



Power of humanity

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of the Red Cross and Red Crescent

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Toward a universal culture of compliance with international humanitarian law

BACKGROUND DOCUMENT

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Toward a universal culture of compliance with international humanitarian law

EXECUTIVE SUMMARY

The 34th International Conference of the Red Cross and Red Crescent (International Conference) provides an opportunity for States and components of the International Red Cross and Red Crescent Movement (Movement) to reaffirm the critical importance of complying with international humanitarian law (IHL) as a means of preventing and mitigating the human cost of war.

Since the 33rd International Conference, States and components of the Movement have remained committed to implementing Resolution 33IC/19/R1, "[Bringing IHL home: A road map for better national implementation of international humanitarian law](#)". Nevertheless, armed conflict continues to engender unspeakable levels of human suffering across the globe, much of which could be avoided if the rules of IHL were better complied with. Therefore, the draft zero of the IHL resolution proposed for adoption at the 34th International Conference is based on the observation that compliance with IHL remains insufficient, and the resolution provides an opportunity for all members of the International Conference to reaffirm their acceptance of IHL and to step up their efforts to ensure universal compliance with IHL.

1) INTRODUCTION

This year marks the 160th anniversary of modern IHL treaty-making and the 75th anniversary of the adoption of the Geneva Conventions of 1949. The 34th International Conference is being held at a critical time when the unacceptable cost of armed conflict demands a renewed commitment to our common humanity. Currently, there are over 100 ongoing armed conflicts, many of which are neglected by the international community and the media, and many of which are protracted, with consequences that last for generations.

The domestic implementation of IHL has progressed across the globe, thanks to States' consistent efforts, often with the support of their National Red Cross or Red Crescent Society (National Society) and the International Committee of the Red Cross (ICRC). Yet more needs to be done. The International Conference presents an opportunity for its members to reaffirm IHL's continued relevance in protecting people affected by armed conflict and to reiterate their unwavering commitment to our common humanity. But words are not enough. Redoubling efforts to implement IHL obligations in good faith will help narrow the gap between acceptance of the law and compliance with it, thereby strengthening IHL's protective power for people affected by armed conflict.

As the proposed resolution does not focus on specific themes, members of the International Conference are strongly encouraged to submit thematic pledges linked to the measures proposed in the resolution. These pledges should reflect their national and regional priorities and target concrete and demonstrable outcomes.

2) BACKGROUND

For decades, the International Conference has consistently shown interest in and commitment to furthering the implementation of IHL, particularly at the national level.¹ During this time, resolutions, plans of action and roadmaps have been adopted, and States and components of the Movement have taken concrete measures to promote IHL implementation domestically.² Resolution 1 of the 26th International Conference highlighted the need for technical expertise to support these initiatives, leading to the creation of the ICRC's Advisory Service.³

Resolution 1 of the 33rd International Conference, "Bringing IHL home", provided a detailed and ambitious roadmap for national implementation of IHL. Since 2019, States and Movement components have adopted measures in this regard, which is to be applauded. The proposed resolution aims to reinforce and build on these efforts and to encourage faster IHL implementation. It also complements the "Bringing IHL home" resolution by proposing avenues for States to promote compliance with IHL by other actors.

3) ANALYSIS

Armed conflict takes a terrible toll on combatants and civilians. By focusing on protecting people through rules that uphold basic human values, IHL has stood the test of time. It remains essential to preventing some of armed conflict's worst consequences. When IHL and its humanitarian spirit are upheld, lives are saved and a level of dignity is preserved. Yet, compliance with IHL remains insufficient in many armed conflicts, causing devastating suffering. More must be done to improve IHL's implementation and compliance with it.

To achieve this, long-term commitments and consistent efforts to effectively implement IHL on the domestic level are necessary. Preventing violations of IHL starts with sowing the seeds of compliance long before conflict breaks out and setting a clear expectation that the rules will be scrupulously followed if and when it does. In that sense, strengthening the domestic implementation of IHL is essential to creating an environment which will be conducive to compliance with IHL should an armed conflict, including a situation of occupation, arise, by ensuring that all parties are prepared to respond to the law's requirements appropriately.

