



STATEMENT

FOR CONSIDERATION AND USE BY DR. FANCY TOO., MBS, AMBASSADOR AND PERMANENT REPRESENTATIVE OF KENYA TO THE UNITED NATIONS OFFICE IN GENEVA AND OTHER INTERNATIONAL ORGANIZATIONS IN SWITZERLAND DURING THE **THIRD ROUND OF STATE CONSULTATIONS – WORKSTREAM 1 ON PREVENTION GOOD PRACTISES** UNDER THE GLOBAL INITIATIVE TO GALVANISE POLITICAL COMMITMENT TO INTERNATIONAL HUMANITARIAN LAW (IHL)

DATE: TUESDAY, 10 FEBRUARY 2026

TIME: 10:00 – 12:30

VENUE: HUMANITARIUM, ICRC HEADQUARTERS

GENEVA, SWITZERLAND



Thank you Chair,

Kenya is honoured to co-chair workstream 1 on prevention good practises alongside Austria, Australia and the United Arab Emirates.

We thank all States and organizations who have joined us today for these consultations, in person and virtually.

I would like to share Kenya's perspectives and recommendations in line with the guiding questions.

ON WHAT WOULD BE REQUIRED TO ENSURE THAT IHL BECOMES EMBEDDED IN THE REFLEXES, HABITS AND DECISION-MAKING PROCESSES OF A STATE'S ARMED FORCES, FROM INITIAL TRAINING THROUGH TO OPERATIONAL PRACTICE

Kenya notes that embedding IHL in the DNA of a state's armed forces—so it becomes reflexive—requires a holistic, multi-layered system that goes far beyond mere legal briefings. It's a matter of culture, training, systems, and leadership across the lifecycle of a service member and institutional pillars cross the lifecycle of a service member and institutional pillars as follows;

1. Foundational Phase: Initial Training & Education

- a) **Early & Continuous Integration:** IHL must be taught not as a distinct, "legal" module but integrated into every tactical and operational scenario from day one. Every field exercise, shooting drill, or patrol simulation must include IHL considerations (**targeting key IHL tenets of discrimination, proportionality, precautions**).
- b) **Professional Identity:** Where IHL compliance ought to be framed as a core component of professional soldiering, unit pride and honor, not as a bureaucratic constraint.
- c) **Case-Based & Peer-Led Learning:** A move beyond lectures - where realistic vignettes, historical battles, and recent conflicts for discussion can be applied. We also recommend the incorporation of instructions from respected combat veterans who can credibly explain the operational and moral necessity of IHL in the fog of war.

2. Institutional Culture & Leadership

- a) Senior military and political leadership must consistently, publicly, and authentically champion IHL. Their messaging in **speeches, policy, and after-action reviews** must make clear that compliance is non-negotiable and a priority equal to mission accomplishment.



- b) Unit commanders are the ultimate enforcers. IHL adherence must be a key part of their performance evaluation. They must model it, demand it, and create an environment where raising concerns is safe and encouraged.
- c) **Positive Reinforcement:** Where exemplary behaviour in IHL compliance is recognized and rewarded.

3. Operational Systems & Integration

- a) Kenya recommends formal **embedding of IHL compliance in all planning and decision-making cycles** (e.g., the Targeting Process, Operational Orders, Rules of Engagement (ROE) development). Checklists, approval authorities, and legal review become standard steps.
- b) We also recommend investment and training on technologies that enable compliance. This is key to demonstrate that institutions are providing the tools to follow the law.

4. Accountability and Learning Mechanisms

- a) **We Recommend Credible Internal Accountability:** - With a clear, transparent, and fair system for investigating alleged violations. Prompt, proportionate disciplinary or criminal action for breaches is essential to maintain the system's credibility.
- b) **Civilian Harm Tracking & Analysis:** Here we recommend the establishment of a robust, non-punitive system to track, investigate, and learn from every incident of civilian casualty or property damage.

5. Sustaining the ethos

Where possible practical steps could be;

- a) **Career-Long Reinforcement** – Through continuous education throughout a career—during pre-deployment training, leadership courses, and even after deployments.
- b) **Integration with Allies:** Where forces could train and exercise with partners who share a strong IHL commitment. Peer pressure and shared standards among allied forces are powerful reinforcing mechanisms.



ON LEADERSHIP BEHAVIOURS, INSTITUTIONAL STRUCTURES AND SOCIETAL INFLUENCES THAT ARE NEEDED SO THAT RESPECT FOR IHL IS THE NATURAL AND PROFESSIONALLY EXPECTED RESPONSE ACROSS ALL LEVELS OF GOVERNMENT AND THE ARMED FORCES

Kenya affirms that moving from IHL as a legal obligation to IHL as an embedded, reflexive professional ethos requires a deep, multi-layered ecosystem.

