



# Power of humanity

34th International Conference  
of the Red Cross and Red Crescent

28–31 October 2024, Geneva

## Toward a universal culture of compliance with international humanitarian law

DRAFT ELEMENTS OF RESOLUTION

November 2023

**EN**

Original: English

Document prepared by the International Committee of the Red Cross in consultation with the  
International Federation of Red Cross and Red Crescent Societies

## DRAFT ELEMENTS OF RESOLUTION

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### BACKGROUND

The draft elements of the proposed resolution on international humanitarian law (IHL) seek to provide an outline of the possible substance of individual paragraphs, without providing a definitive draft text. Each paragraph is followed by a rationale explaining why it would be useful to include such a paragraph in the resolution.

This document is being shared for consultation with the members of the International Conference of the Red Cross and Red Crescent (International Conference) in order to gather a first round of comments and feedback, and to gain an initial understanding of whether the proposed approach would be acceptable and garner consensus.

When providing comments and feedback on this document, please consider the following questions:

- Do you agree with the proposed elements for the preambular and operative paragraphs of the proposed resolution?
- Are there any elements that are missing or should be included in the resolution?

Detailed comments on the wording of the draft elements of this resolution are not expected at this stage. There will be an opportunity to comment on specific wording at a later stage, once the draft zero of the resolution is available.

### INTRODUCTION

This resolution aims to reiterate and reinforce the International Conference's commitment to IHL. It is being proposed at a time that demands a united defence of our common humanity in the face of more than 100 ongoing armed conflicts. The resolution reaffirms the critical importance of respect for IHL as a way of preventing and mitigating the human cost of war, and it encourages states and components of the International Red Cross and Red Crescent Movement (Movement) to work toward better implementation of the law, especially by strengthening the capacity of states to respond to violations. The resolution proposes a plan of action to intensify efforts to ratify and accede to treaties and increase the capacity to enforce the law by those called upon to do so, including, but not limited to, investigators, prosecutors and judges.

### Preambular paragraphs (PP)

#### **PP 1:**

This paragraph could express that the members are *conscious* that the current International Conference is taking place at a time that demands a strong recommitment to our common humanity.

#### **Rationale:**

To express the International Conference's awareness of the challenges of the current geopolitical environment and its belief that humanitarian values are universal.

**PP 2:**

This paragraph could *express grave concern* about the serious humanitarian consequences of the more than 100 ongoing armed conflicts around the world and *emphasize* that better respect for IHL is essential to preventing and mitigating those consequences.

**Rationale:**

To call attention to the alarmingly high number of ongoing armed conflicts and their human cost, especially in light of the media's and governments' tendency to focus only on certain conflicts at certain times.

**PP 3:**

This paragraph could *emphasize* that compliance with IHL during armed conflict can alleviate the suffering of the people affected by it, reduce the human, economic and social cost of war, and facilitate the return to a sustainable peace.

**Rationale:**

To convey that the cost of war and the benefits of respecting IHL are broader than immediately apparent.

**PP 4:**

This paragraph could *emphasize* that compliance with humanitarian disarmament obligations contributes to international detente, the ending of the arms race and the building of confidence among states, and hence to the realization of the aspiration of all peoples to live in peace.

**Rationale:**

To convey how humanitarian disarmament helps prevent conflicts, as recalled by the preamble of the 1980 Convention on Certain Conventional Weapons.

**PP 5:**

This paragraph could *highlight* that 2024 marks 160 years of modern IHL treaty-making and is the 75th anniversary of the adoption of the 1949 Geneva Conventions, *note with great appreciation* the universal ratification of the Geneva Conventions, and *express the hope* that other IHL treaties will also achieve universal acceptance.

**Rationale:**

To recognize the universality and enduring nature of the Geneva Conventions as international law and acknowledge IHL's deep historical roots.

**PP 6:**

This paragraph could *reassert* the commitment of all states to IHL and *reaffirm* that IHL remains as relevant today as ever in international and non-international armed conflicts and that it is a living body of law that can be further developed to face the challenges of changing armed conflict.

