

Power of humanity

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**33rd INTERNATIONAL CONFERENCE
OF THE RED CROSS AND RED CRESCENT**

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**Bringing IHL Home: A Road Map for Better National Implementation
of International Humanitarian Law**

Background document

Document prepared by

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EXECUTIVE SUMMARY

Protecting people affected by armed conflict is at the heart of international humanitarian law (IHL). IHL is as relevant today as ever, and we can all do more to implement it effectively and reduce suffering in armed conflict. The proposed resolution therefore aims to re-energize national commitment and boost efforts to implement IHL and better protect affected people.

The draft zero of the IHL resolution proposed for adoption at the 33rd International Conference of the Red Cross and Red Crescent sets out a road map for better national implementation of IHL. It focuses on concrete actions that States and National Societies can take domestically, including in cooperation with other actors, to reinvigorate implementation of IHL at all relevant levels.

1) INTRODUCTION

Recent years have seen many shocking and egregious violations of IHL. The capacity of IHL to protect the victims of today's complex armed conflicts has been questioned by some and significant challenges lie ahead. Yet, every day, in armed conflicts across the world, many belligerents are actually fighting by the rules. IHL continues to govern their behaviour, successfully protecting victims and restricting the way hostilities are conducted.

Every day, the achievements of IHL – a wounded person allowed through a checkpoint, a child who receives the food they need, detainees able to send a message to their families, and many other examples – may not always be visible to the public. However, in every instance, they prove that IHL is respected. Created for the worst of times, IHL preserves the core of our common humanity. And respecting IHL prevents human suffering that would otherwise be felt not only years but possibly decades after conflicts have ended.

Members of the International Conference are heartened by the many examples of respect for the law that we witness, but are equally dismayed by frequent instances of non-respect, especially as their consequences are so dire. All the States party to the Geneva Conventions and the components of the International Red Cross and Red Crescent Movement (the Movement) can and must do more to ensure that IHL is respected.

This year marks the 70th anniversary of the adoption of the 1949 Geneva Conventions, which are universally ratified. The 33rd International Conference therefore presents an opportune moment for the members of the Conference to reaffirm their commitment to IHL and to work towards its full application and implementation, especially at the national level.

The proposed resolution therefore sets a general direction for the members of the Conference to follow and provides them with guidance in the form of key practical measures to strengthen national implementation of IHL. The proposed resolution consciously does not focus on specific themes, to enable States and National Societies to tailor it to their context. Nevertheless, members of the Conference are strongly encouraged to submit thematic pledges, if possible with demonstrable outcomes, linked to the measures proposed in this resolution.

2) BACKGROUND

National measures to implement IHL have been a recurring topic on the agendas of the International Conferences since at least the 20th International Conference in 1965.¹ Members of the International Conference have regularly committed to strengthening their efforts to implement IHL, including by adopting both resolutions focusing on national implementation and specific plans of action.²

Reports on past action plans, while noting the progress made towards achieving the plans' respective objectives, have highlighted that much work remains to be done to ensure IHL is effectively implemented, and they have urged for continued collective commitment and action.

3) ANALYSIS

For the rules and principles of IHL to effectively protect people in armed conflict, they must be known, implemented and complied with, whenever and wherever they apply. The effective implementation of IHL requires that appropriate national legislation be adopted and that a culture of respect for the law be fostered.

States must take action domestically to incorporate IHL into laws, regulations and directives; ensure that all relevant levels of armed forces and other national stakeholders understand and respect the rules; and adopt concrete measures to ensure that the law is respected and any violations are appropriately handled.³ In so doing, States are encouraged to consider reinforcing the impact of the work of, and promoting cooperation between, national committees and similar entities on IHL, exploring new ways of disseminating IHL to bolster knowledge and influence behaviour, and generally seizing all relevant opportunities to engage in dialogue on good practices in ensuring respect for IHL. Given the broad range of issues associated with this responsibility, coordination among different government agencies and sectors, the armed forces and civil society is essential.

The components of the Movement play an important complementary role in working towards respect for IHL, as per IHL treaties and the Statutes of the International Red Cross and Red Crescent Movement. National Red Cross and Red Crescent Societies are mandated to cooperate with their governments to ensure respect for IHL and to protect the distinctive emblems recognized by the Geneva Conventions and their Additional Protocols. The International Committee of the Red Cross (ICRC) is mandated by IHL treaties and the Statutes

¹ Resolution XXVI of the 20th International Conference, "Repression of violations of the Geneva Conventions"; Resolution V of the 25th International Conference, "National measures to implement international humanitarian law"; Resolution I of the 26th International Conference, "International humanitarian law: From law to action, report on the follow-up to the International Conference for the Protection of War Victims"; Resolution 1 of the 27th International Conference, "Adoption of the Declaration and the Plan of Action"; Resolution 1 of the 28th International Conference, "Adoption of the Declaration and Agenda for Humanitarian Action"; Resolution 3 of the 30th International Conference, "Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict"; Resolution 2 of the 31st International Conference, "4-year action plan for the implementation of international humanitarian law".

