

2016-2017 REPORT

IMPLEMENTING IHL

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

PROGRESS AND ACTIVITIES IN THE AMERICAS

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This report, prepared by the **Advisory Service on International Humanitarian Law** of the International Committee of the Red Cross (ICRC) for submission to the Member States of the Organization of American States (OAS), brings together information on the most significant activities and progress achieved in the implementation of international humanitarian law (IHL) in the region in the period 2016–2017. The report is not intended to be exhaustive, and readers seeking further information on this subject can visit www.icrc.org or directly contact the Advisory Service's Unit for Latin America and the Caribbean at the ICRC's regional delegation in Mexico City.

LEGAL BASIS FOR THE ICRC'S WORK

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

In accordance with Article 5 of the Movement's Statutes, the role of the ICRC includes endeavouring at all times – as a neutral institution whose humanitarian work is carried out particularly in international and other armed conflicts or internal strife – to ensure the protection of and assistance to military and civilian victims of such events and their direct results. It also includes promoting the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and preparing any development of this body of law.

The Geneva Conventions and Additional Protocol I give the ICRC a specific mandate to act in international armed conflicts, which includes the right to visit prisoners of war and civilian internees. The Geneva Conventions also grant the ICRC a broad right of initiative.

Article 3 common to the four Geneva Conventions gives the ICRC a right of initiative in non-international armed conflicts.

In the event of internal disturbances and tensions and in any other situation that warrants humanitarian action, the ICRC enjoys a right of initiative which is recognized in the Statutes of the International Red Cross and Red Crescent Movement and allows it to offer its services to governments without it constituting interference.

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INTRODUCTION

This report, prepared by the International Committee of the Red Cross (ICRC), describes the qualitative and quantitative advances achieved in the period 2016–2017 by the Member States of the Organization of American States (OAS). This progress reflects the importance the region’s countries attach to international humanitarian law (IHL), which seeks to limit the effects of armed conflicts by restricting the means and methods of warfare, protecting people who are not or are no longer participating in the hostilities and safeguarding humanitarian action and the ICRC.

IHL treaties are widely accepted by States around the world, including the American States, with the four Geneva Conventions of 1949 having achieved universal ratification. Over the years, further instruments have been adopted to regulate a wide range of specific issues, such as the protection of cultural property and prohibitions and limitations on certain types of weapons, such as anti-personnel mines, chemical and biological weapons, cluster munitions and, more recently, nuclear weapons.

In order to ensure their effectiveness, the rules of IHL codified in treaties require the adoption in peacetime of complementary measures by the States that have ratified these instruments. In the two-year period 2016–2017, as well as becoming party to different treaties (for example, the Arms Trade Treaty), the region’s States also adopted concrete measures for IHL implementation, which included enacting domestic legislation, adjusting public policy, incorporating IHL rules into military training and manuals, spreading knowledge of IHL among the general public, adapting university syllabuses and marking protected property (such as cultural heritage sites).

National IHL committees and similar interministerial bodies, set up by governments to advise and assist them in applying and disseminating the principles of IHL, often play an important role in formulating and introducing such measures. Bodies of this kind have been established in twenty American States to date. The ICRC supports their work in specific areas and also promotes the exchange of best practices and learnings among them, by periodically organizing global and regional meetings. The region’s national IHL committees were invited to take part in the Universal Meeting of National Committees and Similar Bodies on International Humanitarian Law held in 2016 in Geneva under the overarching theme of Enhancing Protection in Armed Conflict through Domestic Law and Policy. In 2017, a regional meeting of the national committees of the Americas was staged in San José (Costa Rica) on the occasion of the 40th anniversary of the Additional Protocols of 1977 and the 20th anniversary of the 1997 Anti-Personnel Mine Ban Convention. At the meeting, the participating States were informed about the latest developments in various topics relating to weapons.

In the reporting period, the region’s countries continued to show their firm commitment to developing IHL. A number of States played a prominent role in advancing various diplomatic processes, such as the one that led to the adoption of the Treaty on the Prohibition of Nuclear Weapons in July 2017, the negotiations for the global compacts on migration and refugees (which refer specifically to armed conflicts) and processes to strengthen compliance with IHL and strengthen IHL protecting persons deprived of their liberty in accordance with resolutions adopted at the 32nd International Conference of the Red Cross and Red Crescent in 2015.

For its part, the OAS kept IHL and the humanitarian issues facing the region high on its agenda. The Committee on Juridical and Political Affairs, in particular, focused on these topics, and the ICRC was invited to join in its discussions on the question of the missing and the needs of their families in 2017. Further proof of its commitment in this area were the resolutions relating to IHL adopted at the OAS General Assemblies held in Santo Domingo (2016) and Cancun (2017), which addressed issues such as the promotion of and respect for IHL, migration and internal displacement in the Americas and promotion of the International Criminal Court.

The results set out in this report undoubtedly contribute to strengthening respect for IHL in the Americas and around the world. However, in spite of these advances and achievements, there remains much to be done. The prospects for continued progress are promising, as there is a wide debate on issues relating to IHL and to situations of violence other than armed conflict in which IHL does not apply but which lead to great suffering. Responding effectively to these situations to prevent and alleviate suffering is a major challenge for both States and humanitarian organizations.

Eric Tardif
Legal advisor
ICRC regional delegation
for Mexico, Central America and Cuba

I. INTERNATIONAL HUMANITARIAN LAW (IHL) TREATIES AND CUSTOMARY LAW

International humanitarian law is a set of rules that seek to limit the effects of armed conflict for humanitarian reasons. It protects individuals who are not or are no longer participating directly in the hostilities and restricts the means and methods of warfare. IHL is also known as the “law of war” or the “law of armed conflict”. The rules are enshrined in international treaties and in customary international law.

A. PARTICIPATION OF THE AMERICAN STATES IN IHL TREATIES

A major part of IHL is contained in the four Geneva Conventions of 1949, to which all States are party. The Conventions are supplemented by the Additional Protocols of 1977 relating to the protection of victims of armed conflicts, while other treaties prohibit the use of certain weapons and methods of warfare and protect certain categories of people and property.

The main instruments concerning the protection of people and property against armed conflict are the following (the abbreviations in parentheses are the ones used in the table below).



2017, Colombia. A Delegate from the ICRC talks to a member of an armed group.

1. PROTECTING THE VICTIMS OF ARMED CONFLICTS

- **The Four Geneva Conventions of 12 August 1949 (GC I–IV 1949):** These treaties, which are universally accepted, protect the wounded and sick (GC I), the shipwrecked (GC II), prisoners of war (GC III) and civilians (GC IV). They also protect the medical mission and medical personnel, units, facilities and transport. The Conventions do not, however, cover some important areas such as the conduct of hostilities and protection of the civilian population against the effects of hostilities. A total of 196 States are parties to the Geneva Conventions, including the 35 American States.

- **Protocol I additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts of 8 June 1977 (AP I 1977):** Additional Protocol I applies to international armed conflicts. It imposes limits on the way military operations can be conducted. It stipulates that the parties to a conflict do not have an unlimited right to choose methods or means of warfare and that it is prohibited to use weapons, projectiles, materials or tactics that cause superfluous injury or unnecessary suffering. A total of 174 States are parties to Additional Protocol I, including 34 American States.
- **Declaration under Article 90 of Additional Protocol I (AP I Declaration Art. 90):** In order to secure the guarantees accorded to the victims of armed conflicts, Article 90 of Additional Protocol I provides for the establishment of an International Humanitarian Fact-Finding Commission. The Commission was officially created in 1991 and is a permanent body whose primary purpose is to investigate allegations of grave breaches and other serious violations of IHL. The Commission is therefore an important mechanism for ensuring that IHL is applied and enforced during armed conflict. A total of 76 States Parties have accepted the jurisdiction of the International Humanitarian Fact-Finding Commission, including 13 American States.
- **Protocol II additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977 (AP II 1977):** Within the scope of Additional Protocol II are non-international conflicts that take place within the territory of a State between its armed forces and dissident armed forces or other organized armed groups operating under responsible command and exercising control over a part of the country's territory. Additional Protocol II extends the core humanitarian principles enshrined in Article 3 common to the Geneva Conventions to non-international armed conflicts. A total of 168 States are parties to Additional Protocol II, including 33 American States.
- **Protocol III additional to the Geneva Conventions of 12 August 1949 and relating to the Adoption of an Additional Distinctive Emblem of 8 December 2005 (AP III 2005):** Additional Protocol III, which was adopted in 2005, introduced another emblem in addition to the red cross and red crescent. The new emblem is composed of a red frame in the shape of a square on edge on a white background. It was introduced in response to the need to provide an option that does not have the religious or political connotations that the red cross and red crescent emblems are sometimes perceived to have and that can be used in any context. The individuals and entities authorized to display the red crystal are the same as those entitled to use the emblems recognized by the Geneva Conventions of 1949. These include the medical services of the armed forces, civilian hospitals with explicit authorization and the various components of the International Red Cross and Red Crescent Movement, namely, the International Committee of the Red Cross (ICRC), the National Societies and their International Federation. A total of 73 States are parties to Additional Protocol III, including 18 American States.
- **Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict of 25 May 2000 (Opt. Prot. CRC 2000):** This instrument strengthens the protection afforded to children during armed conflicts. Under the Protocol, States Parties undertake to adopt all feasible measures to ensure that members of their armed forces who have not reached the age of 18 do not directly take part in hostilities, and the compulsory recruitment of people under the age of 18 into the armed forces is prohibited. States are also required to set the minimum age for voluntary recruitment above 15 years, and the recruitment, whether voluntary or compulsory, or use in hostilities of persons under the age of 18 by armed groups other than the armed forces of a State is prohibited. States Parties agree to criminalize and punish any breaches of these provisions. A total of 167 States are parties to this Optional Protocol, including 29 American States.
- **International Convention for the Protection of All Persons from Enforced Disappearance of 20 December 2006 (CPED 2006):** This Convention is the first universally binding treaty that defines forced disappearance as a human rights violation and prohibits it. For the purposes of this treaty, enforced disappearance means the abduction, arrest, detention or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the missing person. A total of 58 States are parties to this Convention, including 15 American States.

2. INTERNATIONAL CRIMINAL LAW

- **Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity of 26 November 1968 (CSL 1968):** This Convention applies to prosecution and sentencing in relation to war crimes – especially grave breaches of the Geneva Conventions – crimes against humanity and genocide committed in wartime or peacetime. A total of 55 States are parties to this Convention, including 12 American States.
- **The Rome Statute of the International Criminal Court of 17 July 1998 (ICC Statute 1998):** The crimes within the Court’s jurisdiction are genocide, crimes against humanity, war crimes and aggression. A total of 123 States are parties to the Rome Statute, including 29 American States.
- **Amendment to Article 8.2I of the Rome Statute (ICC Amdt 2010):** This amendment concerning weapons was a result of the 2010 Review Conference held in Kampala and added the use of poison and poisoned weapons, prohibited gases, liquids, materials and devices and bullets that expand or flatten easily in the human body to the list of war crimes applicable in non-international armed conflicts. A total of 35 States are parties to this Amendment, including 7 American States.

3. PROTECTING CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

Military operations have often resulted in the destruction of irreplaceable cultural property, which is a loss not only to the country of origin but also to mankind’s cultural heritage as a whole. Recognizing the significance of such losses, the international community adopted the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocol in The Hague, establishing a system of general protection and “special” protection. To strengthen the provisions of the 1954 Convention, a second Protocol was adopted on 26 March 1999, which introduces an “enhanced” system of protection for specifically designated cultural property. The two Protocols of 8 June 1977 additional to the Geneva Conventions also contain provisions for the protection of cultural property (Articles 38, 53 and 85 of Additional Protocol I, and Article 16 of Additional Protocol II).

- **Convention on the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 (Hague Conv. 1954):** A total of 130 States are parties to this Convention, including 22 American States.
- **First Protocol to the Hague Convention of 14 May 1954 (Hague Prot. 1954):** A total of 107 States are parties to this Protocol, including 19 American States.
- **Second Protocol to the Hague Convention of 26 March 1999 (Hague Prot. 1999):** A total of 74 States are parties to this Protocol, including 18 American States.

4. ENVIRONMENT

- **Convention on the Prohibition of Military or any Hostile Use of Environmental Modification Techniques of 10 December 1976 (ENMOD Conv. 1976):** This Convention is an instrument of international disarmament law specifically intended to protect the environment in the event of armed conflict. It prohibits any hostile use of the environment as a means of warfare. The provisions of Protocol I additional to the Geneva Conventions of 1949 prohibiting direct attacks on the environment during armed conflict are an essential complement to the ENMOD Convention. A total of 78 States are parties to this Convention, including 16 American States.

5. WEAPONS

- **Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of 17 June 1925 (Geneva Gas Prot. 1925):** This Protocol prohibits the use of biological and chemical weapons. A total of 140 States are parties to this Protocol, including 28 American States.
- **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972 (BWC 1972):** The main aim of this Convention, as defined in the preamble, is to completely exclude the possibility of bacteriological (biological) agents and toxins being used as weapons. The use of biological weapons was already prohibited under the Geneva Protocol of 1925, and this Convention supplements that Protocol, prohibiting the development, production, stockpiling, acquisition, retention and transfer of biological weapons and requiring their destruction. A total of 179 States are parties to this Convention, including 34 American States.
- **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 of 10 October 1980 (CCW 1980) and its Protocols:** This Convention is one of the main IHL treaties. It seeks to protect civilians from the effects of weapons and to protect combatants from excessive suffering. One of the Convention's important features is that its scope of application can be extended in response to the development of new weapons or changes in the conduct of warfare. When it was approved in 1980, the Convention included three protocols (Protocols I–III). The States Parties subsequently adopted new protocols in 1995 (Protocol IV on Blinding Laser Weapons), in 1996 (amended Protocol II on Mines, Booby-Traps and Other Devices) and in 2003 (Protocol V on Explosive Remnants of War). A total of 125 States are parties to this Convention, including 25 American States.
 - Protocol on Non-Detectable Fragments of 10 October 1980 (CCW Prot. I 1980): 118 States are parties to this Protocol, including 24 American States.
 - Protocol on Mines, Booby-Traps and Other Devices of 10 October 1980 (CCW Prot. II 1980): 95 States are parties to this Protocol, including 17 American States.
 - Protocol on Incendiary Weapons of 10 October 1980 (CCW Prot. III 1980): 115 States are parties to this Protocol, including 24 American States.
 - Protocol on Blinding Laser Weapons of 13 October 1995 (CCW Prot. IV 1995): 108 States are parties to this Protocol, including 24 American States.
 - Protocol on Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (CCW Prot. Iia 1996): 104 States are parties to this Protocol, including 22 American States.
 - Protocol on Explosive Remnants of War of 28 November 2003 (CCW Prot. V 2003): 94 States are parties to this Protocol, including 20 American States.
- **2001 Amendment to Article 1 of 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 of 10 October 1980 (CCW Amdt 2001):** In 2001, the Second Review Conference extended the Protocols in force to cover non-international armed conflicts. A total of 86 States are parties to this Amendment, including 20 American States.
- **Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993 (CWC 1993):** This Convention is one of the instruments of international law that prohibits the use of weapons deemed particularly abhorrent. The Convention aims to completely exclude the possibility of chemical weapons being used. Like the 1972 Biological and Toxin Weapons Convention, it supplements and strengthens certain aspects of the 1925 Geneva Protocol. A total of 192 States are parties to this Convention, including 35 American States.
- **Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 18 September 1997 (AP Mine Ban Conv. 1997):** This Convention is part of the international response to the widespread suffering caused by anti-personnel mines. A total of 164 States are parties to this Convention, including 33 American States.

- **Convention on Cluster Munitions of 30 May 2008 (Cluster Munitions 2008):** This Convention prohibits cluster munitions. It aims to end the heavy toll that these weapons take on civilians during armed conflict and once fighting has ended. A total of 102 States are parties to this Convention, including 24 American States.
- **Arms Trade Treaty of 2 April 2013 (ATT 2013):** This Treaty regulates international transfers of conventional arms as well as their ammunition, parts and components, with a view to reducing human suffering. The Treaty makes arms transfer decisions subject to humanitarian concerns by prohibiting transfers when there is a manifest risk that war crimes or serious violations of international human rights law will be committed. A total of 94 States are parties to this Treaty, including 23 American States.
- **Treaty on the Prohibition of Nuclear Weapons of 7 July 2017 (TPNW 2017):** This is the first globally applicable multilateral agreement to comprehensively prohibit nuclear weapons. It is also the first to include provisions to help address the humanitarian consequences of the use and testing of nuclear weapons. The Treaty complements existing international agreements on nuclear weapons, in particular the Treaty on the Non-Proliferation of Nuclear Weapons, the Comprehensive Nuclear-Test-Ban Treaty and other agreements establishing nuclear-weapon-free zones. At the end of 2017, three States were parties to the Treaty, including Guyana, the first of the American States.

B. CUSTOMARY INTERNATIONAL HUMANITARIAN LAW

Customary international law consists of a set of rules that come from “a general practice accepted as law”, as indicated in Article 38 of the Statute of the International Court of Justice, which lists the sources of international public law. The rules of customary international law – or international custom – exist independently of treaty law and are not written down. Their legal validity derives from practices that are generally accepted by States and that become required as a matter of law over time. These rules are sometimes studied when creating written instruments of international law or when interpreting them.

