



Foreign &  
Commonwealth  
Office

# Toolkit

**For preparing a Report on the  
Implementation of International  
Humanitarian Law at the Domestic Level**

**November 2019**



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## Introduction

International humanitarian law (IHL) – also known as ‘the law of armed conflict’ or the ‘law of war’ – is the body of law which applies during armed conflict. It protects those who are not, or who are no longer, taking part in hostilities and it limits the methods and means of warfare.

IHL is a practical set of rules for the battlefield which has its roots in ancient civilisations and religions. The core of this body of law can be found in the 1949 Geneva Conventions and their Additional Protocols. As a universal and politically neutral body of law, it aims to strike a balance between legitimate military action and the humanitarian objective of reducing human suffering, including among civilians.

Whilst it may be clear that IHL applies to States which are actively engaged in hostilities, there are other times when a State or its armed forces may encounter situations regulated by IHL, for example, during peace operations conducted under the auspices of organisations such as the United Nations, the North Atlantic Treaty Organisation and the African Union. Depending on the situation on the ground (e.g. if a unit is engaging a hostile force in self-defence), IHL may apply to these missions as well.

Most of the provisions of IHL apply during times of armed conflict. However, there are many domestic implementing activities which must be undertaken in peacetime in order for the law to be effective in the event of armed conflict. For example, States are obliged – in time of peace as in time of war – to raise awareness of IHL as widely as possible in their respective countries, and, in particular, to include IHL in their programmes of study for the military.

Moreover, even if a State has no armed forces, and even if it does not envisage becoming engaged in an armed conflict, IHL still requires them to take certain steps to implement the law. For instance, all States are required to criminalise grave breaches of the Geneva Conventions in domestic law. They must also provide for the establishment and regulation of a National Red Cross or Red Crescent Society, and adopt measures to prevent the misuse of the red cross and the red crescent emblems.

Becoming a party to IHL treaties is an important first step which States can take to reduce suffering during armed conflict. However, it is vital that this body of international law is put into effect at the domestic level.

### **What is International Humanitarian Law?**

For a further overview of international humanitarian law, the International Committee of the Red Cross (ICRC) has prepared a short factsheet on the subject which can be found at: <https://www.icrc.org/en/download/file/4541/what-is-ihl-factsheet.pdf>

## What is an implementation report and what are its advantages?

All States are bound by customary IHL and their treaty obligations under the 1949 Geneva Conventions. However, these international laws are only effective if they are properly implemented in the national system of each State.

A report on the implementation of IHL at the domestic level (or, simply, an 'implementation report') chronicles:

1. Those IHL treaties by which that State has consented to be bound; and
2. The steps taken by the State to implement those treaties in domestic law and policy.

The document may be prepared by the government directly or by an officially recognised body, such as a National IHL Committee, or a National Red Cross or Red Crescent Society. Alternatively, it could also be prepared by a relevant expert in the domestic application of international law in the State concerned, such as a university professor. In any case, the Government should initiate, review and formalise the report.

Under IHL, there is no obligation on States to produce an implementation report. However, there are a number of advantages to doing so voluntarily.

First, although not all States may wish to make their implementation report public, publication provides States with a way to promote their respective records on IHL implementation, and to set the scene for compliance with IHL. Publishing the report can also improve overall understanding of IHL by encouraging and informing dialogue on IHL issues – both at home and abroad.

Second, an implementation report can act as a single reference document which officials can consult for a variety of purposes: drafting reports or legal briefs; responding to parliamentary questions; or when considering new policies related to IHL. By having information on all of the State's obligations and implementing legislation (or other instruments) in one place, an implementation report can be of practical benefit to those working on policy and other decision-makers.

Third, by researching how the provisions of each applicable IHL treaty have been implemented in domestic legislation – or turned into policies, doctrine and military manuals – government officials can identify any possible gaps in the implementation of the treaty domestically. This analysis does not need to be made public, even if the rest of the report is published. The government may then wish to work with the legislature or other relevant actors to create a plan of action to address such gaps.

Finally, effective IHL implementation promotes an international framework with shared rules. Shared rules, in turn, encourage predictable behaviour by States, and create conditions for the rule of law, accountability and transparency. The very act of researching, drafting and publishing an implementation report helps to enhance confidence between States and, thereby, IHL implementation and compliance globally. The publication of an implementation report makes a powerful statement about a State's commitment to uphold the rules-based international legal system.

## **Types of implementation reports**

Although this toolkit provides two templates for the creation of an implementation report, there are many possible ways to draft the document. It would be helpful for those who are considering drafting an implementation report to consider their State's main motivation for creating the report. Is the main motivation to review existing domestic IHL legislation and practices, with a view potentially to improving implementation, or is it also to showcase the State's efforts in upholding its obligations under IHL? This may affect the tone and level of detail required.

