

The well-trodden path of national international humanitarian law committees

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Abstract

The road towards effective implementation of international humanitarian law (IHL) is a continuous process where important milestones will be reached at each step. As part of such a process, national committees and similar entities on IHL have played a key driving role. As with most long-haul road trips, one tends to start with an idea of the roads that will be taken and what the end destination will look like. In this case, the common destination is better respect for IHL. While the destination never changes, the different roads to be travelled can multiply, creating new opportunities through events that arise, and actors encountered along the way. Likewise, when the first national IHL committees were formed in the 1970s to advise and assist their States on the domestic implementation of IHL, they undoubtedly followed different roadmaps from those followed today. As IHL has evolved to keep pace with new realities of warfare, so too has the work of national IHL committees. New treaties have been adopted, new interpretations have been agreed upon, requiring new domestic laws and measures. This article will begin by pinpointing where exactly the journey started for national IHL committees, highlighting that the creation of these bodies coincided with important developments across the international landscape which would come to reinforce domestic implementation of IHL. In the second section, the authors will provide a detailed mapping of the roads generally travelled by these entities, with the intention to showcase the multi-faceted nature of their work and the innumerable milestones achieved along the way. The final section will explore the material, political and structural road bumps which are slowing down the work of some national IHL committees and will provide recommendations on how these entities may overcome these hurdles.

Keywords: international humanitarian law, national IHL committees, IHL implementation, coordination of IHL implementation, domestic implementation of IHL, domestic law, drafting of law.

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Introduction

Article 1 common to the four Geneva Conventions, which are universally ratified, requires all States to “respect and to ensure respect” for their provisions “in all circumstances”.¹ Among other things, this requires each State to ensure the full implementation of international humanitarian law (IHL) into their domestic systems. Recognizing the vast scale of this task, 116 States, to date, have created

1 For information on the meaning of this provision, please visit: International Committee of the Red Cross (ICRC), Updated Commentary on Article 1 Common to the Four Geneva Conventions, 2020, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp> (all internet references were accessed in May 2022).

dedicated expert groups, or similar bodies, often referred to as “National Committees and Similar Entities on IHL” (national IHL committees), to account for the wide range of forms and structures that such committees may take.²

National IHL committees act as advisory bodies which assist their governments in implementing, developing and disseminating IHL at the domestic level.³ They are interdisciplinary and multi-stakeholder in nature, comprising of, for instance, representatives from ministries concerned with IHL,⁴ military personnel, members of the Red Cross or Red Crescent National Society, and, where relevant, experts on IHL such as academics, and civil society members, placing them in a unique position to coordinate IHL implementation amongst numerous actors.⁵

This article seeks to showcase the crucial work of national IHL committees in guaranteeing greater respect for IHL, by focusing on concrete achievements and common traits that have made such achievements possible. As the work of national IHL committees dates back four or five decades, this article will first explore where exactly the journey started for these entities. It aims to demonstrate that no two national IHL committees follow the exact same path, as the work undertaken by these entities must evolve depending on the legal and political climate of the relevant State, as well as national, regional and international priorities and events. Nevertheless, this article will paint a general picture of the roads travelled by national IHL committees and their various accomplishments along the way. Though, among the innumerable milestones that they have celebrated, some national IHL committees have also encountered road bumps concerning their material, political and structural compositions which force them to slow down and reassess their route ahead. This article will present some recommendations for national IHL committees to help them to surface the road bumps and land back on the right path.

How the journey started

The first national IHL committee was created in 1973 within the German Red Cross.⁶ This technical committee on IHL, whose legal basis and functions were set up by the German Red Cross Statutes, primarily serves as a forum for

2 For a full list of national IHL committees across the world, see ICRC, “Table of National Committees and Other National Bodies on International Humanitarian Law”, 26 April 2022, available at: <https://www.icrc.org/en/document/table-national-committees-and-other-national-bodies-international-humanitarian-law>.

3 ICRC, *National Committees and Similar Entities on International Humanitarian Law: Guidelines for Success – Towards Respecting and Implementing International Humanitarian Law*, Publication Ref. 4367, 2019, p. 14, available at: <https://www.icrc.org/en/publication/national-committees-and-similar-entities-international-humanitarian-law-guidelines-1>.

4 This typically includes the defence, justice, foreign affairs, interior, culture, health and education ministries/departments, plus others as relevant.

5 ICRC, above note 3, pp. 29–36; ICRC, *Bringing IHL Home: Guidelines on the National Implementation of International Humanitarian Law*, 19 July 2021, p. 19, available at: <https://www.icrc.org/en/document/bringing-ihl-home-guidelines-national-implementation-international-humanitarian-law>.

6 German Red Cross, “National Committee on International Humanitarian Law: Mandate and Legal Basis”, available at: <https://www.drk.de/en/the-grc/mission-of-the-grc/national-committee-on-international-humanitarian-law/>.

consultation and coordination between the German Red Cross and the various departments of the federal government, and aims to focus on developing, disseminating and implementing IHL.

Following Germany's example, the second committee established was in Australia in 1977. Indonesia and New Zealand followed suit in 1980. After Europe, Asia and the Pacific, other continents started developing national IHL committees. Bolivia and Uruguay created the first national IHL committees in Latin America in 1992, Zimbabwe the first on the African continent in 1993, the Republic of Trinidad and Tobago was the first State to have such a committee in the Caribbean in 1997, and Jordan the first in the Arab world in 1998. After that, the number of national IHL committees started to drastically increase, passing the threshold of fifty committees in 2001, and of 100 in 2011. At the time of publication of this article, the International Committee of the Red Cross (ICRC) lists 119 existing national IHL committees and similar entities in 116 States across the globe.⁷

The simultaneous creation of national IHL committees in all continents was not a coincidence. In the early 1990s, the role of such committees started to gain recognition in the international fora, and several key players in the field of IHL started to actively promote their establishment. It is likely that the international environment at that time was prone to developments in international law. By its resolution 44/23 of 17 November 1989, the General Assembly had declared the period 1990–1999 to be the United Nations Decade of International Law. And indeed, the decade was marked by numerous developments in the fields of IHL and related regimes. For instance, a series of ground-breaking IHL treaties were adopted: the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction in 1993; the Fourth Protocol to the Convention on Conventional Weapons, on blinding laser weapons, in 1995; the Ottawa Convention on Anti-Personnel Land Mines in 1997; and the Second Protocol to the 1954 Hague Convention on the Protection of Cultural Property in Armed Conflicts in 1999. It was also the time of the establishment of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, and the holding of the 1998 Diplomatic Conference of Plenipotentiaries on the Establishment of the International Criminal Court, resulting in the adoption of the Rome Statute of the International Criminal Court. In short, the international community was committed to advancing international law and its respect, and it also agreed that such progress would go through the domestic level.

The global recognition of the importance to be played by domestic implementation was illustrated by the parallel focus given to national IHL committees and to the creation of the ICRC's Advisory Service on IHL. A key moment for both was the international conference on the protection of the victims of warfare that took place in Geneva from 30 August to 1 September

⁷ ICRC, above note 2. At the time of publication of this article, the ICRC has listed three States that have two national IHL committees (Italy, Poland and Sweden).