Customary IHL is of crucial importance in today’s armed conflicts because it fills gaps left by treaty law and so strengthens the protection offered to victims. In 2005, the ICRC published a study entitled *Customary International Humanitarian Law*, which identifies the common core of IHL binding on all parties to all armed conflicts. This study has been recognized as an important work of reference on law in international and non-international armed conflicts for courts, international organizations and non-governmental organizations.

The ICRC has published an online version of the study with a database that includes over 50% more content than the original printed version. It is divided into two parts: the first provides a comprehensive analysis of rules of customary IHL that have been identified as applicable in international and non-international armed conflicts, while the second contains a summary of State practice covering the main aspects of IHL taken from national legislation, military manuals, official statements and case law. It also refers to the practices of other entities, such as international organizations and international courts.

Work began in 2011 to update the database in various stages. In the two-year period covered by this report, the practices of two of the region’s countries – Canada and Cuba – were updated.

The database, which is updated annually, is available at:
<http://www.icrc.org/customary-ihl/eng/docs/home>.

Volume 1 of the study can be downloaded in PDF format at:
<https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>.

C. MAIN RATIFICATIONS IN 2016 AND 2017

The Americas maintained the momentum of progress, making it a leading region in terms of IHL treaties. Some States have now ratified all the main instruments relating to this body of law.

In the two year period 2016–2017, the American States continued to ratify different arms and IHL treaties, for example, three States became parties to the 2013 Arms Trade Treaty, and Guyana became the first American State to ratify the recently concluded Treaty on the Prohibition of Nuclear Weapons.

The Rome Statute creating the International Criminal Court has been ratified by a large proportion of the region's countries, with 29 American States now party to this instrument. The amendment to Article 8 of the Statute, adopted at the 2010 Review Conference, concerning the use of poison, asphyxiating and poisonous gases and bullets that expand or flatten easily in the human body was ratified by four more American States during the 2016–2017 period, bringing the total number up to seven.

The following developments were recorded in the reporting period:

Argentina ratified the amendment to Article 8 of the Rome Statute on 28 April 2017;

Chile ratified the amendment to Article 8 of the Rome Statute on 23 September 2016;

Cuba ratified the Convention on Cluster Munitions on 6 April 2016;

El Salvador ratified the Rome Statute and the 2010 amendments to the treaty on 3 March 2016;

Guatemala ratified the Arms Trade Treaty on 12 July 2016;

Guyana ratified the Treaty on the Prohibition of Nuclear Weapons on 20 September 2017;

Honduras became a party to the Arms Trade Treaty on 1 March 2017;

Panama ratified the amendment to Article 8 of the Rome Statute on 6 December 2017;

Peru ratified the Arms Trade Treaty on 16 February 2016.

Status of participation of American States

	Country	Protection of Victims of Armed Conflicts						
		GC I-IV 1949	AP I 1977	AP I - DEC ART. 90	AP II 1977	AP III 2005	OPT PROT. CRC 2000	CPED 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		28/09/2015	
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	14/08/2015
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	29/11/2010
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		09/02/2007	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	14/10/2014	
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	11/08/2010	
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	Panama	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	03/08/2010
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	17/04/2014	14/02/1986			
29	Saint Lucia	18/09/1981	07/10/1982		07/10/1982		15/01/2014	
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	
Total	REGION	35	34	13	33	18	29	15
	WORLDWIDE	196	174	76	168	73	167	58

in treaties that are of relevance for IHL (as of 31 December 2017)

International Criminal Law		Protection of Cultural Property in the Event of Armed Conflict				Environment
CSL 1968	ICC STATUTE 1998	ICC AMDT 2010	HAGUE CONV. 1954	HAGUE PROT. 1954	HAGUE PROT. 1999	ENMOD CONV. 1976
	18/06/2001					25/10/1988
26/08/2003	08/02/2001	28/04/2017	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	23/09/2016	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	05/02/2015	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	
	03/03/2016	03/03/2016	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	06/12/2017	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			
12	29	7	22	19	18	16
55	123	35	130	107	74	78

Status of participation of American States

	Country	GENEVA GAS PROT. 1925	BWC 1972	CCW 1980			
				CCW 1980	CCW PROT. I 1980	CCW PROT. II 1980	CCW PROT. III 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	24/11/2015	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			
15	Ecuador	16/09/1970	12/03/1975	04/05/1982	04/05/1982	04/05/1982	04/05/1982
16	El Salvador	26/02/2008	31/12/1991	26/01/2000	26/01/2000	26/01/2000	26/01/2000
17	Grenada	03/01/1989	22/10/1986	10/12/2014	10/12/2014		10/12/2014
18	Guatemala	03/05/1983	19/09/1973	21/07/1983	21/07/1983	21/07/1983	21/07/1983
19	Guyana		26/03/2013				
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	Panama	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
Total	REGION	28	34	25	24	17	24
	WORLDWIDE	140	179	125	118	95	115

in treaties that are of relevance for IHL (as of 31 December 2017)

Weapons

CCW PROT. IV 1995	CCW PROT. IIA 1996	CCW PROT. V 2003	CCW AMDT 2001	CWC 1993	AP MINE BAN CONV. 1997	CLUSTER MUNITIONS 2008	ATT 2013	TPNW 2017
23/08/2010				29/08/2005	03/05/1999	23/08/2010	12/08/2013	
21/10/1998	21/10/1998	07/10/2011	25/02/2004	02/10/1995	14/09/1999		25/09/2014	
				21/04/2009	31/07/1998		25/09/2014	
				03/07/2007	26/01/1999		20/05/2015	
				01/12/2003	23/04/1998	02/09/2014	19/03/2015	
21/09/2001	21/09/2001			14/08/1998	09/06/1998	30/04/2013		
04/10/1999	04/10/1999	30/11/2010	30/11/2010	13/03/1996	30/04/1999			
05/01/1998	05/01/1998	19/05/2009	22/07/2002	26/09/1995	03/12/1997	16/03/2015		
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	10/09/2015		
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		14/11/2012	17/10/2007	29/04/1997		06/04/2016		
				12/02/2001	26/03/1999		21/05/2015	
21/06/2010	21/06/2010	21/06/2010	21/06/2010	27/03/2009	30/06/2000	20/12/2011	07/08/ 2014	
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	02/04/2014	
10/12/2014	10/12/2014	10/12/2014	10/12/2014	03/06/2005	19/08/1998	29/06/2011	21/10/2013	
30/08/2002	29/10/2001	28/02/2008	13/02/2009	12/02/2003	26/03/1999	03/11/2010	12/07//2016	
				12/09/1997	05/08/2003	31/10/2014	04/07/2013	20/09/2017
				22/02/2006	15/02/2006			
30/10/2003	30/10/2003	16/08/2010		29/08/2005	24/09/1998	21/03/2012	01/03/2017	
25/09/2008	25/09/2008	25/09/2008	25/09/2008	08/09/2000	17/07/1998		03/06/2014	
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	11/02/2014	
03/12/2008	22/09/2004	03/12/2008	03/12/2008	01/12/1994	13/11/1998	12/03/2015	09/04/2015	
03/07/1997	03/07/1997	29/05/2009	14/02/2005	20/07/1995	17/06/1998	26/09/2012	16/02/2016	
				21/05/2004	02/12/1998	13/09/2013	15/12/2014	
				09/04/1997	13/04/1999		25/09/2014	
06/12/2010	06/12/2010	06/12/2010		18/09/2002	01/08/2001	29/10/2010	03/06/2014	
				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	25/09/2014	
		19/04/2005		03/12/1997	14/04/1999			
24	22	20	20	35	33	24	23	1
108	104	94	86	192	164	102	94	3

II. NATIONAL IMPLEMENTATION OF IHL AND OTHER RULES PROTECTING PEOPLE IN SITUATIONS OF VIOLENCE

States must 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 known and incorporated into domestic legislation as soon as possible, which is something that does not always happen. Some of the rules also require States to take supplementary practical measures to ensure that IHL is effectively enforced if an armed conflict breaks out.

The action that States need to take encompasses a variety of provisions, including legislative and regulatory action and administrative, practical and educational measures.

This section also covers activities that have been carried out to further the integration and promotion of international human rights law (IHRL) and internationally recognized principles on the use of force in law enforcement which seek to prevent and alleviate suffering in situations of violence other than armed conflict.

A. LEGISLATIVE, REGULATORY, PRACTICAL AND PUBLIC POLICY MEASURES

1. CRIMINAL REPRESSION

In order to ensure compliance with IHL, it is crucial to suppress breaches of this body of law and prosecute and punish those considered most serious and regarded as war crimes. It is in the interest of the international community as a whole to punish such violations.

The four Geneva Conventions of 1949 each contain a provision requiring States to enact the legislation necessary to determine the criminal sentences applicable to those convicted of committing, or ordering to be committed, grave breaches of the Conventions.

The Conventions also stipulate that each State has the obligation to search for individuals alleged to have committed, or to have ordered to be committed, grave breaches and to bring them before its own courts, regardless of their nationality. States may also, if they prefer, and in accordance with the provisions of their own legislation, hand such individuals over to be tried by another of the States concerned, provided that State has made out a *prima facie* case (see Articles 49, 50, 129 and 146 of the four Geneva Conventions respectively).

Additional Protocol I of 1977 supplements these rules, particularly Part V, Section II, which stipulates that the provisions of the Geneva Conventions relating to the repression of grave breaches also apply to the repression of grave breaches of the Protocol (see Article 85(1) of Additional Protocol I).

The Protocol further develops the rules codified in the Geneva Conventions with regard to the criminalization of IHL violations, the failure to act, the duty of commanders and mutual assistance in criminal matters (see Articles 85 to 88 of Additional Protocol I). It also stipulates that grave breaches of the Geneva Conventions and Protocol I are regarded as war crimes (see Article 85(5) of Additional Protocol I).

All 35 American States are parties to the four Geneva Conventions, and 34 of them have ratified Additional Protocol I. The American States have therefore made a commitment under international law to punish war crimes, based on the system determined by the Geneva Conventions and Additional Protocol I.

Furthermore, Rule 158 of the Study on Customary International Humanitarian Law requires States to investigate war crimes allegedly committed by their nationals or armed forces or on their territory and, where warranted, prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and prosecute the suspects, where appropriate.

The Rome Statute of 1998 establishes an International Criminal Court with jurisdiction over war crimes. The Court is not intended to take over the jurisdiction exercised by national courts, as it is the States that have the primary duty and responsibility to prosecute suspected war criminals. Under the principle of complementarity, the Court only acts when a State Party to the Rome Statute that has jurisdiction is unwilling or genuinely unable to investigate and prosecute a crime (see the Preamble and Articles 1, 17, 18 and 19 of the Rome Statute).

The Rome Statute does not explicitly require States Parties to prosecute and punish crimes under the Court's jurisdiction. However, this is assumed, as the complementarity mechanism provided for in the Statute depends on the ability of a State to try such crimes domestically (see paragraph 6 of the Preamble to the Rome Statute). It is therefore essential for States Parties to the Rome Statute to adapt their criminal legislation to the Statute so that they are able to try crimes under the Court's jurisdiction domestically when necessary.

Domestic implementation of the Rome Statute does not diminish a State's obligations under the Geneva Conventions and Additional Protocol I; it is rather a question of harmonizing the system established in them with the one provided for in the Statute. This involves ensuring that domestic criminal law permits, as a minimum compulsory requirement, prosecution of the war crimes listed in the Geneva Conventions and Additional Protocol I in accordance with the system they establish for suppressing these crimes. The rules of the Rome Statute can strengthen, but must not weaken, this architecture both in terms of the definition of war crimes and the rules concerning criminal responsibility and prosecution.

At the end of 2017, 29 American States were parties to the Rome Statute of 1998.

Legislation adopted

Argentina. In May 2017, it was announced in the official gazette that, in accordance with the provisions of Act 23718, the amendment to Article 8 and the amendment relating to the crime of aggression in the Rome Statute of 1998, adopted in Kampala in June 2010, will come into force for Argentina on 28 April 2018.

Bolivia. On 15 December 2017, Bolivia enacted its new Criminal Code, incorporating the international crimes listed in the Rome Statute, including war crimes.

Colombia. Congress adopted Act 1820 of 2016, which enacted provisions on amnesty, pardons and special treatment in relation to the implementation of the Peace Agreement between Colombia and the Revolutionary Armed Forces of Colombia (FARC-EP).

Congress also adopted Legislative Act 05 of 2017 (amending the Constitution), which establishes measures to guarantee the State's monopoly of legitimate force and the use of weapons, including a prohibition on creating, promoting, inciting, organizing, training, supporting, tolerating, harbouring, favouring, financing or using civilian organized armed groups for illegal purposes of any kind, with specific reference to self-defence groups.

Paraguay. In September 2017, Act 5877 incorporating the rules of the Rome Statute of 1998 into domestic legislation was published in the official gazette. The initial draft bill was prepared by a group of experts that received advice from the ICRC and other organizations. The Act codifies the war crimes defined in the Rome Statute and the list of grave breaches of the Geneva Conventions of 1949 and Additional Protocol I that are not included in the Statute.

Pending legislation

Brazil. An expert working group, led by the former Deputy Military Prosecutor General, finalized a draft bill several years ago to incorporate the crimes listed in the Rome Statute of 1998 into domestic legislation. The draft bill criminalizes the war crimes as defined in the Geneva Conventions of 1949, Additional Protocol I and Article 8 of the Rome Statute. In 2015, Brazil's National Committee for the Dissemination and Implementation of International Humanitarian Law asked Congress to press ahead with the legislative process. The draft bill was submitted to the Chamber of Deputies along with a second one in 2015 for consultation and scrutiny. A substitute bill was eventually adopted but has not yet been voted on. In 2016, the Committee asked Congress to fast-track the adoption of a law giving domestic effect to the Rome Statute and including all the IHL violations contained in the Geneva Conventions and Additional Protocol I which are not listed in the Statute.

Colombia. Congress approved a statutory bill (16/17 House of Representatives; 08/17 Senate) on the operation of the Special Jurisdiction for Peace. The bill is under review by the Constitutional Court prior to its enactment.

Costa Rica. In the two-year period covered by this report, the passage through the Legislative Assembly of bill 16,272 on the criminalization of war crimes remained pending, and the process for establishing a cooperation agreement with the International Criminal Court continued (no. 19,665).

El Salvador. At the end of 2017, the Legislative Assembly was studying a bill on the domestic implementation of the Rome Statute.

Haiti. The draft of a new criminal code was submitted to the President of the Republic in 2015 by the President's Commission on Justice Reform. It was introduced in Parliament in 2017.

Honduras. In the period 2016–2017, the full Congress approved the sections of the new Honduran Criminal Code on war crimes and crimes against the international community. All the articles approved are expected to be enacted in 2018.

Paraguay. At the end of the reporting period, there was a draft bill awaiting scrutiny by Congress for the domestic implementation of the Rome Statute, including the war crimes listed in the Statute and the crimes referred to in the 1949 Geneva Conventions and Additional Protocol I that are not mentioned in the Statute.

2. MISSING PERSONS

In situations of armed conflict and other situations of violence that fall short of the armed conflict threshold that triggers the applicability of IHL, countless families live with the anguish of not knowing what has happened to their loved ones. The families of missing persons are often unable to get over the loss and move on with their lives even years after their loved ones disappeared. IHL explicitly recognizes the right of families to know the fate and whereabouts of their missing relatives (see Article 32 of Additional Protocol I of 1977, Article 24(2) of the Convention for the Protection of All Persons from Enforced Disappearance, Article XI of the Inter-American Convention on the Forced Disappearance of Persons and Rule 117 of the Study on Customary International Humanitarian Law). The authorities therefore have an obligation to do everything in their power to prevent people from going missing and take steps to deal with the consequences of disappearances, including measures to address the multiple needs of the families concerned. These obligations arise from IHL in relation to armed conflicts and from international human rights law in relation to other situations of violence that fall outside the scope of IHL.



2017, Falklands / Islas Malvinas. Identification efforts regarding the remains of Argentinian soldiers buried in 123 graves marked with the mention “Argentinian soldier known only by God” at Darwin cemetery.

Legislation adopted

Colombia. The President of the Republic issued Decree-Law 589 of 2017 governing the operation of the Missing Persons Unit set up to conduct the search for people who went missing during the armed conflict.

El Salvador. On 21 August 2017, the government issued Decree 33 creating the National Missing Persons Commission to conduct the search for adults who went missing in the armed conflict in El Salvador.

Honduras. In 2017, Congress worked on a draft decree for the creation of a specialized missing persons unit.

Mexico. On 17 November 2017, the Act concerning forced disappearance, disappearances perpetrated by private individuals and the national missing persons search system was published in the official gazette. The Act provides for the creation of the National Search System and the National Search Commission responsible for conducting thorough investigations to find people whose whereabouts are unknown and creating standardized registers and databases to locate missing people efficiently and effectively.

On 20 December 2016, the Coahuila state law on locating and recovering human remains and forensic identification was published in the state’s official gazette. The law, prepared with the broad participation of experts and the families of missing persons, provides for the creation of an information management system for the sharing of information among the authorities responsible for dealing with different types of missing persons cases. In fulfilment of the provisions of this law, on 7 March 2017, the Coahuila state Attorney General’s Office set up a Forensic Coordination Committee whose members include the authorities responsible for the search for the missing and groups formed by the families of missing persons. As part of its work, the Forensic Coordination Committee prepared and approved the State Plan for Exhumation and Forensic Identification, which was published in Coahuila’s official gazette on 17 November 2017.

Panama. Executive Decree 121 of 2016 was issued, providing for the creation of the 20 December 1989 Commission to establish the truth about what happened during and in the wake of the events of December 1989.

