

Under the Global Initiative to Galvanize Political Commitment to International Humanitarian Law (Global IHL Initiative), **Egypt, Indonesia and the International Committee of the Red Cross (ICRC)** are pleased to present the:

WORKSTREAM 7

# THIRD STATE CONSULTATION ON NAVAL WARFARE

*For legal advisers from ministries of foreign affairs and defence in capitals and representatives from Permanent Missions in Geneva*

THURSDAY, 12 FEBRUARY 2026

10:00–13:00 (UTC+1)

FORMAT: IN PERSON (GENEVA) AND ONLINE (ZOOM)

## Background

The naval warfare workstream of the Global IHL Initiative is creating a space for states to reflect upon several critical humanitarian issues emerging from contemporary armed conflict at sea. It is seeking understanding and agreement from states on good practices to apply the law and uphold humanity in naval warfare. The third all-state consultation builds on the first two consultations, in June and November 2025, as well as on the expert discussion held in Jakarta in May 2025, which dealt with general questions on the humanitarian impact of armed conflict at sea and with rules and principles governing the conduct of hostilities at sea. This consultation will explore the existing law and good practices around searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked and dead, as well as around the treatment of detainees at sea.

### 1. International law obligations around the protection of persons at sea

International law, including both the law of the sea and IHL, provides a framework for ensuring the protection of people at sea. Within the law of the sea, the International Convention for the Safety of Life at Sea<sup>1</sup> obliges a ship's master to provide assistance to people in distress at sea, while the International Convention on Maritime Search and Rescue obliges states to ensure that assistance be provided to any person in distress at sea.<sup>2</sup> The Convention on the High Seas and the United Nations

<sup>1</sup> Adoption: 1 November 1974; entry into force: 25 May 1980:

[https://www.imo.org/en/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-\(solas\),-1974.aspx](https://www.imo.org/en/about/conventions/pages/international-convention-for-the-safety-of-life-at-sea-(solas),-1974.aspx), all links accessed 15 December 2025.

<sup>2</sup> Adoption: 27 April 1979; entry into force: 22 June 1985:

[https://www.imo.org/en/about/conventions/pages/international-convention-on-maritime-search-and-rescue-\(sar\).aspx](https://www.imo.org/en/about/conventions/pages/international-convention-on-maritime-search-and-rescue-(sar).aspx).

Convention on the Law of the Sea (UNCLOS)<sup>3</sup> oblige states to require the master of a ship sailing under their flag to render assistance to any person found at sea and in danger of being lost, in so far as can be done without serious danger to the ship, crew or passengers.<sup>4</sup> Other treaties, such as the Salvage and Facilitation of International Maritime Traffic Conventions and the Chicago Convention on Civil Aviation, may also be applicable. UNCLOS also requires coastal states to provide assistance in such search and rescue. The duty to assist people at sea is one of the core traditions of seafarers and is also reflected in customary law. Consideration should be given to the question of whether, during an armed conflict at sea, belligerents may be bound by that duty in situations not covered by the Second Geneva Convention (e.g. in neutral waters or during non-international armed conflicts), and to the challenges faced by neutrals attempting to fulfil their obligations.

Within IHL, the Second Geneva Convention, to which all states are party, explicitly mandates that belligerents “without delay, take all possible measures to search for and collect the shipwrecked, wounded and sick” and to search for and collect the dead after an engagement. This obligation is impartial, applying to all individuals regardless of which side of the conflict they are on.<sup>5</sup> Additional Protocol I extends this protection to civilians who are wounded, sick or shipwrecked at sea. The Second and Third Geneva Conventions set out obligations in relation to recording and accounting for the enemy wounded, sick, shipwrecked and dead taken aboard (detained on) vessels, and the Fourth Geneva Convention also provides for the protection of wounded, sick and shipwrecked civilians. For non-international armed conflicts, Article 3 common to the Geneva Conventions provides that “[t]he wounded and sick and shipwrecked shall be collected and cared for” and Additional Protocol II also explicitly codifies the duty to search for, collect and care for the wounded and sick and dead at sea and on land. Rule 112 of the ICRC’s study on customary IHL also relates to the collection of the dead in non-international armed conflicts.

