ICRC'S LEGAL FACTSHEET

ICRC

THE OBLIGATION TO DISSEMINATE INTERNATIONAL HUMANITARIAN LAW



Knowledge of international humanitarian law (IHL) is essential to ensure respect for the rules contained therein. When states become parties to the 1949 Geneva Conventions (GC) and their 1977 Additional Protocols (AP), they commit themselves to disseminate the provisions of those instruments as widely as possible, both in peacetime and in armed conflict. Furthermore, the Geneva Conventions require that states include the study of IHL in their programmes of military and, if possible, civil instruction, so that the rules may become known to the entire population. Other IHL instruments also contain an obligation of this nature, which is also customary. Although it is primarily the responsibility of states to make the law known, other organizations, such as the International Committee of the Red Cross (ICRC), working in cooperation with National Red Cross and Red Crescent Societies and their International Federation of Red Cross and Red Crescent Societies (IFRC), have a mandate to assist states in this task. Resolutions adopted by the International Conference of the Red Cross and Red Crescent in 2019 and 2024 respectively further emphasize the responsibility of the International Red Cross and Red Crescent Movement to take concrete steps to disseminate IHL effectively, paying particular attention to those called upon to implement or apply IHL.

DISSEMINATION: A LEGAL OBLIGATION

The obligation to disseminate IHL is expressly enshrined in the Four Geneva Conventions (GC I-IV, Arts 47/48/127/144 respectively), as well as their Additional Protocols (AP I, Arts 83, 87(2) and 89; AP II, Art. 19; AP III, Art. 7). The ICRC's Study on Customary IHL (CIHL Study) has also concluded that the obligation to disseminate IHL stems from customary law (CIHL Study, Rules 142 and 143).

The obligation to disseminate IHL is based on the idea that knowledge of the rules established in law is essential for their effective application and, consequently, for the protection of people affected by armed conflict. It is a corollary of the wider commitment made by states to respect and ensure respect of IHL in all circumstances. The dissemination of IHL must be effective to ensure that if and when it becomes applicable, the law can fulfil its purpose.

In order for knowledge of the law to be effective, dissemination activities must commence in peacetime and continue if an armed conflict breaks out. If a state were only to start disseminating IHL during armed conflict, then this would be too late for knowledge of the law to be effective. Additional Protocol I strengthens the obligation by requiring states to take a number of specific measures in peacetime. Dissemination promotes respect for the rules of the law and helps incorporate the values that underpin IHL – including humanity, dignity, restraint, responsibility and respect for civilian life – in national education programmes, thereby contributing to limiting violence and preserving peace.

The obligation to disseminate IHL must be read in conjunction with the obligation to respect and ensure respect for IHL in all circumstances.

THE SUBSTANCE OF THE OBLIGATION

The obligation of states to instruct their armed forces in the rules laid down in the laws and customs of war, and to bring those rules to the attention of the general public, was a feature of the first instruments of the law of armed conflict. Furthermore, the fact that states stress the duty to disseminate IHL, or pledge to do so, in official statements, military manuals and domestic legislation, together with the dissemination activities they carry out in practice, substantiates the customary nature of this rule.

Geneva Conventions

All four 1949 Geneva Conventions use virtually identical wording to reaffirm the general obligation to disseminate the texts (GC I/II/III/IV, Arts 47/48/127/144):

> *The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to all their armed forces and to the entire population.*

The Third Geneva Convention of 1949 adds that any military or other authorities who in time of war are responsible for prisoners of war, must possess the text of the Convention and be specially instructed as to its provisions (Art. 127(2)). The officers in charge of prisoners of war camps must ensure that these provisions are known to the camp staff and the guards, and will be held responsible for their application (Art. 39). Furthermore, the Convention must be posted in places where the prisoners of war can read it (Art. 41).

The Fourth Geneva Convention of 1949 provides the same obligations with regards to any civilian, military, police or other authorities who assume responsibilities in respect of civilians, particularly in places of internment (Arts 99 and 144(2)).