Peru. Act 30470 concerning the search for people who went missing during the period of violence from 1980 to 2000 was passed on 22 June 2016. It sets out the humanitarian approach to be adopted in the search for missing persons, with provisions on forensic investigation and psychosocial support for victims. It also provides for the creation of the Missing Persons Directorate and a national register of missing persons and burial sites. The National Search Plan to find people who went missing between 1980 and 2000 was approved by Ministerial Decision 0363-2016-JUS on 25 December 2016. It develops the main areas of action established in Act 30470.

Decision 5244-2016-MP-FN adopting the practical guide on the recovery and analysis of human remains was approved on 30 December 2016 by the Attorney General's Office. It sets out standard operating procedures considered necessary by the Public Prosecution Service (Public Ministry) in view of the scale and complexity of cases of this kind. It is aimed at the Service's prosecutors and forensic personnel and the staff of other institutions involved in forensic investigation in Peru.

The Regulations on the Organization and Functions of the Ministry of Justice and Human Rights were approved by Supreme Decree 013-2017-JUS on 22 June 2017. These regulations provide for the creation of a Missing Persons Directorate, which will be responsible for formulating, approving and implementing the National Missing Persons Search Plan. It will also be in charge of the National Missing Persons Register and oversee the psychological support and logistical assistance provided to the families of missing persons.

Pending legislation

Brazil. In November 2017, the Chamber of Deputies continued the legislative process for the substitute bill setting out the national missing persons search policy and creating the National Missing Persons Register. This bill replaces 15 earlier bills concerning missing persons under consideration since 2009. The substitute bill (6699/2009) provides a definition of "missing person" and contains provisions on programmes to provide psychosocial support to the families of missing persons, among other things.

Guatemala. Bill 3590 concerning the creation of a national commission on the search for victims of forced disappearance and other forms of disappearance was introduced in Congress. Bill 4307 to approve the National Archives Act, which provides for the consolidation of information relating to the archives of the armed and security forces, was also introduced.

Mexico. Following the entry into force of the Missing Persons Act, the secondary legislation for its application is expected to be developed in 2018, including implementing regulations and standard search and investigation procedures. It is also expected that the National Search Commission, the local search commissions, the national missing persons search system, the National Citizens Council and the specialized prosecution units responsible for such cases will come into operation.

Peru. A bill has been prepared on the legal status of missing persons under Act 30470. The purpose of the bill is to facilitate the administrative process for having people who went missing in the period of violence from 1980 to 2000 registered dead or presumed dead with the National Identity and Civil Registry Office (RENIEC), with the legal effects established in the Civil Code. There is also a bill on the creation of a genetic databank for tracing people who went missing in Peru in the period 1980–2000 in accordance with Act 30470 and the National Missing Persons Search Plan.

Other activities

Colombia. In 2016 and 2017, members of the Attorney General's Office, the National Institute of Legal Medicine and Forensic Science, the Military Criminal Justice System and other officials concerned with missing persons received training from the ICRC on best practices for missing persons investigation, registration and identification procedures.

3. WEAPONS

IHL contains principles and rules that govern the choice of means of warfare and ban or restrict the use of certain weapons. For example, there are prohibitions and restrictions on certain conventional weapons in order to protect civilians from the effects of their indiscriminate use and to avoid combatants suffering excessive injuries that serve no military purpose.

The main treaty governing the use of conventional weapons is the 1980 Convention on Certain Conventional Weapons and its five protocols.

Another important treaty is the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, which is part of the international response to the widespread suffering caused by anti-personnel mines.

The 2008 Convention on Cluster Munitions prohibits this type of weapon and reinforces the obligations of parties to a conflict to distinguish at all times between civilians and combatants, to direct operations only against military targets and to take constant care to spare civilians and civilian property.

A more recent instrument is the 2013 Arms Trade Treaty which regulates international transfers of conventional weapons as well as ammunition, parts and components, with a view to reducing human suffering. The treaty puts humanitarian concerns before arms trade interests by prohibiting transfers when there is a risk that the items will be used in the commission of war crimes or serious violations of international human rights law.

There are also IHL treaties that explicitly prohibit biological and chemical weapons, such as the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction and the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

Legislation adopted

Colombia. Congress adopted Act 1782 of 2016 approving the Arms Trade Treaty, but it was declared unconstitutional by the Constitutional Court because of an error in the adoption procedure. Congress must therefore now repeat the approval process.

Dominican Republic. Act 631-16 concerning the control and regulation of weapons, ammunition and related materials was approved. It establishes a classification of weapons and lists "prohibited weapons". The text was published in the official gazette on 5 August 2016. Congress also adopted the National Police Act (590-16), published in the official gazette on 18 July 2016, which prohibits members of the police force from any direct or indirect involvement in the trade in firearms, ammunition, explosives and other related materials.

Peru. On 1 April 2017, the implementing regulations of the Act on firearms, ammunition, explosives, pyrotechnic articles and related materials for civilian use were approved by Supreme Decree 010-2017-IN.

Pending legislation

Costa Rica. A drafting committee has been set up to prepare a decree establishing regulations and measures for the application of the Arms Trade Treaty.

Other activities

Chile. In the two-year period covered by this report, the Arms Trade Treaty was studied by the ministries concerned and by the Office of the Chief of Staff and the Finance Ministry prior to being submitted to Congress. The National Demining Commission worked intensively to fulfil the country's obligations under the Anti-Personnel Mine Ban Convention and the Cartagena Action Plan.

The States of the Caribbean Community (CARICOM). In the period 2016–2017, a model law was prepared on the implementation of the Arms Trade Treaty and sent to the Member States by the CARICOM Secretariat. It will help Member States to incorporate into their national legal system the legislation required for them to fulfil their obligations under the Treaty.

4. PROTECTING THE EMBLEMS

The use of the emblems – a red cross, red crescent or red crystal on a white background – is strictly governed by the Geneva Conventions of 1949, Additional Protocols I and II of 1977 and Additional Protocol III of 2005. These instruments define the persons and services entitled to use the emblems and the purposes for which they may be employed. Unauthorized use of the emblems is prohibited. Any breach of these rules jeopardizes the impartial nature of the assistance and protection provided to those in need. Use of the emblems is normally authorized to protect the medical services of the armed forces and, in wartime, civilian hospitals. They are also used by the National Red Cross and Red Crescent Societies, their International Federation and the International Committee of the Red Cross.

Pending legislation

Argentina. At the end of 2017, Congress was studying a bill for the protection of the red cross, red crescent and red crystal emblems, with provisions regulating the use of these humanitarian emblems and prohibiting their misuse.

Brazil. On 8 December 2017, the Foreign Affairs and National Defence Commission and then the Constitution, Justice and Citizenship Commission of the Chamber of Deputies approved a bill on the use and protection of the red cross, red crescent and red crystal emblems in accordance with international law. The text will now be brought before the full Chamber of Deputies for debate before being sent to the Federal Senate.

Guatemala. The Guatemalan Committee for the Implementation of International Humanitarian Law had revised and endorsed the proposed draft implementing regulations for the Act on the protection and use of the red cross emblem, and at the end of 2017 they were at the consultation and scrutiny stage prior to submission for interministerial acceptance and endorsement by the Attorney General's Office.

5. PROTECTING CULTURAL PROPERTY

IHL contains rules specifically aimed at protecting cultural property in the event of armed conflict. The purpose of these rules is to prevent such property from being damaged or destroyed, as can often happen during military operations, and to prevent losses not only for the country in question but also for the cultural heritage of mankind as a whole. The main instruments are the 1954 Convention on the Protection of Cultural Property in the Event of Armed Conflict (the Hague Convention) and its Additional Protocols of 1954 and 1999. Under these instruments, States Parties are required to take legislative, administrative and practical measures to ensure compliance with their provisions.

Marking processes

Argentina. In 2016 and 2017, the working group tasked with developing a plan to implement and fulfil Argentina's international obligations under the Hague Convention, headed by the Ministry of Defence Directorate for Human Rights and International Humanitarian Law, continued the work set in motion by the government in 2005. To date, a total of 32 cultural properties have been marked with the Blue Shield. The working group also focused efforts on disseminating the Hague Convention and its Protocols by holding a number of courses and seminars. In cooperation with the Federal Media and Public Content System, UNESCO and Google, it launched a television programme called *Motivados por la Historia* (motivated by history), showing the marking of the route followed by General José de San Martín between Argentina and Chile on his military campaign to secure the independence of various countries in the Americas in the nineteenth century. The Ministry of Defence also produced an official translation of *Protection of Cultural Property: Military Manual*, produced by UNESCO, and published the book *Escudos Azules en Argentina* (blue shields in Argentina).

Chile. During the period 2016–2017, the National Humanitarian Law Committee 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.

Costa Rica. In September 2017, a workshop was held to establish a process to designate properties that should bear the Blue Shield. The final document was sent to the Ministry of Culture for review. In December of the same year, Argentina's Committee for the Implementation of International Humanitarian Law presented a Blue Shield to the Costa Rican authorities to be displayed on the National Museum.

Dominican Republic. In the period covered by this report, the Ministry of Defence and the Ministry of Culture carried out the preliminary work required to draw up a list of cultural properties that should be protected. Once completed, the list will be submitted to the president of the Republic in order to proceed with the application for their inclusion in the International Register of Cultural Property under Special Protection.

Mexico. In 2016 and 2017, the Interministerial Committee for International Humanitarian Law studied the feasibility of submitting a request for enhanced or special protection, as provided for in UNESCO conventions, for the walled city of Campeche located in the south-east of the country. The Ministry of Culture and the authorities of the state of Campeche were involved in the study.

Other activities

El Salvador. In 2016, training courses on the Hague Convention and its Protocols, aimed mainly at armed forces personnel, were planned and carried out. The courses took place in the cities of Santa Ana, San Vicente and San Miguel and were attended by over 200 people. Training was also provided for 26 Ministry of Culture specialists in San Salvador. In May 2017, training courses were announced for the technical staff of the Office of the Human Rights Ombudsman and military personnel at former National Guard facilities.

6. OTHER MEASURES

Rules of procedure of national IHL committees

Venezuela. In 2017, Venezuela's National Committee for International Humanitarian Law finalized its draft rules of procedure.

National information bureaux

Chile. In the period 2016–2017, the National Humanitarian Law Committee continued its work 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.

Transitional justice

Colombia. Congress adopted the following instruments: Legislative Act 01 of 2016 (amending the Constitution), which established legal instruments to further and facilitate the implementation and regulatory development of the Peace Agreement between the Colombian government and the FARC-EP to end the armed conflict and build a stable and lasting peace; Act 1794 of 2016 approving the Framework Agreement between the United Nations and the Colombian government on the country's contribution to the UN Peacekeeping Capability Readiness System; Legislative Act 01 of 2017 (amending the Constitution), which creates the Truth, Justice, Reparation and Non-Recurrence System in compliance with the Peace Agreement between the Colombian government and the FARC-EP; and Legislative Act 02 of 2017 (amending the Constitution), which determines that the contents of the Peace Agreement between the Colombian government and the FARC-EP relating to rules of IHL or fundamental rights are the mandatory interpretation criteria and frame of reference for the development and validity of the laws and regulations adopted to implement the Peace Agreement.

The president of the Republic adopted Decree-Law 588 of 2017, which regulates the operation of the Commission for Truth, Reconciliation and Non-Recurrence set up to provide a factual account of the armed conflict.

Dissemination

Bolivia. With the support of the ICRC, the National Standing Committee for the Implementation of International Humanitarian Law organized the fourth and fifth Mariscal Andrés de Santa Cruz course on IHL in November 2016 and November 2017 respectively. The Committee decided that the IHL course should be replicated for its member institutions. It was therefore repeated in 2017 for the staff of the Ministry of Justice and the Ministry of Foreign Affairs and for Bolivian Red Cross volunteers.

Colombia. The country's national IHL committee – the Technical Group on International Humanitarian Law and Armed Conflict – organized the fifth and sixth Augusto Ramírez Ocampo course on IHL for senior government staff in 2016 and 2017 respectively.

Costa Rica. The first course on IHL was held in February and March 2017, and a second took place in November. Both courses were well attended by members of the armed forces and police, members of the Costa Rican Red Cross, staff of the Ministry of Foreign Affairs and Worship, the Legislative Assembly and the Judiciary, university students and lawyers. A total of 75 certificates were awarded.

Ecuador. With the support of the ICRC, the National Committee for the Implementation of International Humanitarian Law organized the eighth and ninth Mariscal Antonio José de Sucre course on IHL in October 2016 and September 2017 respectively. The courses were attended by government staff whose work is related to IHL and IHRL, members of the armed forces and police, members of the Ecuadorian Red Cross, teachers, students and representatives of international organizations operating in Ecuador.

Guatemala. The Guatemalan Committee for the Implementation of International Humanitarian Law, together with the Diplomatic Academy and the Foreign Ministry's Human Rights and International Humanitarian Law Department, prepared a course for government staff on IHL which will be held in 2018.

Mexico. In 2016, the Interministerial Committee for International Humanitarian Law held the seventh edition of the Annual Specialized IHL Course in the city of Campeche, which was attended by 250 people. The eighth edition, attended by 200 people, was held in Mexico City in 2017. The 24th International Law Workshop was organized by the Legal Office of the Ministry of Foreign Affairs in August 2017 to promote discussion among high-level experts, government staff, teachers and students on some of the contemporary issues and challenges facing international law. At the workshop, a conference was planned to mark the 40th anniversary of the Additional Protocols of 1977.

Peru. With the support of the ICRC, the National Committee for the Study and Implementation of International Humanitarian Law organized the eleventh and twelfth editions of the Miguel Grau course on IHL for officials, which took place in May in 2016 and 2017 respectively. They were attended by members of the armed forces and police and representatives of the Attorney General's Office and the Ministry of Justice and Human Rights. Again with the support of the ICRC, the Committee organized the seventh and eighth editions of the Miguel Grau area course on IHL in the cities of Ayacucho (December 2016) and Huancayo (November 2017).

Other activities

Peru. On 28 July 2016, the Protocol on assistance for individuals and families rescued from terrorist groups was approved, and the Multisectoral Standing Committee was created by Supreme Decree 010-2016-MIMP to monitor implementation of the Protocol.



2016, Mexico. Opening ceremony of the Senior Workshop On International Rules Governing Military Operations (SWIRMO).

B. INTEGRATING IHL IN THE ARMED FORCES

The integration of IHL in the armed forces is a compulsory requirement for the national implementation of IHL treaties. IHL rules must be translated into concrete mechanisms that ensure the protection of people and property in armed conflicts.

In order to ensure that members of the armed forces act in accordance with IHL, the rules of this body of law must be fully incorporated into military doctrine, education, instruction and training as well as in standard operating procedures and the choice of weapons.

Ministries of Defence form part of national IHL committees and, in some cases, chair them. As part of their work on such committees, they produce reports on the progress made in integrating IHL. Through its programme for armed forces, the ICRC contributes to the work undertaken to incorporate 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 IHL is effectively taught and promoted at all levels. The Joint Chiefs of Staff provides courses to train military instructors in IHL. The National Institute of Air and Space Law runs postgraduate IHL courses 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. The country also has a University of Defence which runs courses and seminars on human rights, IHL and subjects relating to humanitarian assistance.

Belize. In the period 2016–2017, two workshops were held on IHL, attended by members of the Belize Defence Force, the police and the coast guard.

Brazil. Its national plan sets out hierarchically organized orders and provisions which ensure that IHL is effectively taught and promoted at all levels. The plan was enhanced in 2008 when the Ministry of Defence adopted guidelines on teaching IHL. The Ministry ordered the publication of the first edition of the IHL manual for the armed forces in 2011. In 2017, the Brazilian Army Staff approved a general directive on the implementation of IHL.

Chile. Its national plan sets out hierarchically organized orders and provisions which ensure that IHL is effectively taught and promoted at all levels. The National Academy of Policy and Strategy Studies, which operates under the Ministry of Defence, has included the teaching of IHL and IHRL in its curriculum. The Joint Peacekeeping Operations Training Centre in Chile provides instruction in IHL and IHRL to all Chilean military personnel to be deployed on United Nations peacekeeping operations. Chile's armed forces also incorporated the rules and principles of IHL across various military manuals. In 2017, Chile's National Humanitarian Law Committee organized a seminar to report on the integration of IHL in the Chilean armed forces to date, featuring a presentation of the progress achieved and developments in this field.

Colombia. Congress adopted Act 1801 of 2016 establishing the National Police and Social Coexistence Code. It also adopted Act 1862 of 2017 establishing the Military Discipline Code. With the help of the ICRC, the Ministry of National Defence and the Joint Forces Command carried out a series of activities aimed at incorporating IHL into military doctrine, education, training and instruction and into standard operating procedures. After-action reviews on IHL and IHRL were conducted for members of the armed forces and police. Several confidential thematic roundtable sessions were held on how to interpret the rules of IHL, addressing issues such as the use of force in operations, the protective emblems in situations of violence other than armed conflict, disciplinary and legal proceedings and the prevention of sexual violence.

Guatemala. The Ministry of Defence, together with other government institutions and international partners, organized a diploma course on human rights and IHL in 2016 aimed at the law enforcement sector and the judiciary, specifically Ministry of Defence officials and specialists, public prosecutors, judges and senior police officers. The first course for the operational advisors of the different commands was held by the Ministry of Defence from March to July 2017. It was attended by officials from the Supreme Court of Justice, the Ministry of the Interior and the Public Prosecution Service (Public Ministry).