**Rationale:**

To recommit the International Conference to upholding IHL and leave no room for doubt about its continued relevance and adaptability in spite of the ever-changing nature of warfare.

**PP 7:**

This paragraph could *emphasize* that, where IHL applies, it protects all persons in all circumstances, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the parties to the conflict, and that no one falls outside of the protection of IHL.

**Rationale:**

To convey that no person or category of persons affected by armed conflict is excluded from the protections of IHL.

**PP 8:**

This paragraph could *emphasize* the primary responsibility of each state to comply with IHL in both peacetime and in armed conflict.

**Rationale:**

To convey that states are primarily responsible for implementing IHL in their domestic legal systems and military doctrine, and for ensuring respect for IHL during armed conflict.

**PP 9:**

This paragraph could *reaffirm* the obligation of non-state parties to non-international armed conflicts to fulfil their obligations under IHL.

**Rationale:**

To convey that non-state armed groups that are parties to non-international armed conflict also have obligations under IHL.

**PP 10:**

This paragraph could *reaffirm* the special role of the International Committee of the Red Cross (ICRC) with respect to IHL, *further reaffirm* the ICRC's role as a neutral, independent and impartial humanitarian actor, especially its mandate to protect and assist victims of armed conflict, and *stress* the ICRC's role as a neutral intermediary between parties to armed conflicts.

**Rationale:**

To reaffirm the role and mandate of the ICRC with regard to IHL and armed conflict.

**PP 11:**

This paragraph could *note* the significant role that the components of the Movement play in promoting the application of IHL and their mandates to do so under the Statutes of the International Red Cross and Red Crescent Movement, including the role of the International Federation of Red Cross and Red Crescent Societies (IFRC), and in particular the unique role of National Red Cross and Red Crescent Societies (National Societies) as auxiliaries to the public authorities in the humanitarian field, based on which they disseminate and assist their governments in disseminating IHL, take initiatives in this respect and cooperate with their governments to ensure respect for IHL and to protect the distinctive emblems recognized by the Geneva Conventions and their Additional Protocols.

**Rationale:**

To reaffirm the role and mandate of National Societies with regard to IHL. It also notes the role of the IFRC under the Statutes of the Movement.

**PP 12:**

This paragraph could *reiterate* Resolution 1 of the 33rd International Conference of the Red Cross and Red Crescent, "Bringing IHL home: A road map for better national implementation of international humanitarian law" and *welcome* the efforts of states and Movement components to implement its provisions with the aim of preventing IHL violations.

**Rationale:**

To convey that Resolution 1 remains operative and welcome the efforts made by states and Movement components to implement it.

**PP 13:**

This paragraph could *welcome* the increasing number of voluntary reports published by states on the domestic implementation of IHL and of other means of reporting on domestic implementation, including voluntary submissions transmitted to the secretary-general of the United Nations for the secretary general's report on the status of the Protocols additional to the Geneva Conventions.

**Rationale:**

To build on paragraph 13 of Resolution 1, which invited states to share examples of and exchange good practices of national implementation measures taken in accordance with IHL obligations as well as other measures that may go beyond states' IHL obligations, and to stress that publicly reporting on domestic implementation, as done by an increasing number of states, is an appropriate way to share such good practices.

**PP 14:**

This paragraph could *express deep concern* about the discrepancy between the universal commitment to IHL and insufficient respect for its rules, *call attention* to the urgent need to improve respect for IHL, and *express the conviction* that parties to armed conflicts have the power to prevent IHL violations.

**Rationale:**

To convey the International Conference's concern that, despite universal agreement around IHL as a body of law, its rules are insufficiently complied with in practice, and that improving compliance is a matter of committing to better implementation.

**PP 15:**

This paragraph could *reaffirm* the Fundamental Principles of the Movement and the particular relevance of the principle of neutrality to humanitarian action in armed conflict.

