Good universities and expert teachers enable States to train specialists, future civilian and military leaders and civil society in general, so that they can contribute to the national implementation process, in support of the work carried out by the National Committees on IHL, and promote the clarification and development processes required. An increasing number of academic institutions in the Americas have shown their commitment to including the teaching of IHL in the education of future leaders. However, although this body of law is clearly of interest to these institutions, progress in actually including the subject in the curriculum in the 2012-2013 period was uneven across the region.

A significant number of universities, particularly in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Peru and Uruguay, systematically offer IHL courses at bachelor, master and doctorate level, providing students with knowledge and experience in this branch of public international law. In addition to faculties of law, the faculties of political science, social science, journalism and international relations also offer courses on this subject.

The ICRC has actively cooperated with universities in a number of countries in the Americas to promote the inclusion and teaching of IHL and humanitarian principles in academic programmes, including post-graduate courses, with the aim of developing top-class research centres. This is done mainly through cooperation agreements and courses for university lecturers. In 2012, the ICRC organized a regional event called "The academic sector and IHL" in San José, Costa Rica. A significant number of lecturers from Latin American universities participated in the event, sharing good practices and lessons learned in relation to IHL teaching and research and discussing how the academic sector can cooperate in this area and contribute to IHL integration and implementation in the region. In 2012 and 2013, a number of the region's universities participated in the Jean Pictet IHL competition and other similar local and international competitions, largely aimed at promoting international human rights law, but with some IHL content and references. Some universities finished in top positions in these competitions.

The network of teachers and experts in different disciplines continues to support and contribute to integrating IHL into academic teaching and to promoting research into the subject and dissemination at the national level. They are actively involved, as independent or government experts, in the national training and implementation processes, both at the government level, through the National Committees on IHL, and in the armed forces and National Societies. They also contribute to the clarification process through research work, working group discussions, international conferences, opinion

papers and their input as government experts. They participate in current humanitarian debates in the clarification process and contribute to the development of IHL, the updating of the study on customary international humanitarian law and the preparation of compatibility studies. Universities in the Americas, in their role as knowledge and research centres, therefore actively contribute to the incorporation and implementation of IHL. The main subjects addressed by university lecturers are the protection of medical services in armed conflicts and other emergencies, the use of drones in the light of IHL, protection of the civilian population, the criminal prosecution of IHL violations and the problem of missing persons and their families.

In this work with the academic sector, there is a tendency towards considering new forms of interaction, with the exploration of new fields of collaboration with high added value, for example, the analysis of rules regulating the use of force and other studies aimed at improving the protection of students, teachers, authorities and facilities in situations in which they could become the target of violence.

- **Colombia.** Various IHL dissemination activities were carried out in the academic sector. With the support of the ICRC, the Government of Colombia's Technical Group on IHL and Armed Conflict organized the first Augusto Ramírez Ocampo course on international humanitarian law, aimed at senior government officials, in September 2012; the second edition was held in October 2013. A dialogue was established with the University of Nariño to incorporate IHL content into the law syllabus. The Ombudsman's Office organized the 11th University human rights competition in Ibagué in September 2013. This Inter-American human rights moot court competition promotes academic debate on respecting and ensuring respect for human rights and international humanitarian law, with ICRC representatives judging the knockout rounds. Lastly, a dissemination activity was organized in September 2013 on the issue of missing people in Colombia at the initiative of the University of Santo Tomás and in coordination with the ICRC.
- **Ecuador.** Students at the Catholic Pontifical University of Ecuador participated in the Jean Pictet IHL competition in 2012 and 2013, reaching the semi-final round in 2013. They won the Yachay human rights competition, organized by the Catholic Pontifical University of Peru, in which the ICRC is involved. An academic framework cooperation agreement is currently being prepared between the Catholic Pontifical University of Ecuador and the ICRC.
- **Peru.** In September 2012, the ICRC collaborated with the Catholic Pontifical University of Peru, the Coalition for the International Criminal Court and Peru's Ministry of Foreign Relations to organize the conference "Ten years on from the entry into force of the Rome Statute: How far has international criminal justice come?". The ICRC continues to support the organization of the above-mentioned Yachay human rights competition, which is entered by the universities of various

cities in Peru, Ecuador and Bolivia. Students from the Catholic Pontifical University of Peru also participated in the Jean Pictet IHL competition in 2012 and 2013, reaching the final round in 2012.

## F. Integrating IHL into secondary education teaching

In accordance with its mission, which encompasses other situations of violence as well as armed conflicts, the ICRC has launched a number of initiatives in Latin America and the Caribbean, aimed at preventing and mitigating the effects of organized violence faced by some countries in the region.

A key component of these activities is dissemination and education, largely aimed at children and young people, covering topics such as human dignity, the humanitarian consequences of violence, basic human rights and humanitarian principles. A variety of formal and non-formal education strategies are used to implement these activities, which are carried out in cooperation with Ministries of Education, National Red Cross Societies and other institutions.

Drawing on the experience gained from the ICRC's formal education programme Exploring humanitarian law (EHL), implemented in various Latin American countries, a project called Creating humanitarian spaces (CHS) has been launched. The aim of the project is to provide knowledge and tools to increase humanitarian awareness and practice, promoting respect for and the protection of human life and dignity in situations of organized violence, so as to mitigate, prevent and reduce the humanitarian consequences.

2012, Tegucigalpa, Honduras. Students participating in Creating humanitarian spaces (CHS), a joint project by the Education Department and the ICRC.



- **Brazil.** A group of schools in Rio de Janeiro's *favelas* implemented the CHS programme. Social science teachers at these schools were trained to work on CHS with students in the classroom, focusing on the principles and values underlying humanitarian rules, in an attempt to stop the escalation of urban violence. The Violence Analysis Laboratory at the University of Rio de Janeiro is one of the institutions that collaborates with the programme. The Ministry of Education welcomed the implementation of the CHS programme in Rio and is interested in extending it to other schools in Brazil.
- **El Salvador.** With the support of the Italian Red Cross, the ICRC in association with the Salvadorean Red Cross Society launched a community-based project in 2011 to prevent violence in one of the capital's slum areas. One of the cornerstones of the project, which is called Promoting opportunities for social inclusion, is the promotion of humanitarian principles and values and human rights as a strategy to reduce the high levels of violence in the community. The Swiss Red Cross also began to support the project in February 2013.
- **Guatemala.**
  - The humanitarian consequences arising from the armed conflict are compounded by other situations of violence currently affecting the country. In El Limón, a neighbourhood in the country's capital, the violence observed inside and outside the classroom has prompted a number of schools and the ICRC to take action. The project works with teachers, as they are the people on the ground who can provide an immediate response in such situations. It was implemented in five schools with the involvement of 100 teachers, who were trained in crisis intervention, first response (emotional first aid) and conflict resolution.
  - In the second phase of the Santa Isabel project, the partnership involving the Guatemalan Red Cross, the Spanish Red Cross and the ICRC is continuing its work in this community to prevent and mitigate the consequences of organized violence. The activities carried out include the preparation of young people who participate in training processes to learn to use tools for self-protection, the prevention of violence and socio-occupational training. Around 3,000 people in the community took part in the events organized, which included educational, vocational, sporting and recreational activities. At the selected schools, training is delivered with a focus on psychosocial issues, with a view to providing tools that can help mitigate the effects of organized violence.
- **Honduras.**
  - In 2010, the ICRC signed an agreement with the Ministry of Education to design an integrated formal education initiative within the framework of the CHS project in 20 schools particularly affected by violence. The programme seeks to prevent and mitigate the effects of violence on the educational community. Activities include training teachers in humanitarian principles and values and basic human rights, so that they can teach their students about them. It aims to reach at least 7,500 students.
  - With the support of several National Red Cross Societies and the ICRC, the Honduran Red Cross has been implementing the Expanding opportunities project since 2003 in an area seriously affected by violence in the city of Tegucigalpa. The dissemination of humanitarian principles and values and human rights is one of the cross-cutting components of this community-based project, aimed at preventing violence, developing opportunities and creating a healthy environment.
- **Jamaica.** The Jamaica Red Cross' flexible curriculum programme enables it to disseminate basic humanitarian principles among primary and secondary school students.
- **Mexico.** In the face of the growing levels of organized violence directly affecting the country's educational community and drawing on the experience gained in implementing the Creating humanitarian spaces project in Honduras, two comprehensive projects were relaunched in 2011, in collaboration with the Departments of Education in the states of Guerrero and Chihuahua. The aim of these projects is to assess, prevent and mitigate the effects of violence in 21 schools in the state of Guerrero and in 32 schools in Ciudad Juárez (Chihuahua), which are particularly affected by violence. The planned activities include training for teachers and students on topics such as human dignity, basic human rights, humanitarian principles, values and attitudes, rules for peaceful coexistence and conflict management. These activities have reached a total of 32,000 students.
- **Peru.** In 2013, in fulfilment of Law no. 27741, the Directorate of International Affairs, Promotion and Regulatory Adaptation of the Directorate General of Human Rights (Ministry of the Interior) started work on the formulation of a national policy on education in human rights, which includes the teaching of IHL at all levels of the civilian and military education system and in higher and further education.

# **PART III**

# NATIONAL COMMITTEES ON IHL

In recent years, an increasing number of States have established mechanisms to meet the requirements arising from IHL and implement the rules it contains. Such mechanisms have generally taken the form of interministerial or interinstitutional committees created to address IHL issues. They are formed by relevant executive branch institutions, such as the Ministries of Foreign Relations, Defence, Justice, Health, Education and Culture, and representatives of the legislative branch and the judiciary. Input is also often provided by other institutions, such as National Red Cross Societies and academic establishments. In its capacity as legal advisor and/or observer, the ICRC is involved in the work of these committees and works closely with them to help them achieve their goals.

National IHL implementation processes have been strengthened considerably in countries that have set up a National Committee on IHL, and it is often these States that make the most progress in adopting national implementation measures. Judging by the results, such committees enable States to work more efficiently in this area, by streamlining resources and concentrating capabilities that are normally dispersed. They also help maintain a permanent focus on IHL, regardless of changing circumstances and shifting priorities.

To date, nineteen American States have established a National Committee on IHL.

COUNTRY	COMMITTEE CREATED IN
Argentina	1994
Bolivia	1992
Brazil	2003
Canada	1998
Chile	1994
Colombia	2000
Costa Rica	2004
Ecuador	2006
El Salvador	1997
Guatemala	1999
Honduras	2007
Mexico	2009
Nicaragua	1999
Panama	1997
Paraguay	1995
Perú	2001
Dominican Republic	1995
Trinidad and Tobago	2001 (ad hoc)
Uruguay	1992
<b>TOTAL</b>	<b>19</b>

The Second Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas was held in San José (Costa Rica) on 10-12 September 2013, organized by the ICRC under the auspices of the Costa Rican Ministry of Foreign Relations and Worship and with the support of the Swiss Confederation. This unique forum for dialogue among the States, government experts and academics who attended was a chance to take stock of achievements in ratifying, integrating and promoting IHL treaties and explore the difficulties that some countries are facing in that regard. It was also an excellent opportunity to examine and analyse emerging challenges and issues for the humanitarian sector and discuss legal cooperation with the ICRC, with the ultimate aim of improving the protection of people affected by armed conflict and other emergency situations.