Mexico. In October 2017, the Ministry of National Defence and the ICRC jointly hosted the Senior Workshop on International Rules Governing Military Operations (SWIRMO), which was attended by representatives from more than 60 countries. The workshop, which provided participants with an opportunity to exchange views and experiences in a truly international environment, highlighted the need to incorporate theoretical aspects of the law into operational practice.

Uruguay. It has a national plan in place that sets out hierarchically organized orders and provisions which ensure that IHL is effectively taught and promoted at all levels. The Ministry of Defence, in collaboration with academic units of the armed forces and the Peacekeeping Operations Training Centre, regularly organizes courses for the members of peacekeeping forces which cover IHL and IHRL.

Central American Armed Forces Conference (CFAC). In 2016 and 2017, as part of the CFAC, the first IHL competition was held for military academies in CFAC member countries. Regional workshops were also held on the rules governing military operations for the Conference's member countries, namely El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic.



Mexico. Workshop on the use of force and humanitarian principles with armed forces personnel.

C. INTEGRATING AND PROMOTING INTERNATIONAL HUMAN RIGHTS LAW “IHRL” AND INTERNATIONALLY ACCEPTED STANDARDS ON THE USE OF FORCE IN LAW ENFORCEMENT

With a view to preventing and alleviating the suffering of victims in situations of violence that do not reach the armed conflict threshold that triggers the applicability of IHL, the ICRC, drawing on its experience in the field dealing with the consequences of such violence on a daily basis, works to promote knowledge of and respect for the rules of IHRL and the humanitarian principles applicable in law enforcement operations, with a focus on the use of force, the use of firearms, arrest and detention, and assistance for the victims of violence and people affected by the use of force.

In the reporting period, the national, state, departmental and municipal police and security forces of more than a dozen countries in the Americas continued to use the United Nations Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as standards for good professional practice by law enforcement agencies to ensure respect for human life, safety and dignity.

Awareness-raising, training and advisory activities were organized for all hierarchical levels for the effective incorporation and application of these guidelines in different areas of the police and security forces, including doctrine, education, training, supervision, control and equipment.

These awareness and training activities are also carried out in some countries where the armed forces support the police and security forces in the performance of law enforcement functions.

Some countries in the Americas have started to review their policies and education and training plans, with a view to incorporating humanitarian rules and improving compliance with them.

Belize. The police and armed forces have been working with the ICRC since 2013 to incorporate international rules on the use of force in law enforcement operations. In the period covered by this report, practical workshops were organized, with a focus on operations carried out at border points. They were attended by representatives of most of the authorities that operate at border points, including those responsible for migration and customs. Practical training exercises were also conducted, and a roundtable session was held with the Ministry of National Security, the security forces and the armed forces.

Bolivia. On 17 September 2017, the General Command of Bolivia's National Police approved the Bolivian Manual for Law Enforcement Operations by Administrative Decision 0266/17. It is the first policy instrument adopted by the Bolivian police on operations for controlling social disturbances in accordance with international human rights standards.

Brazil. In 2017, with the support of the ICRC, the Rio de Janeiro state Public Security Department started work on preparing and organizing an Advanced Integrated Police Training Course for senior military and civilian police officers on mainstreaming international human rights standards. The course is due to commence in March 2018. The Public Security Department of the Ministry of Justice created a new online distance learning course on human rights standards applicable in law enforcement.

Chile. In the period covered by this report, Chile's police force, through its Human Rights Department and with the support of the ICRC, held five courses for trainers of trainers and a seminar for teachers on self-defence, police techniques and tactics, and firearms and shooting, with a view to integrating international human rights standards into police training and instruction. The Human Rights Department published a manual on police intervention techniques, with a focus on human rights, and formulated an annual training plan. In 2016 and 2017, over 20,000 police officers received training on human rights and the use of force in law enforcement operations.

Dominican Republic. Congress adopted the Organic National Police Act (590-16), which was published in the official gazette on 18 July 2016. It establishes basic guidelines on the use of force and the link between police policy and respect for human rights.

El Salvador. The Central American Training Course on Human Rights and Humanitarian Principles for Instructors held in 2017 was attended by 34 representatives from El Salvador, Guatemala, Honduras and Costa Rica.

Guatemala. In 2017, 479 high-ranking officers from Guatemala's national police force took part in courses and conferences on the use of force held in the country.

Honduras. In the two-year period covered by this report, work continued on preparing the final version of a draft bill establishing rules on the use of force applicable to all police officers and other personnel acting in support of the national police force in law enforcement operations.

In 2016 and 2017, 25 military instructors received training in the use of force. Thanks to the multiplier effect of this training, in 2017, over 7,000 members of the armed forces (including 4,000 members of the military police) were trained. Also in 2017, 90 high-ranking police officers and five police instructors received training on the use of force.

In 2016 and 2017, military instructors trained by the ICRC in the use of force and humanitarian principles trained eight military police squads responsible for public security, and various dissemination activities were carried out at the army's Military Training Centre for new recruits.

A course was held in San Pedro Sula with the Honduran police on the use of force. It was attended by 34 senior officers, who discussed use of force principles and human rights standards applicable in law enforcement operations.

Jamaica. The Constabulary Force created a working group in 2017 to review its policy on human rights and the use of force and firearms by the police. In addition, the Independent Commission of Investigations (INDECOM) organized a conference in 2017 on the use of force with the aim of drafting a model policy on the use of force for the security forces of Caribbean countries, promoting training on the use of force and helping oversight institutions in the task of controlling the use of force.

Mexico. In 2017, the Ministry of National Defence held the first Training of Trainers Course on the Use of Force and Humanitarian Principles, which was attended by 24 officials. In 2016 and 2017, the Diploma Course on Human Rights and Humanitarian Principles was held with the Federal Police and was attended by 60 senior officers.

The Federal Police's standard operating procedures for the use of force were published in October 2017, establishing parameters and minimum requirements to determine the appropriate techniques, tactics, weapons and degree of force for specific situations faced by the Federal Police.

Panama. The first training course on human rights and humanitarian principles applicable in law enforcement operations was held in 2016 for instructors in Central America. The course, attended by 29 officers from El Salvador, Guatemala, Honduras and Panama, clarified grey areas and difficulties of interpretation in relation to the use of force and human rights standards

Paraguay. With the help of the ICRC, in the period 2016–2017, the Human Rights Departments of the police force and the Ministry of the Interior held two courses for trainers of trainers on human rights and law enforcement and two seminars for high-ranking police officers. Work also began on preparing a manual on the use of force and human rights, which is expected to be completed in 2018.

Peru. Supreme Decree 012-2016-IN was issued on 27 July 2016, regulating the contents of Legislative Decree 1186 on the use of force by the police in situations of violence other than armed conflict.

On 8 May 2017, the Ministry of Justice and Human Rights, the president of the National Penitentiary Institute (INPE) and the ICRC signed a four-year cooperation agreement to carry out joint activities. The ICRC undertook to provide technical support for the implementation of the Missing Persons Search Act, capacity building for INPE personnel and assistance for the country's national IHL committee in implementing IHL and fundamental humanitarian principles.

On 10 February 2017, the Public Order Police Training Centre was officially created by Decision 056-2017-DIRGEN/SUBDG-PNP of the Directorate General of Police. The purpose of the Centre is to develop a policy on public order policing, design a specialized curriculum, establish standard operating procedures and provide continuous training in accordance with the standards, rules and principles laid down in national and international instruments relating to law enforcement.

Trinidad and Tobago. In 2016 and 2017, a workshop was held for the Defence Force, the Police Service and the Ministry of National Security on the use of force in joint operations.

Conference of Defence Ministers of the Americas. In the final declaration of the conference held in October 2016 in Trinidad and Tobago, the ministers renewed their commitment to promoting IHL and IHRL and integrating them into the doctrine, education, training and use of equipment and operating procedures of armed and security forces.



2017, Jamaica. Clarendon, school of transformation. A Jamaica Red Cross school, supported by the ICRC, offers different courses, sporting activities and professional training for the youth.

D. INTEGRATING IHL INTO ACADEMIC TEACHING

On becoming a party to IHL treaties, States undertake to raise awareness of 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 incorporate IHL into their curriculum, teach the subject and encourage research into it, particularly in faculties of law and post-graduate education. Good universities and expert teachers enable States to train specialists, future political and military leaders, members of the judiciary, legislators, other decision-makers and the general public in this field.

An increasing number of academic institutions in the Americas have taken on the responsibility of incorporating the teaching of IHL into the courses they offer. However, although the subject is clearly of interest to these institutions, progress in actually including it in the curriculum was uneven across the region in 2016 and 2017.

A significant number of universities, including ones in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, 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. Faculties of political science, social science, journalism and international relations as well as faculties of law offer courses on this subject.

The ICRC has actively cooperated with universities in many of the region's countries to promote the inclusion and teaching of IHL and humanitarian principles in academic programmes. The incorporation of the subject in post-graduate courses was also promoted, with the aim of developing top-class research centres, mainly through cooperation agreements, courses for university lecturers and the creation of study centres, think tanks and IHL observatories.

In 2016 and 2017, various universities in the region took part in different competitions on IHL, human rights and international criminal law, such as the 28th and 29th editions of the Jean Pictet IHL competition held in Évian-les-Bains (France) and Bordjomi (Georgia) respectively.

Teachers and experts from a variety of disciplines continue to support and contribute to the inclusion and promotion of IHL, incorporating it into academic teaching at the national level and encouraging research into the subject. They play an active part, as independent or government experts, in national IHL training and implementation processes both at the government level, through national IHL committees, for example, and in the armed forces and National Societies. They also contribute to the process of clarifying IHL issues through research, debates, international conferences, opinion papers and their input as government experts.

Argentina. Various activities were carried out in the academic field. The ICRC provided support for the ninth edition of the IHL colloquium organized by the Institute of Human Rights of the National University of the Centre of the Buenos Aires Province (UNICEN) and courses organized by international organizations at various universities.

The University of Buenos Aires (UBA) created an IHL Observatory hosted by the Law Faculty, with guidance from the ICRC.

In 2017, UBA Law Faculty teams were crowned as the winners of the Jean Pictet competition and the International Criminal Court Moot Court competition, both held in Europe.

Ecuador. The Ecuadorian Red Cross, the ICRC and the Committee of Ecuadorian Former Jean Pictet Competition Entrants organized the second edition of the Manuel Muñoz Borrero IHL competition in 2016 and the third edition in 2017 in which ten teams from seven universities located in three different Ecuadorian cities took part. The purpose of the competition, the only one of its kind in the region, is to spread knowledge of this branch of international law among university students by giving them an opportunity to participate in moot courts. It also serves to determine which team will represent Ecuador in the Jean Pictet competition. The academic cooperation agreement between the Catholic Pontifical University of Ecuador (PUCE) and the ICRC to promote IHL at the university was renewed in June 2017.



2016, Ecuador. "Manuel Muñoz Borrero" Competition.

Guatemala. In 2017, the Judicial Studies School incorporated IHL and IHRL content into its training courses for local magistrates aspiring to become judges of first instance.

Mexico. In the period 2016–2017, the Víctor Carlos García Moreno competition (International Criminal Court moot court) and the Sergio García Ramírez competition (proceedings before the Inter-American Court of Human Rights) were held. The fictitious cases used in these competitions included aspects of IHL, giving students representing universities from across the region important insights into its application and how it differs from IHRL.

At the end of 2016, the Law Faculty of the National Autonomous University of Mexico included a module on core aspects of IHL as a compulsory subject in the public international law syllabus. In 2017, lecturers teaching this subject received basic training in IHL and teaching tools.

Peru. The ICRC continued to support the Yachay human rights competition organized by the Pontifical Catholic University of Peru. The competition, held annually and entered by universities from various cities in Colombia, Peru, Ecuador and Bolivia, consists in arguing a fictitious case that involves IHL issues. It also supported the Peruvian teams taking part in the Jean Pictet IHL competition, providing them with academic material to help them prepare their case. The country's national IHL committee and the ICRC jointly organized the first meeting of students of international humanitarian law, with the aim of creating a network of students interested in IHL to promote the study and dissemination of this body of law and its inclusion in the curriculum of law faculties in Lima and other cities around the country.

III. NATIONAL IHL COMMITTEES

National implementation of IHL encompasses all the measures that need to be taken to ensure full compliance with the rules of this body of law. These measures generally have to be prepared and adopted in peacetime so that States are able to fulfil the obligations acquired upon becoming parties to IHL treaties.

More than half of the world's States have set up mechanisms to facilitate this task,¹ and most Latin American States have one. They generally take the form of interministerial or interinstitutional committees and are composed of executive branch institutions, such as ministries of foreign affairs, defence, justice, health, education and culture, and representatives of the legislative branch and the judiciary. Other institutions, such as National Red Cross Societies and academic institutions, also often contribute to their work. The ICRC normally assists them, providing legal and technical advice. They enable States to work more efficiently in implementing IHL nationally, by ensuring a rational use of resources and bringing together expertise and capacities that are normally dispersed. They also help maintain a permanent focus on IHL, regardless of changing circumstances and shifting priorities.

COUNTRY	COMMITTEE CREATED IN
Argentina	1994
Bolivia	1992
Brazil	2003
Canada	1998
Chile	1994
Colombia	2000
Costa Rica	2004
Dominican Republic	1995
Ecuador	2006
El Salvador	1997
Guatemala	1999
Honduras	2007
Mexico	2009
Nicaragua	1999
Panama	1997
Paraguay	1995
Peru	2001
Trinidad and Tobago	2001 (<i>ad hoc</i>)
Uruguay	1992
Venezuela	2015
TOTAL	20

¹ The list of national IHL committees around the world can be found at <https://www.icrc.org/en/document/table-national-committees-and-other-national-bodies-international-humanitarian-law>.

A. UNIVERSAL MEETING OF NATIONAL IHL COMMITTEES

The fourth Universal Meeting of National Committees and Similar Bodies on International Humanitarian Law was held from 30 November to 2 December 2016 under the theme “Enhancing protection in armed conflict through domestic law and policy”. The meeting provided national IHL committees with a platform for engaging in peer-to-peer exchanges on their activities and experiences, with a focus on future action. The meeting was attended by representatives from 133 States and 93 national IHL committees and similar bodies.



Opening session – The Universal Meeting of National Committees and Similar Bodies on IHL: Enhancing Protection in Armed Conflict Through Domestic Law and Policy.

The specific objectives of the meeting were to provide national committee representatives and government experts with the opportunity to discuss the tasks, working methods and achievements of the committees and the challenges they face in their work and determine their needs in terms of capacity building and other forms of support; to continue supporting the establishment and operation of national committees; to discuss the continuing relevance of the specific role assigned to national bodies (formal and informal) in promoting IHL and implementing it domestically, how this role is evolving and how national committees can be made more efficient; to analyse the role and contribution of these bodies in the preparation of domestic laws, policies, strategies and action plans on specific issues of particular importance for protection in armed conflicts and fulfilment of the obligations of States under IHL; and to analyse and determine ways to promote implementation of the outcomes of the 32nd International Conference of the Red Cross and Red Crescent (resolutions and pledges) nationally.

The meeting also encouraged States that had not yet established a national IHL committee to consider doing so and motivated committees that had not been active recently to resume their work. In order to follow up on the work of the Universal Meeting, the ICRC intends to develop a tool to provide guidance on the role and operation of national IHL committees. It will also study the possibility of creating a digital platform to facilitate exchanges among national committees.

The Universal Meeting featured three side events in addition to the formal agenda to provide participants with another space to discuss and share opinions and experiences on the role that National Red Cross and Red Crescent Societies can play in contributing to the work of national committees and similar bodies on IHL, on the Montreux Document concerning private military and security companies and on legal reviews of new weapons and means and methods of warfare.

B. REGIONAL MEETING OF NATIONAL IHL COMMITTEES

The region's national committees gathered in San José (Costa Rica) on 30 and 31 May 2017 for the regional meeting of national IHL committees of the Americas. The meeting coincided with the 40th anniversary of the Additional Protocols of 1977 and the 20th anniversary of the Anti-Personnel Mine Ban Convention of 1997 and provided an opportunity for the national committees to continue contributing to the debate on IHL in the region, share views and experiences and receive updates on specific issues. Such meetings have taken place regularly since the first one was held in Panama in 1998.

The subject of weapons was at the centre of the meeting's discussions, with participants examining a whole series of issues associated with the challenges faced in this area, including the scope of the rules governing the conduct of hostilities and technological advances that pose particular challenges in terms of respect for IHL and the protection of people. The specific subjects addressed included the 1980 Convention on Certain Conventional Weapons and its Protocols and the challenges their provisions raise in terms of domestic implementation; challenges yet to be addressed with regard to the ban on anti-personnel mines and cluster munitions in spite of the significant progress achieved in this area; the challenges posed by irresponsible arms transfers which in many cases lead to violations of IHL; the problem of the use of explosive weapons in populated areas which has dramatic consequences for those affected; the challenge of legal reviews of new weapons provided for in Article 36 of Additional Protocol I; and the challenges that the rapid development of information technologies and robotics raises for the protection of people.

The event was attended by members of the national IHL committees of the Americas and representatives of the governments of Cuba, the United States, Jamaica and Suriname, the Caribbean Community (CARICOM) Implementation Agency for Crime and Security (CARICOM IMPACS), the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC), the OAS Department of International Law and the International Campaign to Abolish Nuclear Weapons (ICAN).

C. ACTIVITIES OF THE REGION'S NATIONAL IHL COMMITTEES

This section provides an overview of some of the work carried out by the region's national IHL committees in addition to their involvement in the conception and implementation of many of the other activities described elsewhere in the report.