Related to this, it is also important to consider who the audience will be. If the report will only be used for internal government purposes as a reference guide for government and military practitioners, then it may be appropriate to use more technical language. However, if the intention is to make the report public, then it should be written in an accessible manner. Thought should also be given to the international audience, who may not use the same terminology.

Additionally, drafters may wish to consider whether they wish to use a short form or a longer form to structure the report. A short-form implementation report is faster to draft and takes relatively few resources to compile. Although a good quick guide for practitioners, a short-form implementation report will not have the same depth – and therefore may not have the same utility – as the longer-form style. However, it is also important for drafters to consider which version is realistic for their national context, given time and resource constraints. It is better to complete a thorough short-form implementation report than to attempt a long-form implementation report that is rushed or difficult to understand.

## **Short-form implementation report**

At a minimum, a good implementation report should include the following information:

- An introduction explaining the objectives for drafting the report, how the State intends to use the report, and how it intends to distribute it;

- A table of relevant IHL treaties to which a State is a party alongside each treaty's corresponding implementing legislation (where such legislation is required);
- A description and assessment of any national mechanisms for the implementation of IHL (e.g. the structure, mandate and activities of any national IHL committee); and
- Any recent achievements made by the State towards the implementation or dissemination of IHL.

Time, resources and authorisation permitting, it may also be useful for the short-form report to include:

- A description of the relationship between public international law and domestic law in the State concerned (e.g. does the State have a monist or dualist system for applying treaties in domestic law?); and
- Any plans to adopt additional measures to implement IHL at the domestic level in future.

A purely internal report might also include a recommendations section, should the drafters note any gaps over the course of their research.

## Long-form implementation report

The long-form implementation report should ideally include the same elements as the short-form implementation report. Additionally, the drafters may wish to consider the following topics and questions to guide the development of their own reports.<sup>1</sup>

### Part I: General Domestic Implementation

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To which significant treaties of international humanitarian law (IHL) is the State a party?

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Which domestic legislation implemented these treaties?

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Does a National Red Cross or Red Crescent Society exist in the State and what is its role?

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Does a National Committee for the implementation of IHL exist and what is its role?

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<sup>1</sup> The following structure was used for the United Kingdom's [Voluntary Report on the Implementation of International Humanitarian Law at the Domestic Level](#), 2019.

## **Part II: Dissemination, Training and Legal Advice**

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How are the 1949 Geneva Conventions and their Additional Protocols disseminated? Which institutions are involved in IHL training? Are specific dissemination and training practices identified for specific target groups, such as the armed forces, public officials, journalists, students and the general public? Please provide examples.

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Is there a military manual on IHL for the armed forces? If so, how often is it updated?

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Are legal advisers available to advise on IHL within the government?

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What is the role of the National Red Cross or Red Crescent Society in the provision of legal advice to the government?

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## **Part III: Domestic Jurisdiction over Violations of IHL and International Criminal Law**

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What is the legal basis for the prosecution and punishment of violations of the 1949 Geneva Conventions?

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Does the national criminal law contain provisions for the prosecution of war crimes, crimes against humanity or genocide? If so, do domestic courts have extra-territorial jurisdiction over these offences?

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When, and for what, will an individual and a commander be held criminally responsible?

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What institutions are in place for the prosecution of breaches of IHL?

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Has the government taken any measures specifically to address crimes of sexual violence in conflict?

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Extradition: Are there any legal provisions to allow for the extradition of persons charged with war crimes, crimes against humanity or genocide to another state? Are there any legal provisions to allow for the extradition of persons charged with war crimes, crimes against humanity or genocide to the International Criminal Court?

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## **Part IV: Protections**

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Captured persons: Where are the rules that protect captured persons deprived of their freedoms in armed conflict, specifically prisoners of war, internees and detainees?

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How are these rules disseminated to Service personnel?

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Is there a basic level of protection?

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How is the status of captured persons determined and identified?

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Does status categorisation differ in a non-international armed conflict (NIAC)?

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What protections are in place for medical personnel, religious personnel and war correspondents?

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Cultural property: How do cultural property sites enjoy protection?

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Schools and educational facilities: How is the protection and continuation of education in armed conflict supported?

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Emblems: How are the distinctive emblems used and protected against misuse?

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### **Part V: Means and Methods of Warfare**

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Which weapons are categorically outlawed, or otherwise prohibited in some way?  
Where are these rules set out?