Despite these legal obligations, states face significant practical difficulties in implementation, some of which are addressed below. Other considerations and challenges may be discussed during the consultation.

## **2. Searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked and dead**

Becoming shipwrecked at sea, no matter the reason, is oftentimes deadly. When any vessel is attacked or damaged during an armed conflict at sea, people on board the vessel may become wounded, sick or shipwrecked or die. Modern search and rescue operations at sea face numerous challenges in peacetime, let alone in armed conflicts. These include the sheer scale of the ocean, the difficulty of locating individuals in vast, dynamic environments, dangers posed by marine wildlife, the absence of food and fresh water, and the dangers posed by weather and sea conditions.

Search and rescue are made infinitely more perilous by the presence of active hostilities, long-range weaponry and naval mines. These threats not only endanger those in distress but also place rescue personnel and vessels at high risk, potentially hindering or preventing a timely and effective response. Vessels that collect and care for the wounded, sick, shipwrecked and dead may be in dangerous zones of the conflict and will need to ensure that they can move quickly out of the line of fire. Perhaps they should have universally recognized means of identification to indicate the presence of protected persons<sup>6</sup> on board and to ensure safe passage without harm.

The humanitarian consequences of these operational challenges are stark. Without swift and coordinated action, individuals left in the water or stranded on damaged vessels can quickly succumb to fatigue, any injuries, exposure or drowning. The importance of rapid search and rescue responses is therefore paramount, as the survival window for those in distress is often very short. In such situations,

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<sup>3</sup> Adoption: 10 December 1982; entry into force: 1 November 1994:  
[https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg\\_no=XXI-6&chapter=21&Temp=mtdsg3&clang=\\_en](https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en).

<sup>4</sup> Adoption: 29 April 1958; entry into force: 30 September 1962:  
[https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg\\_no=xxi-2&chapter=21](https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxi-2&chapter=21).

<sup>5</sup> Second Geneva Convention, Art. 18; Fourth Geneva Convention, Art. 16; ICRC study on customary IHL, rule 112:  
<https://ihl-databases.icrc.org/en/customary-ihl/rules>.

<sup>6</sup> A definition of “protected persons” is found in the *San Remo Manual*, paras 161-168: <https://ihl-databases.icrc.org/en/ihl-treaties/san-remo-manual-1994/article-161-168?activeTab=>.

special consideration should be given to the specific risks and distinct needs of certain groups, such as people with disabilities, older people, children and migrants.<sup>7</sup>

There is a significant disparity between the rapid pace of technological innovation in maritime search and rescue and persistent systemic and cooperation challenges. While technologies such as drones, AI and advanced satellite systems are improving capabilities and reducing response times, long-standing issues like delayed distress reporting and the lack of unified coordination continue to hinder effective operations. Another challenge arises when new technologies, such as drones or unmanned maritime systems, are used for hostilities. In such instances, belligerents may face difficulties in immediately fulfilling their obligations. To address this, measures will need to be put into place to ensure that obligations can be met.

The Second Geneva Convention sets out the possibility of calling on the “charity” of commanders of neutral merchant vessels to support belligerents in fulfilling their obligations.<sup>8</sup> However, these neutral vessels may be reluctant to provide support in an armed conflict environment (owing to concern around supporting a belligerent or for fear of attack). Furthermore, they may not be able to respond appropriately (owing to a lack of facilities, resources and training) or there may not be integrated coordinating systems in place for such requests. There are considerable gaps in understanding by belligerents and neutrals as to how neutral vessels and/or states are to search for, collect, evacuate and care for the wounded, sick, shipwrecked and dead, and these issues could benefit from further consideration.