1993. During that conference, Switzerland was given the mandate to gather an intergovernmental group of experts and make recommendations on the promotion of IHL. The work of that group of experts would have a massive influence on the domestic implementation of IHL across the globe for years to come. A first preparatory meeting of that group of experts was organized in September 1994, which led to the drafting of nine recommendations.⁸ They were later adopted by the intergovernmental group of experts during a meeting in January 1995.⁹ Recommendation III suggested that “the ICRC, with the assistance of National Societies, the International Federation of Red Cross and Red Crescent Societies (“the International Federation”) and academic institutions, strengthen its capacity to provide advisory services to States, with their agreement, in their efforts to implement and disseminate IHL”.¹⁰ In parallel, Recommendation V encouraged further work on the way in which governments can benefit from the creation of national IHL committees tasked to provide advice and assistance on measures for the implementation and dissemination of IHL at the domestic level.¹¹

In addition, it appears that such recommendations were generally supported by National Societies of the Red Cross and Red Crescent. In the same year, on 8 and 9 November 1995, lawyers from several National Societies met in Geneva. ICRC’s archives show that they generally considered that the creation of advisory services within the ICRC was worthwhile, and supported the promotion and creation of inter-ministerial national IHL committees in their own countries.¹²

The 26th International Conference then took place in Geneva from 3 to 7 December 1995. Its Commission I – *War Victims and Respect for International Humanitarian Law* – discussed and formally adopted the recommendations from the experts’ meeting. The resolution – *International Humanitarian Law: From Law to Action* – indeed endorsed both the creation of the ICRC’s Advisory Service and of national IHL committees.¹³ From that point onwards, the development and evolution of the ICRC’s Advisory Service and of national IHL committees would go hand in hand, mutually reinforcing one another. For

8 Revue Internationale de la Croix-Rouge, “Document de travail établi par le gouvernement suisse sur la base des neuf recommandations issues d’une réunion préparatoire tenue à Genève (26–28 septembre 1994)”, March 1995, available at: <https://international-review.icrc.org/fr/articles/document-de-travail-etabli-par-le-gouvernement-suisse-sur-la-base-des-neuf-recommandations>.

9 Revue Internationale de la Croix-Rouge, “Réunion du Groupe d’experts intergouvernemental pour la protection des victimes de la guerre (Genève, 23–27 janvier 1995), Recommandations”, March 1995, available at: <https://international-review.icrc.org/fr/articles/reunion-du-groupe-dexperts-intergouvernemental-pour-la-protection-des-victimes-de-la-0>, pp. 37 and 39. See also *International Humanitarian Law: From Law to Action: Report on the Follow Up to the International Conference for the Protection of War Victims: Report of the President of the Intergovernmental Group of Experts for the Protection of War Victims (Geneva, 23-27 January 1995): Commission I: War Victims and Respect for International Humanitarian Law (Item 2 on the Provisional Agenda)*, Geneva, 1995, available at: https://library.icrc.org/library/docs/CI/CI_1995_140_ENG_146.pdf.

10 *Ibid.*, p. 14.

11 *Ibid.*, p. 14.

12 Information from the ICRC’s Archives, available upon request.

13 ICRC, “26th International Conference 1995: Resolution 1”, Resolution, 7 December 1995, available at: <https://www.icrc.org/en/doc/resources/documents/resolution/26-international-conference-resolution-1-1995.htm>.

instance, most of the IHL-related resolutions and plans of action adopted at the successive International Conferences since 1995 have stressed the importance of domestic implementation of IHL, calling on States to strengthen the work of national IHL committees and stressing the availability of the ICRC's Advisory Service to support States in such endeavours.¹⁴

Since 1995, the Advisory Service has also published numerous materials specifically addressed to representatives of national IHL committees, to equip them with actionable recommendations to implement different areas of IHL. This ranges from the publication of ratification kits to model laws and thematic factsheets,¹⁵ and from bilateral capacity-strengthening initiatives to the organization of universal meetings of national IHL committees.¹⁶ It has also regularly supported national IHL committees in drafting compatibility studies on different areas of IHL,¹⁷ and in establishing concrete and realistic plans of action to guide their work. More recently, the ICRC's Advisory Service developed legislative checklists which national IHL committees may use to identify areas that need to be strengthened within their State's domestic legal framework.¹⁸ In this sense, the Advisory Service offers the possibility of continuous roadside assistance to committees on their respective journeys.

The different roads towards better respect for IHL

Each national IHL committee set out on their respective journeys at different moments in history. Just as they started from different points, they also take different routes. Nevertheless, they are all guided by a shared vision of where they are going and what they need to achieve: greater respect for IHL.

The final destination: better respect for IHL

National IHL committees have been and continue to be created by States at different moments in time, following timelines, needs and motivations that are specific to

14 For instance, national IHL committees were mentioned during the 27th International Conference of 1999 (Annex 2 of Resolution 2), the 30th International Conference of 2007, the 31st International Conference of 2011 (Resolution 2), and the 33rd International Conference of 2019 (Resolution 1).

15 ICRC, "National Implementation of IHL: Documentation", available at: <https://www.icrc.org/en/war-and-law/ihl-domestic-law/documentation>.

16 ICRC, "National Committees", available at: <https://www.icrc.org/en/war-and-law/ihl-domestic-law/national-committees>.

17 Legal compatibility studies aim at assessing the harmony between the international legal obligations that are binding on the State and the corresponding laws, regulations, doctrines or mechanisms that have been adopted or established within the domestic legal system.

18 See for instance: ICRC, *Domestic Implementation of International Humanitarian Law Prohibiting Sexual Violence: A Checklist for States and the International Red Cross and Red Crescent Movement*, 2020; ICRC, *Protecting Health Care from Violence: Legislative Checklist*, 2021; ICRC, *Domestic Measures to Implement the Anti-Personnel Mine Ban Convention*, 2020; ICRC, *Checklist: Domestic Measures to Implement the Convention on Cluster Munitions*, 2020.

each State.¹⁹ However, all national IHL committees share the same initial acknowledgement and the same end goal. They are all created because IHL matters, because States continue to believe in the power of IHL to preserve the core of our common humanity in the worst of times. National IHL committees are created with the view to contribute to the fostering of a culture of respect, in the hope that the cumulative efforts made at each national level will create a global force towards better respect for IHL during armed conflict.

In a certain manner, national IHL committees embody the butterfly effect: each small change to the domestic legal system of a State done during peace time, each dissemination session on IHL and each improvement to the provisions of a domestic legislation, can have large-scale effects on the behaviour of belligerents during an armed conflict. This can be seen in Peru following its ratification of the Ottawa Convention in 1998.²⁰ In 2001, Peru's national IHL committee was set up with an objective to be the guardian of the development and fulfilment of Article 9 of the Ottawa Convention.²¹ Indeed, in accordance with this provision, the national IHL committee initiated its government to create a draft law to implement the Ottawa Convention.²² Subsequently, in 2016, it was reported that Peru had undertaken the destruction and clearance of anti-personnel landmines.²³ National IHL committees are, in that sense, a pillar of prevention work: they work tirelessly towards the creation and maintenance of an environment conducive to respect for IHL.

There is an intrinsic link between the international and the domestic levels when it comes to better respect for IHL. Therefore, while efforts at the international level are absolutely needed to continue developing and clarifying the law where and when needed, such efforts can only be meaningful if they are accompanied by a parallel driving force at the domestic level. Furthermore, the work of national IHL committees needs to be acknowledged and strengthened through international recognition. The members of the 33rd International Conference of the Red Cross and Red Crescent highlighted that “much work remains to be done to ensure IHL is effectively implemented, and they have urged for

19 Motivations include, first and foremost, a desire to enhance protection for those affected by armed conflict, as well as political or organizational interests, such as a desire to join global or regional discussions on IHL implementation or ensuring better coordination among various internal stakeholders.

20 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Convention).