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Does the government conduct a weapons review to determine whether new weapons and means or methods of warfare may be employed lawfully in accordance with Article 36 of Additional Protocol I (AP I)? (If the State is not a party to AP I, does it nevertheless conduct a weapons review?)

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At what point(s) in the weapons procurement process does the government conduct legal reviews? Are there any forums, conferences or practices designed to share information and good practice on weapons review between states?

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## Getting started

Each State will have its own process for coming to a decision on whether to produce an implementation report. For example, it may be a decision of the National IHL Committee or of one or more relevant government ministries, such as the Ministry for Foreign Affairs and/or the Ministry of Defence.

The previous section discussed the different types of implementation reports and related considerations such as the purpose of the report and the intended readership. In addition to making a decision on these matters, it may be useful to consider the method to be used in drafting the report. This could be done by a single body, such as the National IHL Committee, with tasks shared among the members. Alternatively, a specific organisation, such as a relevant Ministry or the National Red Cross or Red Crescent Society, could be given responsibility for the drafting. Or a relevant expert, such as a government legal adviser (serving or retired) or a university professor, could be commissioned to undertake the work.

The draft will need to be reviewed at least once by those with an interest before the report is formalised. It would thus also be useful to consider the review process and to establish a timetable for review and finalisation. As an illustration, the National IHL Committee may wish to review a first draft consisting of part or all of the report. Sufficient time will need to be allocated for Committee members to feed in comments on the draft text and to have them incorporated by the drafter (author) before a subsequent or a final draft is produced for the Committee's further consideration.

Depending on the type of implementation report chosen, and the process of drafting and review, the report could be finalised by between six to 12 months.

Further initial considerations might include whether to aim to review the implementation report at regular intervals e.g. every four years, to help keep it up-to-date, and if so, how such a review and any updating will be undertaken. Decisions on these aspects may also help determine the most appropriate means of publishing the report.

## Practical resources for drafting an implementation report

The resources set out below are intended to give those responsible for drafting an implementation report a solid basis for structuring the report, researching it and making it ready for internal dissemination or external publication. These resources are not exhaustive and drafters should ideally consult domestic sources, such as national libraries or archives and government publications to provide a more complete assessment of the implementation of IHL at the domestic level. However, it is important to stress that any material included or referenced in an implementation report should be unclassified and cleared for public release (even if it will only be disseminated internally).

### Structure templates

Drafters should feel free to structure the implementation report according to their own State's objectives and circumstances. However, the following templates are offered as a way to begin work on either a short- or long-form implementation report.

#### Structure templates

The short and long-form templates for an implementation report can be found at: <https://www.gov.uk/government/publications/international-humanitarian-law-implementation-report-toolkit>

### Other examples

Before deciding upon a structure, drafters may wish to consult previous implementation reports completed by other States or regional bodies for further examples of what they may wish to include in their own reports. However, it is important to keep in mind that a report developed in one national context may not necessarily be applicable or appropriate in another. Therefore, whilst these examples offer helpful illustrations of possible ways to structure an implementation report, they do not exhaust the topics which may be addressed in a report, nor should the topics covered in other implementation reports be considered mandatory. As a reminder, the recommended minimum standard for an implementation report can be found in the short-form template above.

## **Other examples of implementation reports (non-exhaustive list)**

### **Poland, 2011**

*2<sup>nd</sup> Report on the Implementation and Dissemination of International Humanitarian Law in the Republic of Poland:* <https://www.msz.gov.pl/resource/f2bd0278-adfd-453e-8157-2b3a67723bbe:JCR>

### **League of Arab States & ICRC, 2015**

*7th Annual Report on the Implementation of IHL at the Level of Arab States, 2012 – 2014:* <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-t2014-0210.pdf>

### **Denmark, 2017**

*Humanitarian Law and the Governmental Red Cross Committee: Report for the period 1982 – 2017 (in Danish):*  
<https://www.ft.dk/samling/20171/almdel/FOU/bilag/27/1818109.pdf>

### **Economic Community of West African States (ECOWAS) & ICRC, 2017**

*Implementing IHL in West Africa: Participation of West African Countries in International Humanitarian Law Treaties and their National Implementation:*  
[https://www.icrc.org/en/download/file/77900/eng\\_2017\\_ecowas\\_ihl\\_meeting\\_report.pdf](https://www.icrc.org/en/download/file/77900/eng_2017_ecowas_ihl_meeting_report.pdf)

### **Organization of American States (OAS) & ICRC, 2018**

*Implementing IHL: Participation of the American States in IHL Treaties and Their National Implementation - 2016/2017 Report (in Spanish):*  
<https://www.icrc.org/en/publication/ihl-participation-american-states-ihl-treaties-national-implementation-2016-2017>