Additional Protocols

The obligation to disseminate the Geneva Conventions and the Additional Protocols is reiterated and developed in the Additional Protocols themselves (AP I, Art. 83; AP II, Art. 19). Additional Protocol I makes provision for specific measures with a view to strengthening the general obligation. Additional Protocol II makes the obligation applicable to situations of non-international armed conflict. The reflex to comply with the rules of IHL, which should be inculcated through the dissemination of those same rules, is in fact always the same, irrespective of the nature of the conflict.

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

The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict requires that its provisions be made known to the personnel engaged in the protection of cultural property (Art. 25). Moreover, the 1999 Second Protocol to that Convention requires that any military or civilian authorities who, in time of armed conflict, assume responsibilities with respect to its application be fully acquainted with the text. To that end, the states must incorporate guidelines and instructions on the protection of cultural property in their military regulations, and must also develop and implement peacetime training and educational programmes in cooperation with UNESCO and relevant governmental and non-governmental organizations (Art. 30).

The 1980 Convention on certain Conventional Weapons

The 1980 Convention on certain Conventional Weapons also requires states to incorporate study of the text and of its Protocols in programmes of military instruction (Art. 6). Its Second Amended Protocol specifies that each state must require its armed forces to issue relevant military instructions and operating procedures, and to provide training for armed forces personnel that is commensurate with their respective duties and responsibilities (Art. 14). Protocol IV stipulates that the states shall provide training for their armed forces (Art. 2).

Convention on the Rights of the Child

And finally, every state party to the Convention on the Rights of the Child (Art. 42) and to its Optional Protocol of May 2000 on the involvement of children in armed conflict (Art. 6) undertakes to make the principles and provisions of those instruments widely known by appropriate means, to adults and children alike.

Customary law

In terms of customary law, Rule 142 of the ICRC's Study on Customary IHL emphasizes the duty of states and parties to armed conflicts to provide instruction in IHL to their armed forces. According to Rule 143 of the CIHL Study, states must also encourage the teaching of IHL to the civilian population. Both rules ought to be read in conjunction with Rule 139 of the CIHL Study, which requires from parties to armed conflicts to respect and ensure respect for IHL by its armed forces and other persons or groups acting on its instructions, or under its direction or control.

States and parties to the conflict must provide instruction in IHL to their armed forces.

States must encourage the teaching of IHL to the civilian population.

HOW SHOULD STATES DISCHARGE THEIR OBLIGATION?

In addition to making a distinction between dissemination to the armed forces and dissemination to the civilian population, the instruments of IHL indicate measures that states must take in order to fulfil their obligation to spread knowledge of the law. In particular, since dissemination must be as wide as possible, states are allowed considerable leeway with regard to the choice of means to conduct it.

Translation of IHL instruments into national languages constitutes a first step towards their dissemination and implementation.

The obligation to translate the instruments of IHL into national languages obviously constitutes a first step towards their implementation (GC I/II/III/IV, Arts 48/49/128/144; AP I, Art. 84; 1954 Hague Convention, Art. 26).

Among the armed forces

Incorporating the study of IHL into programmes of military instruction is the fundamental measure set forth in the treaties with a view to making the law known to the armed forces, who bear primary responsibility for its application.

Additional Protocol I specifies that the military authorities must be fully acquainted with the text of the Protocol (Art. 83(2)). This obligation is strengthened first by the fact that the states must ensure that legal advisers are trained to assist commanders in the application of the Geneva Conventions and the Additional Protocol and to advise them on the appropriate instruction to be given to the armed forces on this subject (Art. 82), and, secondly, by the fact that commanders must ensure that the military personnel under their command are aware of their obligations under these instruments (Art. 87).

The 1954 Hague Convention requires furthermore that services or specialist personnel be established who are responsible for securing respect for cultural property (Art. 7).

If the programmes of military instruction are to be effective, guidelines should be adopted for teaching the law, and IHL should be incorporated into military handbooks, manoeuvres and exercises and into the operational planning procedures and rules of engagement of the armed forces, among other doctrinal documents. States which provide troops for peacekeeping or peace-enforcement operations conducted by the United Nations or under its auspices must ensure that the military personnel belonging to their contingent are instructed in the provisions of the law.

