

DRAFT FOR FOURTH STATE CONSULTATION

Workstream 2 – NATIONAL IHL COMMITTEES

CO-CHAIRERD by Germany, Peru, the Philippines, the United Kingdom and the International Committee of the Red Cross

Overview

Well-functioning national committees and similar entities on IHL (hereafter “national IHL committees” or “committees”) breathe life into the rules: they reaffirm their relevance, uphold their application and support the political will to respect them. The power of this workstream lies not just in collective reflection, but in our collective resolve to translate commitment into action – action to encourage all states to empower national mechanisms to promote coordination, implementation and compliance with IHL. This strengthens protection for those most affected by armed conflict. National IHL committees should play a proactive and constructive role in helping to ensure compliance with IHL. There is strength in the diversity that exists between national IHL committees, but each committee should maximize its own potential and effectiveness within its unique domestic context.

Outcome

1. Empowered national IHL committees

In a manner consistent with national frameworks, capacities and priorities, national IHL committees should be empowered to maximize their potential to advance the implementation of and respect for IHL.

It is therefore recommended that all states with a national IHL committee:

- a) assess the mandate of their national IHL committee, in light of the annexed common purpose paper (annex 1), and consider what recommendations may be appropriate to strengthen their national IHL committee and ensure it reaches its full potential
- b) seek to ensure that their national IHL committee has the appropriate resources to achieve its objectives
- c) establish how the committee will facilitate the consideration and implementation of these recommendations
- d) designate, as appropriate, a relevant government minister or entity to whom their national IHL committee should periodically report, and who will also oversee the implementation of these recommendations.

2. Stronger together

Recognizing the collective expertise contained within national IHL committees, regular engagement within and across regions is encouraged, to enhance support, collaboration and capacity building.

It is therefore recommended that all states with a national IHL committee:

- a) act to strengthen existing opportunities for regular structured peer-to-peer dialogue between their respective national IHL committees, as set forth in the annexed terms of reference (annex 2)
- b) demonstrate commitment to the principle of international cooperation by ensuring that relevant officials are able to participate in regular structured peer-to-peer exchanges as appropriate
- c) authorize their national IHL committee to cooperate with other national IHL committees to promote compliance with IHL by all states
- d) in line with national capacities, share experiences with other states to advise on the establishment and functioning of national IHL committees
- e) join and actively participate in the online communication platform for national IHL committees and, where appropriate, submit proposals for improvement.

3. Effective expert advice

A tangible way that national IHL committees can uphold IHL is by serving as a source of advice to their governments. National IHL committees should have the discretion to provide effective expert advice, serving as an effective advisory board and governmental coordination mechanism that helps enhance compliance with IHL obligations.

It is therefore recommended that all states with a national IHL committee consider:

- a) reviewing and, if necessary, amending the mandate of their national IHL committee to enable the proactive provision of advice to government on any matter relevant to upholding IHL obligations
- b) enabling their national IHL committee to take appropriate steps, through established government channels, to alert the designated government minister or entity to concerns related to compliance with IHL
- c) enabling their national IHL committee to contribute to national IHL policy, discussion and decision-making forums and processes, as appropriate.

4. Empower members

National IHL committees that add value to a state are comprised of committed and motivated experts from across government and relevant institutions. To ensure success, states must invest in their membership and in processes that support the continuity of their national IHL committee.

It is therefore recommended that all states with a national IHL committee consider:

- a) ensuring that official national IHL committee functions are prioritized: committee members should be allocated sufficient time and institutional support by their respective agencies to achieve committee objectives
- b) minimizing member turnover in their national IHL committee wherever possible
- c) putting in place arrangements to preserve the institutional memory and continuity of their national IHL committee

- d) actively supporting the continued professional development of committee members, as required, and ensuring the appropriate onboarding of new members
- e) making the annexed toolkit (annex 3) available to their national IHL committee.

5. National Red Cross and Red Crescent Societies

The unique mandate of National Red Cross and Red Crescent Societies to cooperate with their public authorities on humanitarian issues means that they can provide vital support and additional expertise to the work of a national IHL committee.

It is therefore recommended that all states consider:

- a) the role that their National Society may play in the work and activities of their national IHL committee, preferably as a full member in accordance with national arrangements
- b) the support their National Society can provide in the establishment of a national IHL committee, where one has not yet been established
- c) utilising the expertise of their National Society to build the capacity of the members of their national IHL committee
- d) benefitting from their National Society's membership in the International Red Cross and Red Crescent Movement to support their involvement in the International Conference of the Red Cross and Red Crescent and to exchange information on relevant IHL meetings or initiatives supported by the Movement that may be of interest to their national IHL committee.