At the start of the conference, which was divided into six modules, the representatives of each of the 17 committees present provided a summary of their national report, highlighting their achievements and the difficulties encountered. This provided an insight into the progress made since the last Regional Conference held in Mexico in 2010. The participants also discussed the role of the committees in following up on Resolutions 1, 2 and 5 adopted at the 31st International Conference of the Red Cross and Red Crescent, held in November 2011. Other issues

discussed included the humanitarian consequences of the use of certain weapons, promotion of national standards on the use of force in the maintenance of law and order, the legal framework for responding to the needs of the families of missing persons, the prosecution of war crimes and the protection of cultural property in armed conflict situations.

The representatives of the 17 committees of the region's countries were joined by members of the national committees of Germany, Spain and Switzerland and, as observers, officials from Belize, Cuba, the United States, Haiti, Suriname and Venezuela. Representatives of the Organization of American States, the Inter-American Court of Human Rights, the Inter-American Juridical Committee and the United Nations Educational, Scientific and Cultural Organization (UNESCO) also attended the conference.

Various conclusions and recommendations were adopted at the conference (see Annex A).

The region also played host to the Third meeting of representatives of National Committees on International Humanitarian Law from Commonwealth Member States, held in Port of Spain (Trinidad and Tobago) in October 2013, to address various matters of interest and concerns. The results of the meeting were set forth in an Outcome Statement (Annex B).



2013, San José, Costa Rica. Continental Conference of National IHL Committees of the Americas.



Thierry Gassmann/CRC

2011, Geneva, Switzerland. International Conference Centre, 31st International Conference of the Red Cross and Red Crescent.

# **PART IV**

# THE OAS AND IHL

## A. Promoting IHL

During the two-year period covered by the report, the Organization of American States (OAS) and its Member States continued and strengthened their efforts to ensure respect for and promote IHL. The importance ascribed to IHL in the organization's agenda, particularly in the work of the Committee on Juridical and Political Affairs (CAJP), is clear proof of this commitment, manifested in the adoption of a number of resolutions in 2012 and 2013 on questions such as the promotion of IHL and the International Criminal Court and missing persons and their families. These resolutions are relevant and useful, as they reflect the strong and steadfast political will of the States to respect and ensure respect for IHL. They also reflect many of today's humanitarian issues and the lessons learnt about them in the Americas.

The main resolutions relating to the promotion and strengthening of IHL adopted by the General Assembly are:

### 2012:

- AG/RES. 2716 (XLII-O/12): Internally displaced persons
- AG/RES. 2717 (XLII-O/12): Persons who have disappeared and assistance to members of their families
- AG/RES. 2728 (XLII-O/12): Promotion of the International Criminal Court

### 2013:

- AG/RES. 2795 (XLIII-O/13): Promotion of and respect for international humanitarian law
- AG/RES. 2777 (XLIII-O/13): Strengthening the topic of migration in the OAS
- AG/RES. 2794 (XLIII-O/13): Persons who have disappeared and assistance to members of their families

Within the framework of the work carried out by the Committee on Juridical and Political Affairs, the Ninth special session on IHL was held on 27 January 2012. In accordance with the agenda approved by the CAJP, the issues addressed at the meeting included improving the protection of persons deprived of their liberty in armed conflict situations, the challenges posed by contemporary armed conflicts and the implementation of IHL by National Committees on IHL.

In the resolution on the promotion of and respect for international humanitarian law, the OAS General Assembly instructed the Committee on Juridical and Political Affairs to organize and lead a dialogue with National Committees on IHL, with the support and participation of the General Secretariat and in coordination with the ICRC. To this end, a videoconference meeting was arranged on 13 September 2013 in San José (Costa Rica), at the end of the Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas, between the National Committee representatives and the CAJP president, who were in San José, and the other members of the CAJP, who were in Washington. The main purpose of the meeting was to analyse potential ways, approaches and activities for achieving closer cooperation between the OAS and the National Committees on IHL in the implementation, integration and promotion of IHL, for example, by establishing mechanisms linking the National Committees to the Committee on Juridical and Political Affairs and to the OAS Department of International Law, so that their expertise can be used to enhance the programme and support provided by the OAS in areas of mutual interest.

Another important development was the culmination, in 2013, of the work undertaken by the Inter-American Juridical Committee on a subject that is particularly relevant to IHL: the protection of cultural property in the event of armed

conflict. Acting on the mandate given to it by the OAS General Assembly in 2011 and taking into account the region's rich cultural heritage including UNESCO world heritage sites the committee undertook the task of preparing a model law for this subject, establishing the measures that need to be taken by national authorities responsible for the protection of cultural property in the event of armed conflict, in the light of applicable IHL provisions. Once completed, the bill was submitted for consideration to the OAS Permanent Council.

## B. Training in IHL

The Committee on Juridical and Political Affairs organized the Fifth course on international humanitarian law, aimed at personnel of the OAS and the Permanent Missions of the Member States, as stipulated in the resolution on the promotion of and respect for international humanitarian law adopted in June 2011 (AG/RES. 2650 (XLI-O/11)). The topics addressed at the event, which was held on 26 January 2012 in Washington, D.C., included the use of force and the protection of persons.

In 2012 and 2013, ICRC personnel were invited to take part in the Course on international law organized each year in Rio de Janeiro by the Inter-American Juridical Committee and the Department of International Law (Secretariat for Legal Affairs). The purpose of the course is to familiarize participants with the challenges facing IHL around the world.

2013, Xechulul, Nebaj, Guatemala. Burial ceremony according to community tradition.



2013, Putumayo, Colombia. People displaced by the violence meet with Peter Maurer, President of the ICRC.



# **PART V**

# ACTIVITIES CARRIED OUT BY THE ICRC ADVISORY SERVICE IN THE AMERICAN STATES

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

This is a mandate given by States to the ICRC, as defined, in particular, in article 5(2)(c) of the Statutes of the International Red Cross and Red Crescent Movement. Pursuant to this article, the role of the ICRC is to “work for the faithful application of international humanitarian law”. This mandate was reasserted in Resolution 1 of the 26th International Conference of the Red Cross and Red Crescent, which approved the Final Declaration of the International conference for the protection of war victims, adopted on 1 September 1993, and in the recommendations drawn up by the Intergovernmental Group of Experts, which met on 23-27 January 1995 in Geneva, Switzerland.

The Advisory Service has a decentralized structure, with a team of experts operating from ICRC headquarters in Geneva and legal advisors based in the different regions around the world. In the Americas, the Advisory Service has advisors operating in Bogotá, Brasília, Caracas, Lima, Port Principe and Mexico City, who report to a coordinator based in Mexico City.

In 2012 and 2013, the Advisory Service provided technical and legal advice to the authorities of 22 American States, encouraged exchanges among the region’s 19 National Committees on IHL and promoted the implementation of IHL in the 35 American States. The activities carried out include the following:

- **advising** States on the contents of IHL treaties to which they are not a party in order to facilitate their ratification;
- **providing guidance** to States on the consistency of domestic legislation with IHL treaties;
- **issuing** legal opinions for States on bills to ensure that they are consistent with IHL treaties, particularly with regard to international criminal law;
- **advising** States on the development of legislative and regulatory measures aimed at preventing the disappearance of people and meeting the needs of the families of missing persons;
- **designing** strategies geared to strengthening the National Committees on IHL, in coordination with the competent authorities, and supporting implementation;
- **facilitating** exchanges between National Committees on IHL and external experts;
- **informing** States about developments in the field of IHL, for example, the red crystal emblem and the debate on cluster munitions and the Arms Trade Treaty;
- **organizing** meetings of government experts on issues relating to IHL and national implementation;
- **delivering** lectures and addresses on issues relating to IHL and national implementation;
- **organizing** or taking part in professional training courses for the authorities;
- **sharing** information on national IHL implementation measures, including the database that the ICRC makes available to States and the general public. This database is updated regularly with information on all 35 American States and can be accessed at: <http://www.cicr.org/ihl-nat>.

# ANNEXES

## **A. Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas - Conclusions and recommendations**

*(San José, Costa Rica, 10-12 September 2013)*

**A Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas** was organized by the International Committee of the Red Cross (ICRC) in San José, Costa Rica, from 10 to 12 September 2013. The event was held under the auspices of the Ministry of Foreign Affairs and Religion of Costa Rica, in association with the Costa Rican committee for the implementation of international humanitarian law, and with the support of the Federal Department of Foreign Affairs of Switzerland.

The Conference, which took place in the Hotel Radisson Europa in San José, was attended by high-ranking officials and members of the national committees of the following 17 countries: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru and Uruguay. Participating as observers were officials from Belize, Cuba, Haiti, Suriname, the United States of America and Venezuela. They were joined by members of the national committees of Germany, Spain and Switzerland, representatives of the Costa Rica Red Cross and government experts and academics from Colombia, El Salvador, Guatemala, Mexico, Peru, Switzerland, the United States of America and Uruguay. Also present were representatives of the Inter-American Court of Human Rights, the Inter-American Juridical Committee and the United Nations Educational, Scientific and Cultural Organization. In the course of the Conference's six modules, workshops and panel discussions, the participants heard presentations and shared national, continental and global experiences. ICRC experts from

Geneva, Switzerland, and from the Americas also contributed to the event.

The participants considered the relevant resolutions adopted by, and the pledges made at, the 31st International Conference of the Red Cross and Red Crescent in November 2011, in particular Resolution 1 on "strengthening legal protection for victims of armed conflicts," which "[stresses] that greater compliance with international humanitarian law is an indispensable prerequisite for improving the situation of victims of armed conflict and reaffirming the obligation of all States and all parties to armed conflict to respect and ensure respect for international humanitarian law in all circumstances." Furthermore, the resolution "[recognizes] the importance of having due regard to humanitarian considerations and military necessity arising from armed conflict, with the objective of ensuring that international humanitarian law remains essential in providing legal protection to all victims of armed conflict and that States and other parties to armed conflicts fully implement their obligations in this regard."

Participants considered the "unequivocal commitment [...] to respect and ensure respect for international humanitarian law at all times," their conviction that "international humanitarian law remains as relevant today as ever before," and their commitment to "reaffirming and applying the principles and rules of international humanitarian law, including customary rules, to increasing respect for humanitarian principles and values" (Resolution 3 of the 30th International Conference, 2007, and Declaration adopted by the 28th International Conference, 2003).

They also recalled operative paragraphs 21, 22 and 23 of Resolution 3 of the 30th International Conference, in which States recalled that "the obligation to respect international humanitarian law cannot be fulfilled without domestic implementation of international obligations" and therefore reiterated "the need for States to adopt all the legislative,

regulatory and practical measures that are necessary to incorporate international humanitarian law into domestic law and practice.”

They also considered the conclusions and recommendations adopted by the International Conference of National Committees on International Humanitarian Law of Latin America and the Caribbean, held in Mexico City in June 2010, and by previous regional and sub-regional conferences of national committees on international humanitarian law, organized by the ICRC with the support of various countries in the region.

