

## ICRC, Building a Universal Culture of Compliance with International Humanitarian Law

*Despite a global commitment to International Humanitarian Law (IHL) through the universal ratification of the Geneva Conventions, the gap between legal obligations and actual compliance remains concerning. The 34th International Conference of the Red Cross and Red Crescent in 2024 emphasized the urgent need for States to respect and uphold IHL in good faith. This case examines the Resolution adopted thereof and its implementation through a declaration adopted by the French National Committee on IHL emphasizing the actions that must take to strengthen commitment to ensuring respect for IHL, both nationally and internationally.*

### Acknowledgments

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### A. RESOLUTION ABOUT A UNIVERSAL CULTURE OF COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW

[Source: 34th International Conference of the Red Cross and Red Crescent, Resolution 1, “Building a universal culture of compliance with international humanitarian law”, 34IC/24/R1, October 2024, available at [https://rcrcconference.org/app/uploads/2024/11/34IC\\_R1-IHL-EN.pdf](https://rcrcconference.org/app/uploads/2024/11/34IC_R1-IHL-EN.pdf)]

[The 34th International Conference of the Red Cross and Red Crescent,

[...]

*emphasizing* that compliance with international humanitarian law (IHL) is essential to alleviate the suffering of the people affected by armed conflict, reduce the human, economic, social, cultural, and environmental cost of war, and facilitate the return to a sustainable peace,

[...]

*expressing deep concern* about the discrepancy between the universal commitment to IHL and insufficient respect for its rules, *underlining* the importance of good faith in interpreting and performing IHL obligations, and *calling attention* to the urgent need to improve respect for IHL,

*reaffirming* the importance of strict compliance by States and non-State parties to armed conflicts with their respective obligations under international law, and *recalling* that the application of IHL to non-State parties to armed conflicts shall not affect the legal status of those parties,

*reaffirming* that the *jus ad bellum* and *jus in bello* must each be fully complied with regardless of whether the other has been violated, and *emphasizing* that IHL protects all persons affected by armed conflict 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,

[...]

*emphasizing* that a party must comply with its IHL obligations even if the adversary has committed violations, or is accused thereof, [...];

[...]

*emphasizing* that fighting impunity for violations of IHL is essential for peace, stability, justice, the rule of law and post-conflict reconciliation, and that it is critical not only to implement IHL, but also to enforce it when violations occur to prevent the recurrence of such violations, [...];

[...]

1. *demands* that all parties to armed conflicts, including situations of occupation, fully comply with their obligations under IHL, including but not limited to rules pertaining to the protection of civilians; the protection of prisoners of war and other persons deprived of their liberty; the protection of children; the protection of women; the protection of persons with disabilities; the protection of older persons; the protection of medical personnel and facilities; the protection of cultural property, places of worship and schools; the protection of journalists; the protection of humanitarian personnel; rules pertaining to humanitarian access and rules pertaining to the protective emblems and signals;

2. *urges* all States and components of the Movement to work towards a universal culture of compliance with IHL, including in the area of accountability;

3. *calls upon* States, with the support of Movement components, to intensify their efforts to implement Resolution 1 of the 33rd International Conference, “Bringing IHL home: A road map for better national implementation of international humanitarian law”, and to promote implementation of IHL in all armed

conflicts universally, impartially and without bias;

4. *also calls upon* States to foster compliance with IHL by ensuring that the highest levels of civilian and military leadership assign responsibilities and establish procedures and other guidance for IHL implementation and systematically incorporate IHL into their deliberations, decisions and policies, and *encourages* States to exchange good practices in this regard;

5. *strongly encourages* States to make every effort to further integrate IHL into military doctrine, education and training, and into all levels of military planning and decision-making, thereby ensuring that IHL is fully incorporated into military practice and reflected in military ethos, and *recalls* the importance of the availability within States' armed forces of legal advisers to advise commanders, at the appropriate level, on the application of IHL;