Annex 1: Common purpose paper: guidance for states and national IHL committees

The [insert the name of your national IHL committee] embodies our state's commitment to comply with IHL in all circumstances.

1. Purpose statement

Our national IHL committee embodies our state's commitment to ensuring mechanisms are in place that promote the domestic implementation of, and respect for, IHL in all circumstances. National IHL committees serve as an intra-governmental expert advisory and coordinating platform to support states in fulfilling their IHL obligations. National IHL committees have an impact by promoting the domestic implementation of IHL, coordinating national efforts to integrate these rules into legislation, policy and military doctrine, ensuring widespread dissemination of the law and promoting a culture of compliance with the law through the provision of technical advice and informed opinions.

2. Status

National IHL committees should be established under a lead government ministry, or relevant entity, and serve as a permanent, state-mandated coordination and advisory body on IHL. While it is important that committee membership primarily includes government officials, there is value in granting committees a degree of technical and functional independence to enable them to support state compliance with IHL.

3. Competence and responsibilities

- a) Compliance with IHL is a state obligation, and all members of national IHL committees also have a **special role** to take action to ensure that their state complies with its IHL obligations.
- b) National IHL committees should serve as an intra-governmental **coordination platform** on all matters relating to compliance with IHL.
- c) National IHL committees should be competent to **advise their governments**, as appropriate, on all matters relevant to respecting and ensuring respect for IHL. To complete this task, national IHL committees could be provided with access to relevant national discussion and decision-making forums.
- d) National IHL committees should have the ability to **conduct studies** or draw up reports on their state's compliance with, and implementation of, IHL and **submit recommendations** and proposals to improve compliance. Such studies and recommendations should be made available to the government. National IHL committees should also monitor the implementation of their recommendations.
- e) National IHL committees should advise and take measures to assist the **ratification** of, and adherence to, relevant IHL instruments. National IHL committees should be consulted, and provide advice, on all matters relevant to joining IHL-related treaties. Similarly, they should also be consulted, and provide advice, in the exceptional case when their state is considering withdrawing from or denouncing an IHL-related treaty it has joined.

- f) National IHL committees should advise and assist their respective governments to prepare IHL-related **implementing** legislation, with a view to ensuring compliance with IHL obligations.
- g) National IHL committees should be involved in the development of a **domestic action plan** to implement outcomes of the other workstreams of the Global IHL Initiative accepted by their government, support their governments and relevant domestic institutions that are involved in implementing those outcomes and monitor such implementation.
- h) National IHL committees should support their state to **disseminate** IHL among the armed forces and the public, and to make recommendations in this regard.
- i) National IHL committees should have the capability, in accordance with national frameworks, to **maintain relations** and exchange information on their activities and experiences with similar entities in other countries.
- j) National IHL committees could **support their state's involvement in global and regional initiatives** aimed at strengthening IHL.
- k) National IHL committees should be able to exercise any **other function** that is necessary to fulfil the mandate of the committee.
- l) In order to ensure that national IHL committees remain relevant, **periodic reviews** of the committee's mandate should be carried out, and necessary amendments made.

4. Role during an armed conflict

In addition to their peace time responsibilities, the role of national IHL committees in the event of an armed conflict should also be clear. During an armed conflict, a national IHL committee should endeavour to have an **advisory function**, providing expert advice to the government on the application of IHL, including on the safeguards owed to all protected persons, objects and civilian infrastructure. National IHL committees could also give legal advice concerning the provision of **humanitarian assistance**, as appropriate, by identifying, for governmental action, the needs of victims of armed conflict. Throughout the conflict, national IHL committee functions could include monitoring developments, advising their government on allegations of violations of the law and emerging challenges, making recommendations to their government on necessary legal or practical actions, and, as far as possible, monitoring the implementation of those recommendations.

5. Structure and composition

- a) It is vital that the membership of a national IHL committee incorporates relevant ministries and actors within the state.
- b) National IHL committees should be chaired at a sufficiently senior level to ensure access to high-level political decision makers and to have the authority to make commitments on their principal's behalf.
- c) To ensure continuity and to maintain sufficient monitoring and follow-up, it is advisable that the Chair be supported by a secretariat.
- d) At a minimum, national IHL committees should be comprised of:
 - i) representative(s) of the ministry of defence/defence forces
 - ii) representative(s) of the ministry of foreign affairs
 - iii) representative(s) of the ministry of justice