At the end of the Conference in Costa Rica, the national IHL committees of the Americas adopted a series of conclusions, in which it was recommended that:

1. coordination mechanisms be established between the national committees of the Americas to conduct regular follow-up on their work, along with a review of the progress made, problems encountered, lessons learnt, and the best practices used by the States in the implementation, integration and promotion of IHL at a domestic level, as well as cooperation with the ICRC and a detailed discussion of new IHL challenges and developments;
2. the countries of the continent, with the support of their national committees, continue to support the efforts undertaken to strengthen, promote and implement international humanitarian law by enacting domestic laws and measures that implement the rules of treaty and customary law with a view to addressing the humanitarian concerns in their countries;
3. any State without a national committee for the implementation of international humanitarian law consider establishing one as a means of strengthening advancement and observance of this body of law;
4. dialogue and cooperation be strengthened and developed between the national committees and the ICRC – especially with its Advisory Service – in order to obtain advice and assistance for the committees’ efforts to support the implementation and promotion of IHL at a domestic level and in multilateral forums;
  - a. the best practices of the national committees of the Americas be implemented to the extent possible so as to strengthen the effectiveness, accountability and procedures required to comply with their mandate;
  - b. annual action plans be drawn up that, in line with their remits, set priorities at a political level and serve as a basis for defining the tasks of the committees; annual reports be submitted to the relevant authorities;
  - c. national committees meet in regular ordinary plenary meetings and one-off extraordinary meetings in sub-committees or working groups as required to achieve their objectives; committee members who step down be replaced; the committees’ internal rules be revised to ensure they can adapt to the requirements of their work;
  - d. periodic skills training and refresher courses be organized for committee members;
- e. the ICRC compile the committees’ best practices and pass them on to States;
5. to the extent possible and desirable, resolutions – both universal and regional – of international forums that pertain to international humanitarian law be taken into account, such as those adopted by the United Nations and the Organization of American States (OAS), as well as by sub-regional intergovernmental bodies, in order to foster their domestic follow-up and implementation;
6. national committees actively coordinate and/or participate in the preparation of national reports as required by the various monitoring mechanisms on the domestic ratification and implementation status of IHL treaties (for example, of the International Conference of the Red Cross and Red Crescent, the UN Secretariat, the OAS Committee on Juridical and Political Affairs, the OAS Permanent Council, etc.), thereby boosting compliance with IHL and the effectiveness of the existing mechanisms regarding IHL implementation and compliance;
7. the national committees (of States party to the Rome Statute of the International Criminal Court) actively contribute to the domestic implementation of the pledges made and decisions adopted at the First Review Conference of the Rome Statute, as well as the pledges regarding the International Criminal Court made at the 31st International Conference of the Red Cross and Red Crescent;
8. national committees in countries where it has not yet been done make it a priority to support the drafting of a bill providing for the prosecution of war crimes and serious violations of IHL (as set out in the four Geneva Conventions, Additional Protocol I and the amendment to Article 8 of the Rome Statute) to be included in the criminal code or in special criminal legislation, and to promote and provide training on IHL among legal practitioners in their countries, as appropriate;
9. national committees are kept regularly informed about and support IHL integration programmes for the armed and security forces;
10. national committees, with their respective sub-committees and working groups, continue advocating protection for cultural property during armed conflict and working towards the adoption of legislative or other measures, including within the armed and/or security forces, to ensure States meet the obligations laid down in the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict and its additional protocols of 1954 and 1999, taking into account, as appropriate:
  - a. the conclusions and recommendations adopted at the regional seminar on “The protection of cultural property in the event of armed conflict: A challenge and an opportunity

- for Latin America and the Caribbean” in Buenos Aires from 2 to 4 March 2005;
- b. the conclusions and recommendations adopted at the “Seminar of National Committees for IHL on the Protection of Cultural Property in Times of Armed Conflict” in San Salvador on 2 December 2011;
  - c. the “Model Law on the Protection of Cultural Property in the Event of Armed Conflict,” adopted by the Inter-American Juridical Committee in March 2013;
  - d. the ICRC’s Practical Advice for the Protection of Cultural Property in the Event of Armed Conflict;
  - e. the technical support of UNESCO and the ICRC for adopting multi-year action plans and annual plans to achieve coordinated domestic implementation of those obligations.
11. national committees, to the extent possible and in line with their mandate, keep track of, and participate actively in, national debates about evolving diplomatic processes concerning arms and IHL, including nuclear weapons and the Arms Trade Treaty;
  12. national committees help train future IHL experts and promote IHL teaching and research in undergraduate and postgraduate degrees in their countries’ main universities (particularly law and international relations faculties) and diplomatic academies in order to boost scientific research in this field and encourage academics to take part in the national committees as members, observers or amici curiae;
  13. national committees, as relevant and in line with their remit, look into assessing the legal needs of relatives of missing persons in order to focus or refocus the government’s approach and thereby give rise to more and better tools to help them, and look into drawing up a domestic legal framework that identifies and addresses their legal difficulties based on the ICRC’s Guiding principles / Model Law on the missing for States in order to bring their national legislation on missing persons and their relatives into line with IHL, the relevant provisions of international human rights law and relevant resolutions and, as necessary, help facilitate the coordination between the various procedures and processes;
  14. national committees, as relevant, in line with their remit and provided there are no existing procedures for coordinating all those involved nationally in tracing missing persons and supporting their relatives, consider facilitating and supporting such coordination in armed conflict and produce national reports to be shared with the appropriate multilateral forums;
  15. national committees – in countries that do not yet have legislation on protecting the emblem, regulations for implementing that legislation or other national measures for safeguarding the delivery of health care as set out in IHL – undertake to support the drafting of legislation or regulations and to submit them for approval by parliament; while national committees – in countries that already have legislation – look into monitoring and encouraging compliance with domestic legislation that governs the use and protection of the red cross emblem and other emblems with the same purpose in international law by introducing regulatory mechanisms (e.g. regulations, a charter, etc.);
  16. national committees, as relevant and in line with their remit, continue analysing the issue of domestic legal provisions to regulate the use of force as stipulated in international law and standards;
  17. national committees take account of developments in customary law when carrying out their work;
  18. national committees promote, study, make a priority, and encourage follow-up on, and compliance with, the resolutions of the 31st International Conference, in particular:
    - a. Resolution 1 on “strengthening legal protection for victims of armed conflicts” by supporting States’ consultation processes on legal protection for all those deprived of their liberty in connection with armed conflict and on the effectiveness of IHL compliance mechanisms (a Swiss/ICRC initiative);
    - b. Resolution 2 and its annexed “four-year action plan for implementing international humanitarian law” by including the plan in their priorities;
    - c. Resolution 5 on “Health care in danger: Respecting and protecting health care” by including it in their priorities and action plans and helping prepare national implementation measures (be they legislative, regulatory or practical) in accordance with IHL and other international legal provisions, thereby contributing to protecting health-care staff and facilities, and by following up on the recommendations of the ICRC workshop on domestic legal frameworks and criminal prosecution, due to be held in Brussels in 2014.
  19. national committees consider cooperating with other committees in the Americas and other continents, extending their agenda by taking inspiration from other best practices and experiences, and offering to help identify and develop measures to address the humanitarian priorities and consequences that may arise in their respective countries;
  20. the Conference took note with satisfaction of the offer made by the Colombian Government to host the next Continental Conference of National Committees for the Implementation of International Humanitarian Law of the Americas.
- Lastly, the representatives of the 17 national committees for IHL of the Americas tasked the ICRC with drafting a report on the San José conference, which would be used as a tool to follow up on the aforementioned conclusions and recommendations.

*San José, Costa Rica, 12 September 2013*

## B. Third Meeting of Representatives of National Committees on International Humanitarian Law from Commonwealth Member States - Outcome Statement

*(Port of Spain, Trinidad and Tobago, 17-18 October 2013)*

Outcome Statement of the Third Meeting of Representatives of National Committees on International Humanitarian Law from Commonwealth Member States

Representatives of Commonwealth Member States attending the Third Meeting of Representatives of National Committees on International Humanitarian Law,

meeting in Port of Spain, Trinidad and Tobago, 17–18 October 2013;

mindful of the Commonwealth values of commitment to dignity, humanity and the rule of law;

recalling the obligation of States to respect and ensure respect for international humanitarian law (IHL);

noting and building upon the achievements made since the last meeting in 2009 and welcoming, as a consequence, the growing institutionalisation of regular meetings of Commonwealth Member States, National Red Cross and Red Crescent Societies (National Societies) and National IHL Committees;

recalling the resolutions and pledges of the 31st International Conference of the Red Cross and Red Crescent held in Geneva in November 2011;

conscious that the 32nd International Conference of the Red Cross and Red Crescent will be held in Geneva in 2015;

expressing warm appreciation to the Ministry of Foreign Affairs of Trinidad and Tobago, the Trinidad and Tobago Red Cross Society and supporting organisations for their role in hosting and organising this meeting;

commit:

1. To continue to follow-up pledges and resolutions made at the 31st International Conference of the Red Cross and Red Crescent held in 2011;
2. To consider new joint Commonwealth Member States and Commonwealth National Societies pledges for adoption at the 32nd International Conference of the Red Cross and Red Crescent to be held in 2015;
3. Also to consider the measures discussed at the Port of Spain meeting with a view to implementing those relevant to their national contexts;
4. To continue prioritising the promotion of and the respect for international humanitarian law in their programmes of activity and their policies, and where appropriate to give greater priority to these matters;
5. To encourage Commonwealth Member States:
  - to accede to international humanitarian law treaties to which they are not yet party;
  - to examine their existing legislation and, where necessary, to adopt effective legislative and other measures to implement those international humanitarian law treaties to which they are a party;
  - to share information concerning actions undertaken or planned to implement IHL obligations and to encourage further such action;
6. To promote increased contacts and cooperation among the participants and in this regard to consider using the Commonwealth Connect platform hosted by the Commonwealth Secretariat;
7. To work together:
  - to assist Commonwealth Member States upon request, in establishing National IHL Committees, and
  - where feasible to support their efficient operation;
8. That Commonwealth States and National Societies should build upon the special auxiliary and IHL roles of National Societies to continue to work together in areas of mutual humanitarian concern, in particular, to support the Health Care in Danger initiative, and the project on 'Strengthening Legal Protection for Victims of Armed Conflict';
9. To encourage the holding of the Fourth Commonwealth Red Cross and Red Crescent IHL Conference in 2015:
  - to help prepare for the 32nd International Conference later in the year, and
  - to continue to promote and advance work on international humanitarian law;
10. To invite the Commonwealth Secretariat to continue to work to include IHL on the agenda of relevant Commonwealth meetings and to continue its valuable work in the field of IHL, such as awareness raising and promotion of the ratification and implementation of IHL instruments.