Argentina. In 2016 and 2017, the Committee for the Implementation of International Humanitarian Law was actively involved in the work of various interministerial working groups. Its Executive Secretariat, which is part of the Ministry of Defence, coordinated efforts to advance in areas such as the identification of works and installations containing dangerous forces, the promotion of IHL in the armed forces and the organization of seminars and courses for military personnel and civilians on IHL and other issues on the international humanitarian agenda. The Committee also contributed to the development of a specific protocol on assistance for people with disabilities in international and non-international armed conflicts.

Brazil. The National Committee for the Dissemination and Implementation of International Humanitarian Law was very active in the period 2016–2017. It created various subcommittees whose work focused on identifying cultural property that should be protected in the event of an armed conflict, following up on legislative initiatives relating to IHL and studying the relationship between IHL and new warfare technologies. The Committee continued monitoring the progress in Congress of the draft bill for the incorporation of the crimes listed in the 1998 Rome Statute into domestic law and pressing for ratification by the government of the Arms Trade Treaty and the two amendments to the Rome Statute.

Chile. In the period 2016–2017, the National Humanitarian Law Committee followed up on the pledges made at the 32nd International Conference of the Red Cross and Red Crescent. It continued work, through a special working group on the implementation of the Hague Convention, to identify cultural property to be registered and marked either for general or special protection. It also continued working with the Ministry of National Defence to prepare legislation to set up a national information bureau, as provided for in Part V of the Third Geneva Convention. The Committee advised Parliament on action required in relation to the amendments to the Rome Statute adopted in Kampala. In 2017, a seminar was organized to report on progress in integrating IHL in the Chilean armed forces.

Colombia. The government's Technical Group on International Humanitarian Law and Armed Conflict furthered implementation of the National System for Human Rights and IHL. The Group also contributed to preparing the new operational law manual for the armed forces and prepared and implemented actions to assist in the search for missing persons and to provide support to their families.

Guatemala. On the initiative of the Guatemalan Committee for the Implementation of International Humanitarian Law and the Association of Museums, the National Blue Shield Committee was set up to protect cultural property in the event of armed conflict. The IHL Committee also worked on draft regulations for the law on the protection and use of the red cross emblem. It examined the Safe Schools Declaration promoted by the Global Coalition to Protect Education from Attack, with a view to studying the possibility of endorsing it. Lastly, the Committee provided IHL training to Guatemalan army personnel deployed on peacekeeping operations in the Democratic Republic of the Congo and Haiti.

Mexico. In addition to the Annual Specialized IHL Course already mentioned, the Interministerial Committee for International Humanitarian Law organized meetings with higher education establishments in 2016 and 2017 to promote the inclusion of IHL in their programmes. In 2017, it co-hosted an event with the ICRC at which three issues of the *International Review of the Red Cross* were presented.

Paraguay. The Interministerial Committee for the Study and Implementation of International Humanitarian Law launched a project to further the promotion of IHL in different areas of the country. It also continued its work to identify cultural property that should be protected in the event of armed conflict.

Peru. In 2017, the National Committee for the Study and Implementation of International Humanitarian Law met on a number of occasions to prepare the regulations for Legislative Decree 1095 concerning the use of force in Peru both in situations in which IHL is applicable and in other situations of violence. The final draft resulting from these meetings will be submitted to the Ministry of Defence for its evaluation and subsequent enactment.

Uruguay. In 2016, the National Humanitarian Law Committee prepared a draft bill to include violations of the Convention on Cluster Munitions in domestic law. It also prepared a draft bill to amend the law on the use of the red cross emblem in order to incorporate the provisions of Protocol III additional to the Geneva Conventions. It helped to organize one-day training and instruction sessions on human rights and IHL for personnel deployed on UN peacekeeping operations.

IV. THE ORGANIZATION OF AMERICAN STATES AND IHL

During the two-year period covered by this report, the OAS and its Member States continued and strengthened their efforts to develop and increase respect for IHL, which were mainly focused on two areas: promotion and training.



2017, Brazil. Anthropological and archaeological forensics centre at the federal university. The relatives of missing persons speak with members of the scientific committee of the Perus working group.

A. PROMOTION OF IHL

IHL is high on the OAS agenda and features prominently in the work of its Committee on Juridical and Political Affairs. This was reflected in the adoption by the organization's General Assembly of a number of resolutions concerning IHL-related matters in 2016 and 2017. The texts adopted show the strong and enduring political will of States to respect and ensure respect for IHL and provide guidance on tackling the humanitarian issues currently faced by countries in the Americas.

The main resolutions relating to the promotion and strengthening of IHL adopted in the reporting period by the 46th OAS General Assembly, which met in Santo Domingo (Dominican Republic) in 2016, and the 47th General Assembly held in Cancun (Mexico) in 2017. The relevant sections of the resolutions are reproduced in an appendix to this report.

- AG/RES. 2886 (XLVI-O/16): International law
 - iv. Promotion of and respect for international humanitarian law
- AG/RES. 2887 (XLVI-O/16): Promotion and protection of human rights
 - xi. Persons who have disappeared and assistance to members of their families
- AG/RES. 2908 (XLVII-O/17): Promotion and protection of human rights
 - iv. Protection of refugees and asylum seekers in the Americas
- AG/RES. 2909 (XLVII-O/17): International law
 - ii. Promotion of the International Criminal Court
- AG/RES. 2910 (XLVII-O/17): Migration in the Americas

In addition to the above, Resolution 2880 adopted at the General Assembly held in 2016 and Resolution 2907 adopted in 2017, both entitled “Advancing hemispheric security: a multidimensional approach”, urge Member States to ratify the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials and the Inter-American Convention on Transparency in Conventional Weapons Acquisitions. They emphasize the need to promote and strengthen synergies between the United Nations – especially its Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UNPoA); the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, supplementing the United Nations Convention against Transnational Organized Crime; and the Arms Trade Treaty – and the OAS and all the Hemisphere’s subregional mechanisms, in order to enable Member States to explore opportunities for working together more effectively and extensively in this area.

Resolution 2907 highlights the importance of the Treaty for the Prohibition of Nuclear Weapons being recognized in Latin America and the Caribbean (Treaty of Tlatelolco) on the 50th anniversary of its entry into force “demonstrating that the absence of nuclear weapons in the region strengthens security and confidence among the states of the Hemisphere, sets a clear example for those states that possess such weapons, and contributes to efforts to achieve a world free of nuclear weapons”. It also acknowledges the efforts of Costa Rica during its tenure as Chair of the United Nations Conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination (finally adopted in July 2017). It mentions the 20th anniversary of the signing of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention), noting that it has greatly benefited humanity. It urges States that have not yet signed the Convention to do so and encourages States to support and promote compliance with the principles of the Convention in each of its pillars (universality, education on risks, assistance to victims, humanitarian demining, and international cooperation and assistance).

Resolution 2888, adopted by the 2016 General Assembly, includes the American Declaration on the Rights of Indigenous Peoples. Article XXX on the right to peace, security and protection, particularly paragraphs (3), (4) and (5), refers specifically to IHL. These paragraphs provide that indigenous peoples “have the right to protection and security in situations or periods of internal or international armed conflict, in accordance with international humanitarian law”. They recall the international commitments acquired by States under the Fourth Geneva Convention and Protocol II and call on States to honour them by taking adequate measures to protect the human rights, institutions, lands, territories and resources of indigenous peoples and their communities and to ensure that indigenous children and adolescents are not recruited into the armed forces under any circumstances; by adopting effective reparation measures and providing adequate resources for them, in collaboration with the indigenous peoples concerned, for the damages or harm caused by armed conflict; and by taking special and effective measures, in collaboration with indigenous peoples, to ensure that indigenous women and children live free from all forms of violence, especially sexual violence, and to guarantee the right of access to justice, protection and effective reparation for harm caused to victims. It is stipulated that military activities must not take place “in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed to or requested by the indigenous peoples concerned”.



2016, Mexico. A group of migrants gets on a train in order to continue with their journey.

The ICRC took part in a meeting held in February 2017 as part of the work of the OAS Committee on Juridical and Political Affairs, which addressed issues referred to in AG/RES. 2887 on the promotion and protection of human rights (XLVI-O/16). The ICRC highlighted the progress achieved in this area in the region's countries, particularly through the adoption of laws, regulations and practices for the prevention of forced disappearance and the provision of assistance to victims' families. It was observed that thousands of people in the region are still searching for loved ones who went missing as a result of armed conflicts or migration and that it is therefore necessary to continue designing and improving centralized information management systems and formulating public policy to respond to the needs of victims and families. Examples of successful measures in this field included the adoption of the act passed in Peru in 2016 concerning the search for missing persons and the country's National Missing Persons Search Plan. Some of the State delegations attending the meeting took the floor to speak about the question of missing people and the measures taken in their country to tackle the problem.

At another session held in the same month, the ICRC made a presentation to the Committee on Juridical and Political Affairs on international migration and protecting the human rights of migrants in fulfilment of the mandates set out in Resolution AG/Res. 2887 (XLVI-O/16). It explained the main challenges facing the region in this regard and described the efforts undertaken by the ICRC and the National Red Cross Societies to provide assistance, restore family links and maintain a dialogue with the authorities of countries where migration is an issue, with a special focus on deportation and return procedures and the implications for the protection of migrants and questions relating to unaccompanied children and missing migrants and their families.

In December 2017, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights organized the Forum of the Inter-American Human Rights System in Washington to generate and promote a debate on the present and future of human rights in the region, the effectiveness of the system, the need to increase compliance with the recommendations of the Commission and the judgements of the Court and other key issues on the human rights agenda in the Americas, with the aim of encouraging constructive exchanges among all the actors concerned. During the event, the ICRC took part in a panel debate on missing persons in the Americas, providing an overview of the activities carried out under its project to address this issue.

Another important event was the meeting between the Inter-American Court of Human Rights and the head of the ICRC regional delegation for Mexico, Central America and Cuba at the 55th Special Session of the Court held from 22 August to 2 September 2016 in Mexico City. The purpose of the meeting was to discuss the mechanisms in place for collaboration between the two institutions and how they can be improved and to address substantive issues concerning the relationship between IHRL and IHL. As a result of the meeting, it was agreed that the two institutions would prepare a joint publication exploring the interplay between IHRL and IHL in the light of the Court's jurisprudence. It is expected to be published in 2018 and will form part of the Court's series *Cuadernillos de Jurisprudencia*.

Lastly, as mentioned above, the Department of International Law of the OAS took part in the regional meeting of national IHL committees of the Americas held in San José (Costa Rica) in May 2017.

B. TRAINING IN IHL

In early 2017, the Inter-American Commission on Human Rights and the ICRC held a workshop in Washington for the Commission's legal staff to analyse and discuss the question of protection and assistance in relation to missing persons and their families. The objectives of the workshop were to consider the needs of missing persons and their families in the light of IHL and IHRL; to examine the approach for implementing protection and assistance measures and the challenges posed, particularly in relation to procedures for locating and identifying missing persons, the development of forensic expertise, and psychosocial care and reparation for the families of missing persons; and to reflect on potential opportunities for strengthening measures aimed at tackling the problems of protection and assistance that affect the families of missing persons.

Preparations began in 2017 to organize a one-day working session between the ICRC and the Inter-American Court of Human Rights to take place in 2018 in San José. Events of this kind, aimed mainly at the Court's jurists, are held periodically and provide an opportunity to examine a range of issues relating to IHL and IHRL.

In the period 2016–2017, various IHL topics were addressed at the annual International Law Course organized by the Inter-American Juridical Committee and the Department of International Law of the Secretariat for Legal Affairs of the OAS in Rio de Janeiro. At the 43rd edition, the ICRC was invited to give a class on IHL challenges in contemporary armed conflicts, with a focus on new warfare technologies. For the 44th edition held in 2017, the subject of the class was the importance and relevance of the Additional Protocols of 1977, 40 years on from their adoption.

The ICRC also maintains a close relationship with the Inter-American Institute of Human Rights (IIHR), an academic institution created under an agreement between the Inter-American Court of Human Rights and the Costa Rican government. The close cooperation between the two institutions is evidenced by the standing invitation extended to the ICRC to give the Jean Pictet Chair lecture as part of the interdisciplinary course organized annually by the IIHR. The ICRC took part in the 34th course (2016) on "Accessible, effective, reparative and differential justice: towards the full guarantee of human rights" and the 35th course (2017) on "Institutional decisions, transparency and combating corruption: a human rights-based approach".

V. THE WORK OF THE ICRC'S ADVISORY SERVICE IN THE AMERICAN STATES



2017, Mexico. Panel on migration at the National Autonomous University of Mexico, during the visit of the ICRC President to the country.

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

This is a mandate given by States to the ICRC, as defined most notably 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 in January 1995 in Geneva (Switzerland).

As a specialized body of the ICRC, the Advisory Service assists States in the process of implementing IHL domestically. It provides guidance to national authorities on the specific domestic implementation measures needed to meet their IHL obligations, and it supports the work of national IHL bodies established to facilitate IHL implementation domestically. It also supports the exchange of information on national implementation measures and helps to improve capacity building at the request of governments and other actors. To this end, the Advisory Service maintains bilateral contacts with national authorities, organizes thematic expert workshops and sponsors regional and international peer meetings for relevant State authorities in each country. Its legal advisors work closely with National Red Cross and Red Crescent Societies, academic institutions and other relevant groups and individuals.

To foster understanding of IHL and to further the ICRC’s work on IHL implementation, the Advisory Service cooperates with relevant international and regional organizations, such as UNESCO, the Commonwealth Secretariat, the Council of Europe, the Organization of American States and the International Criminal Court.

The Advisory Service has a decentralized structure, with a team of experts operating from ICRC headquarters in Geneva and legal advisors based in different regions around the world. In the Americas, the Advisory Service has advisors in Bogotá, Brasilia, Caracas, Guatemala City, Lima, Mexico City, San Salvador, Tegucigalpa and Washington.

In 2016 and 2017, the Advisory Service provided technical and legal advice to the authorities of the American States, encouraged exchanges among the region's 20 national IHL committees and promoted the implementation of IHL in all 35 American States. The activities carried out included the following:

- **advising** States on the contents of IHL treaties they are not party to in order to facilitate their ratification;
- **providing** guidance to States on whether domestic legislation is consistent with IHL treaties;
- **preparing** 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 aimed at strengthening national IHL committees in coordination with the relevant authorities and providing support to implement them;
- **facilitating** exchanges between national IHL committees 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 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 is available at <http://www.icrc.org/ihl-nat>.

The Advisory Service has also created a series of factsheets on topics such as the protection of civilians, conventional weapons and new weapons, the differences between IHL and IHRL, measures within the criminal justice system and international criminal justice. These factsheets are available at:

<https://www.icrc.org/en/war-and-law/ihl-domestic-law/documentation>.

APPENDICES

I. RESOLUTIONS ADOPTED AT THE 46TH GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES HELD IN 2016

AG/RES. 2886 (XLVI-O/16) INTERNATIONAL LAW

(ADOPTED AT THE SECOND PLENARY SESSION,
HELD ON JUNE 14, 2016)

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly June 2015 - June 2016” (AG/doc.5514/16 add. 1), in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP);

CONSIDERING that the programs, activities, and tasks established in the resolutions dealing with international law under the purview of the CAJP assist in meeting the essential purposes of the Organization enshrined in the Charter of the Organization of American States;

REAFFIRMING the standards and principles of international law and the Charter of the Organization of American States; and

RECALLING resolutions AG/RES. 2795 (XLIII-O/13), AG/RES. 2849 (XLIV-O/14), and AG/RES. 2852 (XLIV-O/14), and all previous resolutions adopted on this topic,

I. ACTIVITIES OF THE COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

(...)

iv. Promotion of and Respect for International Humanitarian Law

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 four Geneva Conventions and to the states parties to the three protocols additional thereto;

REAFFIRMING, to that end, the need to strengthen international humanitarian law by promoting its universalization, its broader dissemination, and the adoption of national measures for its effective application; and

EMPHASIZING the role of the International Committee of the Red Cross as a neutral, impartial, and independent institution working to protect and assist victims of armed conflicts and other situations of violence, as well as in promoting respect for international humanitarian law in the region,

RESOLVES:

1. To urge member states to consider ratifying or acceding to the treaties on international law, including those on prohibition or restriction of the use of certain weapons for humanitarian reasons, and, as applicable, take the legislative steps needed to prevent conduct prohibited under those and other treaties, especially as regards the destruction of weapons, clean-up of weapons contaminated with explosive remains, proper care for victims, and control over the arms trade, and to incorporate international humanitarian law into the doctrines, procedures, and training of the armed and security forces;
2. To urge member states to contribute actively to follow-up on the resolutions adopted at the 32nd International Conference of the Red Cross and Red Crescent, held in Geneva, Switzerland, from December 8 to 10, 2015, especially those on strengthening compliance with international humanitarian law; strengthening international humanitarian law protecting persons deprived of liberty; sexual and gender-based violence; and delivery of health care in situations of danger.
3. 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.
4. To express satisfaction with the cooperation between the Organization of American States and the International Committee of the Red Cross in promoting respect for international humanitarian law and the principles that govern that law; and to urge the General Secretariat to continue to strengthen such cooperation, including through special meetings on issues related to international humanitarian law.
(...)