**Rationale:**

To reaffirm the Fundamental Principles and convey the importance of neutral humanitarian action in securing access to everyone in need of protection and assistance, regardless of in whose power they might be.

**PP 16:**

This paragraph could *recall* the legal and protective value of the distinctive emblems and signals, as applicable, in facilitating the identification of medical and religious personnel, medical units and transports, and members of the Movement – emblems and signals which, by virtue of their inclusion in the 1949 Geneva Conventions and their Additional Protocols, and over 160 years of continuous practice, have become universally recognized symbols of impartial and neutral aid and protection for victims of armed conflict.

**Rationale:**

To underline the value of the emblems and highlight the importance of ensuring their appropriate use at all times.

**Operative paragraphs (OP)****OP 1:**

This paragraph could *urge* all parties to armed conflicts to fully comply with IHL and all states to work for a universal culture of compliance with IHL.

**Rationale:**

To urge all parties and all states to immediately work toward better compliance with IHL.

**OP 2:**

This paragraph could *call upon* states and components of the Movement to strengthen their efforts to implement Resolution 1 of the 33rd International Conference of the Red Cross and Red Crescent, "Bringing IHL home: A road map for better national implementation of international humanitarian law", including by training and instructing their armed forces to comply with IHL, passing implementing legislation, carrying out effective investigations into violations, and taking administrative or judicial measures to enforce compliance, where appropriate.

**Rationale:**

To reiterate the continued relevance of all the recommendations contained in Resolution 1 of the 33rd International Conference, while acknowledging that more work is required to fulfil its general ambition of building domestic frameworks that can effectively contribute to preventing violations of IHL.

**OP 3:**

This paragraph could *call upon* states to identify opportunities to promote compliance with IHL by other actors – state and non-state alike – including by imposing more stringent controls over their arms transfers, using diplomatic dialogue and other means of influence to secure compliance, and exercising domestic jurisdiction when required or permitted by IHL.

**Rationale:**

To encourage states to be attentive to IHL compliance by other actors over which they have influence and to take appropriate measures to secure their compliance with IHL.

**OP 4:**

This paragraph could *invite* states and National Societies, as well as the ICRC and the IFRC, to make pledges related to the implementation of this resolution, including on specific issues of particular importance.

**Rationale:**

This paragraph invites states and National Societies as well as other components of the Movement to lend their support to the resolution and its goals and creates a space to further their priority issues within the framework of this resolution and the International Conference.

**OP 5:**

This paragraph could *acknowledge* that enforcement of IHL when violations occur is a critical component of preventing their recurrence and *adopt* a plan of action to ensure effective enforcement of the law by those called upon to do so, including, but not limited to, investigators, prosecutors and judges.

**Rationale:**

To acknowledge the importance of repression of serious IHL violations as a tool for preventing their recurrence and delivering justice for the victims of violations.

The plan of action could include the following recommendations, for example:

- The plan of action could encourage states that have not already done so to ratify or accede to additional IHL treaties, including the Protocols additional to the Geneva Conventions and humanitarian disarmament treaties.
- While welcoming the continued increase in the number of national committees and similar entities on IHL, the plan of action could seek to enhance their capacity to formulate and submit recommendations to the authorities on areas that need to be further developed domestically, including in criminal law, in order to achieve better implementation of IHL, and their capacity to monitor developments and progress in national law, judicial decisions, administrative provisions, governmental policies and related initiatives.
- The plan of action could recommend intensifying IHL training for judges and prosecutors, with the support of the ICRC and National Societies where possible, with a view to strengthening their capacity to interpret domestic legal obligations in accordance with IHL and to giving effect to the laws for repressing/suppressing violations of IHL.
- The plan of action could encourage states to review their legislation implementing their obligations related to grave breaches of the Geneva Conventions and the investigation and prosecution of other serious violations of IHL.
- The plan of action could encourage the sharing of best practices in response to allegations of IHL violations.