- iv) representative(s) of the ministry of home affairs/police services
- e) Depending on the national context, it may also be advisable to include:
 - i) representative(s) of the ministry of health
 - ii) representative(s) of the ministry of education
 - iii) representative(s) of the ministry of culture
 - iv) representative(s) of the ministry of finance
 - v) representative(s) of the parliament
 - vi) representative(s) of the judiciary (individual capacity)
 - vii) representative(s) of the National Red Cross or Red Crescent Society
- f) National IHL committees should have the power to amend their composition to include additional government representatives, pertaining to the national context, and/or other representatives of entities whose activities are connected with their mandate. National IHL committees should also have the power to invite individuals with demonstrated relevant expertise, on an ad-hoc basis.
- g) Efforts should be made to ensure a reasonable level of continuity of membership. Turnover in representatives, and participation by proxy, should be avoided unless absolutely necessary.
- h) It is essential that when nominating representatives, ministries strike the right balance between hierarchical level, availability and competence to represent their Ministry.

6. Methods of operation

- a) To function as an effective platform for open governmental discussion and coordination, it is essential that national IHL committees can operate **confidentially** if necessary. It is advisable to consider whether discussions, minutes, reports and recommendations should be exempt from public disclosure, in accordance with domestic law and policy.
- b) National IHL committees should hold **regular meetings** to maintain momentum and to monitor the progress of objectives. Committees should aim to meet at least twice a year, with established means for members to communicate with each other between committee meetings. Sub-committees or working groups could be established to meet on a more regular basis to advance specific objectives.
- c) The work of national IHL committees should be structured around domestic needs and capabilities. It is advisable that national IHL committees identify measures to be taken at the national level, potentially by conducting an IHL **compatibility study**, or a similar review of their state's participation in IHL treaties, relevant legislation, policies and practice. Such studies or reviews could facilitate the agreement of priorities and objectives. These agreements could form the basis for a **plan of action**, which should allocate responsibilities and contain a monitoring framework that includes clear indicators and timelines.
- d) Building on the above, national IHL committees should be able to communicate their views to the relevant decision makers of their state in the event of concerns related to the state's compliance with its IHL obligations. In the exercise of this function, national IHL committees could:
 - i) share their concerns and recommendations with the relevant government minister or entity
 - ii) participate in, or feed into, relevant discussion spaces where the matter is being addressed
 - iii) monitor the implementation of their recommendations.

- e) In furtherance of the function to coordinate, share information and provide expert technical advice on IHL to government, it is advisable that the national IHL committees be represented by at least one member in internal governmental discussions and decision-making forums where matters of IHL and IHL compliance are discussed. Where they exist, and pertaining to the national context, this may include:
 - i) discussions on extending or limiting the state's IHL commitments (e.g., ratifications or endorsement of documents)
 - ii) legal review processes for new weapons
 - iii) working sessions where IHL policy, or policy with implications for IHL compliance, is formulated
 - iv) decision-making forums on arms transfers
 - v) after-action review processes.
- f) As appropriate, national IHL committees could provide advice or recommendations to their government if there are concerns that their state's actions may encourage, aid or assist IHL violations by another state or party to an armed conflict; or concerning questions of promoting compliance with IHL by another state or party to an armed conflict. To this end, a national IHL committee could be empowered, where appropriate, to provide advice or assistance to its government, as set out in the 34th International Conference of the Red Cross and Red Crescent Resolution 1 (2024) on "Building a universal culture of compliance with international humanitarian law," 34IC/24/R1 paragraph 10, on:
 - i) convincing parties to armed conflicts to put an end to IHL violations
 - ii) seeking the commitment of states at the highest levels of civilian and military leadership to comply with IHL
 - iii) helping states build their capacity to implement IHL through the development of military doctrine, training and mentoring, and other appropriate means
 - iv) assisting states in ensuring that their judicial and administrative bodies are capable of effectively addressing IHL violations committed by their own forces and holding persons accountable in accordance with applicable requirements of international law
 - v) assisting states in strengthening their national IHL committees, and, for those who have not already done so, assisting them in the establishment of such committees
 - vi) complying with their own obligations under applicable international treaties and law regulating the use and transfer of arms
 - vii) using diplomatic dialogue, humanitarian diplomacy and other appropriate measures to promote compliance by other states
 - viii) where appropriate, promoting compliance with IHL by non-State armed groups.

7. Institutional memory

Effective knowledge capture is important if national IHL committees are to operate successfully. Transitioning from ad-hoc to permanent bodies supports the process of capturing long-term institutional memory. It is also important to ensure systematic documentation of committee records, through the maintenance of regular reports and/or other tracking documents as appropriate. Resource mapping can also be a helpful tool for ensuring that committees have access to necessary legal and technical information. It is recommended that committees establish dedicated communication chains, such as committee-specific email addresses, to facilitate the retention of knowledge captured through communications and the maintenance of external contacts.