AG/RES. 2887 (XLVI-O/16)
PROMOTION AND PROTECTION OF HUMAN RIGHTS^{2/3/4/5/6/7/}

**(ADOPTED AT THE SECOND PLENARY SESSION,
 HELD ON JUNE 14, 2016)**

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly June 2015 – June 2016” (AG/doc.5514/16 add. 1), in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP);

CONSIDERING that the programs, activities, and tasks set out in the resolutions within the purview of the CAJP help to further the essential purposes of the Organization enshrined in the Charter of the Organization of American States;

REAFFIRMING the norms and principles of international law and those contained in the Charter of the Organization of American States, international human rights law, and international humanitarian law, as well as the rights enshrined in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and other binding inter-American instruments on this subject, as well as the important role played by the organs of the inter-American human rights system in promoting and protecting human rights in the Americas; and

-
- 2 The Government of Jamaica is fully committed to protecting the human rights of all its citizens, including from any form of violence, in accordance with the rule of law and the Jamaican Constitution. Jamaica, however, expresses its reservation regarding terms such as “gender identity” and “gender expression” which are not defined in Jamaican law and have not gained international acceptance.
 - 3 The Republic of Honduras declares its commitment to human rights and international conventions and, with respect to the provisions of this resolution, states its reservation to those articles that are contrary to the Constitution of the Republic of Honduras.
 - 4 The State of Guatemala declares that it promotes and defends all human rights and, with respect to the provisions of this resolution, reaffirms the equality of all human beings under the provisions of the Constitution of the Republic and does not discriminate for any reason, regardless of race, creed, sex, etc. It also considers that the lawful nonrecognition of marriage between persons of the same sex is not a discriminatory practice. Therefore, Guatemala dissociates itself from those parts that are incompatible with, or contrary to, its applicable national law, and it reserves the right to interpret the terms of this resolution.
 - 5 The Government of Nicaragua considers unacceptable the double standard of the Inter-American Commission on Human Rights in maintaining Chapter IV.B of its Annual Report. The criteria used are subjective, politicized, discriminatory, and inconsistent with the primary function of promoting and protecting human rights assigned by the states to this organ. The delegation, therefore, recommends the elimination of that chapter, which contravenes the provisions established in the American Convention on Human Rights.
 - 6 The Republic of Paraguay reiterates its commitment to the principles of the Universal Declaration of Human Rights and international conventions signed on such matters, and it reaffirms the precepts set down in Title II “Rights, Duties, and Guarantees,” Chapter III “Equality,” and Chapter IV “Rights of the Family” of its National Constitution and concordant provisions. Therefore, it states its reservation to the text contained in Section xix “Human rights, sexual orientation, and gender identity and expression.” In addition, the expression “gender identity” used in other parts of this resolution will be interpreted in accordance with its domestic system of laws.
 - 7 Trinidad and Tobago is unable to join the consensus on this document, as some areas are contrary to the laws of the Republic. Trinidad and Tobago remains firmly committed to the promotion and preservation of the rule of law and the protection of human rights and fundamental freedoms of all people, as enshrined in the Constitution of Trinidad and Tobago.

RECALLING declaration AG/DEC. 71 (XLIII-O/13), resolutions AG/RES. 2781 (XLIII-O/13), AG/RES. 2790 (XLIII-O/13), AG/RES. 2799 (XLIII-O/13), AG/RES. 2802 (XLIII-O/13), AG/RES. 2804 (XLIII-O/13), AG/RES. 2805 (XLIII-O/13), AG/RES. 2821 (XLIV-O/14), AG/RES. 2822 (XLIV-O/14), AG/RES. 2823 (XLIV-O/14), AG/RES. 2825 (XLIV-O/14), AG/RES. 2826 (XLIV-O/14), AG/RES. 2829 (XLIV-O/14), AG/RES. 2831 (XLIV-O/14), AG/RES. 2832 (XLIV-O/14), AG/RES. 2839 (XLIV-O/14), AG/RES. 2840 (XLIV-O/14), AG/RES. 2845 (XLIV-O/14), AG/RES. 2847 (XLIV-O/14), AG/RES. 2850 (XLIV-O/14), AG/RES. 2851 (XLIV-O/14), AG/RES. 2854 (XLIV-O/14), AG/RES. 2863 (XLIV-O/14), AG/RES. 2864 (XLIV-O/14), and AG/RES. 2867 (XLIV-O/14), as well as all previous resolutions adopted on this topic,

I. ACTIVITIES OF THE COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

(...)

xi. Persons who have disappeared and assistance to members of their families

REAFFIRMING the responsibility of states to continue necessary efforts to alleviate the suffering, anxiety, and uncertainty experienced by the family members of persons who are presumed to have disappeared as a result, inter alia, of armed conflicts, armed violence, migration, or natural disasters, in order to meet their diverse needs and fulfill their right to truth and justice and, where appropriate, to receive reparation for harm caused;

RECALLING 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; and

UNDERSCORING the experience in different states of mechanisms to address the needs of family members, the advances in forensic sciences and their important contribution in the search process for persons who have disappeared, and the documents and tools developed by the International Committee of the Red Cross and other organizations with experience in searching for persons who have disappeared and meeting the needs of their family members; and the minimum standards for psychosocial work proposed in the International Consensus on Principles and Minimum Standards for Psychosocial Work in Search Processes and Forensic Investigations in Cases of Enforced Disappearances, Arbitrary or Extrajudicial Executions,

RESOLVES:

1. To urge member states, in keeping with their obligations under international humanitarian law and international human rights law, and taking into consideration existing related case law, to continue the progressive adoption of measures, including domestic regulatory and institutional provisions to:
 - a) prevent the disappearance of persons, with a particular focus on vulnerable groups;
 - b) deal with cases of migrants who have disappeared, as well as children presumed to have disappeared, in order to search for them, identify them, and, where possible, reunite them with their families and promote regional cooperation on technical and judicial assistance;
 - c) clarify the whereabouts and fate of disappeared persons in order to provide their families with a rapid response, and evaluate the possibility of establishing mechanisms to search for persons who have disappeared so as to provide a framework for a broad, comprehensive investigation and, in the case of death, accord priority to the humanitarian objectives of recovery, identification, return, and a decent burial of the human remains, without prejudice to compliance with the obligations to investigate, prosecute, and punish those responsible for the disappearances;

- d) meet the needs of family members, such as, inter alia, to know what happened to their loved ones; recover the human remains and give them a decent burial according to their customs and traditions; settle legal and administrative problems through a comprehensive domestic legal framework that recognizes the legal status of persons who have disappeared, such as a “declaration of absence by reason of disappearance”; receive financial, psychological, and psychosocial assistance; access justice; hold acts of remembrance and commemoration; and obtain compensation and reparation, taking into account the priorities of the family members;
 - e) guarantee the participation and representation of the victims and their families in the relevant proceedings; ensure their access to justice and mechanisms by which to seek prompt and effective just reparation; and ensure provisions to protect all victims and witnesses in proceedings before criminal courts and in other transitional justice mechanisms whose security and well-being may be undermined as a result of their reporting crimes of forced disappearance;
 - f) strengthen technical capacities for search, recovery, and the use of diverse forensic sciences, and support training processes for forensic science professionals for identifying human remains, including in relation to the challenges associated with migrants presumed to have disappeared, in keeping with internationally recognized scientific standards and procedures; and
 - g) ensure proper handling of information, including the personal data of disappeared persons and their family members, through the creation of centralized databases to collect, protect, and manage information in accordance with national and international legal standards and provisions.
2. To encourage member states to ratify or accede to the Inter-American Convention on Forced Disappearance of Persons and the International Convention for the Protection of All Persons from Enforced Disappearance, implement them in their domestic legal systems, and recognize the competence of the Committee on Enforced Disappearances; to share experiences and best practices, strengthen international cooperation and information sharing, and support the participation of, and technical assistance from, international and national institutions with recognized experience in searching for missing persons. In addition, to urge member states to continue cooperating with the International Committee of the Red Cross by facilitating its work and accepting its technical recommendations, with a view to consolidating measures adopted by states in the process of searching for missing persons and assisting their family members.
 3. To encourage member states to promote the adoption at the national level of measures related to the provisions contained in resolution AG/RES. 2134 (XXXV-O/05), “Persons Who Have Disappeared and Assistance to Members of Their Families,” and all subsequent resolutions in that regard adopted by the General Assembly, and provide regular information updates on such matters; and to instruct the CAJP to include dissemination of that information on its agenda prior to the forty-eighth regular session of the OAS General Assembly.

II. RESOLUTIONS ADOPTED AT THE 47TH GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES HELD IN 2017

AG/RES. 2908 (XLVII-O/17) PROMOTION AND PROTECTION OF HUMAN RIGHTS^{8/9/10}

(ADOPTED AT THE THIRD PLENARY SESSION,
HELD ON JUNE 21, 2017)

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly June 2016–June 2017” (AG/doc.5565/17 add. 1), in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP);

CONSIDERING that the programs, activities, and tasks set out in the resolutions within the purview of the CAJP help to further the essential purposes of the Organization enshrined in the Charter of the Organization of American States (OAS);

REAFFIRMING the norms and principles of international law and those contained in the Charter of the OAS, international human rights law, and international humanitarian law, as well as the rights enshrined in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and other binding inter-American instruments on this subject, as well as the important role played by the organs of the inter-American human rights system in promoting and protecting human rights in the Americas; and

RECALLING declarations AG/DEC. 71 (XLIII-O/13) and AG/DEC. 89 (XLVI-O/16); resolutions AG/RES. 2887 (XLVI-O/16) and AG/RES. 2888 (XLVI-O/16); as well as all previous resolutions adopted on this topic,

(...)

8 Guatemala reaffirms that it has the sovereign right to enforce its Constitution and its domestic laws, taking into account its priorities and development plans, and in a way that is compatible with universally agreed on international human rights.

9 The Bolivarian Republic of Venezuela does not agree to any commitment or mandate issued in this resolution as it did not participate in the negotiation of said resolution. It is still within the denunciation period established in Article 143 of the OAS Charter.

10 Trinidad and Tobago is unable to join the consensus on this document, as some areas are contrary to the laws of the Republic. Trinidad and Tobago remains firmly committed to the promotion and preservation of the rule of law and the protection of human rights and fundamental freedoms of all people, as enshrined in the Constitution of Trinidad and Tobago.

iv. Protection of refugees and asylum seekers in the Americas¹¹

EMPHASIZING that the commemoration in 2014 of the thirtieth anniversary of the 1984 Cartagena Declaration on Refugees (Cartagena 30) has identified new demands and challenges in international protection for refugees, displaced, and stateless persons in the Americas, through active participation by the countries of Latin America and the Caribbean in collaboration with international agencies, civil society organizations, and other social actors;

UNDERSCORING the importance of the Brazil Declaration “A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean ” and the Brazil Plan of Action “A Common Roadmap to Strengthen Protection and Promote Sustainable Solutions for Refugees, Displaced and Stateless Persons in Latin America and the Caribbean within a Framework of Cooperation and Solidarity,” which were adopted on December 3, 2014, as the new strategic framework for protection of refugees, asylum seekers, displaced and stateless persons;

UNDERSCORING ALSO the importance of the commitments adopted globally by States in the New York Declaration for Refugees and Migrants, including participation in the development of the Global Compact on Refugees, which will conclude at the High-Level Meeting of the United Nations General Assembly on the subject, to be held in September 2018, that should reflect the positions and interests of the community with respect to refugees;

NOTING the contributions of Advisory Opinion OC-21/14 issued by the Inter-American Court of Human Rights on August 19, 2014, as regards the commitment of states to adopt regulations and guidelines to ensure the rights of refugee children in the region; and

CONSIDERING the convergence of international human rights law, international refugee law, and international humanitarian law, as well as the essential role of states in preventing situations in which human rights are undermined and can cause future cases of displaced persons and refugees,

RESOLVES:

1. To urge all states to continue to defend and observe the international principles on protection of refugees and asylum seekers, in particular the principle of nonrefoulement as well as promoting shared responsibility and international cooperation among member states.¹²
2. To recognize and reaffirm the full effect and fundamental importance of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol as the principal instruments for refugee protection, and, where applicable, of the Declaration of Cartagena of 1984, and to reaffirm the commitment of the states parties to those instruments to fully and effectively implement the obligations contained therein, in accordance with their objective and purpose.

11 The United States understands the resolution’s reaffirmation of prior documents to apply to those who affirmed them initially.

12 For Colombia, the concept of shared responsibility does not imply additional obligations for states of origin and should be interpreted based on principles of solidarity and international cooperation.

3. To urge the countries that adopted the Brazil Declaration “A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean,” at Brasilia on December 3, 2014, as a new strategic framework for meeting the protection needs of refugees, displaced, and stateless persons, to take an active part in the triennial evaluation of the Brazil Action Plan, pursue their thematic programs over the next decade on a footing of regional solidarity and cooperation, as well as shared responsibility, and continue facilitating exchanges of best practices among the countries of Latin America and the Caribbean, with the support of the international community and the UNHCR.
4. To invite states to demonstrate their solidarity with those countries that receive the largest numbers of, or register a significant increase in, refugees in the region through, *inter alia*, resettlement measures, as part of a lasting solution.

AG/RES. 2909 (XLVII-O/17)
INTERNATIONAL LAW¹³

**(ADOPTED AT THE THIRD PLENARY SESSION,
HELD ON JUNE 21, 2017)**

THE GENERAL ASSEMBLY,

HAVING SEEN the “Annual Report of the Permanent Council to the General Assembly June 2016–June 2017” (AG/doc.5565/17 add. 1), in particular the section on the activities of the Committee on Juridical and Political Affairs (CAJP); and

RECALLING resolutions AG/RES. 2852 (XLIV-O/14) and AG/RES. 2886 (XLVI-O/16), as well as all previous resolutions adopted on this topic,

I. ACTIVITIES OF THE COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

(...)

¹³ The Bolivarian Republic of Venezuela does not agree to any commitment or mandate issued in this resolution as it did not participate in the negotiation of said resolution. It is still within the denunciation period established in Article 143 of the OAS Charter.

iii. Promotion of the International Criminal Court ^{14/15}

REAFFIRMING the primary responsibility of States to investigate and prosecute the perpetrators of the most serious crimes of concern to the international community, as well as the complementary nature of the jurisdiction of the International Criminal Court as an effective instrument for ending impunity for such crimes and contributing to the consolidation of lasting peace;

WELCOMING WITH SATISFACTION the fact that 29 member states of the Organization of American States (OAS) have ratified or acceded to the Rome Statute of the International Criminal Court, of which 5 have ratified the amendments on the crime of aggression to the Rome Statute, and that 18 member states have ratified or acceded to the Agreement on Privileges and Immunities of the International Criminal Court;

RECOGNIZING the importance of the universality of the Rome Statute for fulfilling the objectives of the International Criminal Court;

MINDFUL of the importance of full and effective cooperation from States, international and regional organizations, and civil society for the International Criminal Court to function effectively, as recognized in the Rome Statute; and underscoring the recent signing of agreements by the Argentine Republic and the International Criminal Court on the relocation of witnesses, on November 21, 2016; and on the enforcement of sentences, on April 18, 2017; and

UNDERSCORING the importance of the “Exchange of Letters for the establishment of a cooperation agreement with the International Criminal Court,” signed by the OAS General Secretariat and the International Criminal Court on April 18, 2011; of the cooperation agreement signed by the Inter-American Commission on Human Rights and the International Criminal Court in April 2012; and of the Memorandum of Understanding between the International Criminal Court and the Inter-American Court of Human Rights, signed on February 15, 2016,

RESOLVES:

1. To renew its appeal to those member states that have not yet done so to consider ratifying or acceding to, as the case may be, 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 their continued adoption of the necessary measures to achieve their full and effective implementation and adjust their national legislation, as well as to encourage them to participate constructively in discussions on the activation of the jurisdiction of the International Criminal Court over the crime of aggression.¹⁶

14 The United States remains steadfastly committed to promoting the rule of law and supporting efforts to bring those responsible for war crimes, crimes against humanity, and genocide to justice. Although the United States is not a party to the Rome Statute, the United States recognizes that the International Criminal Court can play a key role in bringing those responsible for the worst atrocities to justice in appropriate circumstances. With respect to the amendments on the crime of aggression adopted at the Kampala Review Conference, the United States notes the differences between the crime of aggression and the crimes defined in Articles 6, 7, and 8 of the Rome Statute. The United States has significant concerns about ambiguities in the amendments and believes further clarification is needed before any decision is taken to activate the amendments. The United States understands that any OAS support rendered to the ICC would be drawn from specific-fund contributions rather than the OAS regular budget.

15 The Government of Nicaragua expresses its profound concern over the ongoing systematic violations of international human rights law and international humanitarian law taking place worldwide. In the context of our domestic legal system, Nicaraguan criminal law accords special importance to this matter, defining such offenses under Title XXII of Law No. 641 of 2007 (Criminal Code). The application of those norms is the exclusive jurisdiction of the Nicaraguan judiciary. With regard to the appeal to States to consider acceding to or ratifying the Rome Statute of the International Criminal Court, the Government of Reconciliation and National Unity is unable to agree to the current text in this resolution and enters its reservation thereto, as the conditions appropriate for its accession to the Statute are not in place.

16 The amendments to the Rome Statute adopted in Kampala are being analyzed in Brazil with a view to their possible approval and ratification.

3. 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 surrender, presentation of evidence, protection and relocation of victims and witnesses, and enforcement of sentences, so as to prevent the impunity of the perpetrators of crimes over which it has jurisdiction.
4. To express satisfaction at the cooperation in the area of international criminal law between the OAS and the International Criminal Court; to urge the General Secretariat to continue to strengthen that cooperation and to mark the twentieth anniversary of the adoption of the Rome Statute in 2018; and to request the Permanent Council to hold, prior to the forty-ninth regular session of the General Assembly, a working meeting that 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 that working meeting.