1. We recommend the following LEADERSHIP BEHAVIOURS for consideration;

- a) **Unwavering and Consistent Messaging:** Where political and military leadership publicly, repeatedly, and unequivocally state that IHL compliance is non-negotiable, a source of strength, and a core component of national identity and military honor.
- b) **Modelling and Reinforcement:** Where leaders at all levels personally model IHL principles in planning, decision-making, and after-action reviews. Exemplary IHL conduct should be rewarded; violators should be held accountable - regardless of rank or operational success.
- c) **Ethical Decision-Making Under Pressure:** Where leaders should be trained to frame operational challenges within IHL constraints, not as obstacles to be circumvented.
- d) **Protection of Dissent:** Where leaders should actively create a climate where subordinates feel safe and obligated to raise IHL concerns. Punishing dissent on IHL matters destroys the entire system.

2. INSTITUTIONAL STRUCTURES

We wish to recommend tangible policies, processes, and organizations that hardwire IHL into daily function:

- a) **Career-Long, Integrative Training:** IHL should be woven into every stage of professional military education (PME), from basic training to war college. It should be taught using immersive, realistic scenario-based training (including complex simulations with civilian actors) that forces split-second application of principles under stress.
- b) **Embedding Legal Advisors & Clear Procedures:** Operational law advisors should be present at the operational and tactical planning level, seen as key enablers for mission success. IHL should be formally integrated into doctrine, standard operating procedures (SOPs), targeting processes, and rules of engagement (ROE) development.



c) **Rigorous Accountability & Learning Mechanisms:**

- i. **Transparent Investigations:** *Establish credible, impartial, and timely investigative bodies for alleged violations.*
- ii. **Civilian Harm Mitigation & Response:** *Create a standing Civilian Harm Tracking, Assessment, and Response cell to systematically learn from incidents, make amends, and adapt tactics to prevent recurrence.*
- iii. **Performance Metrics:** *Include IHL adherence and protection outcomes as key performance indicators (KPIs) in commander evaluations and operational assessments.*

d) **Resource Alignment:** We recommend the allocation of sufficient budget, personnel, and technology that enable forces to comply with IHL effectively.

3. **SOCIETAL INFLUENCES**

We wish to highlight the importance of the following;

- a) **A well-Informed Public and Media:** A well-informed civil society, media, and parliament that understands IHL fundamentals is crucial.
- b) **Robust Civil Society & Academia:** Independent NGOs, think tanks, and universities play vital roles in:
 - i. Monitoring and reporting on compliance.
 - ii. Providing expert research and critique.
 - iii. Engaging in public education about the laws of war.
- c) **National Narrative and Identity:** Where IHL compliance should be framed as part of the nation's historical identity and strategic narrative. This narrative must be nurtured in schools, in memorials, and in public discourse.
- d) **Judicial Independence:** A strong, independent domestic judiciary willing to adjudicate cases under universal jurisdiction or national law sends a powerful signal that no one is above the law, creating a critical backstop.
- e) **International Peer Pressure and Partnerships:** Alliances with like-minded states that share a commitment to IHL reinforce norms. Joint training, exercises, and operations should have IHL at their core. Conversely,



international condemnation and sanctions for violations raise the cost of non-compliance.

REGARDING WHAT WOULD BE REQUIRED FOR RESPECT FOR IHL TO BECOME AN ELEMENT OF NATIONAL AND INSTITUTIONAL IDENTITY THAT WOULD WITHSTAND AN ACTUAL OR POTENTIAL CONFLICT?

We wish to first note that this requires a foundational, societal-level transformation. This would include:

1. **Total Integration of IHL into Doctrine:** Where IHL becomes a fundamental framework for military action.
2. **A well Informed & Demanding Public:** Where civil society, media, and academia maintain a sophisticated, vigilant understanding of IHL. They are not passive supporters but active guardians.
 - a) **Where Media:** Treats IHL adherence as a primary metric for judging military success
 - b) **While Academia & NGOs:** Provide constant, credible analysis and whistleblowing.
3. **Conflict-Proven Accountability:** Where the system ought to function, even during war and where Investigations into alleged violations are swift, transparent, and judicious even amid hostilities. This would prove that the commitment is real, not just peacetime rhetoric.
4. **Leadership That Bears Cost:** Political and military leaders should be willing to accept tactical or operational delays, disadvantages, or even failures to uphold IHL principles. This is the ultimate proof of commitment. They must publicly justify these decisions to the nation, reinforcing the identity.

I thank you for your attention