Adopted by Acclamation  
18 October 2013,  
Port of Spain, Trinidad and Tobago

## C. 31st International Conference of the Red Cross and Red Crescent

(Geneva, Switzerland, 28 November – 1 December 2011)

### RESOLUTION 1

#### STRENGTHENING LEGAL PROTECTION FOR VICTIMS OF ARMED CONFLICTS

The 31st International Conference of the Red Cross and Red Crescent,

DEEPLY CONCERNED that armed conflicts continue to cause enormous suffering, including violations of international humanitarian law, such as murder, forced disappearance, the taking of hostages, torture, cruel or inhumane treatment, rape and other forms of sexual violence, and that such suffering affects entire populations, including among the most vulnerable, in various parts of the world,

STRESSING that greater compliance with international humanitarian law is an indispensable prerequisite for improving the situation of victims of armed conflict and *reaffirming* the obligation of all States and all parties to armed conflict to respect and ensure respect for international humanitarian law in all circumstances,

RECALLING the universal ratification of the 1949 Geneva Conventions,

EXPRESSING the hope that other international humanitarian law treaties will also achieve universal acceptance, and inviting all States to consider ratifying or acceding to international humanitarian law treaties to which they are not yet party,

RECALLING Resolution 3 on the Reaffirmation and implementation of international humanitarian law adopted by the 30th International Conference of the Red Cross and Red Crescent,

REITERATING that international humanitarian law remains as relevant today as ever before in international and non-international armed conflicts and continues to provide protection for all victims of armed conflict,

RECOGNIZING the importance of having due regard to humanitarian considerations and military necessity arising from armed conflict, with the objective of ensuring that international humanitarian law remains essential in providing legal protection to all victims of armed conflict and that States and other parties to armed conflicts fully implement their obligations in this regard,

MINDFUL of the need to strengthen international humanitarian law, in particular through its reaffirmation in situations when it is not properly implemented and its clarification or development when it does not sufficiently meet the needs of the victims of armed conflict,

EMPHASIZING the primary role of States in the development of international humanitarian law,

RECALLING that one of the important roles of the ICRC, in accordance with the Statutes of the International Red Cross and Red Crescent Movement, is in particular “to work 31IC/11/R1 2 for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof”, and further recalling the respective roles of the ICRC and National Societies in the promotion, dissemination, implementation and development of international humanitarian law,

RECALLING that the functions of the International Conference of the Red Cross and Red Crescent, in accordance with the Statutes of the International Red Cross and Red Crescent Movement, include “to contribute to the respect for and development of international humanitarian law and other international conventions of particular interest to the Movement”,

TAKING NOTE of the 2003 ICRC summary Report on regional expert seminars related to “Improving Compliance with International Humanitarian Law” presented to the 28th International Conference of the Red Cross and Red Crescent, as well as the 2009 Report on a Conference of experts entitled “60 Years of the Geneva Conventions and the Decades Ahead” prepared by the Swiss Government and the ICRC,

1. *thanks* the ICRC for the report outlining the main conclusions of its *Study on Strengthening Legal Protection for Victims of Armed Conflicts* and for the consultations carried out with States in this regard;
2. *acknowledges* that the report identifies serious humanitarian concerns and challenges that need to be addressed, in particular those related to the protection of persons deprived of their liberty in relation to armed conflict and the need to ensure greater compliance with international humanitarian law, and that, on the basis of the consultations, the report calls for concrete and coordinated action to address these concerns;
3. *recognizes* the importance of analyzing the humanitarian concerns and military considerations related to the deprivation of liberty in relation to armed conflict with the aim, inter alia, of ensuring humane treatment, adequate conditions of detention, taking into account age, gender, disabilities and other factors that can increase vulnerability, and the requisite procedural and legal safeguards for persons detained, interned or transferred in relation to armed conflict;
4. *recognizes*, taking into account questions raised by States during the preparation of and in the debates at the 31st International Conference of the Red Cross and Red Crescent, that further research, consultation and discussion are needed to assess the most appropriate way to ensure that international humanitarian law remains practical

- and relevant in providing legal protection to all persons deprived of their liberty in relation to armed conflict;
5. *recognizes*, taking into account questions raised by States during the preparation of and in the debates at the 31st International Conference of the Red Cross and Red Crescent, the importance of exploring ways of enhancing and ensuring the effectiveness of mechanisms of compliance with international humanitarian law, with a view to strengthening legal protection for all victims of armed conflict;
  6. *invites* the ICRC to pursue further research, consultation and discussion in cooperation with States and, if appropriate, other relevant actors, including international and regional organisations, to identify and propose a range of options and its recommendations to: i) ensure that international humanitarian law remains practical and relevant in providing legal protection to all persons deprived of their liberty in relation to armed conflict; and ii) enhance and ensure the effectiveness of mechanisms of compliance with international humanitarian law, and encourages all members of the International Conference, including National Societies, to participate in this work while recognizing the primary role of States in the development of international humanitarian law;
  7. *notes* that such work should be carried out taking into account existing relevant international legal regimes and other international processes on similar issues; in this sense expresses its appreciation to the government of Switzerland for its commitment to explore and identify concrete ways and means to strengthen the application of international humanitarian law and reinforce dialogue on international humanitarian law issues among States and other interested actors, in cooperation with the ICRC;
  8. *invites* the ICRC to provide information on the progress of its work at regular intervals to all members of the International Conference and to submit a report on this work, with a range of options, to the 32nd International Conference of the Red Cross and Red Crescent, for its consideration and appropriate action.
3. *reminds* States of the auxiliary role of National Societies to the public authorities in the humanitarian field, in particular where they work in the framework of National International Humanitarian Law Committees or similar bodies, and *encourages* States to cooperate with them, as appropriate, in implementing the actions set out in the Action Plan,
  4. *takes note* of existing initiatives by other humanitarian actors and organizations in certain areas covered by this Action Plan and stresses the need to ensure synergies between such initiatives and this Action Plan in cooperation with States,
  5. *invites* all members of the Conference to submit pledges, either individually or jointly, in relation to the recommendations contained in the Action Plan,
  6. *invites* international and regional organizations to implement the actions contained in the Action Plan which relate to their activities,
  7. *requests* all members of the Conference to make every possible effort to ensure that all actors concerned implement, as appropriate, the Plan of Action,
  8. *invites* all members of the Conference to inform the ICRC on progress made on implementation of the Action Plan, with a view to the presentation of a report on implementation to the 32nd International Conference in 2015,
  9. *requests* the members of the Conference to report to the 32nd International Conference in 2015 on the follow-up to their pledges.

## RESOLUTION 2

### FOUR-YEAR ACTION PLAN FOR THE IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW

The 31st International Conference of the Red Cross and Red Crescent ("the Conference"),

1. *adopts* the Action Plan in annex 1,
2. *urges* all members of the Conference to implement the actions set out in the Action Plan, in accordance with their respective powers, mandates, capacities and applicable obligations under international humanitarian law, with a view to reaching the objectives defined in the Action Plan,

### ANNEX 1: ACTION PLAN FOR IMPLEMENTING INTERNATIONAL HUMANITARIAN LAW

#### OBJECTIVE 1: ENHANCED ACCESS BY CIVILIAN POPULATIONS TO HUMANITARIAN ASSISTANCE IN ARMED CONFLICTS

States reaffirm the right of civilian populations in need to benefit from impartial humanitarian relief in accordance with international humanitarian law.

States will ensure, to the fullest extent of the means available to them, that the civilian population is adequately provided with supplies in accordance with relevant provisions of IHL.

States will also, in accordance with international humanitarian law, allow and facilitate safe, rapid and unimpeded passage of impartial humanitarian relief for civilian populations in need and will respect and protect humanitarian personnel and objects.

Components of the Movement must be able to deliver humanitarian assistance at all times in conformity with the Fundamental Principles of Humanity, Impartiality, Neutrality and Independence. States will respect the adherence by all components of the Movement to these Fundamental Principles.

*a) Remove administrative barriers to the rapid delivery of humanitarian assistance for victims of armed conflicts*

States consider, including through enacting domestic legislation or concluding agreements with components of the Movement:

- facilitating the rapid issuance of valid documents allowing the mission of members of components of the Movement access across the international borders of the State and within the State concerned;
- expediting procedures for monitoring the entry and distribution of humanitarian goods of components of the Movement;
- exempting personnel and goods of components of the Movement from taxes, duties and fees, where necessary.

States endeavour to make available the necessary telecommunication facilities to components of the Movement, taking into account the need of the Movement for two-way wireless telecommunication means when normal communication facilities are interrupted or not available, in accordance with Resolution 10 of the 2000 World Radiocommunication Conference. They assign to the components of the Movement the minimum number of necessary working frequencies in accordance with the applicable Radio Regulations and take all practicable steps to protect such communications from harmful interference. States which have not already done so consider acceding to the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations.

*b) Establishing and maintaining an environment conducive to dialogue*

The International Committee of the Red Cross (ICRC) and the host National Red Cross or Red Crescent Society (National Society) concerned will establish and maintain a constructive dialogue with all parties to armed conflicts in order to obtain access to victims and the necessary security guarantees for its staff. States respect the need for such dialogue and reaffirm the unique position and contribution of the ICRC and National Societies in this regard.

Components of the Movement will continue to ensure that in the planning, delivery and monitoring of humanitarian assistance the specific needs of victims of conflicts as well as local capacities are taken into account.

States and components of the Movement continue their dialogue to ensure a better complementarity between and effective international coordination with different humanitarian actors, taking into account their respective roles and mandates.

*c) Implementation and enforcement*

States ensure that instruction is provided to members of their armed forces to respect the physical integrity and unimpeded passage of humanitarian personnel and objects in accordance with international humanitarian law.

States adopt adequate measures at a domestic level, including national legislation, to comply with their international obligations concerning arbitrary obstruction of humanitarian assistance and to prevent and sanction attacks on humanitarian personnel and objects.

States ensure that perpetrators of attacks against humanitarian personnel, including personnel using the distinctive emblems in accordance with the Geneva Conventions and their Additional Protocols, are held accountable, by encouraging disciplinary measures and criminal prosecutions.

**OBJECTIVE 2: TO ENHANCE THE SPECIFIC PROTECTION AFFORDED TO CERTAIN CATEGORIES OF PERSONS, IN PARTICULAR CHILDREN, WOMEN AND PERSONS WITH DISABILITIES**

Specific protection is due to certain categories of persons in recognition of factors such as age, gender or disabilities, which make such persons more vulnerable in times of armed conflicts. To safeguard adequate protection for all victims of armed conflicts, including in situations of occupation, without discrimination, such factors must be taken into account.

**OBJECTIVE 2.1: *To enhance the protection of children in armed conflict***

States, National Societies and the ICRC will raise awareness of the protection of children in armed conflict by international law, in particular international humanitarian law.

*a) Prevention of recruitment of children in armed forces or armed groups*

States take effective measures to register children immediately after birth and endeavour to establish supplementary identification and registration systems for all children, including for particularly vulnerable children like internally displaced children and refugee children, to protect them from unlawful recruitment.

States consider establishing domestic inspection regimes independent from the armed forces, such as ombudspersons or annual external inspections commissioned by civilian governmental authorities, to monitor the compliance of armed forces with the prohibition of child recruitment.

States, in cooperation with National Societies and the ICRC, design and set up educational and vocational training programmes where possible, in combination with employment opportunities, to offer boys and girls viable alternatives to recruitment.

*b) Ratification, national implementation and enforcement of international law relevant to the prevention and repression of participation in hostilities by children and the recruitment of children into armed forces or armed groups*

States which have not already done so consider ratifying or acceding to the 2000 Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict.

States which have not already done so also consider adhering to the 2007 Paris Principles and Commitments to protect children from unlawful recruitment or use by armed forces or armed groups.

States which have not already done so consider enacting national legislation or other measures to regulate the minimum age of recruitment into armed forces and armed groups and to prevent the involvement of children in armed conflict in accordance with the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict.

States ensure that those who unlawfully recruit children are held accountable for their acts through appropriate measures, *inter alia*, by referral to courts especially when it constitutes a war crime, in accordance with applicable international law.

#### *c) Protection of education in armed conflict*

States reaffirm that attacks against civilians, including children and teachers, are prohibited, unless and for such time as they are directly participating in hostilities. States also reaffirm that attacks against civilian buildings dedicated to education are prohibited unless they make an effective contribution to military action by their nature, location, purpose or use and their total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage. In case of doubt whether civilians or civilian objects lose protection from attack, States treat them as civilians and civilian objects.

States take all feasible precautions to protect children and teachers, as well as civilian buildings dedicated to education, from the effects of attacks in accordance with international humanitarian law.

States take all feasible measures to prevent civilian buildings dedicated to education from being used for purposes that could cause them to lose their protection under international humanitarian law.