**AG/RES. 2910 (XLVII-O/17)
MIGRATION IN THE AMERICAS^{17/18}**

**(ADOPTED AT THE THIRD PLENARY SESSION,
HELD ON JUNE 21, 2017)**

THE GENERAL ASSEMBLY,

REAFFIRMING that the American Declaration of the Rights and Duties of Man proclaims that all persons are equal before the law and have the rights and duties enshrined in that Declaration without distinction as to race, sex, language, creed, or any other factor;

EMPHASIZING that the American Convention on Human Rights recognizes that the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality;

RECALLING that the Universal Declaration of Human Rights proclaims that everyone has the right to freedom of movement and residence within the borders of each state, and to leave any country, including his own, and return to his country;

REAFFIRMING that the principles and standards enshrined in these instruments take on special relevance in the context of protecting the human rights of migrants, including migrant workers and their families;

17 The United States underscores its understanding that none of the provisions in this resolution create or affect rights or obligations of States under international law. The United States joins consensus on this resolution to the extent the provisions therein are consistent with U.S. law and policy and the federal government's authority. In pursuing the important goals outlined in this resolution, the United States will also continue to take steps to ensure national security, protect territorial sovereignty, and maintain the health and safety of its people, including by exercising its rights and responsibilities to prevent irregular migration and control its borders, consistent with international obligations.

18 The Bolivarian Republic of Venezuela does not agree to any commitment or mandate issued in this resolution as it did not participate in the negotiation of said resolution. It is still within the denunciation period established in Article 123 of the OAS Charter.

TAKING INTO ACCOUNT:

That, through the New York Declaration for Refugees and Migrants adopted in September 2016, we affirmed the commitment to protecting the safety, dignity and human rights and fundamental freedoms of all migrants, regardless of their migratory status, at all times, and to cooperate closely to facilitate and ensure safe, orderly and regular migration, including return and readmission, taking into account national legislation;

That in the New York Declaration we also committed to launching a process of intergovernmental negotiations leading to the adoption in 2018 of a global compact for safe, orderly, and regular migration; and considering that to make effective progress in the construction of such a global compact it is necessary to adopt a holistic approach in considering migration's challenges and opportunities, based on cooperation and grounded in solidarity among countries of origin, transit, destination, and return;

The annual reports of the Inter-American Commission on Human Rights (IACHR), its thematic reports on this subject, including the report "Human Mobility, Inter-American Standards," and Advisory Opinions OC-16/99 (1999), OC-18/03 (2003), and OC-21/14 (2014) issued by the Inter-American Court of Human Rights;

The Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and Their Families, adopted by resolution AG/RES. 2883 (XLVI-O/16);

The declarations adopted by the Permanent Council: "Inter-American Cooperation to Address the Challenges and Opportunities of Migration" of December 15, 2016 [CP/DEC. 68 (2099/16)], and "Central American Unaccompanied Child Migrants" of July 23, 2014 [CP/DEC. 54 (1979/14)];

The reports of the Continuous Reporting System on International Migration for the Americas (SICREMI) and the report on irregular migration flows from Africa, Asia, and the Caribbean (CP/doc.5263/17 rev. 1), presented to the Permanent Council on March 9, 2017;

The invitation to a high-level forum on irregular migration flows in the Americas, which is to take place in San José, Costa Rica, in the second half of 2017; and

The convening of the World People's Conference "For a world without walls towards the universal citizenship" by the government and community organizations of the Plurinational State of Bolivia, to build bridges of integration among people, that will take place in Cochabamba in June 2017;¹⁹ and

¹⁹ As regards the reference to the World People's Conference, "For a world without walls towards universal citizenship," the Governments of Argentina, Chile, Colombia, Costa Rica, Guatemala, Peru and the United States, hereby state for the record that it is a nongovernmental entity promoted by the Plurinational State of Bolivia and, therefore, its conclusions in no way constitute a conceptual frame of reference for the work of the Organization of American States or other international agencies and mechanisms, nor are they in any way binding on them.

TAKING INTO ACCOUNT ALSO the relevant international and regional instruments, as appropriate, including, among others, the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance; the Convention on the Rights of the Child; the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belem do Para); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol; the Convention on the Rights of Persons with Disabilities; the International Convention for the Protection of All Persons from Enforced Disappearance and the Inter-American Convention on Forced Disappearance of Persons; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the work of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families within the framework of the United Nations; the Protocols against the Smuggling of Migrants by Land, Sea and Air and to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Convention); the 1984 Cartagena Declaration on Refugees, and the 2014 Brazil Declaration and Plan of Action;

RECOGNIZING:

That international migration is a multidimensional reality with a pronounced impact on the development of countries of origin, transit, destination and return; and recognizing, in that context, that international migration is an intersectoral issue that should be addressed in a coherent, broad, and balanced way, combining development with due consideration of the social, economic, and environmental dimensions and respect for human rights; and

The major contribution made by migrants and migration to inclusive growth and sustainable development in countries of origin, transit, and destination;

CONCERNED about the extremely vulnerable situation in which many migrants and their families find themselves in the Hemisphere, leading them frequently to be victims of crime, abuse, racism, and xenophobia, as well as acts of discrimination that violate their human rights; and concerned that migrant women, children, and adolescents are especially vulnerable to gender-based violence and other forms of sexual and labor exploitation;

RECOGNIZING that human trafficking and migrant smuggling remain a serious challenge that calls for a concerted international evaluation and response through effective multilateral cooperation among countries of origin, transit, destination, and return to prevent, investigate, combat, and eradicate them, as well as assistance to victims;

NOTING that the increasing feminization of migration, largely driven by socioeconomic factors, requires that greater attention be paid to gender-related matters; and

RECOGNIZING the importance of promoting actions to protect the human rights and fundamental freedoms of accompanied and unaccompanied children and adolescents in the context of international migration and of migrants in situations of vulnerability,

RESOLVES:

1. To urge member states to promote and protect more effectively the human rights and fundamental freedoms of all migrants, including migrant workers and members of their families, with special emphasis on migrant women, children, and adolescents, regardless of their migratory status, in accordance with international human rights law and, where applicable, international refugee law and international humanitarian law.
2. To reaffirm that in exercising their sovereign right to enact and enforce measures relating to migration and the security of their borders, member states must fulfill the obligations incumbent upon them under international law to fully respect the human rights of migrants.
3. To vigorously condemn all manifestations or acts of racism, racial discrimination, xenophobia, and related forms of intolerance against migrants, including those related to access to employment, professional training, housing, education, health care services, social services, and public services. In view of the foregoing, to urge member states to enforce and strengthen, as appropriate, legislation and policies in force to address such situations, especially in order to hold accountable those who commit acts of racism or xenophobia.
4. To urge member states to avoid enacting laws that discriminate against migrants or otherwise violate their human rights.
5. To reiterate that no state should consider an individual's migratory status a crime in itself or encourage, on the basis of migratory status, the adoption of criminal sanctions or those of equivalent effect; to urge that the administrative detention of migrants by reason of their migratory status be used as an exceptional measure of last resort, according preference at all times to alternatives to detention, in accordance with the right to personal liberty and security, as determined individually on the basis of need, reasonableness, and proportionality; and to reaffirm that the treatment of migrants held in administrative detention and the conditions in which they are held must be decent, without punitive effect, and that states must comply with their obligation to respect the human rights of migrants at all times, including the guarantees of due process.²⁰
6. To vigorously condemn violations of the human rights of migrants, including excessive use of force; arbitrary arrests; arbitrary separation of families; forced disappearances; torture; mistreatment in detention, including sexual violence; and violations of the right to life, including extrajudicial executions. In that regard, to urge states to adopt, as appropriate, concrete measures to: (i) prevent such violations, including in ports and airports, and at borders and migration checkpoints; (ii) provide training, as required and appropriate, to public officials who work in those facilities and in border regions; (iii) treat migrants with respect and in accordance with the law; and (iv) ensure, in accordance with the relevant domestic law and any applicable international obligations, that such violations are investigated, prosecuted, and, as appropriate, punished, and that the victims thereof are afforded redress.

20 The Government of The Bahamas supports the humanitarian principles and values in the development of non-criminalization and non-punitive standards for the management of irregular migrants; and the right to livelihood of migrants. At the same time capacity constraints are a perennial challenge to The Bahamas' investment effort in an improved, alternative system for irregular migrant management. However, constitutional protections and a stable Government which reinforces the Rule of Law and due process support a legal policy culture of improving protections of the rights of migrants in The Bahamas. The Bahamas is a party to the 1951 UN Refugee Convention and the 1967 Protocol, and enjoys functional cooperation with the office of the United Nations High Commissioner for Refugees on improving policies on migrant processing.

7. To urge member states to take joint and coordinated actions to combat transnational organized crime and the criminal activities of other groups that profit from crimes against migrants, especially migrant women, children, and adolescents; the dangerous and inhumane conditions to which they subject their victims in flagrant violation of domestic and international law; and the high level of impunity enjoyed by human traffickers, migrant smugglers, their accomplices, and other members of transnational organized crime groups; and, in that context, to encourage member states to take specific actions to combat such situations and to provide procedural guarantees and access to justice to migrants who have suffered abuse.
8. To encourage member states that have not already done so to enact national laws and adopt more effective measures to combat migrant smuggling and human trafficking, including servitude, debt bondage, slavery, sexual exploitation, and/or forced labor, bearing in mind that such crimes endanger the lives of migrants or expose them to harm; and to request that states step up international cooperation to combat such offenses.
9. To urge all states, in accordance with national legislation and applicable international and inter-American legal instruments to which they are party, to enforce labor law effectively and to address violations of such law in connection with migrant workers' labor relations and working conditions, including those related to their remuneration, workplace health and safety, and right to freedom of association, and to promote, as appropriate, the implementation of campaigns and programs to inform workers about their basic workplace rights, applicable labor law, and available mechanisms for upholding them, regardless of their migratory status.
10. To encourage states, as appropriate and in accordance with national legislation, to promote conditions for cheaper, faster and safer transfer of remittances in both source and recipient countries; recalling also the commitment assumed in the 2030 Agenda for Sustainable Development to reduce to less than 3 percent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 percent.
11. To promote, as appropriate and in accordance with national legislation, the signing of bilateral or regional agreements on the social security benefits of migrants and their families, so that social security contributions made in one state can be claimed in, or transferred to, the state where the migrant worker is located.
12. To advance policies and programs to promote access to health services for migrants, particularly those in situations of vulnerability.
13. Implement the actions and programs needed to improve effective and equitable access to education for all migrants and their families, especially children and adolescents, consistent with each state's constitutional and domestic legal framework and applicable international human rights law.
14. To reaffirm the right that every person may resort to the courts to ensure respect for their legal rights and should have available to them an effective procedure whereby the courts will protect them from acts of authority that violate, to their prejudice, any fundamental constitutional rights.
15. To reaffirm the duty of the States Parties to the 1963 Vienna Convention on Consular Relations to fulfill their obligations under the Convention, including their duty to inform foreign nationals detained within their territory of their right to communicate with consular officials from their respective countries of origin.
16. To welcome with satisfaction, the migrant regularization programs adopted by some states that allow migrants to integrate fully into the host countries, facilitate family reunification, and promote an environment of harmony, tolerance, and respect; and to encourage states to consider the possibility of adopting these types of programs, including those related to labor migration.

17. To urge member states, international organizations, and other actors concerned, when defining, adapting, and carrying out their laws, policies, practices, or initiatives, as appropriate, for the promotion and protection of migrants' human rights, to encourage and favor:
 - a) constructive dialogue among all states, competent national authorities, and actors concerned, including civil society and migrants,
 - b) international, regional, and bilateral cooperation and coordination, and
 - c) exchanges of best practices and experience in this area.
18. To urge member states to consider signing, ratifying, or acceding to, as appropriate, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and all related international and inter-American legal instruments on human rights, and to encourage the States Parties to those instruments to take the necessary measures to bring their legal frameworks into line with their commitments under said instruments for the benefit of all migrants, including migrant workers and their families, among others.
19. To urge member states to continue cooperating with the Inter-American Commission on Human Rights and supporting its work in the promotion and protection of the human rights of migrants, and to take into account, as appropriate, the efforts made by other international organizations in support of migrants, including migrant workers and their families, in order to contribute to improving their situation in the Hemisphere and, in particular and as applicable, the efforts of the United Nations Special Rapporteur on the human rights of migrants and the OAS Rapporteurship on the Rights of Migrants, as well as those of the International Organization for Migration, the United Nations High Commissioner for Refugees, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the United Nations Children's Fund and the different components of the International Red Cross and Red Crescent Movement.
20. To urge member states to make contributions to the negotiation of the Global Compact for Safe, Orderly and Regular Migration and, to that end, to instruct the OAS General Secretariat to provide support so that, through the OAS Committee on Migration Issues and, as appropriate, in coordination with the Regional Conference on Migration and the South American Conference on Migration, states may make hemispheric contributions to the construction of that document in accordance with the calendar established in the resolution on modalities adopted by the United Nations General Assembly.

III. CONCLUDING OBSERVATIONS OF THE UNIVERSAL MEETING OF NATIONAL COMMITTEES AND SIMILAR BODIES ON INTERNATIONAL HUMANITARIAN LAW “ENHANCING PROTECTION IN ARMED CONFLICT THROUGH DOMESTIC LAW AND POLICY” PRESENTED BY PROF. NICOLAS MICHEL, INDEPENDENT EXPERT²¹

It is a great honour and pleasure for me to be invited to submit a few personal concluding observations for your consideration.

Many ideas have been put forward over the last three days. It would be impossible to summarize the full breadth and depth of the discussions, and it is not, in any case, the purpose of these concluding observations to present a summary. I intend to address a number of selected observations grouped under five key message headings.

Key message 1

The law is of central importance

- Firm belief that the law and its implementation are important in any society.
- The full adequacy of IHL must be emphasized; it remains a critical tool for protecting lives and dignity. The evolution of some forms of violence does not make this body of law less relevant.
- Creating the conditions for respect of IHL remains crucial at all times, therefore.
- IHL does not exist in a vacuum. The law is not just for experts.
- States must be reminded of their responsibility to implement IHL and adopt policies conducive to compliance with it, in peacetime and during armed conflict.

²¹ Available in: International Committee of the Red Cross, *Universal Meeting of National Committees and Similar Bodies on International Humanitarian Law: Enhancing Protection in Armed Conflict through Domestic Law and Policy*, Conference Overview, Geneva, 2017.

Key message 2***(a) The establishment of national committees on IHL should be encouraged, as they play an important role***

- The benefit of having an interdisciplinary body that is dedicated to dealing with questions relating to IHL and its implementation in law and policy is widely appreciated.
- The work of national committees on IHL is important in a variety of circumstances, whether a country is at peace, or involved in armed conflict, emerging from conflict, or still affected by historical conflict.
- The work and structure of national committees on IHL are incredibly diverse and reflect the circumstances of their respective countries.
- Participants have called on their peers to establish IHL committees or similar bodies in their own countries, and various parties have offered support to colleagues in this endeavour.

(b) The Universal Meeting is essential for supporting the work of the national committees on IHL

- This Universal Meeting is a space in which to exchange experiences, share good practice and develop supportive peer-to-peer networks.
- Many national committees found this forum for exchanges very useful and would like not only to continue but strengthen this cooperation, including outside of formal universal or regional meetings.

Key message 3***There must be complementarity between the work of national IHL committees at national and international levels***

- National committees on IHL have a role to play in addressing the need to implement international law in national systems (horizontal), and in supporting global and regional initiatives aimed at developing and strengthening IHL (vertical).
- Example: In 2014, the ICRC and the Inter-Governmental Committee for the Protection of Cultural Property in the Event of Armed Conflict (of which UNESCO is the Secretariat) sent a joint letter to all national IHL committees urging them to take action to encourage implementation of the Hague Convention of 1954 and its Protocols.

(a) Horizontal

- Discussions have highlighted the importance of national committees on IHL connecting with as many national stakeholders as possible, and gaining recognition as a national focal (and reference) point on IHL.
- The unique supportive role that National Red Cross and Red Crescent Societies can play in this respect was widely acknowledged.
- Cooperation with parliaments and engagement with non-governmental sectors, such as the media and academia, were also highlighted.

- National committees should have a formal status and a strong, yet flexible mandate that includes the rights to offer their expert advice proactively and to adapt to humanitarian or prevailing needs. These requirements were identified as fundamental by participants and are, in my view, crucial to the work of the committees at a national level.
- Constant effort is required in this respect, given the regular changes in personnel, policies and needs.
- Ideas relating to horizontal complementarity discussed at the Meeting include:
 - developing a community of IHL expertise that can be easily accessed by government agencies, thereby addressing the “knowledge gap” identified by some participants;
 - developing dissemination and implementation tools and resources tailored to the needs of other national parties with IHL-related responsibilities;
 - creating a network of academic institutions devoted to IHL.

(b) Vertical

- The work of national committees on IHL should be shared at the international level, including via the Universal Meeting, as part of our constant effort to refine the practice of implementing IHL.
- Participants also recognized that communication and cooperation between IHL committees and intergovernmental organizations can significantly help efforts to improve implementation of IHL, and we heard specific examples of engagements with the Organization of American States, the Arab League and the Commonwealth of Independent States.