8. Communications

To build support for national IHL committees it is essential that they make their objectives and achievements known within government and to the wider public. To that end, national IHL committees should adopt and implement appropriate communication measures.

9. Resources

- a) It is desirable that national IHL committees have the means to allow them to cover their own running expenses. Ideally, as soon as a committee is set up, the national authorities, as far as possible, should grant it logistical resources and a working budget. Concerning ministerial representatives, an internal sharing of working expenses could be organized.
- b) National IHL committees must ensure that their members have the necessary knowledge of, and information about, IHL. Sufficient budget and time must be allocated to building, or maintaining, the knowledge of members. Similarly, new members should be effectively onboarded regarding committee processes, achievements, challenges and IHL. One way of ensuring this is to put a committee member in charge of internal training and information management.

10. Relations with national stakeholders

In order to ensure IHL is complied with, it is essential that national IHL committees maintain structured engagement with a range of actors. Subject to the government system, the following links could be considered:

- a) **Parliament:** in some contexts, it may be appropriate to engage with parliamentarians to provide technical IHL advice, and to support decision-making regarding the ratification of IHL instruments. In some contexts, it may be appropriate to provide expert briefings and reports on compliance with IHL obligations. In some contexts, it may be appropriate to provide advice to parliament on specific budget allocations to encourage parliament to ensure that relevant actors, such as the armed forces and judiciary, receive high-quality IHL training, and to encourage parliament to ensure that national institutions that support the application of IHL are allocated sufficient resources.
- b) **Civil society & academics:** engaging national experts to support IHL dissemination and independent research on IHL.
- c) **The media:** using the committee's publications and public events, where appropriate, to make journalists and the general public more aware of IHL.

11. Monitoring and evaluating

To maintain momentum, assess progress, capture information, retain institutional memory and increase visibility, national IHL committees could submit regular progress reports to a designated minister, government entity or parliament, as appropriate. This report could include an evaluation of the committee's work, noting that the contents of such reports will vary according to national circumstances. As an illustration, the report could provide details of the committee's activities, processes the committee engaged with, advice or recommendations provided, any legislative progress, the training sessions conducted, any challenges faced and any planned future actions. A helpful format to follow may be that of a voluntary report on the domestic implementation of IHL. It is recommended

that the reporting process be used as a tool for increasing ministerial awareness and support for the work of the committee.

Annex 2: Terms of reference for enhancing regional and global national IHL committee platforms

In recognition of the importance of international solidarity and the value of structured peer support to increase capacity and overcome challenges, a system of regular engagement between national IHL committees should be facilitated. To this end, every national IHL committee should have the opportunity to participate in ad-hoc thematic meetings, regional meetings, periodic universal meetings and an online communication platform for national IHL committees.

1. National IHL committee steering group

A national IHL committee steering group comprising six states of sufficient geographical diversity and the ICRC, shall be established. It will be the responsibility of the steering group to advance regional and global cooperation amongst national IHL committees. The tenure of a steering group member shall be four years, with the possibility of extension. The initial period of membership will run until the next universal meeting of national IHL committees takes place. From there on, member states of the steering group shall be selected at the universal meeting of national IHL committees. The ICRC shall be a permanent steering group member. The steering group shall meet virtually at least two times per year to discuss and advance progress towards objectives and ensure effective transitions between steering group members.

2. Regional meetings of national IHL committees

- a) With the support of the ICRC, the steering group will be responsible for ensuring that all national IHL committees have the opportunity to participate in a regular regional meeting for national IHL committees. Where such opportunities do not currently exist, they shall be created. To support continuity and political support, partnership with relevant regional organizations is encouraged.
- b) Where possible, and in accordance with their means, states should demonstrate their commitment to international solidarity and help their national IHL committee reach its full potential by ensuring the availability of sufficient resources to facilitate the participation of their national IHL committee in the regional meetings. Similarly, where possible, and in accordance with their means, states should also take all feasible measures to encourage, support and facilitate the broadest possible participation from other states.
- c) Where possible, the hosting of the regional meetings should rotate within the region.
- d) Participation should normally include the Chair of the national IHL committees.
- e) The objectives of the regional meetings may include:
 - i) the promotion of domestic implementation and respect for IHL
 - ii) the development of peer support networks

- iii) the establishment of national IHL committee mentoring and partnership initiatives
- iv) peer updates and review on the progress and activities of the national IHL committees
- v) agreeing and reporting on regional action plans
- vi) the development of regional positions and areas for joint action
- vii) the development of possible public communications on the activities of the national IHL committees
- viii) regional preparation for the universal meeting of national IHL committees
- ix) the discussion of topical issues for national IHL committees
- x) peer support to overcome challenges
- xi) capacity building for the members of national IHL committees.