21 Article 9 of the Ottawa Convention describes the national implementation measures which should be adopted by State parties. For more information on the creation of the Comisión Nacional de Estudio y Aplicación del Derecho Internacional Humanitario (CONADIH), please see: “Intervención del Perú en el tema 11 (e) iii Prevención v suppression de las actividades prohibidas v facilitación del cumplimiento”, available at: https://webcache.googleusercontent.com/search?q=cache:ciTrHrEC6oQJ:https://www.apminebanconvention.org/fileadmin/pdf/other_languages/spanish/MBC/MSP/7MSP/update_day_4/Peru_compliance_7MSP_21Sep06_.s.pdf+&cd=1&hl=de&ct=clnk&gl=ch.

22 “Intervención del Perú en el tema 11 (e) iii”, *ibid*.

23 Peru had reportedly cleared a total of 170,000m² of mined area and destroyed 9265 mines over the five years prior. For more information on Peru's demining actions, please see: IHL in Action, “Peru, Demining Action”, 2016, available at: <https://ihl-in-action.icrc.org/case-study/peru-demining-action>.

continued collective commitment and action”.²⁴ National IHL committees illustrate how to turn individual efforts into a global force. Through their work on the universalization of IHL treaties, the adoption of domestic laws, policies and mechanisms, the dissemination of IHL to various audiences, the sharing of good practices with peers in other States, they continuously contribute to such collective commitment and action, and ultimately to better respect for IHL.

Of course, the road is far from being an easy one to travel. It is a long, almost never-ending journey, with several road bumps along the way, as will be discussed in the next part. Yet, national IHL committees have already travelled quite far, and it is possible to sketch a general picture of what the different roads look like, with key signposts that are common to the work of most, if not all, national IHL committees.

A common starting point: compatibility studies and plans of action

First and foremost, in order to determine the route ahead, national IHL committees need to have an overview of the legal and administrative framework existing in their State.²⁵ Which IHL or other relevant treaties have already been ratified? Which IHL-related topics does the domestic law address? What kind of administrative procedures exist in the national framework which support IHL implementation? What domestic audiences, if any, are trained on IHL?

In order to answer these questions, many national IHL committees have successfully supported, or in some cases led, legal compatibility studies that aim at assessing the harmony between the international legal obligations that are binding on the State and the corresponding laws, regulations, doctrines or mechanisms that have been adopted or established within the domestic legal system.²⁶ For example, in 2019, the national IHL committees of Turkmenistan, Belarus, Moldova, Sri Lanka and Slovenia reported that they have either produced or commissioned a legal compatibility study for this purpose.²⁷ In carrying out these studies, it is not unusual for States to resort to academic circles either to conduct the study or for their significant inputs.²⁸ Even once completed, these studies should be subject to regular reflection in order to assess how the relevant State’s domestic framework has since evolved.

Such legal compatibility studies can be general, covering all aspects related to IHL, or thematic, focusing on specific topics identified as having a particular importance for the State. In both cases, the value of such studies lies in the fact that they allow national IHL committees to uncover what has already been

24 Red Cross Red Crescent Conference, *33rd International Conference of the Red Cross and Red Crescent: Bringing IHL Home: A Road Map for Better National Implementation of International Humanitarian Law*, Background Document, Geneva, October 2019, p. 2, available at: https://rcrcconference.org/app/uploads/2019/10/33IC-Background-document-on-IHL_EN.pdf.

25 ICRC, above note 3, pp. 53 and 54.

26 A model legal compatibility study is available at ICRC, above note 3, pp. 72 and 73.

27 ICRC, above note 3, p. 53.

28 For example, local academics in Tunisia have helped to conduct legal compatibility studies concerning national protections afforded for missing persons.

achieved, as well as in the analysis they include on specific areas that would require further work. On that basis, the national IHL committee can develop a list of concrete actions that national authorities should undertake in order to ensure full harmony with the State's international legal obligations and with good practices developed by other States in the same area.

Whether or not a State has worked on such a compatibility study, one additional good practice observed in many national IHL committees is the drafting and adoption of a “plan of action” setting priorities for the work of the committee.²⁹ For instance, in 2017, the national IHL committee of Burkina Faso developed a plan of action for the years 2019 to 2023, concerning the implementation and evaluation of IHL actions.³⁰ The national IHL committee of the United Arab Emirates (UAE) has also launched its plan of action for 2021 and 2022 which “aims to increase cooperation and knowledge exchange with organizations working in the field of IHL”, and “includes a range of activities, plans and events targeting key sectors in the country, including law enforcement and civil society institutions”.³¹ Thematic plans of action can also be created, covering specific IHL topics. For example, Burkina Faso's national IHL committee developed a thematic roadmap, covering the years 2020–2022, for a study on the identification of cultural property in need of protection during armed conflict and for the implementation of the Hague Convention of 1954, which included the elaboration of a national standard for the punishment of offences concerning cultural property, regardless of the nationality of the perpetrator.³² Though, whilst many committees have indeed published their plans of action, other committees have decided that these documents will be kept for purely internal governmental reflections.

Plans of action may also be elaborated by regional organizations such as the one developed by the Economic Community of West African States (ECOWAS) Commission and its fourteen Member States, in conjunction with the ICRC in November 2018.³³ Thus, plans of action vary in scope, sometimes covering a range of IHL themes or otherwise focusing on a single topic, and they may be developed by a national IHL committee for one State, or otherwise by a regional organization comprising a number of Member States.

29 For example, in 2019, the national IHL committees of Belarus, Georgia, Kyrgyzstan, Turkmenistan, United Arab Emirates (UAE), Kuwait, Egypt, Morocco and Bangladesh reported that they had each created their respective plan of action. The ICRC has created a “model plan of action” which is available at ICRC, above note 3, pp. 74 and 75.

30 This information is contained in Burkina Faso's voluntary report of 2018, at p. 33. This voluntary report is on file with the ICRC's Advisory Service and, with the consent of the national authorities of Burkina Faso, may be shared on demand. Please email GVA_advisoryservice@icrc.org with such requests.

31 UAE Ministry of Foreign Affairs & International Cooperation, “National Committee for International Humanitarian Law Launches 2021–2022 Action Plan”, 22 April 2021, available at: <https://mofaic.gov.ae/en/mediahub/news/2021/4/21/22-04-2021-uae-plan>.

32 This information is contained in Burkina Faso's voluntary report of 2018, see above note 30, p. 35.

33 To view the plan of action created during the ECOWAS–ICRC Annual Review Meeting of 2018, see ICRC, *Implementing IHL in West Africa: Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation*, 18 September 2019, pp. 57–68, available at: <https://www.icrc.org/en/document/implementing-ihl-west-africa-redux>.

Overall, good practices shared by national committees highlight that plans of action should include a step-by-step list of objectives, usually for a one- or two-year period, which are ordered by priority.³⁴ Such plans of action should be the basis for organizing the committee's work over the given period, and should be accompanied with a clear monitoring and evaluation component, to assess the impact of the committee's work on implementing the different objectives. In addition, plans of action should be revised and updated, or reconducted, at the end of the given timeframe.

Individual roads converging towards universalization

The plan of action should mark out a series of objectives and the roads to be taken to achieve these objectives. The first objective usually concerns the ratification or accession to IHL or related treaties which the State is not yet party to.