#### *d) Rehabilitation of children affected by armed conflicts*

States ensure that specific provisions for the release of children associated with armed forces and armed groups, for disarmament, demobilization and reintegration of such children, for the care of internally displaced children, and for medical care, psychosocial support and economic inclusion of all children affected by armed conflicts, are included in peace agreements. The different needs of boys and girls are given particular attention in such agreements.

Donor States endeavour to ensure long-term funding for the reintegration of children formerly associated with armed forces or armed groups.

#### *e) Juvenile justice*

States consider children who have been unlawfully recruited by armed forces or armed groups and are accused of committing domestic or international crimes associated with a conflict primarily as victims, not only as alleged perpetrators.

States consider granting children formerly associated with armed forces or armed groups amnesty from prosecutions brought solely on account of their membership in armed forces or armed groups.

Whenever appropriate and desirable, States resort to measures other than judicial proceedings for dealing with alleged child offenders formerly associated with armed forces or armed groups.

States foster gender-sensitive rehabilitation and reintegration of children formerly associated with armed forces or armed groups when sentencing them and consider alternatives to imprisonment, such as care, guidance and supervision orders, probation, foster care or education and vocational training programmes.

#### *OBJECTIVE 2.2: To enhance the protection of women in armed conflict*

##### *a) Ratification, implementation and enforcement of relevant international law*

States take appropriate legislative, judicial and administrative measures to implement their obligations regarding the protection of women and girls under international humanitarian law.

States take all feasible measures to reduce the impact of armed conflict on women and girls, and to ensure that their specific protection and assistance needs are met.

States commit themselves to putting an end to impunity and to prosecute in accordance with their obligations under international law – serious violations of international humanitarian law involving sexual and other forms of violence against women and girls, and for this purpose, enhance their capacity to prevent, monitor and document acts of sexual violence and other serious violations of international humanitarian law, and to this end, to cooperate, in conformity with their international obligations, both at inter-State level and with international criminal tribunals and courts.

##### *b) Prevention of sexual and other gender-based violence against women*

States ensure that all feasible measures are employed to prevent all serious violations of international humanitarian law involving

sexual and other forms of gender-based violence against women. Such measures include:

- pre-deployment and in-theatre gender training of armed forces on their responsibilities, as well as the rights and particular needs and protection of women and girls;
- military disciplinary measures and other measures, such as reporting requirements on incidents of sexual violence to avoid impunity;
- ensuring that female detainees and internees are supervised by women and separated from male detainees and internees, except where families are accommodated as family units;
- ensuring, whenever possible, that female personnel are present during the interrogation of female detainees; and
- ensuring, whenever possible, women's participation in decision-making in peace processes.

### *c) Displaced women*

Recognizing the great number of women among displaced persons, including in their role as heads of households, States take appropriate measures to ensure their physical and mental integrity, as well as to respect their dignity. Particular attention should be paid to ensuring their meaningful participation in decision-making, to protective measures for internally displaced persons against gender-based violence, such as location and protection of shelter, identified support and reporting systems, as well as access to female and child health-care services and those who provide it.

#### *OBJECTIVE 2.3: To enhance the protection of persons with disabilities during armed conflicts*

States recognise that under international humanitarian law, persons with disabilities may fall within the category of the wounded and sick or civilians enjoying particular respect and protection such as the infirm.

States take all possible measures to ensure access by persons with disabilities to the specific medical care and attention, physical rehabilitation, as well as socio-economic inclusion required by their condition, especially in remote rural areas.

States, in cooperation with components of the Movement, facilitate steps taken to search for, collect and evacuate persons with disabilities to ensure the appropriate medical care and attention, physical rehabilitation, as well as socio-economic inclusion, required by their condition, in accordance with international humanitarian law.

States and components of the Movement take the specific needs of persons with disabilities into account in the planning, delivery and monitoring of their humanitarian assistance efforts, including with regard to access to shelter, water, sanitation, food distribution, education, medical care, physical rehabilitation, transportation, communication, and socio-economic inclusion

programmes. They consult, when feasible, at all relevant stages of planning and implementation of their humanitarian assistance activities with the persons themselves, their families or local organizations of persons with disabilities.

Donor States consider the specific needs of persons with disabilities with regard to accessibility of humanitarian assistance in their funding guidelines

#### **OBJECTIVE 3: ENHANCED PROTECTION OF JOURNALISTS AND THE ROLE OF THE MEDIA WITH REGARD TO INTERNATIONAL HUMANITARIAN LAW**

States and components of the Movement recognise that the work of journalists, other media professionals and associated personnel (hereinafter: journalists) may make an important contribution to the public knowledge about and the recording of information on violations of international humanitarian law. Thereby, journalists may assist in preventing violations of international humanitarian law as well as facilitating the fight against impunity for such violations. States and components of the Movement also recognise that journalists may affect the respect for international humanitarian law in other ways, such as the obligation to protect detainees against public curiosity.

States reaffirm that journalists engaged in dangerous professional missions in areas of armed conflict are civilians and shall not be the object of attacks, unless and for such time as they are directly participating in hostilities. This is without prejudice to the right of war correspondents accredited to the armed forces to the status of prisoners of war provided for in Article 4.A.4 of the Third Geneva Convention.

States also reaffirm that media equipment and installations shall be considered as civilian objects and in this respect shall not be the object of attack, unless they make an effective contribution to military action by their nature, location, purpose or use, such as by the transmission of military intelligence or military orders, and their total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

States integrate in the international humanitarian law training of members of their armed forces specific components on the protection of journalists in armed conflicts.

States and components of the Movement continue their efforts to disseminate relevant international humanitarian law on rights and responsibilities of journalists, as well as to provide security training to journalists to prepare them for eventualities arising in armed conflicts.

States take adequate measures in their domestic legal orders, including criminal and mutual legal assistance legislation, to prevent and sanction serious violations of international humanitarian law against civilians, including against journalists, and ensure that such violations do not go unpunished.

#### OBJECTIVE 4: TO IMPROVE THE INCORPORATION AND REPRESSION OF SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

##### *a) National incorporation*

States, where applicable with the assistance of National International Humanitarian Law Commissions or similar bodies, identify the extent of all their international obligations related to repression of serious violations of international humanitarian law and ensure their incorporation into the domestic legal order.

In light of the right of families to know the fate of their relatives as referred to in Article 32 of the 1977 Additional Protocol I as applicable, States consider enacting appropriate legislation or arrangements to ensure adequate participation and representation of victims and their families as well as access to justice and protection of victims and witnesses, especially of women and children, in proceedings before their courts and in other transitional justice mechanisms concerning serious violations of international humanitarian law.

States recognize the importance of redressing gross violations of international humanitarian law. States also consider providing appropriate means to assist victims of violations of international humanitarian law together with appropriate resources for the implementation of these mechanisms, recalling in this regard the work of the ICRC discussing the framework of reparations, taking into account the primary role of States in the development of international humanitarian law.

States recognise the importance of complementary approaches to criminal sanctions and put in place mechanisms for the effective application of disciplinary, financial or other sanctions on violations of international humanitarian law.

##### *b) Roles of Movement and States*

National Societies, within their mandate and in their role as auxiliaries to the public authorities in the humanitarian field, assist States in the incorporation of serious international humanitarian law violations into the domestic legal orders, in particular where they work in the framework of National International Humanitarian Law Commissions or similar bodies. The ICRC continues to provide technical assistance for the incorporation of such crimes.

States, in cooperation with the ICRC and National Societies, pay special attention to dissemination of international humanitarian law to legal professionals, including prosecutors and judges.

States commit to fulfill their existing obligations under international humanitarian law, including the Geneva Conventions, and to ensure respect thereof in accordance with Common Article 1.

The ICRC will continue its efforts to make the content of international humanitarian law accessible to parties to armed conflicts and to provide appropriate training to them so that the consequences of non-compliance are adequately internalized by their members.

States cooperate with one another and with international criminal tribunals, in accordance with their obligations under applicable international law, to ensure:

- adequate knowledge of international humanitarian law by legal professionals, including lawyers, prosecutors and judges;
- gathering and sharing of evidence;
- provision of information to victims and their communities on their rights and the protection of victims and witnesses;
- respect for rights of fair trial of the accused;
- provision of an appropriate remedy to victims;
- enforcement of sentences.

#### OBJECTIVE 5: ARMS TRANSFERS

1. States and components of the International Movement of the Red Cross and Red Crescent note the importance attached by previous International Conferences to ensuring that the use of all weapons in armed conflict complies with the principles and rules of international humanitarian law.
2. The ICRC and National Societies promote public awareness of the human cost of poorly regulated transfers of arms and ammunition.
3. The ICRC and National Societies, aware that work is under way in the UN context to address this issue, encourage effective arms transfer controls that include criteria so that arms do not end up in the hands of those who may be expected to use them to violate international humanitarian law.
4. Recalling their obligation to respect and ensure respect for international humanitarian law, States strengthen controls on the transfer of weapons so that they do not end up in the hands of those who may be expected to use them to violate international humanitarian law, and, in this context recall Resolution 3 of the 30th International Conference of the Red Cross and the Red Crescent of 2007 and Final Goal 2.3. of the Agenda for Humanitarian Action, adopted by the 28th International Conference of the Red Cross and the Red Crescent of 2003.
5. Reaffirming Final Goal 2.3 of the Agenda for Humanitarian Action, adopted by the 28th International Conference of the Red Cross and the Red Crescent of 2003, States should make respect for international humanitarian law one of the important criteria on which arms transfer decisions are assessed. States are encouraged to make efforts to incorporate such criteria into national laws or policies and into regional and global norms on arms transfers.

**RESOLUTION 5****HEALTH CARE IN DANGER: RESPECTING AND PROTECTING HEALTH CARE**

The 31st International Conference of the Red Cross and Red Crescent,

NOTING that the purpose of this Resolution is to raise awareness and promote preparedness to address the grave and serious humanitarian consequences arising from violence against the wounded and sick, health care services, personnel, facilities and medical transport,

STRESSING that this Resolution does not give rise to new obligations under international law,

ALSO STRESSING that this Resolution does not expand or modify the mandates, roles and responsibilities of the components of the Movement as prescribed in the Statutes of the International Red Cross and Red Crescent Movement,

RECOGNIZING the importance of the auxiliary role of National Societies to their public authorities in the humanitarian field,

REAFFIRMING the roles and responsibilities of the ICRC and National Societies in responding to the needs of the wounded and sick in situations of armed conflict,

RECALLING that in accordance with Article 5 of the Statutes of the Movement the ICRC operates mainly in armed conflicts and often together with National Societies, and bearing in mind that it may take any humanitarian initiative in situations of violence as prescribed in the Statutes on a case by case basis and acts only with the full knowledge and consent of the State concerned, in accordance with its roles and responsibilities prescribed in such Statutes,

DEEPLY CONCERNED that the wounded and sick might be prevented from receiving the care and protection that they require by attacks and other impediments to the delivery of health care, and by threats and attacks endangering health-care personnel and facilities, and medical vehicles, and services to the wounded and sick,

NOTING that providing adequate health care for the wounded and sick and the civilian population and securing access for medical services lies at the heart of the mission of the Movement, and is one of its main priorities, and recognizing the unique, privileged and complementary role of the components of the Movement in providing preventive, curative and rehabilitative health care and humanitarian relief to persons in need,

RECALLING that the respect and protection of the wounded and sick, and of authorized medical personnel, facilities and transports, are enhanced through the use of the distinctive emblems recognized by the Geneva Conventions and, where applicable, their Additional Protocols,