### **3. Care for the wounded, sick and shipwrecked and respect for the dead**

Once rescued, the wounded, sick, and shipwrecked must be provided with humane treatment and appropriate medical care, without adverse distinction. Providing timely and appropriate medical care in austere, unstable environments on board ships is extremely challenging, especially for severe combat wounds. Vessels that collect the wounded, sick and shipwrecked may not have the capacity to provide such treatment. Without timely provision of medical care, people face the risk of death or worsening health conditions that could complicate long-term recovery. Another challenge lies in safely evacuating these individuals to a place of safety (such as a neutral port) far from the active combat zone, which can require complex diplomatic and logistical arrangements.

Once they have been rescued from the immediate danger, individuals facing specific risks may require specialized medical care, or psychosocial support – resources often unavailable on standard merchant vessels and other neutral vessels; measures should be taken to remove them as quickly as possible to shore. Children, especially those unaccompanied by an adult, are at higher risk of trauma, exploitation and drowning. Migrants, who may increase in number in conflict environments, face compounded dangers owing to their frequent reliance on unseaworthy vessels. The risks they face are further exacerbated by legal and political complexities, which can delay or discourage assistance, prolonging distress and increasing fatalities among those already in peril. Steps may also need to be taken to mitigate challenges arising from language barriers.

The dead must be respected and their dignity preserved, including by preventing their despoilment and respectfully disposing of their remains. This can present logistical challenges related to ensuring proper storage of the dead onboard. The ICRC’s 2017 Commentary on the Second Geneva Convention proposes that “[t]he preferred option is the return of the remains of the deceased to their families so that they may bury them in accordance with their religious beliefs and practices”.<sup>9</sup> The Commentary adds that burial on land “ought to be preferred over burial at sea for humanitarian reasons”, as the latter makes it “virtually impossible” to recover human remains and confirm identity and makes it difficult for families to access burial places.<sup>10</sup> If burial is only possible at sea for operational reasons, it must be

<sup>7</sup> Note that the ICRC’s understanding of the term “migrants” includes refugees, asylum seekers, stateless persons and migrants deemed to be in an irregular situation by public authorities: <https://www.icrc.org/en/law-and-policy/protected-persons-migrants-refugees-asylum-seekers>.

<sup>8</sup> Second Geneva Convention, Art. 21.

<sup>9</sup> ICRC, *Commentary on the Second Geneva Convention: Convention (II) for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea*, ICRC, Geneva / Cambridge University Press, Cambridge, 2017, para. 1823: <https://ihl-databases.icrc.org/ihl/full/GCII-commentary>.

<sup>10</sup> *Idem*, para. 1825.

individual burial as far as circumstances permit, and the dead of all sides must in any case be respected and protected, including against despoilment. Before burial (whether on land or at sea), the parties to the conflict must carefully examine the bodies, if possible in a medical examination, “to confirm death, establish identity and enable a report to be made”.<sup>11</sup> Identifying those who have perished at sea can present unique and often grim challenges. Salt water and marine life accelerate the decomposition of bodies, which can make physical identification difficult if not impossible. In practice, it may be that collecting vessels do not have the necessary personnel on board to carry out this examination carefully and respectfully, including to establish identity. They also may not have the correct facilities for storing the dead onboard.

To ensure that relevant obligations can be met, states need to be prepared to put in place the appropriate processes and systems in peacetime, to ensure they have the necessary personnel, facilities and equipment aboard vessels and to carry out proper training for such personnel. There may also be a need for further practical guidelines and documentation to support belligerents’ compliance with relevant obligations (or that of neutral states and/or masters of neutral vessels if “charitably” assisting).

#### **4. Accounting for the wounded, sick, shipwrecked and dead**

Once people have been collected from the sea, whether dead or alive, and evacuated from areas of military operations, their details must be recorded. There is a firm obligation to record any details that may assist in the identification of wounded, sick, shipwrecked and dead enemy personnel (including categories under the law of naval warfare, such as merchant mariners in some instances) that have fallen into the hands of a belligerent.<sup>12</sup> Once recorded, such information must be transmitted “as soon as possible” to their National Information Bureau for forwarding to the other party through the ICRC’s Central Tracing Agency.<sup>13</sup>

These obligations are part of the framework in place to prevent people from going missing. If families know the fate of their loved ones, this can help reduce tensions and foster confidence-building measures, facilitating peacebuilding.