### **United Kingdom, 2019**

*Voluntary Report on the Implementation of International Humanitarian Law at Domestic Level:* <https://www.gov.uk/government/publications/implementation-of-international-humanitarian-law-at-domestic-level-voluntary-report>

## Research resources

### Identifying IHL experts in your country

Before researching an implementation report, drafters may find it useful to approach local experts in IHL, especially if such experts might have experience with the domestic application of international law (or IHL specifically) in their respective States. For instance, a local university may have such experts in its law faculty. The following bodies and organisations may also be in a position to help identify experts who are familiar with IHL and its implementation in the national law and practice of a particular State.

#### *National IHL Committees*

Drafters are strongly encouraged to be in contact with their respective National IHL Committee (if one exists) before beginning work on an implementation report. Most countries have a National IHL Committee which has a mandate to advise and assist their government in implementing and spreading knowledge of IHL. It is the responsibility of States to set up National IHL Committees, but where requested, the International Committee of the Red Cross (ICRC) supports such committees since they are an effective way to ensure the implementation of IHL at the domestic level.

#### **Details for the National IHL Committees**

The table at the link below includes the contact details, legal basis, membership and mandate of each National IHL Committee: <https://www.icrc.org/en/document/table-national-committees-and-other-national-bodies-international-humanitarian-law>

#### *The International Committee of the Red Cross (ICRC) Advisory Service on IHL*

As a specialised unit within the ICRC, the Advisory Service assists States to implement IHL at the national level. With a global network of legal advisers, the Service provides guidance to national authorities on specific domestic implementation measures needed to meet their IHL obligations, and it supports the work of national IHL bodies established to facilitate IHL implementation domestically. Moreover, the Service supports the exchange of information on national measures of implementation. Besides providing legal advice and technical support, the Service may assist in capacity building, upon the request of national authorities and other concerned actors.

## Contact Details for the ICRC Advisory Service on IHL

address: 19, av. de la Paix 1202, Geneva, Switzerland

e-mail: [advisoryservice.gva@icrc.org](mailto:advisoryservice.gva@icrc.org)

tel.: +41 22 734 6001

fax: +41 22 733 2057

web: <https://www.icrc.org/en/document/icrc-advisory-services-international-humanitarian-law>

### *National Red Cross and National Red Crescent Societies*

National Red Cross and National Red Crescent Societies are auxiliaries to the public authorities of their respective countries in the humanitarian field. This includes IHL. Moreover, National Societies have an officially recognised role in IHL matters. They assist their governments in disseminating IHL and they also take their own initiatives in this field. In addition, National Societies co-operate with their governments to ensure respect for IHL and to protect the distinctive emblems recognised by the 1949 Geneva Conventions and their Additional Protocols. Therefore, many National Societies have expertise and experience in IHL as well as links to wider networks of IHL experts within their respective States and internationally.

## Contact Details for a National Red Cross or National Red Crescent Society

Contact details for each National Red Cross or Red Crescent Society (and the Magen David Adom in Israel) can be found on the website of the International Federation of Red Cross and Red Crescent Societies: <https://media.ifrc.org/ifrc/who-we-are/national-societies/national-societies-directory/>

## The ICRC National Implementation Database

The ICRC National Implementation Database includes all of the IHL treaties to which a State is a party and it includes some details about the domestic laws which have been put into place to give effect to these treaties. Whilst it is not exhaustive, it provides an overview of the IHL implementation measures taken by States. The database is organised by State and by topic and most of the documents in the database are entered with a summary to facilitate their consultation.

Drafters are encouraged to supplement information obtained from the ICRC National Implementation Database with other national sources of information since the database

may not accurately represent a State's complete or up-to-date record of IHL implementation.

### **The ICRC National Implementation Database**

The database of IHL and related treaties to which each State has signed and/or ratified/acceded to can be found at:

<https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountry.xsp>

The database of national laws which give effect to these treaties can be found at:

<https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/vwLawsByCountry.xsp>

### **The ICRC Customary IHL Database**

The ICRC maintains a Customary IHL Database which can be searched under the name of each State. This database contains national legislation, case law and military manuals, and some drafters may find it to be a useful point of reference for their research.<sup>2</sup>

### **The ICRC Customary IHL Database**

Selected examples of State practice, as identified by the ICRC, may be found at:

[https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_cou](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cou)

### **National implementation of IHL: Documentation**

States party to international humanitarian law treaties must take certain legal and administrative measures to comply with the obligations they have undertaken. This resource provides factsheets, model legislation and guidelines on specific topics related to IHL. Drafters may find these documents helpful in different ways. For example, they provide a checklist of measures that might be used in assessing national implementation. Such documents may also be helpful should drafters wish to make any recommendations regarding measures that could be taken to address gaps in the implementation of IHL at the domestic level.

