

REPORTS AND DOCUMENTS

Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law

.....

In December 2019, the 33rd International Conference of the Red Cross and Red Crescent (International Conference) adopted Resolution 1 (33IC/19/R1), entitled “Bringing IHL Home: A Road Map for Better National Implementation of International Humanitarian Law” (Bringing IHL Home Resolution).¹

The resolution is based on the widely shared recognition that better respect for international humanitarian law (IHL) is needed to protect victims of armed conflict, and that implementing IHL at the domestic level is an essential step towards achieving this goal. The resolution therefore sets a general direction for the members of the International Conference² to follow and provides them with guidance in the form of key measures for strengthening the national implementation of IHL.

In parallel to the Bringing IHL Home Resolution and within the framework of the International Conference, States and National Red Cross and Red Crescent Societies (National Societies) also adopted a number of pledges touching upon a variety of IHL-related issues, including the strengthening of national committees and similar entities on IHL, the adoption of plans of action on national implementation of IHL, the establishment of educational and training programmes on IHL, and the ratification of key IHL instruments.

In order to give effect to both the resolution and the pledges, the International Committee of the Red Cross (ICRC) took the initiative of producing *Bringing IHL Home: Guidelines on the National Implementation of*

International Humanitarian Law (Bringing IHL Home Guidelines),³ published in May 2021. The Bringing IHL Home Guidelines compile the ICRC's recommendations, addressed to States and National Societies, on implementing the commitments they have undertaken in the framework of the 33rd International Conference with respect to the domestic implementation of IHL. The Guidelines focus on, and unpack, the process behind the implementation of IHL at the domestic level, answering the question: what is needed to better implement IHL?

How can the Bringing IHL Home Guidelines be used?

The Guidelines contain a series of checklists on key areas of national IHL implementation: treaty participation; domestic legislation; practical implementation measures; criminal repression and suppression of violations of IHL; integration of IHL into military doctrine, education, training and sanction systems; and dissemination. These checklists are meant to serve as a roadmap to help States and National Societies to:

- **Assess:** Users of the Guidelines can use the concrete and practical checklists to analyze whether their national legal system is in harmony with the existing IHL treaty and customary rules that are binding upon the State, as well as with the IHL-related commitments made at the 33rd International Conference.
- **Identify:** On the basis of such assessments, users can then determine whether some areas need further action to ensure that IHL is fully implemented, and can use the same checklists to select concrete actions that are appropriate in response.
- **Plan:** After having listed possible measures available to the State and provided in the Guidelines, users will be able to prioritize such measures, for instance by creating annual plans of action on the domestic implementation of IHL.
- **Monitor and measure:** The Guidelines can also serve to monitor the impact of the commitments made during the 33rd International Conference, including the Bringing IHL Home Resolution and potential pledges signed by the State, by tracking all the actions made in relation to them.
- **Exchange:** The Guidelines can be used to foster inter-ministerial and inter-institutional discussions and collaboration on IHL-related issues, including on the adoption of strategies and initiatives in this area. Beyond the national level, the Guidelines can also serve to generate exchange among stakeholders

1 Available at: https://rcrcconference.org/app/uploads/2019/12/33IC-R1-Bringing-IHL-home_CLEAN_ADOPTED_FINAL-171219.pdf. Also published in *International Review of the Red Cross*, Vol. 101, No. 911, 2020, pp. 838–841.

2 The members of the International Conference include all States party to the Geneva Conventions and all components of the International Red Cross and Red Crescent Movement: the International Committee of the Red Cross (ICRC), the National Red Cross and Red Crescent Societies (National Societies), and the International Federation of Red Cross and Red Crescent Societies.

3 Available at: www.icrc.org/en/document/bringing-ihl-home-guidelines-national-implementation-international-humanitarian-law.

from different States and regions on good practices related to the domestic implementation of IHL.

The checklists provided in the Guidelines are drafted as recommendations. They are therefore not binding and are not meant to interpret the Bringing IHL Home Resolution or any existing international instrument.

Who will find the Guidelines useful?

The Bringing IHL Home Guidelines translate the commitments undertaken at the 33rd International Conference into practical and actionable measures. They are therefore addressed to practitioners, in particular those tasked with applying IHL. This includes categories of national stakeholders that are expressly mentioned in the Bringing IHL Home Resolution: national committees and similar entities on IHL, military personnel (including legal advisers to armed forces), civil servants, parliamentarians, prosecutors and judges, National Societies, academia, youth and the general public.

In parallel, the ICRC itself intends to use the Bringing IHL Home Resolution to monitor the implementation – and hence the impact – of the resolution and of the IHL-related pledges. ICRC legal advisers across the globe will be able to use the Guidelines in their dialogue with States and National Societies, to assist them in their efforts to implement IHL at the domestic level, in line with the mandate given to the ICRC’s Advisory Service on International Humanitarian Law.

What are the key features of the Guidelines?

Ready-to-use checklists

The checklists contained in the Bringing IHL Home Guidelines are based on the idea that national implementation of IHL is a continuous process and that additional steps are always possible, regardless of the current state of implementation. In the spirit of the Bringing IHL Home Resolution, the checklists therefore function as a sort of menu allowing users to select areas which are most relevant to them.

The checklists are formulated as questions, and each of these can be ticked off when the recommended measure has been implemented. Each question is accompanied by a description of what would be required to give effect to the measure, and how to do it.

Real-life examples

Each section includes examples of measures taken in different countries. This is already one way to implement paragraph 13 of the Bringing IHL Home

Resolution, which “*invites* States to share examples of and exchange good practices of national implementation measures taken in accordance with IHL obligations as well as other measures that may go beyond States’ IHL obligations”. These examples are indeed provided with the hope of inspiring others and of demonstrating that, everywhere in the world, measures are being adopted to better implement IHL.

Protection of persons facing particular risks

The Guidelines have been drafted while keeping in mind the specific risks that some groups face during armed conflict, such as children, persons with disabilities and victims of sexual violence. The recommendations provided in each section take into account the needs of these persons, and an entire checklist further develops the measures necessary to ensure that those who come into contact with these groups are adequately prepared.

Targeted bibliography

At the end of the Guidelines, a bibliography presents additional materials that can support the domestic implementation of IHL. This bibliography is sorted by the intended audience of readers, in order to allow those who play a role in implementing IHL to delve deeper into possible measures that they can take themselves.

What is next?

The ICRC hopes that the Bringing IHL Home Guidelines will be widely used by all those who play a role in the domestic implementation of IHL, and will be the object of further discussion and exchange during regional or universal meetings—for instance, those bringing together national committees and similar entities on IHL. For any questions or suggestions, the ICRC’s Advisory Service on International Humanitarian Law remains available and can be contacted at gva_advisoryservice@icrc.org.