The obligation to record and transmit information on enemy personnel is conferred on parties to an international armed conflict but also on any neutral state that may receive or find, among others, deceased individuals in its territory.<sup>14</sup> Belligerent states must also record the details of their own personnel whom they may have collected and cared for.<sup>15</sup> There are also obligations to ensure that civilians who may be collected (migrants at sea, people on vessels which may have come under indirect attack, and civilians on enemy vessels) be identified and their information recorded so that they do not go missing. Under the Fourth Geneva Convention, parties to armed conflicts are obliged to account for certain protected persons in their hands and, based on Article 16, parties must “facilitate the steps taken to search” for wounded and dead civilians. Moreover, Additional Protocol I provides for the exchange of information to facilitate the search for all missing and dead civilians,<sup>16</sup> and under customary law parties must record all available information on the deceased and must take all feasible measures to account for people reported missing as a result of the conflict and must provide their families with any information on their fate.<sup>17</sup> It may also be necessary to gather information from those rescued as to who else was with them on a vessel that has sunk as well as the details of the vessel itself if they are not collected, as this is sometimes the best and only source of information on people who have gone missing and are never to be seen again. Complying with the legal obligations at sea in an armed conflict involves coordination, communication, logistics and preparedness to address the relevant people on board and in the water.

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<sup>11</sup> *Idem*, para. 1835.

<sup>12</sup> Second Geneva Convention, Art. 19.

<sup>13</sup> Second Geneva Convention, Art. 19; see also the Third Geneva Convention, Art. 122.

<sup>14</sup> First Geneva Convention, Arts 4 and 6; ICRC, *Commentary on the First Geneva Convention: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, ICRC, Geneva / Cambridge University Press, Cambridge, 2016, para. 1544: <https://ihl-databases.icrc.org/ihl/full/GCI-commentary>. Articles 4 and 16 should be read together.

<sup>15</sup> Second Geneva Convention, Chapter II; ICRC study on customary IHL, rule 116.

<sup>16</sup> Additional Protocol I, Art. 33.

<sup>17</sup> ICRC study on customary IHL, rule 117.

Once the dead have been collected, their personal details must be recorded, with a view to identification, and transmitted so that they can be accounted for, as outlined above. Personal belongings and identity documents (like identity discs) are often lost or damaged in maritime incidents. As such, bodies must be collected and details recorded as quickly as possible and in a way that follows forensic standards and best practices. While DNA analysis is a powerful tool, it may be complicated by the degradation of genetic material in a marine environment, and it may be impossible to find a match if the person collected is a migrant or a member of enemy armed forces.

During a non-international armed conflict, common Article 3 and customary IHL apply as well as, potentially, Additional Protocol II. In these conflicts, IHL confers a similar obligation on parties to record all available information on the deceased prior to their disposal to enable identification.

Speed and accuracy are required for recording identifying details.<sup>18</sup> This can pose problems if those collecting information do not have the necessary training, forms or procedures in place.<sup>19</sup>

## **5. Detention at sea**

Once the wounded, sick and shipwrecked are collected, cared for and identified, some of them may need to be detained as prisoners of war (POWs), civilian internees or criminal detainees (others who are collected may not be detainees at all and must also be treated well). While merchant vessels are generally considered civilian objects and are protected from attack, their crew, even if civilians, may be entitled to POW status if they are “members of the merchant marine and the crews of civil aircraft of the Parties to the conflict” who do not benefit from more favourable treatment under other provisions, or if they accompany the armed forces without being members thereof.<sup>20</sup>