Among the civilian population

It is as imperative to spread knowledge of the law among the civilian population as it is among the armed forces. This is an area, however, in which states are given some degree of flexibility in deciding whether (and how) to organize the dissemination of IHL. It should be noted that the way in which the obligation was crafted aimed to factor in possible constitutional limitations affecting certain governments in federal states, whose ability to centrally regulate education might be restricted.

Instruction in IHL should be provided primarily to the public authorities responsible for its application. It should thus be taught in universities, specifically in faculties of law, schools of public administration and diplomacy. Courses should be designed to empower future professionals working in the executive, military, diplomatic, judicial and other pertinent sectors of government. This can best be done by using case studies reflecting contemporary practice that explain not only the rules, but also why and how compliance with them matters to people affected by armed conflict. In addition, for the dissemination of IHL to be effective, students should ideally be made aware of the avenues available to demand compliance with and faithful implementation of IHL, so that they can contribute to it. The general principles of the law should be taught in secondary schools, using tools and channels that are adapted to the audience and showing the importance of respect for IHL for people affected by armed conflict. Members of the medical corps and the media should also be given training commensurate with their activities.

Furthermore, Additional Protocol I stipulates that states must train qualified personnel to facilitate the application of the Conventions and the Protocol (Art. 6). These individuals, who should be qualified in particular in the legal,

military and medical fields and must be recruited and trained in peacetime in order to be operational in the event of conflict, could be assigned by the government authorities to the dissemination service.

THE ROLE OF NATIONAL IHL COMMITTEES

The interministerial nature of national IHL committees allows them to ensure that their respective governments comply with the obligation to spread knowledge of the law and that the subject is included in national education programmes. Indeed, the presence of representatives from ministries involved in national implementation – such as defence, foreign affairs, interior, justice, finance and education – is a key aspect of these committees. The presence of qualified IHL academics in such committees might also be an asset. National IHL committees should also endeavour to develop, review and update dissemination programmes, regularly publish voluntary reports on IHL that present the state of implementation and dissemination at national level, and issue recommendations accordingly.

THE ROLE OF THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT

Further to the Geneva Conventions, the Additional Protocols and the Statutes of the Movement, the role of the Movement in IHL dissemination has been repeatedly affirmed over the years through various resolutions adopted by the International Conference of the Red Cross and Red Crescent and the Council of Delegates.

The ICRC, for its part, has a mandate to work for the understanding and dissemination of IHL with the cooperation of National Societies (see the Statutes of the Movement, Art. 5, and the Statutes of the ICRC, Art. 4). To carry out its mandate, the ICRC organizes events aimed at promoting IHL in partnership with key stakeholders for IHL implementation: governments, armed forces, National Societies, academia and others. Such events include the training of trainers, student competitions, conferences, round tables and workshops. Additionally, the ICRC draws up dissemination programmes and specialist teaching materials with and for the armed and security forces, and for academic circles and the general public, including young people in certain countries. The ICRC also runs campaigns to heighten public awareness of the law. Teaching materials can be accessed through the ICRC's website. Furthermore, the ICRC Advisory Service on IHL regularly updates a collection of documents on implementation of the law in individual countries. This collection is part of a database, the National Practice Database, that can also be accessed through the ICRC's website and contains, *inter alia*, information on the measures taken by states to spread knowledge of IHL. It also makes available voluntary reports on the domestic implementation of IHL that are prepared and published by states, which typically also include information about the efforts to disseminate IHL and contain examples of good practice.

It should be recalled that National Societies have a mandate to disseminate IHL and to help their governments to disseminate knowledge of the law. They also have a mandate to cooperate with their governments to ensure respect for IHL and to protect the distinctive emblems recognized under the Geneva Conventions and their Additional Protocols. They must take initiatives to that effect, including recruiting, training and assigning the necessary staff to do so (Statutes of the Movement, Art. 3).

The IFRC also helps promote IHL and cooperates with National Societies in this area (Statutes of the Movement, Art. 6, and IFRC Constitution, Art. 3).

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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