6. *also strongly encourages* States, in recognition of the important role that legal advisers and domestic courts play in interpreting international and domestic law and in stopping and preventing the recurrence of IHL violations, to pay special attention, where appropriate, to the training of relevant individuals involved in military and civilian legal and judicial processes, with a view to strengthening their capacity to apply IHL and to exercise domestic jurisdiction in accordance with domestic and international law, *encourages* cooperation and the sharing of good practices between States in this regard, and *takes note* of the support that the ICRC and National Societies may provide to States, upon their request;

7. recognizing the important role played by national committees or similar entities on IHL, *encourages* States that have not yet done so to consider establishing such a committee and in order to achieve better implementation of IHL, *invites* States to enhance the capacity of their committees to, as appropriate, formulate and submit recommendations to their national authorities on areas that need to be further developed and incorporated domestically, disseminate IHL, monitor developments and progress in their contexts, and strengthen cooperation between such committees, including through regular peer exchanges;

8. *encourages* States, in addition to their reporting to relevant treaty bodies, to consider drafting voluntary reports on their domestic implementation of IHL, when appropriate with the support of their national committee or similar entity on IHL, the National Society or the ICRC, and for those that have already published such a voluntary report, to consider regularly updating it, while further encouraging all States to consider making public other official documents related to their implementation of IHL;

9. *calls upon* National Societies, with the support of the IFRC and ICRC, to further disseminate IHL and the Movement's humanitarian ideals – as anchored in the Fundamental Principles – in formal and informal education and to the public at large, and *encourages* States, and specifically educational authorities, to engage with National Societies to integrate these subjects into formal curricula or learning objectives, beginning with primary education, as appropriate;

10. *insists that* States refrain from encouraging, aiding or assisting IHL violations by other States and act to promote compliance with IHL by other States in conformity with international law and the United Nations Charter, including by convincing parties to armed conflicts to put an end to IHL violations; seeking the commitment of States at the highest levels of civilian and military leadership to comply with IHL; helping States build their capacity to implement IHL through the development of military doctrine, training and mentoring, and other appropriate means; assisting States in ensuring that their judicial and administrative bodies are capable of effectively addressing IHL violations committed by their own forces and holding persons accountable in accordance with applicable requirements of international law; assisting States in strengthening their national IHL committees and, for those who have not already done so, assisting them in the establishment of such committees; complying with their own obligations under applicable international treaties and law regulating the use and transfer of arms; and using diplomatic dialogue, humanitarian diplomacy and other appropriate measures to promote compliance by other States; and furthermore *urges* States, where appropriate, to promote compliance with IHL by non-State armed groups;

11. *invites* States and National Societies, as well as the ICRC and the IFRC, to make pledges related to the implementation of this resolution, drawing, as appropriate, from the full range of potential work set out in this resolution and in the “Bringing IHL home” resolution, and focusing on specific thematic issues of particular importance to members and to the protection of victims of armed conflict, and encourages States, their national IHL committees and the Movement components to work together in specific areas of common interest.

## **B. STATEMENT REGARDING FRANCE’S OBLIGATION WITH REGARD TO THE IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW**

[Source: CNCDH, “Statement regarding France’s obligations with regard to the implementation of international humanitarian law”, D - 2025 - 1, Plenary Assembly of 23 January 2025, available at [https://www.cncdh.fr/sites/default/files/2025-03/D%20-%202025%20-%201%20-%20EN%20-%20CNCDH%20-%20Statement%20on%20Obligations%20regarding%20Humanitarian%20Law\\_0.pdf](https://www.cncdh.fr/sites/default/files/2025-03/D%20-%202025%20-%201%20-%20EN%20-%20CNCDH%20-%20Statement%20on%20Obligations%20regarding%20Humanitarian%20Law_0.pdf)]

The CNCDH, convinced that the respect for international humanitarian law is a matter of political will, and noting:

- That the defence of humanitarian principles and the respect for international humanitarian law constitute the first pillar of the commitments set out in the Humanitarian Strategy of France (SHRF) 2023-2027,
- That France, along with five other States and the International Committee of the Red Cross (ICRC), launched a global initiative to galvanise political commitment to international humanitarian law;
- That the 34th International Conference of the Red Cross and Red Crescent, in which France actively participated, adopted by consensus a resolution entitled “Building a universal culture of compliance with international humanitarian law”; and
- That a conference of States Parties to the Geneva Convention IV relative to the Protection of Civilian Persons in Time of War is to take place in March 2025,

wishes to draw attention to some key points and make a number of recommendations.

[...]

**Recommendation no. 1:** The CNCDH recommends that France play its full part in the global initiative to galvanise political commitment to international humanitarian law, to take on a leading role by making proposals, sharing good practices and demonstrating its unwavering support for international humanitarian law whenever the opportunity arises. It also recommends that France ensure that all actors in the humanitarian community are invited to contribute to this initiative. [...]

**Recommendation no. 2:** The CNCDH recommends that France, in all its stances and actions, reaffirm its commitment to international humanitarian law, and redouble its efforts to implement it in good faith.

**Recommendation no. 3:** The CNCDH recommends that France formally withdraw the statement made on 27 November 2024 concerning the alleged immunity of a head of government subject to an arrest warrant issued by the International Criminal Court.

[...]

**Recommendation no. 8:** The CNCDH recommends that France suspend all arms transfers to any State in the world when it has knowledge that these arms would be used in the commission of international crimes.

**Recommendation no. 9:** The CNCDH recommends that France play a full part in the diplomatic Conference of High Contracting Parties to the Fourth Geneva Convention relative to the protection of civilian persons in time of war, engage actively and constructively in the consultation process and ensure that its position is always consistent with the applicable legal framework and in favour of the protection of civilians, i.e. free from any other consideration.

**Recommendation no. 10:** The CNCDH recommends that France solemnly reaffirm the obligation of parties to conflicts to facilitate the free passage of humanitarian aid.

**Recommendation no. 11:** The CNCDH recommends that France firmly and systematically condemn any attack on humanitarian and health convoys or personnel.

**Recommendation no. 12:** The CNCDH recommends that French authorities ensure that political considerations are never introduced into debates relating to the protection of civilians in times of war and that they constantly remind their counterparts to do the same.

**Recommendation no. 13:** While reiterating its availability to offer support in this regard, the CNCDH recommends that France draw up a voluntary report relating to the implementation of international

humanitarian law.

**Recommendation no. 14:** The CNCDH recommends that France make a declaration under Article 90 of Additional Protocol I recognising the competence of the International Fact Finding Commission, as soon as possible.

**Recommendation no. 15:** The CNCDH recommends that French authorities continue and intensify their cooperation with the CNCDH, as part of its mandate as the national commission for the implementation of international humanitarian law, and that they constantly demonstrate and reaffirm their support in this role.

## DISCUSSION

### I. Implementation and promotion of International Humanitarian Law

1. (*Document A, preamble and para. 10*)

- a. Why is compliance with International Humanitarian Law (IHL) essential during armed conflict? Why is it important to build a culture of compliance during peacetime?
- b. Who is bound by the obligation to respect IHL? (GC I-IV, Art. 1; GC I-IV, Art. 3; P I, Art. 1(1); P II, Art 1(1); CIHL, Rule 139) Who is bound by the obligation to ensure respect for IHL? (GC I-IV, Art. 1)
- c. If *jus ad bellum* is violated, is compliance with *jus in bello* still mandatory for the parties to the conflict? (GC I-IV, Art. 1; P I, Preamble, §5)
- d. Can a party to a conflict suspend its IHL obligations if another party to the conflict violates IHL rules?

2. (*Document B, recommendations 1 and 2*) What is the global initiative to galvanise political commitment to international humanitarian law?