Any detainees must be held in line with IHL; where detainees are held for reasons unrelated to the conflict, detention must be in line with applicable human rights law. As the ICRC’s 2017 Commentary notes on detainees, “the shipwrecked, wounded and sick might initially find themselves on a hospital ship prior to detention on land. ... [T]hey may be diverted to a hospital ship immediately upon capture or transferred to a military hospital upon landing. Thus, the persons who come into contact with the shipwrecked, wounded and sick will likely be more familiar with the provisions of the Second Convention than of the Third Convention.”<sup>21</sup> When rescued combatants are collected on board a military vessel or cared for by an enemy party’s medical personnel or on hospital ships, they fall into enemy hands and gain POW status under the Third Geneva Convention,<sup>22</sup> resulting in the simultaneous application of both treaties until they are fully recovered. This status ensures humane treatment, including provision of medical care, food, hygiene and clothing, as well as protection from ill-treatment and pillage.<sup>23</sup>

Even if not granted POW status, captured seafarers (captured mariners on neutral vessels) may still be protected persons under the Fourth Geneva Convention and therefore benefit from the associated treatment and protections. In a non-international armed conflict, common Article 3, and potentially Additional Protocol II, will apply. In any case, in both international and non-international armed conflicts, they are civilians and as such still protected by fundamental principles of humanity under customary IHL, including guarantees against violence to life and person, hostage-taking, outrages upon personal dignity and arbitrary detention. Their details should be recorded so that they can be accounted for, and they should be transported to a place of safety as soon as possible, whether to be detained as civilian internees or criminal detainees or released depending on their status. States should consider what a “place of safety” means and where one may be located in an armed conflict. If

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<sup>18</sup> ICRC, *Commentary on the Second Geneva Convention*, 2017, para. 1717.

<sup>19</sup> *Idem*, para. 1718.

<sup>20</sup> Third Geneva Convention, Art. 4.

<sup>21</sup> ICRC, *Commentary on the Second Geneva Convention*, 2017, para. 1708.

<sup>22</sup> Third Geneva Convention.

<sup>23</sup> The obligation set out in the Third Geneva Convention that detention can only take place on land implies that detention at sea must be as short as possible and raises questions around the acceptable length of “temporary” detention on ships for transit purposes.

individuals are to be transferred to a place of safety, repatriated or transferred elsewhere, states must consider the issue of *non-refoulement*.<sup>24</sup>

## Objectives

This consultation will aim to:

- ensure a common understanding of the existing law on searching for, collecting, evacuating, caring for and identifying the wounded, sick, shipwrecked and dead during an armed conflict at sea
- seek innovative ideas about how states can put into practice their existing obligations on the topics as outlined above
- explore how states (both neutral and belligerent) can coordinate with each other and other actors at sea to ensure all possible measures are taken in searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked, and dead, including how coastal rescue craft, hospital ships and other vessels can be mobilized in belligerents' efforts to ensure that they meet their obligations
- examine how vessels can be protected in searching for, collecting, evacuating and caring for the wounded, sick, shipwrecked and dead (e.g. civil-defence organizations, coast guards, other government vessels and potentially the ICRC and National Red Cross and Red Crescent Societies or neutral vessels which are appealed to)
- develop an understanding of good practice in searching for, collecting, evacuating, caring for, identifying and accounting for the wounded, sick, shipwrecked and dead
- develop an understanding of good practice in the treatment and conditions of detainees as well as those civilians who are collected and need to be transported (including consideration of vulnerable individuals).

## Next steps

Following the three rounds of consultations, the co-chairing states and the ICRC will formulate concrete recommendations, which will be presented to all states for further discussion:

- On **1 April 2026**, the first versions of the recommendations for all workstreams will be sent to all Permanent Missions in Geneva and published on the [Humanity in War](#) website.
- The **fourth round of consultations** will be held between **4 and 6 May 2026**, in a **hybrid format**. During this round, all states will be invited to share comments on the first versions of the recommendations for each workstream, which will be discussed sequentially.
- On **1 June 2026**, the second versions of the recommendations for all workstreams will be sent to all states and published on the [Humanity in War](#) website.
- The **fifth round of consultations** will be held between **22 and 26 June 2026**, in a **hybrid format**. All states will be invited to provide final comments on the recommendations. Following this

<sup>24</sup> The principle of *non-refoulement* is a fundamental customary international law obligation that prohibits states from transferring or removing individuals to a country where there are substantial grounds for believing they would be in danger of persecution (as defined in Article 33(1) of the 1951 Refugee Convention), torture, or other cruel, inhuman or degrading treatment or punishment. Article 3 of the 1984 United Nations Convention against Torture stipulates that no state party shall expel, return (*refouler*) or extradite a person to another state where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. Article 7 of the International Covenant on Civil and Political Rights has been interpreted as prohibiting the return of individuals to places where torture or persecution is feared.

round, the co-chairing States and the ICRC will finalize the recommendations for each workstream, which will be presented to all states in the second part of 2026.