The main IHL treaties, the Geneva Conventions of 1949, have already achieved universal ratification with a total of 196 State parties.³⁵ The Additional Protocols of 1977 to the Geneva Conventions also count among the most widely ratified treaties, with, respectively, 174 and 169 States parties as of March 2022, and a continuously – though arguably still too slow – progress towards universalization.³⁶ At the time of publication, in 2022, the Additional Protocols are celebrating their 45th anniversary and the ICRC is urging States, that have not already done so, to ratify these conventions. Other core treaties which national IHL committees should consider in their assessment of their State's participation to international instruments include all of the different weapons-related treaties, for instance, the Convention on Conventional Weapons and its Protocols, the Anti-Personnel Landmines Ban Convention, the Cluster Munitions Convention, the Arms Trade Treaty and, more recently, the Treaty on the Prohibition of Nuclear Weapons. The list of treaties to consider also includes those that aim to protect specific categories of persons or objects, such as the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, or the Hague Convention on Cultural Property and its Optional Protocols.³⁷

As part of this work, national IHL committees play a crucial role in that they can produce not only the list of treaties that the State is not yet party to, but also identify and analyse the possible concerns or obstacles that may have prevented the State's accession to a given treaty. On that basis, the committee

34 ICRC, above note 3, pp. 54 and 57.

35 For information on the State Parties, see: ICRC, "Treaties, States Parties and Commentaries", Database, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>.

36 *Ibid.*

37 For a more comprehensive list of major IHL treaties, see ICRC, "What Treaties Make up International Humanitarian Law?", 2017, available at: <https://blogs.icrc.org/ilot/2017/08/07/treaties-make-international-humanitarian-law/>.

itself offers an ideal platform to have an open discussion among the different governmental agencies, to address those concerns or obstacles, and pave the way to the necessary political will to accede to the remaining treaties. In many instances, national IHL committees have also worked on creating, as part of the roadmaps or plans of action mentioned above, a list of priority treaties that authorities should work on. Such priority-setting exercises create a more realistic pathway to increasing the State's treaty participation record, as they take into account the fact that each ratification or accession process takes time, energy and resources.

A few examples can be mentioned here. For instance, in early 2020, following the adoption of Resolution 1 during the 33rd International Conference of the Red Cross and Red Crescent, Indonesia's national IHL committee adopted its first roadmap to guide its IHL implementation and promotion work for the period from 2020 to 2023.³⁸ During the 5th Universal Meeting of national IHL committees, organized by the ICRC in November and December 2021, Iran's national IHL committee reported that it supported the accession and implementation of various weapons treaties by Iran, having held workshops and seminars, and having approached key decision-making bodies within government to advocate for ratification and implementation of treaties.³⁹

It should be highlighted that the work of national IHL committees does not only benefit the domestic level. Each step taken by a national IHL committee to promote the ratification or accession by its State to an additional IHL treaty is also one step closer to the universalization of such a treaty. As a consequence, it is important to remember that national IHL committees also work to support efforts made at the international level, ensuring that an even greater number of rules are recognized by an increasing number of States. In other words, national IHL committees also very much contribute to making IHL – and international law in general – stronger.

A common driving force: ensuring effective implementation

With each treaty that is ratified, one can imagine that an intersection emerges which signposts the national IHL committee in multiple directions in order to support the implementation of the treaty – the particularity of this journey is that all of the paths are equally important and, more notably, can be travelled simultaneously. Taking one road may involve the harmonization of domestic law and regulations; another road may lead to the adoption of administrative measures; whilst taking another route would allow the national IHL committee to promote the treaty rules amongst relevant actors tasked to apply or interpret it, for instance.

³⁸ ICRC, above note 5, *Bringing IHL Home*, p. 21.

³⁹ ICRC, "Fifth Universal Meeting of National Committees and Similar Entities on International Humanitarian Law", Report, 26 January 2022, available at: <https://www.icrc.org/en/document/fifth-universal-meeting-national-committees>.

One of the most important tasks carried by national IHL committees is the adoption or harmonization of domestic laws in order to implement the treaties that have been ratified by the State, as well as any other customary IHL rules. Implementing legislations are indeed necessary in many States (i.e. those following a dualist constitutional system) to ensure that they become binding domestic law and can be used by the actors in charge of applying them. In addition, ensuring implementation at the domestic level will be necessary for all States, in particular, for rules of customary international law as well as for rules that are not self-executing and hence require clarification on the rights and responsibilities of national actors. The adoption of domestic law also allows the government to translate the treaty terms into the spoken language(s) of the population. National IHL committees are very often instrumental in this process due to their expertise in IHL and therefore they sometimes take the driver's seat in drafting the domestic laws themselves.

For instance, the national IHL committee of Egypt has reported that it is working on a draft law on the protection of cultural property from the effects of armed conflict as the implementing legislation for the 1954 Hague Convention. In 2016, the national IHL committee of Uruguay had also prepared a draft bill to include violations of the Convention on Cluster Munitions in domestic law.⁴⁰ Similarly, the national IHL committee of Mexico had prepared the initial draft of Mexico's legislation on the use and protection of the Red Cross emblem.⁴¹ Otherwise, where the national IHL committee does not draft the bill itself, it may consult relevant government agencies during the deliberation of the bill, which was the role played by the Indonesian committee during the passing of the country's Law on Red Cross Affairs in 2017.⁴² National IHL committees have also played a role in ensuring the participation of additional actors, when relevant, in the drafting of domestic laws. For instance, Croatia's national IHL committee facilitated the involvement of families in the drafting of a law on Persons Who Went Missing in the Homeland War (1991–1995).⁴³ Overall, national IHL committees have played a defining role in the drafting, or at least in the deliberation, of domestic legislations to implement IHL.

For the effective implementation of IHL, it is also important to preserve the advisory role that national IHL committees play with the national

40 ICRC, *Implementing IHL: Participation of the American States in IHL Treaties and their National Implementation – 2016/2017 Report*, 19 December 2018, p. 46, available at: <https://www.icrc.org/en/publication/ihl-participation-american-states-ihl-treaties-national-implementation-2016-2017>.

41 Mexico, *Ley para el uso y protección de la denominación y del emblema de la cruz roja*, 23 March 2007, available at: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LUPDECR.pdf>, as cited in: Oscar G. Macias Betancourt, "Implementation of International Humanitarian Law: The Work of Latin American International Humanitarian Law Committees", *International Review of the Red Cross*, 11 February 2022, p. 12, available at: <https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/implementation-of-international-humanitarian-law-the-work-of-latin-american-international-humanitarian-law-committees/5969B213F95B106AD46119FAB241C9DF>.

42 ICRC, above note 3, p. 15.

43 Croatia, *The Law on Persons Who Went Missing in the Homeland War (1991–1995)*, Official Gazette of the Croatian Republic, No. 70/19, July 2019, available at: <https://www.zakon.hr/z/2123/Zakon-o-osobama-nestalim-u-Domovinskom-ratu>.

authorities.⁴⁴ They are indeed very well placed to keep an eye on the broader international landscape and to ensure a continuous dialogue between the international, regional and national levels. Their work in this respect includes monitoring developments and emerging issues concerning IHL, for instance, on new technologies of warfare, military activities in outer space, cyber-warfare, the compliance of counterterrorism measures with IHL, and so forth. National IHL committees then advise their governments on international debates, developments or clarifications in IHL, such as through the publication of reports. This advisory role is exemplified by the actions of the national commission of France at the domestic level.⁴⁵ Since 1988, the “IHL – Humanitarian Action” group within the French national consultative commission on human rights has been very active in publishing public opinions on different issues related to weapons, in which it presents its analysis of the obligations binding on the State and makes clear recommendations to the French authorities to implement such obligations. For instance, the national commission adopted a public opinion on the use of chemical weapons in 1988,⁴⁶ a declaration on the use of explosive weapons in populated areas in June 2021,⁴⁷ and has since 1998 provided its opinions regarding the elaboration of a European Union code of conduct with common criteria regulating the export of weapons.⁴⁸ In addition, it encouraged France to participate actively in the drafting of the Arms Trade Treaty and made recommendations to the authorities in 2011 and 2013 ahead of the diplomatic conference that adopted the Treaty.⁴⁹

Upon the adoption of domestic law, the road divides off into various directions, revealing new possibilities for implementing this law. Taking one route requires the national IHL committees to adopt measures to ensure that the domestic law is understandable for those who will apply it. Since we are speaking about the law of armed conflict, the actors who may come to mind are those who actually engage in armed conflicts, first and foremost, the military. National IHL committees have advised on the development of military manuals to ensure that IHL is correctly integrated into military operational procedures as was the case, for example, in Belarus.⁵⁰ National IHL committees may engage with the military in other ways, for example, by creating an IHL casebook to support the education

44 This advisory role is sometimes highlighted in the founding documents of national IHL committees, as observed for some Latin American national IHL committees. See O. G. M. Betancourt, above note 41.

