



United States Mission to the OSCE

U.S Statement for the Forum for Security Cooperation International Humanitarian Law

January 26, 2022
As prepared

The United States thanks the Azerbaijan Chairpersonship for convening this discussion today. The United States is committed to complying with its obligations under international humanitarian law (IHL), and to working to strengthen compliance with IHL around the world and taking steps to improve civilian protection.

We appreciate the focus of today's discussion on ways in which states can work to minimize the human suffering caused by armed conflict. In particular, we would take this opportunity to emphasize the importance of obligations in IHL that address the protection of civilians, as well as practices that responsible militaries should consider adopting to mitigate the risk of harm to civilians in military operations.

IHL includes obligations to distinguish between the armed forces and civilian population, which apply both to parties in conducting attacks and to parties in defending against attacks. In conducting attacks, a party to an armed conflict must, among other requirements, only make military objectives the object of attack, and refrain from making civilians or civilian objects the object of attack; refrain from attacks expected to cause death or injury to civilians and damage or destruction to civilian objects excessive in relation to the concrete and direct military advantage expected to be gained; and take precautions to reduce the risk of harm to civilians and other protected persons and objects in accordance with applicable international law. Persons using force must discriminate between legitimate and illegitimate objects of attack in good faith based on the information available to them at the time.

A party to an armed conflict has obligations to take precautions to protect the civilian population, individual civilians, and civilian objects under their control against the dangers resulting from military operations. Such precautions can

include refraining from placing military objectives in densely populated areas; removing civilians and civilian objects from the vicinity of military objectives; and establishing areas where civilians are protected.

The OSCE Code of Conduct is an important instrument for implementing IHL and raising awareness. Among its provisions, the Code requires participating States to adopt measures to ensure compliance with IHL and the consistency of their defense policies with IHL.

We believe that states can take a variety of measures to strengthen the implementation of existing legal requirements and to improve civilian protection in military operations. This should include instituting effective programs within their armed forces to help ensure compliance with IHL obligations related to the protection of civilians. In our own practice, this involves periodic training of members of the armed forces on IHL; having legal advisers to advise commanders and other decision-makers within the armed forces on IHL; developing and implementing instructions, regulations, and procedures to implement IHL standards and to establish processes for ensuring compliance with IHL; creating internal mechanisms for the reporting of incidents involving potential IHL violations; and implementing assessments, investigations, inquiries, or other reviews of incidents involving potential IHL violations, with corrective actions, as appropriate.

One key good practice is communicating with impartial humanitarian organizations, such as the International Committee of the Red Cross (ICRC) and other relevant NGOs. We appreciate the participation of the ICRC today and their excellent contributions in this field.

IHL is a part of our American military heritage, and obeying it is the right thing to do. George Washington, as Commander in Chief of the Continental Army, agreed with his British adversary that the Revolutionary War would be “carried on agreeable to the rules which humanity formed” and “to prevent or punish every breach of the rules of war within the sphere of our respective commands.”

We look forward to continuing this important conversation about Protection of Civilians and strengthening compliance with IHL.