## Participants

- The consultation will be held in a hybrid format with participation in person and online.
- The consultation is **open to all states that are interested**. There is a strong preference for capital-based military experts and representatives from relevant ministries in capitals well versed in the international law applicable to armed conflict at sea, and for representatives from Permanent Missions in Geneva.
- Other representatives with specific expertise in the subject matter (e.g. members of international organizations, civil society and academia) will also participate upon invitation.
- Please register no later than **Friday, 6 February 2026**, using the [registration form](#).

## Procedure

- The working languages will be **Arabic, Chinese, English, French, Russian and Spanish**, with simultaneous interpretation.
- We ask states to limit their statements to **four minutes** to ensure sufficient time for all participants to take the floor. At the end of the consultation, and after all participants that wish to contribute have done so, states and other participants will be given an opportunity to discuss ideas proposed by others.
- When preparing their statements, participants are kindly requested to consider the **guiding questions** provided in the agenda below.
- The **inclusive, constructive, non-politicized and solution-oriented** nature of the discussions will be maintained throughout the consultation. While participants are encouraged to refer to their state's domestic practice during the consultations, they are asked to kindly refrain from discussing specific contexts or the practice of other states.
- To facilitate interpretation, we invite participants to share a copy of their statements by 6 February 2026, via email at [ihlinitiative@icrc.org](mailto:ihlinitiative@icrc.org), with "Naval warfare third consultation" in the subject line. We also encourage participants to send their full written statements by email after the meeting. **Unless confidentiality is explicitly requested, these statements will be published on the [Humanity in War](#) website.**
- The consultation will be recorded, but the recording will not be made public.

# Agenda

## Naval Warfare Third Round of Consultations

10.00–13.00, 12 February 2026  
ICRC Humanitarium, 17 avenue de la Paix, 1202 Geneva

*\*Depending on the number of statements given, all times set out below are subject to change.*

Registration and coffee / Login and connection	9:30–10:00
<b>Opening of the meeting and introduction</b>	10:00–10:30
<b>Guiding questions</b>	10:30–12:30
<ol style="list-style-type: none"><li>1. What are the core challenges for belligerents in fulfilling their obligation to search for, collect, care for and evacuate the wounded, sick, shipwrecked and dead? How can these challenges be overcome?</li><li>2. What are the core challenges for neutral states and/or neutral vessels in supporting belligerents to fulfil their obligations? How can these challenges be overcome?</li><li>3. What steps/activities do states currently invest in, or need to invest in, to ensure that they meet their obligation to search for, collect and evacuate for the wounded, sick, shipwrecked and dead?</li><li>4. What steps/activities do states currently invest in, or need to invest in, to ensure that they meet their obligation to identify the wounded, sick, shipwrecked and dead?</li><li>5. What steps/activities do states currently invest in, or need to invest in, to ensure that they meet their obligation to protect detainees at sea?</li><li>6. What more do states need in terms of tools, training or good practice from other states with regard to these obligations?</li></ol>	
<i>In answering these questions states are invited to consider their own complex realities at sea, which may include long coastlines, dense ports, archipelagic sea lanes, maritime chokepoints, narrow straits and overlapping SAR responsibilities. They are also invited to consider how these challenges can be addressed while respecting the neutrality of assisting states and vessels, including with due regard to the sovereignty and regulatory authority of neutral coastal and archipelagic states and to the application of the law of the sea.</i>	
<b>Concluding remarks and next steps</b>	12:30–13.00