45 Commission Nationale Consultative des Droits de l’Homme (CNCDH), “Publications”, available at: <https://www.cncdh.fr/fr/publications>.

46 CNCDH, “Avis sur l’utilisation d’armes chimiques notamment dans le conflit Iran-Irak”, 15 September 1988, available at: <https://www.cncdh.fr/fr/publications/avis-sur-lutilisation-darmes-chimiques-notamment-dans-le-conflit-iran-irak>.

47 CNCDH, “Déclaration ‘Armes explosives en zones peuplées : déclaration pour un engagement politique ambitieux à la hauteur des enjeux humanitaires’”, 24 June 2021, available at: <https://www.cncdh.fr/fr/publications/declaration-armes-explosives-en-zones-peuplees-declaration-pour-un-engagement-politique>.

48 CNCDH, “Publications”, available at: <https://www.cncdh.fr/fr/publications/transfert%2520d%2527armes?retain-filters=1>.

49 CNCDH, “Avis sur le projet de Traité sur le commerce des armes 21 février”, 18 March 2013, available at: <https://www.cncdh.fr/fr/publications/avis-sur-le-projet-de-traite-sur-le-commerce-des-armes-21-fevrier>.

50 ICRC, above note 3, p. 27.

of army staff, as was done in the Czech Republic,⁵¹ or by organizing IHL training for armed forces, as organized by the national IHL committees of Iraq, Morocco, Syria and Uruguay, for example.⁵² Committees may also be a forum for the armed forces to present their training needs and request support. The manner through which a national IHL committee engages with their State military may depend on the military's practices, and also on whether or not the military – often through the ministry or department of defence – is represented in the national IHL committee itself.

National IHL committees must also take steps to ensure that the domestic law is accessible to civilian bodies that implement the law, such as parliamentarians and judges. For example, national IHL committees have provided legal and technical advice for the set up of mechanisms for the clarification of the fate of missing persons in Lebanon, Peru and Zimbabwe, and have advised on the adequate functioning of these mechanisms in accordance with IHL. In other cases, manuals have been drafted which guide civilian actors in implementing the domestic law, such as Nepal's handbook for parliamentarians and other civilian authorities in promoting respect for IHL which was created with the support of the national IHL committee.⁵³ The manner through which national IHL committees have engaged with civilian authorities depends on the subject of the law, the existing expertise of these bodies, and also the working relationships.

Upon creating the necessary domestic laws and measures to help implement the law, national IHL committees support States in making inroads into the full dissemination of applicable IHL within their territories, ensuring that it is known to civilian and military authorities as well as the general public.⁵⁴ Many national IHL committees are even mandated by their governments to disseminate the law as is the case for the national IHL committees of Madagascar and the United Kingdom, for example.⁵⁵ Dissemination efforts include the provision of training courses on IHL for various audiences. For instance, Peru's national IHL committee and the ICRC "jointly organized the first meeting of students of IHL 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

51 Red Cross Red Crescent Conference, "Promotion and Dissemination of International Humanitarian Law", Pledge, 29 November 2019, available at: <https://rccconference.org/pledge/promotion-and-dissemination-of-international-humanitarian-law-2/>.

52 ICRC, above note 3, p. 27; ICRC, above note 40, p. 46.

53 ICRC, "Nepal: Humanitarian Law Handbook Ready for Launch", News Release, 16 March 2015, available at: <https://www.icrc.org/en/document/nepal-humanitarian-law-handbook-ready-launch>.

54 For example, in 2019, the national IHL committees of the following countries had reported such dissemination activities: Algeria, Costa Rica, Ecuador, Jordan, Indonesia, Iran, Iraq, Malaysia, Mauritius, Morocco, Nepal, Peru, Saudi Arabia, Syria and the UAE. "The task of dissemination is a legal obligation under the Geneva Conventions, and its inclusion was based on the conviction of the drafters that knowledge of the law is an essential condition for its effective application. While it is now recognized that knowledge of the law alone will not prevent violations, spreading knowledge of the law is understood to be an 'important element of any strategy aimed at creating an environment conducive to lawful behaviour'." ICRC, Updated Commentary to the First Geneva Convention, Article 47: Dissemination of the Convention, 2016, para. 2750, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=E925A7160C083CC9C1257F15004A58D9>.

55 ICRC, above note 3, p. 18.

the curriculum of law faculties in Lima and other cities around the country”.⁵⁶ Other national IHL committees have supported the publication of national webpages which give a simple overview on the law applicable in armed conflicts, whilst others have translated international guidelines on IHL into their national language(s).⁵⁷ These efforts of national IHL committees to disseminate IHL and domestic law have a significant impact on generating knowledge of IHL, an important condition for ensuring its respect.

In order to fulfil all the possible functions and roles described above, one good practice is the creation of specialized or thematic sub-committees within the national IHL committee.⁵⁸ For example, in 2019, Nicaragua’s national IHL committee reported that it had three sub-committees: one on the protection of cultural property, one on legislation and one on IHL training and dissemination.⁵⁹ In the period of 2016–2017, Brazil’s national IHL committee had created a number of sub-committees to focus on identifying cultural property that should be protected during armed conflict, following up on IHL legislative initiatives, and studying the relationship between IHL and new warfare technologies.⁶⁰ In 2019, the national IHL committee of Morocco reported having two sub-committees: one tasked with research and legislation, the other with dissemination and training.⁶¹ Also in 2019, Malaysia’s national IHL committee reported that it had four sub-committees which worked on cultural property, weapons, implementation and dissemination.⁶² Egypt’s national IHL committee has technical sub-committees on the following subjects: legislation, education, research and training, media and dissemination, conferences and international cooperation. These examples illustrate that the number of sub-committees and subjects covered vary.

Creating crossroads between the national, regional and international levels

The work of each national IHL committee, by definition, will be driven primarily by domestic considerations, ranging from political priorities to humanitarian issues faced on the territory or by the armed forces of the State, and will also depend on the type of legal system. At the same time, such considerations will very often find an echo in other countries. It is therefore important to tap into the different streams of influence and different commonalities that may exist between national IHL committees.