RECALLING Resolution 3 of the 30th International Conference of the Red Cross and Red Crescent, on the "Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict," in particular "the obligation to respect and to protect medical personnel, including Red Cross and Red Crescent workers, their means of transport, as well as medical establishments and other medical facilities at all times, in accordance with international humanitarian law,"

EXPRESSING its appreciation for the work and efforts of all the components of the Movement that have engaged in addressing this important humanitarian concern in their operations throughout the world, and welcoming the global communication campaign, which aims to raise international awareness of the violence, both real and threatened against health-care workers and facilities and the wounded and sick and to promote measures to mitigate them,

TAKING NOTE OF the research done by the ICRC for preparing *Health Care in Danger: A Sixteen-Country Study, July 2011*,

BEARING IN MIND that international humanitarian law applies only to situations of armed conflict, and *recognizing* that international humanitarian law and applicable international human rights law provide a framework for protecting health care,

RECALLING the basic obligation to provide all possible health care to the wounded and sick without discrimination,

STRESSING in this regard, the prohibitions against attacking the wounded and sick and health-care personnel and facilities, as well as medical vehicles, against arbitrarily denying or limiting access for the wounded and sick to health-care services, and against molesting, threatening or punishing health-care personnel for carrying out activities compatible with medical ethics,

RECOGNIZING the importance of health-care personnel having sufficient practical knowledge of their rights and obligations, and the imperative need for them to have unimpeded access to any place where their services are required in accordance with international law,

EMPHASIZING that domestic implementation measures, including training and education, are prerequisites for ensuring that States and their armed forces and security forces comply with their obligations under relevant international legal regimes to respect medical services and provide safe access for health-care personnel to the wounded and sick,

STRESSING that States should ensure an effective system for establishing criminal responsibility for crimes committed against health-care personnel and facilities, and medical vehicles, and against the wounded and sick, in their domestic courts or under competent international jurisdictions where applicable; and that they should also ensure means for the effective suppression of such crimes,

1. *recalls* the obligations to respect and protect the wounded and sick, as well as health-care personnel and facilities, and medical vehicles, and to take all reasonable measures to ensure safe and prompt access for the wounded and sick to health care, in times of armed conflict or other emergencies, in accordance with the applicable legal framework;
2. *urges* all States that have not yet done so to intensify their efforts to adopt the required domestic implementation measures based on relevant international legal obligations pertaining to the protection of the wounded and sick and health-care services, including, inter alia, through the adoption of legislative, regulatory or practical measures;
3. *calls upon* States to fully respect and implement their obligations under the relevant provisions of international humanitarian law concerning the protection and use of the distinctive emblems, and further calls upon States to adopt, where appropriate, the legal measures, including enforcement measures, pertinent to the use and the protection of the distinctive emblems recognized by the Geneva Conventions and their Additional Protocols;
4. *calls upon* States to ensure, when circumstances require, adequate marking of medical facilities and vehicles with the distinctive emblems and signs, and their use of distinctive signals for the purposes of identification and protection;
5. *calls upon* States to ensure that their armed forces and security forces implement all applicable international legal obligations in relation to armed conflict, including situations of occupation, with regard to protection for the wounded and sick, as well as for health-care services, including through the development and adoption of appropriate doctrine, procedures, guidelines and training;
6. *calls upon* States to ensure effective investigation and prosecution of crimes committed against health-care personnel – including Movement personnel – their facilities and their means of transportation, especially attacks carried out against them, and to cooperate to this end, in conformity with their international obligations, at the inter-State level and with international criminal tribunals and courts, and calls upon States to prevent the deliberate and arbitrary obstruction of the delivery of health care;
7. *calls upon* the ICRC, National Societies and the International Federation of Red Cross and Red Crescent Societies (International Federation) to enhance understanding, on the national and the international level, of the major humanitarian problem of violence against patients and health-care workers and facilities, and work with States and others to identify and promote potential solutions;
8. *calls upon* National Societies, the ICRC and the International Federation to continue supporting and strengthening the capacity of local health-care facilities and personnel around the world and to continue providing training and instruction for health-care staff and volunteers by developing appropriate tools on the rights and obligations of health-care personnel and on protection for and the safety of health-care delivery;
9. *calls upon* National Societies with the support of the ICRC and the International Federation, to train their staff and volunteers in the provision of effective medical assistance and in matters pertaining to their own security;
10. *calls upon* the ICRC, National Societies, and where appropriate, the International Federation, to coordinate and cooperate with other humanitarian actors to ensure that the wounded and sick are provided with adequate health care;
11. *calls upon* National Societies to engage with their respective States, in accordance with their status and role as auxiliaries to the public authorities in the humanitarian field, to explore ways to address the violence, both real and threatened, against health-care workers and facilities, and beneficiaries, in their own country;
12. *invites* National Societies to increase their efforts to disseminate information on the obligations under international humanitarian law and human rights law to respect and protect health care, and to promote and support the domestic implementation of these obligations;
13. *encourages* National Societies to intensify their commitment and efforts to adopt concrete measures for, inter alia, creating safer access for their health-care services and personnel to people affected in situations covered in the present resolution;
14. *calls upon* the ICRC to initiate consultations with experts from States, the International Federation, National Societies and other actors in the health-care sector, with a view to formulating practical recommendations for making the delivery of health care safer in situations covered in the present resolution, and to report to the 32nd International Conference in 2015 on the progress made.

**D. OAS Resolution AG/RES. 2795 (XLIII-O/13)  
Promotion of and respect for international  
humanitarian law**

*(Adopted at the second plenary session held on 5 June 2013  
in La Antigua, Guatemala)*

THE GENERAL ASSEMBLY,

REAFFIRMING its resolution AG/RES. 2650 (XLI-O/11) and all its pertinent past resolutions;

DEEPLY CONCERNED that in various parts of the world violations of international humanitarian law persist, causing suffering to victims of armed conflict, particularly the civilian population, and by the challenges posed by the new situations that arise in the context of armed conflicts;

RECALLING that the obligation, under any circumstances, to respect and ensure respect for international humanitarian law, whether treaty-based or arising from customary international law, applies to all states parties to the universally recognized, four Geneva Conventions, which includes the member states;

RECALLING ALSO that 33, 32, and 15 OAS member states are parties, respectively, to Additional Protocols I, II, and III to the Geneva Conventions of 1949, and that 11 have recognized the competence of the International Humanitarian Fact-Finding Commission;

NOTING that, to date, 17 member states are party to the Convention on Cluster Munitions and five have signed it, and that 33 member states are party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction;

SHARING the deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons, and taking note of the International Conference on the humanitarian impact of nuclear weapons, held in Oslo, Norway, from March 4 to 5, 2013;

AWARE of the rich legacy of cultural assets in the Hemisphere recognized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as world heritage, and which would benefit from the protection systems of international humanitarian law, and noting the conclusions and recommendations of the Regional Seminar of National Humanitarian Law Committees on the protection of cultural property in the event of armed conflict, held in December 2011 in El Salvador;

UNDERSCORING the need to strengthen international humanitarian law by means of its universal acceptance, broader dissemination, and adoption of national measures for its effective application, including the suppression of grave breaches thereof;

RECOGNIZING the important advisory work of the national committees or commissions on international humanitarian law at the national level and in the Organization, and that 19 member states have such bodies;

RECALLING the resolutions adopted and promises made at the XXXI International Conference of the Red Cross and Red Crescent, and noting the consultations on strengthening legal protection for the victims of armed conflicts, held on July 13, 2012 in Geneva, Switzerland, and from November 27 to 28, 2012 in San José, Costa Rica;

RECALLING also the conclusions of the Third Universal Meeting of National Committees on International Humanitarian Law held in Geneva, Switzerland, from October 17 to 29, 2010, as well as the conclusions and recommendations adopted by the International Conference of National Committees on International Humanitarian Law of Latin America and the Caribbean held in Mexico City from June 30 to July 2, 2010; and

EMPHASIZING the special role of the International Committee of the Red Cross (ICRC) as a neutral, impartial, and independent institution working to protect and assist victims of armed conflicts, as well as to promote respect for international humanitarian law in the region, and recognizing, also, the valuable efforts of national Red Cross societies in that regard,

RESOLVES:

1. To urge member states and the parties engaged in armed conflict to honor and fulfill their obligations under international humanitarian law, including those pertaining to safeguarding the life, well-being, and dignity of protected persons and property, and the proper treatment of prisoners of war.
2. To urge those member states that have not yet done so to consider becoming parties to the treaties on international humanitarian law to which they are not yet party, including those on prohibition or restriction of the use of certain weapons for humanitarian reasons, and to consider making use of, when appropriate, the services of the International Humanitarian Fact-Finding Commission.
3. To invite the member states to disseminate as widely as possible the rules and principles of international humanitarian law, in particular by incorporating them into military doctrine and manuals, so that armed forces will have the means and mechanisms necessary for their effective application, and by incorporating them into the university curricula and other pertinent means so that such law may be familiar to the civilian population.
4. To urge the member states to adopt such legislative or other measures as may be necessary to meet their legal obligations under the treaties on international humanitarian law to which they are party, including:
  - a. To classify under criminal law grave breaches of international humanitarian law, with a particular emphasis on war crimes, including the responsibility of superiors for the acts of their subordinates and recognition of non-applicability of statutory limitations to these offenses, among other pertinent provisions;
  - b. To adopt all necessary measures to comply with their respective international obligations regarding the recruitment and use of children in armed forces or armed

- groups and to prevent their participation in hostilities, under international humanitarian law, international human rights law, and international refugee law;
- c. To adopt laws to regulate the use of and respect for—and to prevent and, when applicable, punish the misuse of—the Red Cross, Red Crescent, and, where applicable, Red Crystal emblems, as well as their denominations, including provisions to protect medical missions; and
- d. To adopt provisions to guarantee protection of cultural property from the effects of armed conflict, which may include preventive measures related to the preparation of inventories, the planning of emergency measures, and the appointment of competent authorities.
5. To remind member states that are party to treaties that prohibit or restrict, for humanitarian reasons, the use of certain arms and munitions, of their obligations under those instruments, including:
- a. To adopt legislative or other measures to prevent or, as appropriate, criminalize the use, manufacture, stockpiling, and any other prohibited activity with respect to these weapons and munitions; to facilitate the purging and destruction of their arsenals; to provide proper care to victims, and to strengthen control over their availability;
- b. To introduce procedures to determine, when studying, developing, acquiring, or adopting a new weapon, or new means or methods of warfare, whether the use thereof would be contrary to international humanitarian law, and, if so, prohibit such activities;
- c. To actively implement the 2010-2014 Plan of Action of Cartagena, as well as the Vientiane Action Plan, with particular emphasis on care for victims and on activities designed to prevent and reduce the risk of arms contamination.
- d. To strengthen safeguards for civilians against the use and indiscriminate effects of arms and munitions, *inter alia*, through active participation in:
- i. The Meeting of the High-Level Contracting Parties 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, which will be held in Geneva, Switzerland, from November 14 to 15, 2013.
- ii. The Fourth Meeting of States Parties to the Convention on Cluster Munitions, which will be held in Lusaka, Zambia, in September 2013.
- iii. The 13th Meeting of States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on Their Destruction, which will be held in Geneva, Switzerland, from December 2 to 6, 2013.
- iv. The upcoming conference to follow up on the International Conference on the humanitarian impact of nuclear weapons, to be held in Mexico.
6. To take note of the recent adoption of the Arms Trade Treaty and to invite states to consider its prompt signature and ratification.
7. To invite member states to fulfill their promises and resolutions adopted at the XXXI International Conference of the Red Cross and Red Crescent, which was held in Geneva, Switzerland, from November 28 to December 1, 2011, and to continue participating actively in the consultations on strengthening legal protection for victims of armed conflicts.
8. To invite member states to continue to support the work of national committees or commissions responsible for the implementation and dissemination of international humanitarian law; and to urge any state without such a body to consider establishing one as a means of strengthening advancement and observance of international humanitarian law.
9. To request the General Secretariat to identify, in conjunction with the International Committee of the Red Cross (ICRC), mechanisms for promoting the participation of national commissions for international humanitarian law in the activities of the OAS, and to present specific proposals to the Permanent Council, through the Committee on Juridical and Political Affairs (CAJP), before the forty-fifth regular session of the General Assembly.
10. To provide backing for the regional meetings of national commissions for international humanitarian law organized with the support of the ICRC, in particular the next hemispheric conference to be held in San José, Costa Rica, from September 10 to 12, 2013. Accordingly, to instruct the CAJP to organize and lead, with the support and participation of the General Secretariat, and in coordination with the ICRC, a dialogue with national commissions for international humanitarian law, in San José, Costa Rica, on September 13, 2013 to forge closer cooperative ties between the Organization and the said entities in the implementation, integration, and promotion of international humanitarian law. In view of the foregoing, to invite the ICRC to submit a report on the conclusions and results of that hemispheric conference, and to ask the CAJP and the General Secretariat to present a report on the conclusions and results of the aforesaid dialogue, prior to the forty-fifth regular session of the General Assembly.
11. To urge member states to continue to support efforts to implement and strengthen international humanitarian law,