3. (*Document A, para. 7; Document B*) What are national committees on IHL? What role do they play in the implementation of IHL?

4. (*Document A, preamble; Document B, recommendations 1,2 and 9*)

- a. What are the main obstacles to compliance with IHL by the parties to a conflict?
- b. According to the French National Consultative Committee on human Rights (CNCDH – also National Committee on the implementation of IHL), what role should France play in ensuring compliance for IHL, particularly in light of its international commitments?
- c. What does IHL provide regarding the role of States in preventing and addressing violations of IHL by parties to an armed conflict? (CIHL, Rule 144)

5. (*Document B, recommendations 9, 10, 11 and 12*)

- a. Why is it essential for France to ensure that its decisions on civilian protection are not influenced by political considerations? (P I, Art. 51)
- b. What are the obligations of the parties to a conflict to guarantee humanitarian access during wartime? (GC IV, Art. 142; P I, Art. 70; CIHL, Rule 55)
- c. In what ways can France strengthen unhindered humanitarian access and the protection of humanitarian workers in armed conflicts?

## **II. Accountability and sanctions for IHL violations**

6. (*Document A, preamble; Document B, recommendations 3, 14 and 15*)

- a. Why is the fight against impunity for violations of IHL essential to building a universal culture of compliance with IHL?
- b. Under IHL, is there a mechanism that provides for criminal sanctions for violations of IHL rules? Does this mechanism apply to all types of IHL violations? (GC IV, Art. 146; GC IV, Art. 147; P I, Art. 85; P I, Art. 88; P I, Art. 89)
- c. What would be the legal consequences of France recognizing the competence of the International Fact-Finding Commission? (P I, Art. 90(2)(c))

7. (*Document B, recommendation 3*)

- a. How does the interaction between IHL and International Criminal Law regarding war crimes enable the International Criminal Court (ICC) to exercise jurisdiction over certain violations of IHL? Which specific violations fall under this jurisdiction? (CIHL, Rule 156; ICC Statute, Art. 8)
- b. In what ways is France's statement of 27 November 2024 inconsistent with the obligation to respect and ensure respect for IHL? (P I, Art. 88; P I, Art. 89)
- c. What measures can France take to strengthen cooperation with the ICC and national courts in prosecuting war crimes? (CIHL, Rule 158; CIHL, Rule 161)

8. (*Document A, para. 10; Document B, recommendation 8*)

- a. On what legal grounds does the CNCDH base its recommendation that France suspend arms transfers when there is doubt about the recipient State's compliance with international law regarding the use of such weapons? (Arms Trade Treaty, Art. 6(3); Commentary of GC I-IV, Art. 1, § 162)

b. How could such an arms transfer violate the obligation to respect and ensure respect for IHL? (GC I-IV, Art. 1; CIHL, Rule 144)

### **III. Monitoring and strengthening national IHL mechanisms**

9. (*Document A, paras 7 and 8; Document B, recommendations 12, 14 and 15*)

a. In what ways can national committees on IHL contribute to enhancing State compliance with IHL obligations? (CIHL, Rule 143; CIHL, Rule 144)

b. How can strengthened cooperation between French authorities and the CNCDH contribute to more effective implementation of IHL? (GC I-IV, Art. 1; CIHL, Rule 149)

c. What are the benefits of publishing a voluntary report on the national implementation of IHL?

### **IV. IHL and military practice**

10. (*Document 1, paras 4, 5 and 6; Document B*)

a. How does the integration of IHL into military practice, and ethos of a State's armed forces, contribute to ensuring effective compliance with IHL? (GC IV, Art. 144; P I, Art. 83; CIHL Rule 142)

b. What is the role of legal advisers within the armed forces, and why is their presence essential for the application of IHL? (P I, Art. 82; CIHL, Rule 141)

c. What conclusions can be drawn regarding non-international armed conflicts from the absence of this provision in Additional Protocol II?