One such commonality is found through the legal system under which each national IHL committee operates. Depending on whether they predominantly

56 ICRC, above note 40, p. 39.

57 ICRC, above note 3, pp. 17–18.

58 ICRC, above note 3, p. 56.

59 ICRC, above note 3, p. 55.

60 ICRC, above note 40, p. 45.

61 ICRC, above note 3, p. 55.

62 ICRC, above note 3, p. 56.

follow a civil law, a common law, a mixed system or a system that is influenced by Islamic law, representatives of national IHL committees will find it useful to share challenges as well as ways to overcome them with their peers. As a consequence, the ICRC has maintained several platforms for exchanges among such committees. For instance, every four years, in between the international Conferences of the Red Cross and the Red Crescent, the ICRC partners with the UK national IHL committee, the British Red Cross and the Commonwealth Secretariat to organize a meeting for national IHL committees for Member States of the Commonwealth. In the last edition of such a meeting in April 2021, representatives were given the opportunity to discuss through working groups concrete issues arising when implementing the rules related to the prohibition of sexual violence in armed conflict or the protection of the natural environment, taking into account the specificities of working under a common law system.⁶³

A second possibility for exchanges among national IHL committees is through linguistic groups. For instance, the ICRC and the League of Arab States have for long partnered to organize a conference for Arabic-speaking national IHL committees every few years. This cross-regional event, which is joined by national IHL committees from Mauritania to Oman and from Sudan to Iraq, allows representatives to exchange on good practices in their own working language and hence to take away very concrete recommendations from their peers. This second way of gathering national IHL committees can also be merged with the first one. For instance, the conference for Arabic-speaking national IHL committees usually includes a component on Islamic law and IHL, where representatives discuss how legal regimes that are influenced by Islamic law can integrate specific rules of IHL. For instance, the forthcoming conference of Arabic-speaking national IHL committees is scheduled to take place in Kuwait in September 2022 and will tackle the implementation of rules regarding the missing, the separated and the dead in armed conflict, including by presenting how IHL can be implemented in the different aspects of family law in legal systems influenced by Islamic law.

A third possibility to bring together national IHL committees is simply through regional meetings. These events allow committees to stay abreast of regional events and IHL themes of concern to the region, as well as to delve into the responses given to common humanitarian challenges. The countries represented in these regional events often share similar legal traditions and systems, voting alliances and common contextual challenges, making exchanges amongst regional committees very worthwhile. For example, national IHL committees have attended, and in some cases helped to organize, a number of regional seminars such as the Regional Conference of National IHL Committees

63 ICRC, “Report – Fifth Meeting of Representatives of National IHL Committees of Commonwealth Countries”, 12 July 2021, available at: <https://www.icrc.org/en/document/fifth-meeting-representatives-national-ihl-committees-commonwealth-countries-report>.

of the Americas,⁶⁴ the South African and Indian Ocean Island States Regional Seminar,⁶⁵ the Expert Exchange for the National IHL Committees of Asia and the Pacific⁶⁶ and the Regional IHL Conference for National IHL Committees of Central and South-Eastern Europe.⁶⁷ Such events are often an opportunity for specific regions and sub-regions to agree on common plans of action or roadmaps. For instance, the Regional Conference of National IHL Committees of the Americas has adopted a declaration which details several commitments to further the domestic implementation of IHL in the Americas.⁶⁸ The Annual Review Meeting on the Implementation of International Humanitarian Law Treaties in West Africa, joined by the national IHL committees of the Member States of ECOWAS, is used to adopt a multi-year plan of action on IHL. The last plan of action was adopted at the 2018 conference and covers the period of 2019 to 2023.⁶⁹

On a regional level, peer-to-peer networks have also been developed amongst entities. These relationships allow committee members to exchange experiences, objectives and strategies concerning the implementation of IHL, to strengthen cooperation, and to support one another. For instance, in January 2020, a memorandum of understanding was signed between the national IHL committees of Morocco and Kuwait for these purposes.⁷⁰ There is also an online community of which thirty-six national IHL committees are currently members, as of March 2022, which is managed by the ICRC, and which also seeks to enhance peer-to-peer support.⁷¹ Committees should continue to strengthen regional cooperation through events, memorandums, and through engaging with the online community, which is indeed a commitment made by Latin American national IHL committees in February 2021.⁷²

Through their participation in local, regional and international events, national IHL committees have strengthened their abilities to support their

64 ICRC, above note 40, p. 44; ICRC, “Ecuador: Regional Meeting of National Committees on IHL and Other Similar Entities of the Americas”, 24 February 2021, available at: <https://www.icrc.org/en/document/ecuador-americas-regional-meeting-between-national-committees-and-similar-bodies-ihl>.

65 Red Cross Red Crescent Conference, “Strengthening Implementation of International Humanitarian Law (IHL) by the 19th Southern African and Indian Ocean Island States Regional Seminar”, Pledge, 19 March 2020, available at: <https://rcrcconference.org/fr/pledge/strengthening-implementation-of-international-humanitarian-law-ihl-by-the-19th-southern-african-and-indian-ocean-island-states-regional-seminar/>.

66 Dhaka Tribune, “Discussion to Implement International Humanitarian Law Held”, 15 December 2019, available at: <https://archive.dhakatribune.com/bangladesh/2019/12/15/discussion-to-implement-international-humanitarian-law-held>.

67 ICRC, above note 64, “Ecuador: Regional Meeting”.

68 Organization of American States (OAS), “Declaration of the ‘Regional Meeting of National Committees on International Humanitarian Law and Other Similar Entities of the Americas’”, 5 February 2021, available at: http://www.oas.org/en/sla/dil/docs/declaration_regional_meeting_of_national_committees_on_ihl_of_the_americas_2021.pdf.

69 ICRC, above note 33.

70 Kingdom of Morocco, “National Commission on International Humanitarian Law and Kuwaiti Counterpart Sign MoU”, News, 15 January 2020, available at: <https://www.maroc.ma/en/news/national-commission-international-humanitarian-law-and-kuwaiti-counterpart-sign-mou>.

71 Any national IHL committee who wishes to be a member of this online community may email the ICRC’s Advisory Service on IHL at: GVA_advisoryservice@icrc.org.

72 Above note 68, p. 2.

respective States in reporting on IHL to the international community.⁷³ For instance, the committee of Australia helped its government to prepare its positions and statements in the lead up to the 32nd International Conference of the Red Cross and Red Crescent,⁷⁴ whereas during the period of 2016 to 2017, the national IHL committee of Chile followed up on the pledges made by its government during the 32nd International Conference.⁷⁵ Alongside this, national IHL committees in many States, such as Burkina Faso, Chile, the Dominican Republic and Honduras, have been involved in drafting the submissions of their governments to the United Nations Secretary-General in fulfilment of the United Nations General Assembly resolutions on the status of the Additional Protocols to the Geneva Conventions.⁷⁶ This work demonstrates the increasing, and very present, capacity of many national IHL committees to contribute to the international landscape of IHL, well beyond their traditional roles in supporting national IHL implementation.

To help showcase their State's practices in implementing IHL, a number of national IHL committees have supported their States in drafting voluntary reports. For instance, the national IHL committees of the United Kingdom,⁷⁷ Burkina Faso,⁷⁸ Niger,⁷⁹ Switzerland,⁸⁰ Germany,⁸¹ Bulgaria⁸² and Romania⁸³ took a lead role in drafting such reports on behalf of their States. Whilst there is no legal definition of a voluntary report, for the ICRC, it is any document drafted under the lead or with the strong involvement of a State entity, with the purpose of describing the state of IHL implementation within its domestic legal system, including law, policy and practice. These reports outline harmony between international legal obligations and the domestic system and identify potential

73 ICRC, above note 3, p. 22.

74 ICRC, above note 3, p. 23.

75 ICRC, above note 40, p. 45.

76 ICRC, above note 3, p. 27.

77 For the voluntary report of the United Kingdom, see United Kingdom Government, *Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level*, 2019, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784696/Voluntary_Report_on_the_Implementation_of_International_Humanitarian_Law_at_Domestic_Level.pdf.

78 The voluntary report of Burkina Faso is on file with the ICRC and can be shared on request, with the consent of the national IHL committee of Burkina Faso. See above note 30.

79 The voluntary report of Niger is on file with the ICRC and can be shared on request, with the consent of the national IHL committee of Niger.

80 For the voluntary report of Switzerland, see Federal Council, *The Implementation of International Humanitarian Law by Switzerland: Voluntary Report of the Federal Council*, 12 August 2020, available at: https://www.eda.admin.ch/dam/eda/en/documents/aussenpolitik/voelkerrecht/20200812-HVR-Bericht_EN.pdf.