with a view to making its application more effective and to finding solutions to shortcomings in protection.

12. To express its satisfaction with the cooperation between the OAS and the ICRC in promoting respect for international humanitarian law and the principles that govern that law; and to urge the General Secretariat to continue to strengthen such cooperation.
13. To thank the Inter-American Juridical Committee (CJI) and to take note of its report on the "Model Law on the Protection of Cultural Assets during Armed Conflicts" (CJI/doc.403/12 rev. 5), adopted at its 82<sup>nd</sup> regular session, and to instruct the Permanent Council, through the CAJP, to include the consideration thereof on its agenda, and to report on the results of its analysis to the General Assembly at its forty-fourth regular session.
14. To request the General Secretariat to organize, within the framework of the CAJP, through the Department of International Law and in coordination with the ICRC, a course for member states, staff of the OAS, and the general public, in order to promote knowledge of and respect for international humanitarian law and related regional instruments, including measures for their effective implementation.
15. To instruct the Permanent Council to hold, prior to the forty-fourth regular session of the General Assembly, a special meeting on topics of current interest in international humanitarian law.
16. To request the Permanent Council to report to the General Assembly at its forty-fifth regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

### **E. OAS Resolution AG/RES. 2794 (XLIII-O/13) Persons who have disappeared and assistance to members of their families**

*(Adopted at the second plenary session, held on 5 June 2013  
in La Antigua, Guatemala)*

THE GENERAL ASSEMBLY,

RECALLING resolution AG/RES. 2717 (XLII-O/12), "Persons Who Have Disappeared and Assistance to Members of Their Families," adopted by the General Assembly on June 4, 2012; resolution 67/180, "Missing Persons," adopted by the United Nations General Assembly on December 20, 2012; other past resolutions on this subject, adopted by both forums, by the former Commission on Human Rights, and by the present Human Rights Council of the United Nations; as well as the treaties on international humanitarian law and international human rights law, both universal and regional, that address this problem;

NOTING that the International Convention for the Protection of All Persons from Enforced Disappearance, adopted on December 20, 2006, by the United Nations General Assembly, entered into force on December 23, 2010; that 37 countries have ratified or acceded to it, of which 14 are states of the Hemisphere, and that four of the 14 countries that have recognized the competence of the Committee on Enforced Disappearances belong to this region;

BEARING IN MIND that the problem of missing persons and assistance to members of their families is addressed in both international humanitarian law and international human rights law within their respective spheres of application, and that, in accordance with those legal frameworks, states are further urged to adopt, progressively, the national implementing measures referred to in previous resolutions of this General Assembly on the subject, in particular, in terms of prevention, investigation of cases, and treatment of human remains, and support to family members;

REAFFIRMING the humanitarian need and the responsibility of states to continue necessary efforts to alleviate the suffering, anxiety, and uncertainty besetting the family members of persons who are presumed to have disappeared in situations of armed conflict or armed violence, as well as their right to truth and justice, to learn about the fate and whereabouts of those persons, as recognized in OAS resolution AG/RES. 2509 (XXXIX-O/09), and, where appropriate, to receive legal remedy for the damage caused;

RECOGNIZING the need to address the issue of persons considered to have disappeared as part of peace-building, and consolidation of peace processes, using all available judicial and transitional-justice mechanisms, within a framework of the rule of law, transparency, accountability, and public participation;

EMPHASIZING the development of forensic science and, in particular, forensic genetics, and the important contribution of those sciences to the process of searching for missing persons, especially as regards clarifying the location, recovery, identification, and return of human remains, and as regards the fate and the whereabouts of persons who are presumed to have disappeared; and

REAFFIRMING that forced disappearance is a multiple and continuous violation of several human rights, the widespread or systematic practice of which constitutes a crime against humanity as defined in applicable international law, accordingly, cannot be practiced, permitted, or tolerated, even in states of emergency or exception or of suspension of guarantees,

RESOLVES:

1. To reiterate the provisions of paragraphs 1 to 17 of resolution AG/RES. 2594 (XL-O/10), "Persons Who Have Disappeared and Assistance to Members of Their Families," adopted by the General Assembly on June 8, 2010.

2. To urge member states, in keeping with their obligations under international humanitarian law and international human rights law and with pertinent national and international jurisprudence, to continue the progressive adoption of measures, including domestic regulatory and institutional provisions to:
  - a. Prevent the disappearance of persons in the context of armed conflict or other situations of armed violence, with particular focus on those related to vulnerable groups;
  - b. Clarify the fate and whereabouts of those who have disappeared;
  - c. Strengthen technical capacity and promote regional cooperation for forensic search, recovery, and use of forensic genetics for the identification of human remains including as regards the problem of migrants presumed to have disappeared; and
  - d. Attend to the needs of the family members, using as a reference, *inter alia*, the Guiding Principles/Model Law on the Missing, prepared by the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross (ICRC).
3. To encourage member states, in order to address the legal situation of missing persons and its effect on that of family members, to proceed to adopt the necessary domestic legal framework to recognize and address the legal and practical difficulty and hardship faced by the missing person and his or her family members, including the legal framework needed to authorize a "declaration of absence" for persons who are presumed to have disappeared, taking as a point of reference, *inter alia*, the Model Law on the Missing, drawn up for that purpose by the ICRC.
4. To invite member states to enact timely provisions that ensure the participation and representation of victims and their families in the relevant proceedings, as well as access to justice and to mechanisms for them to be able to seek fair, prompt, and effective reparation; and similarly, provisions to guarantee protection for victims and witnesses, especially women and children, human rights defenders, and lawyers involved in cases of serious violations of international humanitarian law and human rights cases filed in their courts and in other transitional justice mechanisms.
5. To ask member states to pay maximum attention to cases of children presumed to have disappeared in connection with armed conflicts and other situations of armed violence and to adopt appropriate measures to seek out and identify those children and reunite them with their families.
6. To invite member states to consider ratifying and/or acceding to, and implementing in their domestic legal systems the Inter-American Convention on Forced Disappearance of Persons of 1994 and the International Convention for the Protection of All Persons from Enforced Disappearance and to recognize the competence of the Committee on Enforced Disappearances for which that Convention provides.
7. To exhort member states, in order to allow family members to exercise their right to learn the fate and whereabouts of relatives who have disappeared in situations of armed conflict or armed violence, as recognized in resolution AG/RES. 2509 (XXXIX-O/09), to adopt effective measures in the context of a broad and comprehensive investigation for the location, recovery, identification, and return of human remains, using standardized forensic protocols and promoting the establishment of centralized databases, while respecting the families' dignity, traditions, and mental health.
8. To invite member states to collect, protect, and manage data on disappeared persons in accordance with national and international legal standards and provisions, and to cooperate with one another and with other interested bodies working in this field, *inter alia*, through the exchange of information.
9. To recommend that member states take into account minimum standards for psychosocial work when defining and applying their government policies concerning the search for missing persons and the corresponding forensic investigation, and in addressing the situation of family members, such as, for example, those proposed in the "Global consensus on principles and minimum standards for psychosocial work in forensic search and investigation processes for cases of forced disappearance and arbitrary or extra-judicial executions."
10. To urge member states, in line with the conclusions and recommendations of the First Meeting of Forensic Specialists of the Americas, of the Meeting of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA), held on September 24 and 25, 2009, to support the training of forensic scientists in their own countries and the implementation of professional forensic training consistent with internationally validated scientific standards and procedures, to that end fostering the international cooperation, participation, and technical assistance of international and national institutions with recognized experience in the field.
11. To invite member states to continue their cooperation with the ICRC, a recognized neutral and independent humanitarian institution, in its various areas of responsibility, by facilitating its work and implementing its technical recommendations with a view to consolidating the measures adopted by states in the process of searching for missing persons.

12. To encourage member states, as appropriate, with the support of their respective missing persons search commissions and their national commissions on human rights or on international humanitarian law, or other competent bodies, in accordance with their respective mandates, and with technical collaboration from the ICRC, to promote, at the national level, the adoption of measures regarding the provisions of the resolutions adopted by the General Assembly since 2005 on "Persons who have Disappeared and Assistance to Members of Their Families" and to provide information thereon, entrusting the Committee on Juridical and Political Affairs (CAJP) with placing on its agenda the broad dissemination of this information before the forty-fourth regular session of the OAS General Assembly.
13. To instruct the Permanent Council to follow up on this resolution. Execution of the activities envisaged in this resolution shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.