3. Ad-hoc thematic meetings of national IHL committees

With the support of the ICRC, the steering group will be responsible for convening ad-hoc meetings of national IHL committees to discuss topical issues related to the role of national IHL committees in implementing, promoting or encouraging compliance with IHL.

4. Universal meetings of national IHL committees

- a) The national IHL committee steering group shall work with the ICRC to ensure that a universal meeting of national IHL committees shall take place every four years.
- b) Where possible, and in accordance with their means, states should demonstrate their commitment to supporting their national IHL committee to reach its full potential by ensuring the availability of sufficient resources to facilitate the participation of their national IHL committee in the universal meetings. Similarly, where possible, and in accordance with their means, states should also take all feasible measures to encourage, support and facilitate the broadest possible participation from other states.
- c) Participation at the universal meetings should include the Chair of the national IHL committees where possible.
- d) The steering group shall preside over the universal meeting, and during the meeting, it shall report any progress made towards its objectives.
- e) At the first universal meeting following the conclusion of the Global Initiative to Galvanize Political Commitment to IHL, the steering group will present a template plan of action to help national IHL committees support their state in implementing relevant outcomes of the Global Initiative. This template may be modified to select workstreams and outcomes relevant to state priorities and the national context. At subsequent universal meetings, national IHL committees will have the opportunity to report on their progress towards implementing those outcomes.
- f) The objectives of the universal meetings may include:
 - i) the promotion of domestic implementation and respect for IHL
 - ii) the development of peer support networks
 - iii) the establishment of cross regional national IHL committee mentoring and partnership initiatives
 - iv) regional updates and review of regional action plans and progress
 - v) the development of shared commitments to advance respect for IHL
 - vi) the discussion of topical issues for national IHL committees
 - vii) peer support to overcome challenges
 - viii) capacity building for the members of national IHL committees

- ix) the identification of areas where national IHL committees would benefit from further support.

5. Online communication between national IHL committees

An online communication platform for national IHL committees will be launched by the ICRC. In order to facilitate the creation of the new platform, the national IHL committee steering group will provide advice, guidance and feedback to the ICRC on necessary improvements and actions.

6. States without a national IHL committee

States without a national IHL committee will be invited to nominate a main point of contact for the implementation of IHL in their state. This individual will be invited to participate in regional and universal meetings, and will have the opportunity to benefit from the online communication platform.

Annex 3: Toolkit for national IHL committees

To support the work of national IHL committees, a practical toolkit has been developed. To ensure that the toolkit continues to be useful and relevant, the national IHL committee steering group will have the ongoing responsibility to update and further develop this resource as required.

1. [Table of National Committees and other national bodies on international humanitarian law | International Committee of the Red Cross](#)
2. [Factsheet: national committees for the implementation of IHL](#)
3. Template Terms of Reference [annexed in the [guidelines for success](#)]
4. Composition and roles of national IHL committees [ICRC paper to be published]
5. [Guiding Principles Concerning the Status and Methods of Operation of National Bodies for the Implementation of International Humanitarian Law](#)
6. [Practical advice to facilitate the work of National Committees on international humanitarian law](#)
7. [National Committees and Similar Entities on International Humanitarian Law: Guidelines for Success – Towards Respecting and Implementing International Humanitarian Law | International Committee of the Red Cross](#)
8. [Open Pledge to Promote the Establishment, Enhancement and Effective Functioning of National Committees or similar entities on IHL \(2024-2028\) – Statutory Meetings](#)
9. Training module – basics of IHL [[ICRC e-learning](#)]
10. [IHL- international humanitarian law digital app | icrc.org](#)
11. [ihl_digital-tools-handout-2019.pdf](#)
12. Template IHL compatibility study [annexed in the [guidelines for success](#)]
13. Template annual report [annexed in the [guidelines for success](#)]
14. [International humanitarian law implementation report: toolkit \(second edition\) – GOV.UK](#)
15. [National implementation of IHL: Documentation | ICRC](#) [contains ratification templates, model laws, factsheets and other relevant guidance]

Potential resources that the steering committee may wish to develop include:

1. a compilation of national IHL committee terms of reference
2. a compilation of national IHL committee action plans and current areas of focus
3. a template for developing an onboarding module for new members of national IHL committees
4. guidance on preserving institutional memory.