81 For the voluntary report of Germany, see Dt. Komitee zum Humanitären Völkerrecht (German Committee on International Humanitarian Law), *National Implementation of International Humanitarian Law: Document on the Implementation of IHL in the German Legal System*, available at: https://www.nomos-elibrary.de/10.5771/9783748921103.pdf?download_full_pdf=1.

82 The voluntary report of Bulgaria is available at: <https://www.mfa.bg/upload/54920/%D0%9F%D0%A0%D0%95%D0%93%D0%9B%D0%95%D0%94%D0%98%D0%9E%D0%A6%D0%95%D0%9D%D0%9A%D0%90%D0%9C%D0%A5%D0%9F.pdf>.

83 For the voluntary report of Romania, see Government of Romania, *Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level*, 2021, available at: https://www.mae.ro/sites/default/files/file/anul_2021/2021_pdf/raport_f_diu_eng.pdf.

areas requiring further action. A number of States have published such reports, the most recent ones including those of Bulgaria, Romania and the United Kingdom. During the Universal Meeting of national IHL committees and similar entities, hosted in November and December 2021, a number of committees expressed their intention to draft a voluntary report including the committees of Costa Rica and Cyprus.⁸⁴ These reports are usually made public once finalized in order to contribute to sharing good practices on IHL implementation across national, regional and international landscapes.

Furthermore, the lines of communication between the ICRC and national IHL committees have been enhanced over time. On the one hand, these entities collect evidence of IHL-related State practice for the ICRC's public national implementation of IHL database,⁸⁵ whilst on another hand, the ICRC regularly supports the work of national IHL committees, for example, through providing expert legal advice. In order to bring all committees together, the ICRC hosts a Universal Meeting every few years which allows them to have peer-to-peer exchanges on IHL, to discuss achievements, challenges and to support one another.⁸⁶ The ICRC should "continue playing a role as facilitator of these exchanges" between committees on regional and international levels, especially "considering the emerging and critical situations that require specific collaboration";⁸⁷ not least emerging methods of warfare witnessed globally, but also the road bumps encountered by certain entities.

Road bumps encountered along the journey

Whilst the work of national IHL committees has certainly strengthened and evolved over time, some committees face material, political or structural hurdles. Much like road bumps, these challenges require national IHL committees to slow down at certain points along the journey in order to take stock of the situation before progressing forward.

Securing a full fuel tank

Materially speaking, some national IHL committees experience sparse financial and human resources which limit their ability to fulfil many of their functions.⁸⁸ For example, this was expressed during the 4th Universal Meeting of national IHL committees, where different working groups all reported on the challenges posed by the "[l]ack of resources, such as earmarked funding, or a dedicated secretariat,

84 ICRC, above note 39.

85 ICRC, above note 3, p. 21. For the database on the national implementation of IHL, see ICRC, "National Implementation of IHL", available at: <https://ihl-databases.icrc.org/ihl-nat>.

86 The Universal Meetings have taken place in 2002, 2007, 2010, 2016 and 2021. See ICRC, above note 39.

87 OAS, above note 68, p. 2.

88 ICRC, above note 3, p. 42.

as well as appropriate premises”.⁸⁹ Similarly, during the 15th ECOWAS and ICRC Annual Review meeting on the implementation of IHL in West Africa, “many [ECOWAS] member States with national IHL committees spoke of being confronted by a lack of resources to perform the necessary activities”.⁹⁰ While the establishment and work of a national IHL committee do not necessarily create high costs for a State (for instance, it is often only a matter of allocating time reporting for State officials to serve in the committee), States should still consider fuelling the operations of national IHL committees by allocating organizational resources at the moment that these entities are set up, and by assigning an adequate budget to ensure that the entities can run their operations.

In some cases, even where committees are allocated State budgets, their structure may prevent them from receiving the necessary funds. This concern was raised in 2018 by some West African States which highlighted that “as national IHL committees are composed of various ministries, even if State budget or external funds were allocated to the national IHL committee via ministries, it was less likely that the required resources would directly benefit the activities of the committee”.⁹¹ Therefore, “Liberia stated that it proved critical, to the functioning of its national IHL committee, to have a permanent secretariat to which State budget and external funds could be allocated”.⁹² Côte d’Ivoire similarly raised “the important problem of financing the activities” of its national IHL committee, and had similarly created a permanent secretariat in order to enhance sustainability of its work.⁹³ Nigeria also stressed “the importance of having ministries of finance on the committees to ensure avenues for funding”.⁹⁴ Overall, States must assign the necessary organizational resources and budget as a first step, and they must also ensure that the committees have structures which guarantee that they benefit from these funds.

Where government funding is limited, national IHL committees should explore other avenues. These entities may approach regional organizations, or the ICRC, in order to devise their strategies in seeking funding, for instance, in West Africa, States may approach the Permanent Representative of ECOWAS in their States for this purpose.⁹⁵ One strategy, suggested by Liberia in 2018, is that committees “explore the possibilities of joint projects with small arms and light weapons committees, who may benefit from different sources of funding”.⁹⁶ In 2018, ECOWAS mentioned the “importance of working with national planning ministries, as they could help ensure funding”, whereas Senegal’s parliamentary representative suggested that national IHL committees sensitize parliamentarians

89 ICRC, “Enhancing Protection in Armed Conflict through Domestic Law and Policy”, 6 December 2017, p. 7, available at: <https://www.icrc.org/en/document/enhancing-protection-armed-conflict-throughdomestic-law-and-policy-overview-report>.

90 ICRC, above note 33, p. 7.

91 ICRC, above note 33, p. 8.

92 ICRC, above note 33, p. 8.

93 ICRC, above note 33, p. 15.

94 ICRC, above note 33, p. 15.

95 ICRC, above note 33, p. 15.

96 ICRC, above note 33, p. 8.

on the needs of these committees since the parliamentarians often have the responsibility of passing budgets.⁹⁷ Thus, funding strategies may be formulated in instances where the committee does not receive the required resources via State budget.

Whilst national IHL committee members generally have strong expertise in IHL, in some countries IHL expertise may be lacking. One solution usually found in such cases is for the committee to seek the support of the Red Cross or Red Crescent National Society, of the ICRC or of consultants for specific projects it wishes to carry out. However, the lack of IHL expertise may sometimes create challenges; for instance, it may slow down the pace of the committee in reaching its objectives. States must support these members by providing resources, such as training, to allow them to enhance their expertise in order to fulfil their functions. The ICRC, likewise, supports these endeavours in order to enhance IHL expertise. One of the key messages passed as part of the conclusions of the 4th Universal Meeting was that there “must be complementarity between the work of national IHL committees at national and international levels”, which was translated, among other things, into the concrete recommendation of “developing a community of international IHL expertise that can be easily accessed by government agencies, thereby addressing the ‘knowledge gap’ identified by some participants”.⁹⁸

Likewise, selecting the right members for the national IHL committee also means selecting individuals who have the time to devote to this work. Over time, some national IHL committees have become less active, existing on paper but not functioning effectively in reality. This may be a product of lack of time allocated to committee members so that they can follow the journey. This must be considered by States when forming their national IHL committees.