Following the adoption of the "Bringing IHL home" resolution by the 33rd International Conference, considerable progress has been made toward effective implementation of IHL in State Parties' domestic legal systems through the adoption of legislative, administrative and practical measures. The process is one of continuous improvement, and additional steps can always be taken. Everywhere, there is room to improve the domestic implementation of IHL, for instance by strengthening the integration of IHL into military doctrine, education and training; by putting in place training programmes for all those who are called upon to apply and interpret the law, in particular parliamentarians, judges, prosecutors and other decision makers; by creating and supporting national committees on IHL, and similar bodies, and promoting cooperation among such committees and bodies at the regional and international

¹ See for instance: 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"; Resolution 1 of the 33rd International Conference, "Bringing international humanitarian law home".

² See: 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 See Resolution 1 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", Annex II.

level; and by strengthening domestic capacities to prosecute serious violations of IHL. These measures, and many others, can be found in [Bringing IHL Home: Guidelines on Domestic Implementation of International Humanitarian Law](#), published by the ICRC's Advisory Service on IHL in 2021. This document provides guidance for States and National Societies on how to work together to implement the "Bringing IHL home" resolution at the domestic level. It encourages States and National Societies to collaborate on ideas that go beyond the resolution to support better implementation of IHL.

Effective implementation of IHL at home is a means towards ensuring respect for IHL once a conflict breaks out. Yet it must be acknowledged that the implementation measures on the books will not on their own lead to full respect on the ground. That can only be achieved when all the parties to an armed conflict, at all levels, make the deliberate choice to comply with IHL in all circumstances; when respect for the law is monitored in practice; and when all violations are addressed. Ultimately, respect for IHL is a question of political will.

For all these reasons, this resolution not only reiterates the continuing validity of the "Bringing IHL home" resolution and urges members of the International Conference to strengthen their efforts to achieve its objectives; it also provides additional measures that can be taken by States and other members of the International Conference to promote better application of the law on the ground. For instance, States can exert their influence over the parties to armed conflicts to promote compliance with IHL. Seizing all opportunities to voluntarily report on domestic efforts to implement IHL is another measure: by sharing good practices on how they respect their obligations, States can create a virtuous circle whereby each State can learn from its peers and strive to increase its own efforts.

The Movement components play an important complementary role in working towards respect for IHL, as per IHL treaties and the Statutes of the Movement. National 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 ICRC is mandated by IHL treaties and the Statutes of the Movement to work towards the faithful application of IHL; 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 spreading knowledge of the law and the Movement's Fundamental Principles among the National Societies.

The aim of the proposed resolution is to maintain the momentum of measures taken by States and Movement components in relation to the national implementation of IHL. It also provides a basis for increasing initiatives, including at the diplomatic and decision-making levels, to ensure that IHL rules are considered and that all efforts are made to comply with them.

4) RESOURCE IMPLICATIONS

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

5) IMPLEMENTATION AND MONITORING

To ensure effective implementation of IHL, consistent, long-term efforts are required. Therefore, as was the case with the "Bringing IHL home" resolution adopted by the 33rd International Conference, the proposed resolution does not have a specific timeframe. States and components of the Movement have several means at their disposal to share experiences and good practices in implementing the resolution. In recent years, several States have issued voluntary reports on the implementation of IHL, which has proven to be a highly appreciated way of sharing implementing measures. Additionally, as the resolution does not address specific topics of IHL, States and National Societies are invited to submit pledges on

topics of particular importance and relevance to them, and to commit to concrete steps to foster IHL implementation in these areas. The role of national IHL committees and similar bodies, where applicable, is particularly relevant in ensuring that the proposed resolution results in concrete actions.

6) CONCLUSION AND RECOMMENDATIONS

The proposed resolution, “Toward a universal culture of compliance with IHL”, calls on States and all Movement components to increase their efforts to ensure that the rules of IHL provide meaningful protection to people affected by armed conflict. It also urges the systematic incorporation of IHL-related considerations into deliberations, decisions, policies and instruction at all levels. The ICRC believes that the measures suggested in the resolution will promote a universal culture of compliance with IHL.