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<sup>2</sup> Translations into English of source material from non-English speaking countries are, unless otherwise indicated, unofficial translations. The authoritative version of any material translated for the Database is the original version of the document.

## National implementation of IHL: Documentation

Further documentation on the national implementation of IHL can be found at:

<https://www.icrc.org/en/war-and-law/ihl-domestic-law/documentation>

## Publication resources

### Photographs

Well-placed and relevant images can bring an implementation report to life, especially if the intention is to make the report available to the public. Drafters may consider asking for high-quality photographs from the public affairs teams of relevant government departments. Copyright laws may apply to use of pictures. If helpful, several free and open-source images related to IHL topics can be obtained from Wikimedia Commons.

### Wikimedia Commons Images<sup>3</sup>

The image library for Wikimedia Commons can be searched at:

<https://commons.wikimedia.org/wiki/Category:Images>

Specific images associated with the International Red Cross and Red Crescent Movement can be found at:

[https://commons.wikimedia.org/wiki/International\\_Red\\_Cross\\_and\\_Red\\_Crescent\\_Movement](https://commons.wikimedia.org/wiki/International_Red_Cross_and_Red_Crescent_Movement)

## Publishing and dissemination

If a State chooses to make its implementation report accessible to the public, drafters are encouraged to consult the public affairs teams of relevant government departments to determine if there are any further clearance procedures required for public release and what resources may be available to print the report and/or to make it available online. Public affairs colleagues may also provide useful advice on the design of the publication, which may help to make it more attractive and accessible to readers.

Drafters and officials may also wish to consider the most effective ways of promoting the report in the specific national context e.g. so that it reaches interested audiences. These

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<sup>3</sup> It is important to follow any licensing or attribution requirements associated with an image taken from Wikimedia Commons.



include: having a relevant minister or official write a foreword to the report, writing an op-ed or blog post about the report, hosting a launch event for the report and/or announcing the release of the report on social media.

#### *Selecting a minister or senior official to write the foreword*

It is not mandatory to include a foreword with an implementation report. However, depending on the national context, a short statement of support from a relevant Government minister or official can help to establish the report's credibility and it may increase the report's impact – both within government and without. Although it would be ideal for the signatory of such a foreword to be a Government minister, those involved with publicising the report may also wish to consider approaching senior officials within the civil service or the military who may be willing to write or sign the foreword.

After the implementation report has been published, the minister or official who wrote the foreword may wish to have a few copies of the report to circulate amongst those within their department. This presents an additional opportunity to reach key audiences.

#### *Writing an op-ed or blog post about the implementation report*

Using the foreword as a template, a minister or government official may also consider writing an op-ed in a national newspaper or a post on a legal or government blog on the significance of the report. Depending on the platform, it may also be possible to post a digital copy of the report along with the blog post. This can be particularly helpful if it is not possible to include the report on the government's own website.

#### *Hosting a launch event for the implementation report*

One way to quickly publicise the implementation report is to host a launch event. This may be an informal gathering or it could be a more formal event. Depending on resources, invitations may be restricted to key audiences, such as government officials, or it may be extended to interested members of academia, civil society or the public more generally.

Co-hosting the event with an interested partner, such as a university or the National Red Cross or Red Crescent Society, may help to increase awareness of the report and it may help to spread the costs associated with the event. An event held at a university may be accompanied by a lecture or panel session by one or more of those involved with the creation of the report.

#### *Announcing the report on social media*

Social media presents an easy and inexpensive opportunity for a State to showcase its implementation report. A post from a government social media account may be timed to coincide with the blog post and/or launch event to maximise the chances that key

audiences will view the post and will engage with it. Those responsible for publicising the report may wish to use the hashtag “#IHL” (or the equivalent in other languages) to ensure that the announcement is seen by others working in this area of law. For examples of posts using #IHL, please see:

<https://twitter.com/search?q=%23IHL&src=typd>.

## Conclusions

Regardless of a State’s size or the resources it has at its disposal, it is possible to help improve the implementation of IHL at the national level by undertaking some form of implementation report. Support is available to drafters from a range of actors, including other States, the ICRC and National Red Cross or Red Crescent Societies, National IHL Committees, civil society groups and academia. Those States which take the further step of making their implementation reports publicly available additionally help to reinforce the status of IHL as a special body of law which reflects universal norms.