Key message 4

Sovereignty entails responsibility, responsibility includes accountability

- States have an obligation to implement IHL, through implementing laws and policies that create an environment conducive to respect of IHL.
- “Implementation” is a broad term that encompasses a range of possible actions.
- National bodies – such as national committees and their members – play a crucial role in IHL implementation.
- Implementation is essential for accountability.
- Accountability is vital in all its forms, including as a way of dealing with the past, addressing the needs of victims and creating a basis for sustainable peace.
- While accountability is not just about individual criminal responsibility, it is worth remembering that there has always been an obligation under IHL to investigate and prosecute alleged violations, irrespective of the developments in international criminal justice of the last century.

Key message 5***Ideas and passion must be translated into action to make a difference on the ground***

- We must translate our discussions here into action to address the distressing scenes we see on TV (hospitals being bombed, civilians being displaced).
- It is not just armed conflict that has a humanitarian impact; other situations of violence cause immense suffering, too.
- National committees are well placed to support implementation efforts to enhance protection in armed conflict.
- Ideas elaborated during the meeting include:
 - *On cultural property*: National Committees can act as the forum for cooperation and coordination among national and international agencies, which are essential for the protection of cultural property in armed conflict;
 - *On IDPs*: Participants discussed the need for national committees to be actively involved in the formulation of domestic normative and policy frameworks, and that in seeking such a role they would be in an ideal position to encourage States to adopt measures to enhance protection of and assistance to IDPs and migrants affected by armed conflict.
 - *On health care*: Developing normative frameworks to underpin the provision of impartial health services in armed conflict and other emergencies. Promoting national collection of data on the protection of health care.

IV. KEYNOTE ADDRESS OF THE REGIONAL MEETING OF NATIONAL IHL COMMITTEES DELIVERED BY MR. DOMINIQUE LOYE, DEPUTY DIRECTOR OF INTERNATIONAL LAW AND POLICY OF THE ICRC

The Contribution of the 1977 Additional Protocols to the Regulation of the Methods and Means of Warfare in Contemporary Armed Conflicts

Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,

It is a pleasure to be here with you and it is gratifying to see the high number of States represented that have come to this meeting to discuss a series of current issues related to international humanitarian law.

These issues are closely related to the ICRC's concerns about protecting the lives, health and dignity of countless children, women and men whose existence is overshadowed by the violence generated by armed conflict.

ICRC operations now reach more than 40 million people. This includes more civilian people than ever before in our institution's 154-year history.

Many of today's armed conflicts are characterized by the tremendous suffering they cause to civilians. They are victims of direct attacks or indiscriminate attacks; of hostilities conducted in densely populated areas; of terror tactics; they suffer from hunger and displacement, often as a result of military strategies; are deprived of access to health services, including as a result of attacks against hospitals and other health facilities; face the consequences of the destruction of basic infrastructures such as for electricity and water; etc. Added to these consequences is the fact that armed conflicts are increasingly protracted, with no political solution in sight.

Faced with these terrible realities one might think that many rules of IHL should be revisited; however, the ICRC is convinced that in general the international community has at its disposal a well-developed legal framework and rules which, if implemented and respected, would drastically reduce the destruction of civilian property as well as the high number of civilian deaths and injuries that we see in many conflicts today.

With regards to the subject-matter of this meeting, I would like to share with you the following reflections:

- 1) Realities of the battlefields that led to the development of the 1977 Additional Protocols
- 2) Specific examples of new rules that were included in these Protocols
- 3) The 1997 Convention on the Prohibition of Anti-Personnel Mines: an example of how IHL responds to contemporary concerns and in an effective fashion
- 4) Challenges for IHL going forward

As we know the four Geneva Conventions of 1949 were a necessary answer to the horrors that a great part of the world had lived through during the Second World War. However, in the 1950s and 1960s the characteristics of armed conflicts evolved. Wars of national liberation were increasingly numerous. Non-international armed conflicts also increased. In both cases, such conflicts presented an asymmetrical component between the conflicting parties. Guerrillas clashed with State armies that were typically better equipped, with more troops and more powerful weapons.

One consequence of this was that the guerrillas avoided open confrontations on the battlefield. They operated rather from towns or cities, mixing with the civilian population. Civilians were increasingly exposed to the consequences of hostilities. Faced with these new realities of armed conflict, the legal rules in force did not provide sufficient protection for civilians. It was necessary to develop and strengthen IHL.

The methods and means of warfare were also evolving. There were important developments in the technologies of new weapons, pushed by an arms race taking place in the setting of the Cold War. For example, it was possible to attack a target from long distances with missiles launched from planes or submarines or intercontinental missiles. The battlefield got more and more extended.

In this context, international humanitarian law could only count on a few specific rules governing the methods and means of warfare. The ICRC witnessed through its work in armed conflicts around the world the human cost of this. It was then increasingly urgent to reaffirm, clarify and develop the law in order to respond to the humanitarian needs brought about by these new realities. In 1968, the UN General Assembly shared the ICRC's position by emphasizing the need to increase the protection of victims of armed conflict through a review of existing law, including through new international humanitarian law treaties and the limitation and prohibition of certain methods and means of warfare.

States eventually adopted the two Additional Protocols in 1977 to respond to these humanitarian concerns that resulted from the changes in the way war was being waged.

Today, the two Additional Protocols are among the most ratified treaties in the world. 174 States are Parties to Protocol I, and 168 to Protocol II. In the Americas, 34 States are Parties to Additional Protocol I, 33 to Additional Protocol II.

Additional Protocol I articulated a whole series of rules that are essential to protect the civilian population from the effects of hostilities. For example, the prohibition of attacking civilians and civilian objects, accompanied by definitions of the notions required to comply with such prohibition. These are key notions for the application of international humanitarian law such as those of "combatant", "armed forces", "military objectives", "civilians", "civilian objects". The Protocol also sets out principles that are essential for guiding attacks, including the principles of distinction, proportionality and precaution. All of these are applied daily in the armed conflicts being waged in several parts of the world today.

As for Additional Protocol II, it was the first treaty exclusively applicable to the protection of persons affected by non-international armed conflicts. It developed in greater detail Common Article 3 of the four Geneva Conventions and extended basic standards of international humanitarian law to this type of armed conflict. In this regard, Additional Protocol II strengthens the fundamental guarantees of persons who do not, or no longer, directly participate in hostilities; it expressly prohibits launching attacks against civilians; regulates forced movements of civilians; and provides for the protection of any medical personnel and their units and transportation, civil or military.

It should also be noted that the two Protocols have had a considerable impact on the formation of customary international humanitarian law. This is due in part to the broad participation of States in the negotiations of the Protocols and the fact that they were adopted to a large extent by consensus. Only 14 articles out of 150 dealing with the substance required a vote.

While international humanitarian law applicable in international armed conflicts remains more developed than the law governing non-international armed conflicts, it is interesting to note that out of a total of 161 rules identified by the ICRC as reflecting international custom, 149 are applicable both to international armed conflicts and to non-international armed conflicts.

It is an example also illustrating the significant developments that have occurred in international humanitarian law in the 40 years since the adoption of the two Additional Protocols. These are forty years of practice, and almost seventy in the case of the Geneva Conventions. To the present day, the main texts for authoritative interpretation and the application of the Conventions and their Protocols have been their Commentaries. They were drafted between 1952 and 1960 with regards to the Geneva Conventions, and for the Protocols in 1986 and 1987. While maintaining their relevance, they do not take into account the developments having taken place since, both in the law and in the practice of armed conflicts. This prompted the ICRC to embark on a project to bring the Commentaries up to date so as to adequately reflect contemporary legal practice and interpretation. So far, new Commentaries have been published for the first and the second Geneva Conventions.

Ladies and Gentlemen,

The adoption of the two Additional Protocols 40 years ago was a seminal event for the protection of victims of war. The Protocols have laid the groundwork and inspired the development of many recent weapons treaties. In this regard, it is significant that it was during the negotiations of Article 35 of Additional Protocol I that States decided to convene a special conference on conventional weapons within the framework of the United Nations. Article 35 states that the right to select methods and means of warfare is not unlimited.

The 1980 Convention on Certain Conventional Weapons, together with its protocols prohibiting or restricting the use of several weapons considered as particularly cruel, was a result of that special conference.

Examples of other treaties whose roots can be traced to the Additional Protocols - which we will have the opportunity to examine in more detail over the next two days - include the 1997 Convention on the Prohibition of Anti-Personnel Mines or the 2008 Convention through which Cluster Munitions are prohibited. Taken together, such treaties have made an enormous contribution to the protection of persons in armed conflict. They have a direct impact in the avoidance or limitation of the suffering caused to thousands, if not millions of people year after year. This is when they are applied as they should by States Parties and the parties to a conflict.

The contribution of the Additional Protocols has not been limited to the regulation of methods and means of warfare. It went further by including provisions establishing penal responsibility for violations of those rules. Additional Protocol I has considerably extended the list of grave breaches of international humanitarian law envisaged by the four Geneva Conventions of 1949. It has also specified that such offenses are to be considered as war crimes.

Another innovation of Additional Protocol I was to provide for the establishment of an International Humanitarian Fact-Finding Commission, tasked with ensuring the implementation and respect of international humanitarian law. The Commission was established in 1991. To date, 76 States have recognized its competence, 13 of them American States. Allow me to appeal here to all States present that have not done so, to consider making the declaration referred in Article 90 of Additional Protocol I to accept the competence of the Commission.

As for Additional Protocol II, it has been instrumental for the growing regulation of non-international armed conflicts. In criminal matters, for example, the United Nations Security Council has considered that violations of this Protocol are implicitly subject to penal responsibility, even though Additional Protocol II does not explicitly provide for it, contrary to the Geneva Conventions of 1949 and Additional Protocol I. The Statute for the International Criminal Tribunal for Rwanda explicitly recognized such responsibility. As did the case law of the International Criminal Tribunal for the former Yugoslavia. And later in the 1998 Rome Statute of the International Criminal Court.

However, there is much talk about the apparent discrepancy between the rules of international humanitarian law and the behavior of the parties to armed conflicts. We hear daily about the indescribable horrors and the staggering tragedies that occur in them. We hear less about the difference that this law makes when its rules and principles are respected.

That is also a reality. And it is perhaps in that context that the contribution of the Additional Protocols to the protection of individuals can be fully appreciated. They are highly pragmatic tools, which do not make war less dramatic, but can considerably alleviate the suffering war inevitably generates.

An example of this is the amnesty referred to in Article 6, Paragraph 5, of Additional Protocol II. The provision provides that “[a]t the end of hostilities, the authorities in power shall endeavor to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.” The application of such an amnesty – which excludes persons who have committed violations of international humanitarian law – may even constitute a strong incentive to abide by the law.

Another example is the integration of fundamental norms of international humanitarian law into military manuals that govern targeting, the processes for identifying and attacking military objectives. There are numerous manuals which provide for the obligation to refrain from attacking military objectives if the anticipated civilian casualties or damage to civilian objects incidentally caused will be excessive in relation to the concrete and direct military advantage envisaged. This principle of proportionality is explicitly laid down in military manuals of several States.

Similarly, the application of the rules on the provision of humanitarian assistance contained in the Additional Protocols has enabled the ICRC to annually assist over 50,000 patients wounded by weapons, as well as around 150 first aid stations near combat zones.

One particular achievement has been the prohibition and elimination of anti-personnel mines since the adoption of the Ottawa Convention in 1997, whose twentieth anniversary is being marked this year. 162 States are Parties to the Treaty, 33 of them American States. It was conceived twenty years ago with an explicit humanitarian scope, not one of disarmament, to respond to the tremendous human cost caused by anti-personnel mines. The answer was a clear and comprehensive prohibition of such mines.

To date, the number of people who have been victims of anti-personnel mines has been dramatically reduced. Almost all anti-personnel mines stockpiled by States Parties to the Convention have been destroyed, an estimated more than 51 million mines. Large areas, previously contaminated by antipersonnel mines, were cleaned.

In Latin America many countries were affected by antipersonnel mines, including Costa Rica, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua and Peru. Most of them have managed to clean their land from mines. It has been possible to respond to the needs of mine victims through joint efforts. The use of antipersonnel mines, so common twenty years ago, has become a stigma.

That said, efforts still need to be made in order to reach the objective of a world free of anti-personnel mines, as contemplated by the Convention.

Antipersonnel mines are still used in some armed conflicts today; they continue to contaminate territories where there is no armed conflict; continue to kill and injure thousands of people every year, and a worrying increase in the number of victims has even been observed recently; many survivors are left without adequate responses to their needs.

Much effort, determination and perseverance will be required if we want to achieve a mine-free world before 2025, as envisaged by the Third Review Conference of the Convention held in Maputo in 2014.

On the one hand, the ban on the use of anti-personnel mines should be strengthened. It should be clear that such use by any actor is unacceptable, be it a State or a non-State actor. In addition, efforts must be made to ensure that States that are not yet parties to the Convention become parties.

On the other hand, efforts are needed to move more rapidly with the removal of antipersonnel mines in contaminated areas. It is imperative in order to avoid further deadline extensions beyond 2025.

In addition, greater attention needs to be paid to the needs of survivors, including their integration into their communities. This includes, among other measures, ensuring that the services that assist them have adequate resources to carry out their work in the long term.

Ladies and Gentlemen,

Despite the successes of the Additional Protocols and other treaties such as the Ottawa Convention, it is not uncommon to hear critical comments against the Additional Protocols and against the ability of international humanitarian law to protect the civilian population in time of war. Three criticisms seem to be most common. The first claims that the law is not adequate for the nature of contemporary armed conflicts. The second that the law does not apply in the context of combating terrorism. The third alleges that the law imposes symmetrical obligations while in reality many armed conflicts are asymmetrical.

From a closer perspective, such criticisms refer to realities that are rarely new. Challenges posed by asymmetric armed conflicts or acts of terrorism or the development of new technologies were precisely what prompted the negotiation of the two Additional Protocols in 1977. It is therefore not so much the novelty of the contexts but rather a certain lack of political will to apply rules that, over 40 years, have proven to be adequate for responding to the humanitarian needs caused by contemporary armed conflicts. It has also been proven that failure to respect these rules easily leads to reactions which manifest themselves through all kinds of excesses that fuel cycles of violence that are difficult to bring to an end.

The real challenge of international humanitarian law has to do much more with the implementation of existing norms than with its relevance or with the creation of new norms. A scrupulous respect for existing international humanitarian law, which is mostly a matter of political will, would result in considerably fewer humanitarian consequences of armed conflicts around the world. A key aspect in this regard is the introduction of a system of criminal sanctions for violations of IHL, in particular with regard to the repression of war crimes provided for in the four Geneva Conventions and Additional Protocol I.

Ladies and Gentlemen,

Finding, in essence, that current international humanitarian law adequately responds to the challenges posed by modern armed conflicts does not exclude or deny that areas that require clarification and development may exist.

This was clearly the case with the adoption of new treaties, for example to ban anti-personnel mines and cluster munitions. It is again the case with current efforts to ban nuclear weapons.

The prohibition and elimination of nuclear weapons is a humanitarian imperative. There is ample evidence of the indiscriminate effects and indescribable suffering caused by these weapons. They leave significant doubts as to their compatibility with international humanitarian law. The catastrophic humanitarian consequences of nuclear weapons have been recognized by most States as a determining factor in efforts towards nuclear disarmament. This includes the efforts under way within the United Nations to adopt a treaty prohibiting such weapons.

I would like to reiterate the ICRC's call to the States you represent to work with urgency and determination in the adoption of a clear and unambiguous prohibition of nuclear weapons, based on existing international humanitarian law.

Another area requiring clarification concerns the disparity between international humanitarian law applicable in international armed conflicts and the law applicable in non-international armed conflicts. For example, in terms of deprivation of liberty of persons in an armed conflict, the last International Conference of the Red Cross and Red Crescent adopted a resolution inviting States to work collaboratively and non-politically to strengthen the law in this area, possibly through a document that would be non-binding, but applicable in practice.

Another example is the process facilitated by the ICRC and Switzerland to strengthen respect for international humanitarian law. Within this intergovernmental process, States are examining the possibility of establishing a forum which would regularly bring together States to discuss the implementation of international humanitarian law. They are also examining how the International Conference of the Red Cross and Red Crescent as well as regional fora could be better used to strengthen implementation and respect for IHL.

In this regard, I would like to underline the important role of all of you present here. In order to take the process forward and to achieve a common understanding, it is essential that each of your States participate actively in the consultations currently underway.

Ladies and Gentlemen,

In conclusion, there is no doubt that the two Additional Protocols, together with the four Geneva Conventions of 1949, form the basis of contemporary international humanitarian law and thus the basis for the protection of persons in armed conflicts in the contemporary world. Contrary to the Geneva Conventions, however, they have not been universally ratified. At this point, not all States are parties to them.

On this fortieth anniversary of their adoption, I would like to take this opportunity to call, on behalf of the ICRC, upon all States not yet party to one or both of the Additional Protocols, to become a party without delay. It would make a positive contribution to improving the protection of people affected by armed conflicts around the world.

Today and tomorrow we will have extensive opportunities to reflect together on how to improve that protection through the work carried out by you within your respective governments, and in particular as representatives of National IHL Committees. I invite each one of you to take advantage of this space to participate actively in sharing experiences and ideas on the different subjects proposed in the agenda. In this regard, it would be particularly constructive to think of practical solutions to the challenges that the Committees can face in carrying out their important work as specialized bodies responsible for facilitating the adoption of national measures aimed at complying with the obligations stemming from IHL.

Thank you very much.

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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**ICRC Regional Delegation
for Mexico and Central America**
Delegación Miguel Hidalgo
T + 52 55 2581 2110
mex_mexico@icrc.org
www.icrc.org
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