## **F. OAS Resolution AG/RES. 2728 (XLII-O/12) Promotion of the international criminal court**

*(Adopted at the second plenary session, held on 4 June, 2012 in Cochabamba, Bolivia)*

THE GENERAL ASSEMBLY,

RECALLING its resolution AG/RES. 2659 (XLI-O/11) and all its previous relevant resolutions;

FURTHER RECALLING the recommendation of the Inter-American Commission on Human Rights (OEA/Ser.L/V/II.102, doc.6 rev., of April 16, 1999, Chapter VII, 21.3.B), as well as its resolution No. 1/03 on the prosecution of international crimes and the Framework for OAS Action on the International Criminal Court (AG/INF.248/00);

NOTING with concern the continuation in some parts of the world of persistent violations of international humanitarian law and international human rights law, and reaffirming that all states have the basic responsibility to prevent their commission and recurrence and to avoid the impunity of their perpetrators, particularly by investigating, prosecuting, and punishing such violations, where applicable, within a framework of full respect for relevant judicial guarantees and due process;

REAFFIRMING the primary responsibility of states, through their national jurisdictions, to investigate and prosecute the perpetrators of the most serious crimes of concern to the international community in a way consistent with international law, and bearing in mind the complementary nature of the

jurisdiction of the International Criminal Court in respect of the crimes for which they have jurisdiction;

CONVINCED that the Rome Statute and the International Criminal Court are effective instruments for consolidating international criminal law and for guaranteeing that international justice can help consolidate lasting peace;

WELCOMING WITH SATISFACTION the fact that 121 states have now ratified or acceded to the Rome Statute, among them 28 members of the Organization of American States (OAS), with Grenada and Guatemala as the most recent states to accede thereto, on May 19, 2011, and on April 2, 2012, respectively; and that 16 member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court, Chile and Brazil being the most recent states to ratify it, having done so on September 26 and December 12, 2011, respectively;

RECALLING the outcome of the Review Conference of the Rome Statute, held in Kampala, Uganda, from May 31 to June 11, 2010;

TAKING NOTE of the first judgment issued by Trial Chamber I of the International Criminal Court on March 14, 2012, *The Prosecutor v. Thomas Lubanga Dyilo* (ICC-01/04-01/06);

HIGHLIGHTING the existence of the first Agreement on the Enforcement of Sentences in the region, signed by Colombia and the International Criminal Court on May 18, 2011;

MINDFUL of the importance of full and effective cooperation from the states, from the United Nations, including the Security Council, other international and regional organizations, and civil society to the effective functioning of the International Criminal Court, as recognized in the Rome Statute, and taking note of United Nations General Assembly resolution 65/12, which invites regional organizations to consider the possibility of concluding cooperation agreements with the Court;

UNDERSCORING the importance of the "Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court" signed by the General Secretariat of the OAS and the International Criminal Court on April 18, 2011;

EMPHASIZING the important work of the Coalition for the International Criminal Court in promoting the Rome Statute with the member states;

RECALLING the outcome of the Working Meeting on the International Criminal Court, held at OAS headquarters on March 10, 2011, within the framework of the Committee on Juridical and Political Affairs and with support from the Department of International Law;

TAKING NOTE of the cooperation agreement signed by the Inter-American Commission on Human Rights and the International Criminal Court in April 2012; and

TAKING NOTE ALSO of the Annual Report of the Permanent Council to the General Assembly (AG/doc. 5240/12 add. 1),

RESOLVES:

1. To renew its appeal to those member states that have not yet done so to consider signing, ratifying, or acceding to, as appropriate, the Rome Statute of the International Criminal Court and its Agreement on Privileges and Immunities.
2. To remind those member states that are parties to said instruments of the importance of the promotion of their universality and to continue adopting the necessary measures to achieve their full and effective implementation, and to adopt measures to adjust their national legislation, including, where appropriate, regarding the inclusion of crimes within the jurisdiction of the International Criminal Court, international cooperation and judicial assistance, and the protection of and reparations for victims.
3. To commemorate with satisfaction the tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court in 2012 and to invite member states to consider, within the framework of said anniversary, carrying out activities related to its promotion.
4. To welcome with satisfaction the cooperation and assistance provided to date to the International Criminal Court by those member states that are parties to the Rome Statute, by those member states that are not, and by international and regional organizations, and to urge them to continue their efforts to ensure cooperation with and assistance to the International Criminal Court in accordance with any applicable international obligations, particularly as regards arrest and delivery, presentation of evidence, protection and movement of victims and witnesses, and serving of sentences, so as to avoid the impunity of the perpetrators of crimes over which it has jurisdiction.
5. To urge those member states that are parties to the Rome Statute to support and promote the work of the International Criminal Court, in keeping with their obligations.
6. To draw attention to the importance of the cooperation that states that are not parties to the Rome Statute can render to the International Criminal Court.
7. To encourage those member states that are able to do so to contribute to the Trust Fund for Victims of crimes within the jurisdiction of the International Criminal Court, and of the families of such victims; to the Special Trust Fund for Relocation of Witnesses, and to the Trust Fund for the participation of least developed countries and other developing States in the work of the Conference, with a view to facilitating their participation at the Assembly of States Parties.
8. To encourage those member states that are parties to the Rome Statute to follow up specifically on the results of the Review Conference and on compliance with the promises made during that conference, and to give consideration to ratifying the amendments adopted.
9. To welcome the election by consensus of the new Prosecutor of the International Criminal Court, Fatou Bensouda, in December 2011, and to thank the outgoing Prosecutor, Luis Moreno-Ocampo, the first Chief Prosecutor of the International Criminal Court.
10. To welcome the election, in December 2011, of six new judges to the International Criminal Court, two of whom are from the region (Dominican Republic and Trinidad and Tobago); and to invite the member states to promote regional representation on the International Criminal Court.
11. To request the Inter-American Juridical Committee (CJI), with collaboration from the General Secretariat, through its Secretariat for Legal Affairs, to continue providing support for and promoting in member states the training of administrative and judicial officials and academics on cooperation with the International Criminal Court and adoption of national legislation in that regard.
12. To recall the CJI reports on criminalization of offenses within the jurisdiction of the International Criminal Court: The Report on the Activities on Promotion of the International Criminal Court and Preliminary Draft of Model Texts for Crimes Contemplated in the Rome Statute (CJI/doc.360/10 rev. 1) and its supplemental report (CJI/doc.374/11), and to request those states that have not yet criminalized those offenses to consider implementing the suggestions of the Committee, where appropriate.
13. To request the General Secretariat to report, prior to the forty-fourth regular session of the General Assembly, on implementation of the cooperation measures set forth in the "Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court" signed by the General Secretariat of the Organization of American States (OAS) and the International Criminal Court.
14. To recall the request made to the Permanent Council to hold, prior to the forty-third regular session of the General Assembly, a working meeting with support from the Department of International Law, which should include a high-level dialogue session among the permanent representatives of all member states to discuss, among other matters, measures that could strengthen cooperation with the International Criminal Court. The International Criminal Court, international organizations and institutions, and civil society will be invited to cooperate and participate in this working meeting.

15. To request the Secretary General to report to the General Assembly at its forty-fourth regular session on the implementation of this resolution. Execution of the activities envisaged in this resolution will be subject to the availability of financial resources in the program-budget of the Organization and other resources.

## **G. Federal Department of Foreign Affairs, Swiss Confederation - International Committee of the Red Cross**

*(Bern / Geneva, 19 April 2013)*

### **Discussion on Strengthening Compliance with International Humanitarian Law (IHL)**

*(Geneva, 8/9 April 2013)*

#### **CHAIRS' CONCLUSIONS**

##### **Context**

In its Resolution 1, the 31st International Conference of the Red Cross and the Red Crescent of late 2011 stressed that greater compliance with international humanitarian law (IHL) is an indispensable prerequisite for improving the situation of victims of armed conflict.

The Conference invited the International Committee of the Red Cross (ICRC) to pursue further research to identify possible means to enhance the effectiveness of mechanisms of compliance with IHL and requested that a report, proposing a range of options and recommendations, be submitted to the 32nd International Conference. It also expressed its appreciation to the Government of Switzerland for its availability to facilitate a process to explore ways and means to strengthen the application of IHL and to reinforce dialogue on IHL issues among States, in cooperation with the ICRC.

Besides numerous bilateral consultations, a round of discussions with a number of States, representing all regions, was held in Geneva on 8/9 November 2012. Pursuant to the recommendations by the meeting States of 13 July 2012, the question of the format of a more regular dialogue among States and the possible functions of an IHL compliance system were at the centre of those exchanges. As more in-depth discussions were deemed necessary in view of the meeting of States of 17/18 June 2013, a second discussion took place in Geneva on 8/9 April 2013.

##### **Agenda of the second discussion**

The second discussion dealt with:

- the specific functions that an effective IHL compliance system would need to perform and their features;
- the possible format of an institutional framework providing States with a regular opportunity to engage in a dialogue on IHL matters with a view to strengthening compliance with IHL.

##### **Priorities and guiding principles of the process**

As the various consultations and the discussions held thus far have shown, the following priorities and principles will need to guide the thinking in the further process:

- the need for any mechanisms to be effective;
- the importance of minimizing the risk of politicisation;
- avoiding unnecessary duplication;
- taking into account resourcing considerations, and
- the need to find appropriate ways of engaging with non-state actors, given the prevalence of non-international armed conflicts.

##### **Possible functions of an IHL compliance system**

The second discussion looked at the possible functions that an IHL compliance system could be endowed with. The functions dealt with were: periodic reporting, fact finding, early warning and urgent appeals, country visits, non-binding legal opinions, good offices, State inquiries, dispute settlement, examinations of complaints. Some of these functions attracted more attention than others, notably the functions of periodic reporting and of fact-finding. All these functions will be part of the outline to be presented to all States at the upcoming meeting of 17/18 June.

The deliberations showed, however, that periodic reporting and fact-finding would constitute important elements of a meaningful IHL compliance system. The discussion about the reporting function also broached the question of whether it should focus on national compliance or rather on thematic issues, or if a combination should be envisaged. The discussion, moreover, briefly revisited the question of the potential for reform of the three existing compliance monitoring mechanisms, i.e. the Enquiry Procedure, the Protecting Power system and the International Humanitarian Fact-Finding Commission (IHFFC). While there was broad agreement that it would be difficult to enhance the effectiveness of the first two, inter alia on account of their limitation to international armed conflict, it was felt that it will be worth examining how the IHFFC can be revitalised so as to serve as part of an effective compliance system.

##### **Forum of States for regular dialogue on IHL**

As concerns a possible forum that would enable States to engage in a regular dialogue on IHL issues, there was a tendency in favour of establishing a Meeting of States as provided for in all other treaties that deal with the protection of persons. With regard to the frequency of such meetings a preference emerged for annual or at least biennial meetings. It was also

felt that the function of periodic reporting would have to be linked in some way to the Meeting of States, regardless of its exact configuration. Furthermore, the exchanges considered how and to what degree such a forum of States would need to be formalised.

#### The way forward

The question of how to strengthen compliance is central to the credibility of IHL and hence concerns all States. It is therefore imperative that all States are part of the consultations on the options and recommendations to be submitted to the 32nd International Conference of the Red Cross and the Crescent. Switzerland and the ICRC thus intend to continue to hold consultations on a bilateral basis and also within groups, and to convene meetings of all States until the 32nd International Conference. All these exchanges will allow for an open, transparent and inclusive debate on the structure that a regular dialogue among States could have and on the role that a coherent compliance system could play in furtherance of respect for IHL.

As concerns the meeting of States of 17/18 June 2013, all the possible functions of an effective IHL compliance system and the different considerations regarding the possible establishment of a universal forum of States will be deliberated in detail.

In mid-May the agenda of the June meeting and a background document will be sent to all States. In view of the significance of the question of how best to strengthen compliance, the Swiss Minister for Foreign Affairs, Mr. Didier Burkhalter, and the President of the ICRC, Dr Peter Maurer, will open the meeting.

It can be assumed that in order to take the process forward following the June meeting, it will be useful to be able to base future exchanges on more concrete proposals regarding the possible features and tasks to be performed by a Meeting of States. Pursuant to resolution 1 of the 31st International Conference, the June meeting could therefore entrust Switzerland and the ICRC with a mandate to devise such concrete proposals in preparation for the meeting of States in early summer 2014.

Switzerland and the ICRC remain available for bilateral talks with interested States at all times and will continue to inform the International Red Cross and the Red Crescent Movement, National Committees for the Implementation of IHL, as well as international and regional organisations, and others, on the development of the initiative. As for the next round of discussions, it is tentatively scheduled for November 2013.

Proposals from all States with regard to process and to substance would be greatly appreciated. Views and ideas on how to further develop this initiative can be sent to: [dv-badih@eda.admin.ch](mailto:dv-badih@eda.admin.ch)





#### **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 armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.



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