² Resolution 1 of the 27th International Conference, "Adoption of the Declaration and the Plan of Action"; Resolution 1 of the 28th International Conference, "Adoption of the Declaration and Agenda for Humanitarian Action"; Resolution 3 of the 30th International Conference, "Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict"; Resolution 2 of the 31st International Conference, "4-year action plan for the implementation of international humanitarian law".

³ IHL treaties themselves contain a number of provisions designed to ensure their implementation by States: First Geneva Convention, Articles 47, 48, 49 and 54; Second Geneva Convention, Articles 45, 48, 49 and 50; Third Geneva Convention, Articles 127, 128 and 129; Fourth Geneva Convention, Articles 144, 145 and 146. These provisions are supplemented by Additional Protocol I, Articles 18, 83, 84 and 85; Additional Protocol II, Article 19; and Additional Protocol III, Articles 6 and 7.

of the Movement to work towards the faithful application of international humanitarian law; it acts as the guardian of IHL. The International Federation of Red Cross and Red Crescent Societies is mandated to help the ICRC promote and develop IHL and collaborate with it on disseminating the law and the Movement's Fundamental Principles among the National Societies.

The actions suggested in the resolution build on recommendations from relevant meetings as well as on evidence from reports and research carried out by the ICRC. The resolution also encourages Movement components to make use of some of these recent recommendations and tools.

Some recommendations from the [fourth Universal Meeting of National Committees and Similar Bodies on International Humanitarian Law](#),⁴ held in 2016, have been incorporated into the resolution's suggested operational paragraphs. Participants recommended encouraging cooperation and partnership among national committees and similar entities on IHL and promoting networks through which they would be able to exchange expertise. Furthermore, the Universal Meeting found that establishing national committees and similar entities on IHL should be encouraged. The recent ICRC publication [National Committees and Similar Entities on International Humanitarian Law: Guidelines for Success – Towards Respecting and Implementing International Humanitarian Law](#)⁵ aims to provide existing national committees and similar entities on IHL with guidance to ensure that their efforts are effective both domestically and abroad. The publication also encourages the establishment of more such entities as needed and provides assistance to national authorities for doing so.

Another important study feeding into the resolution is [The Roots of Restraint in War](#), which demonstrates empirically that IHL training, in particular its intensity and quality, has an impact on battlefield behaviour, especially when tailored to the audience. The research offers insight into how both formal and informal norms condition behaviour in armed forces and armed groups and indicates ways to identify sources of influence for promoting restraint.

In conflicts across the world we see violations of IHL, demonstrating that there are terrible failures to protect people every day. These violations can lead to a perception that the rules are never respected or that they are not relevant. But it would be wrong – and indeed dangerous – to believe that IHL is never respected and is therefore useless. Focusing only on violations of the law risks delegitimizing it over time and overlooks the many situations where the law is effectively respected – the hospitals and water systems left standing, the civilians spared, the detainees treated humanely.

This is why the ICRC believes that there is a need for a more balanced discourse, one which – while of course not downplaying violations – gives more visibility to examples of IHL being respected. In this regard, the resource [IHL in Action: Respect for the Law on the Battlefield](#), an online collection of case studies based on publicly available information that document compliance with IHL in modern warfare, aims to raise public awareness of instances of respect for IHL.

4) RESOURCE IMPLICATIONS

Implementing this resolution would not involve any financial burden beyond what is already imposed on States in their existing IHL obligations and on components of the Movement in the exercise of their regular functions and mandates.

⁴ The meeting report is currently available in English and French. Additional translations forthcoming.

⁵ Translations forthcoming.

5) IMPLEMENTATION AND MONITORING

National implementation of IHL is an ongoing endeavour. The road map for better national implementation of international humanitarian law therefore does not set a specific time frame. Nevertheless, many of the concrete measures mentioned in the proposed resolution are readily achievable, and States are invited to share examples of and exchange good implementation practices adopted in accordance with this road map, with their IHL obligations or with International Conference resolutions, as well as other measures that go beyond IHL obligations. This may be done in a number of ways, including at the International Conference, by making use of existing tools and through national committees and similar entities on IHL, where applicable.

6) CONCLUSION AND RECOMMENDATIONS

This year marks the 70th anniversary of one of the greatest achievements of IHL – the adoption of the 1949 Geneva Conventions. The draft zero resolution “Bringing IHL home: A road map for better national implementation of international humanitarian law” is a vivid reminder to States and the Movement that they should neither dismiss the ongoing endeavour to ensure respect for IHL as ineffective nor take their obligations lightly. Based on the belief that national implementation of IHL is both a long-term enterprise and one that requires constant adaptation to rapidly evolving environments, actors and technology in armed conflicts, the draft resolution identifies concrete actions that members of the International Conference can take, bearing in mind their respective obligations and mandates. These actions would make use of both well-established and more recent tools with a view to respecting and ensuring respect for IHL in all circumstances. The ICRC is convinced that undertaking these actions seriously and effectively will have a lasting impact on the protection of people affected by armed conflict.