A few stops along the way

Just as national IHL committees can become dormant, or less active, through lack of materials, expertise or time, a national IHL committee may also encounter road bumps due to the domestic socio-political environment. For example, during the 15th ECOWAS and ICRC Annual Review meeting, Côte d’Ivoire had admitted that “the various socio-political crises that the country experienced had disrupted the meeting of the members” of the national IHL committee.⁹⁹ This “lack of functioning was also due to ongoing movements within the government, with the continuous change of personnel and priorities”.¹⁰⁰ In order to reactivate Côte d’Ivoire’s national IHL committee, they had reformed its founding decree,¹⁰¹ and the ICRC had worked closely with the committee in 2019 to revive and re-

97 ICRC, above note 33, p. 15.

98 ICRC, *Enhancing Protection in Armed Conflict Through Domestic Law and Policy: Conference Overview: 30 November–2 December 2016*, Report, Geneva, p. 80, available at: <https://www.icrc.org/en/publication/enhancing-protection-armed-conflict-through-domestic-law-and-policy>.

99 ICRC, above note 33, p. 15.

100 ICRC, above note 33, p. 15.

101 ICRC, above note 33, p. 15.

dynamize its operations. Similar disruptions have been felt across the globe owing to the COVID-19 pandemic which has shifted political priorities and creating barriers to meeting in-person. As restrictions to movements start to be lifted, now would be an opportune moment for committees to re-engage.

Driving with a licence plate

In order to perform its duties with authority, it is usually preferable that national IHL committees be conferred legal status and should be formally documented – much like a vehicle needs a licence plate. However, in some cases national IHL committees are set up without legal status which obstructs their ability to operate.

Legal status can be conferred on national IHL committees in a number of ways, depending largely on the constitutional structure of the given State.¹⁰² Most often, it is conferred by the executive, such as a presidential decree (as was the case in Mexico), a cabinet or ministerial decision (as was the case in Zimbabwe and Sri Lanka), or by government resolution or agreement (as was the case in Kenya, Georgia and the former Yugoslav Republic of Macedonia which established their national IHL committees by gazette status).¹⁰³ In other cases, legal status is conferred by the statutes of the National Red Cross Society which establishes the national IHL committee within the structure of the existing National Society (as was indeed the case within Germany).¹⁰⁴ Irrespective of the precise modalities, the crucial point is that the national IHL committee has the legal status which grants it the authority to perform its functions.

As the work and responsibilities of an established committee evolves over time, the relevant government can take steps to strengthen the committee's legal status. For example, the national IHL committee of Peru was first created in 2001 by virtue of a supreme resolution, thus conferring legal status on the new entity.¹⁰⁵ Following twenty years of work by the committee, the government adopted a supreme decree on 13 May 2021, which introduced relevant reforms to offer enhanced stability for the committee in the years to come.¹⁰⁶ The decree incorporated new members to the committee such as the Ministry of Culture, Ministry of Health, Ministry of Women and Vulnerable Population, and the Joint Command of the Armed Forces,¹⁰⁷ and also expanded the committee's responsibilities.¹⁰⁸ In 2021, Peru's national IHL committee reported that this new

102 ICRC, above note 3, p. 38.

103 ICRC, above note 3, p. 38.

104 ICRC, above note 3, p. 38.

105 Ministerio de Justicia y Derechos Humanos, "CONADIH", available at: <https://www.minjus.gob.pe/conadih/>.

106 El Peruano, *Justicia y Derechos Humanos*, Decreto Supremo, No. 006-2021-JUS, 13 May 2021, available at: <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-adequa-la-comision-nacional-de-estudio-y-decreto-supremo-n-006-2021-jus-1952568-8/>.

107 The Supreme Decree preserved the existing membership of the Congress, the Ombudsman Office, institutions which are not part of the executive branch, as well as non-State institutions.

108 New responsibilities of Peru's national IHL committee include: the act of advising the government on topics related to IHL, monitoring State obligations within IHL, drafting reports summarizing IHL

decree had strengthened its entity, demonstrating that reforms to the legal status of an entity over time can indeed enhance its work.

One journey at a time

Legal status alone does not guarantee success if the structural set-up of the national IHL committee is not conducive to optimal working conditions. One potential challenge in this respect is the mandate given to the entity that deals with the implementation of IHL. In some countries, for instance, it is the national human rights institution which is afforded the legal status to promote and advise on the domestic implementation of both international human rights law (IHRL) and IHL.¹⁰⁹ This can be because the national IHL committee has been established as a sub-group or sub-entity within an initial human rights commission, or because the entity is from the start given the mandate to look at both international legal regimes. The existence of such a dual mandate is not in itself problematic. It is true that having one body perform two functions can help save material resources where these are lacking. However, this route may present challenges as there are important differences in the basic functions and characteristics of IHRL and IHL implementation,¹¹⁰ as well as between the functions granted to national human rights institutions, enshrined in the Paris Principles, and those of national IHL committees. These differences include the stakeholders, the differing obligations under IHRL and IHL, and the manner in which compliance is monitored.¹¹¹ Therefore, one recurring recommendation has been that the body set up to implement IHL must be afforded different mandates, functions, compositions and work procedures from the national human rights institution.¹¹²

Additionally, as illustrated in the former section, implementing IHL involves numerous roads (as is also the case for IHRL implementation), and thus should be preferably allocated to a specialized body which can focus on IHL. Allocating too many disparate responsibilities to one body is like sending one vehicle in too many directions at once – it will only slow it down.

Conclusion: Milestones which have paved the onwards journey

As with most long-haul road trips, one tends to start with an idea of the roads that will be taken and what the end destination will look like. With time, this idea often changes shape due to events that arise and actors encountered along the way. Likewise, when the first national IHL committees were formed in the 1970s to advise and assist their States on the domestic implementation of IHL, they

initiatives implemented in Peru, and working on IHL and IHRL standards regarding the use of force. For more information, see *El Peruano*, above note 106.

109 ICRC, above note 3, p. 38.

110 ICRC, above note 3, p. 39.

111 ICRC, above note 3, p. 49.

112 ICRC, above note 3, p. 49.

undoubtedly followed different roadmaps from those followed today. Throughout the 1990s, the work of national IHL committees received widespread recognition across regional and international landscapes, which led States to channel further resources to support their work, such as the creation of ICRC's Advisory Service on IHL in 1995. New treaties were ratified or acceded, new domestic laws and measures were adopted, and strategies for the dissemination of IHL were implemented. The past decades have shown that the journey towards effective implementation of IHL is a continuous process where important milestones will be reached at each step.

What is clear is that throughout this long and evolving journey, national IHL committees have proven themselves to be competent drivers of national IHL implementation. The advanced committees, which have by now accustomed themselves with the various roads, tend to travel the journey at faster rates, taking a few roads in parallel and even supporting their peers along the way. For example, some bodies have simultaneously supported treaty ratifications, the drafting of domestic laws, the establishment of State mechanisms to help implement IHL treaties as well as dissemination activities. Each time the roads are travelled by committees, good practices emerge, which help signal the direction for other committees wishing to take the same or a similar route.

Nevertheless, national IHL committees will sometimes endure road bumps along the journey owing to material, political and structural challenges. Materially speaking, this may include sparse finances, lack of appropriate premises, or insufficient time reporting for staff. In some cases, national IHL committees have the resources but are unable to access these owing to their organizational structure. Politically speaking, national IHL committees sometimes encounter disruptions along the journey owing to changes in the domestic socio-political context in which they work such as situations of violence, armed conflict or pandemics. Structurally speaking, some committees have the means to ride the roads yet lack the legal status to do so. Going forward, it is recommended that the international community seeks to address these issues so that all committees can continue to progress their respective mandates.

Overall, whilst recommendations can be made about the roads which should generally be taken by national IHL committees, it is ultimately down to the committee, together with its State, to decide which route reaps the most rewards and offers the least resistance at a given moment in time. Nevertheless, the hope is that the well-trodden path of national IHL committees will be a source of inspiration for those looking to set out on this journey, as it is lined with an abundance of milestones helping to mark the roads which lie ahead.