



2022 International Humanitarian Law Symposium

Summary Report | August 2022

International Humanitarian Law

International humanitarian law (IHL) is a set of universally accepted rules that seek to limit, for humanitarian reasons, the effects of war. The main purpose of IHL is to maintain some humanity in armed conflicts – saving lives, reducing suffering, and respecting basic human dignity. To do this, IHL protects people who are not or are no longer participating in hostilities, including wounded and sick soldiers, prisoners of war, medical personnel or aid workers, and all civilians. It also restricts the means and methods of warfare by placing limits on the types of weapons and military tactics used in armed conflict in order to limit unnecessary suffering.

Australian Red Cross International Humanitarian Law Program

With a mandate under international legal frameworks to promote international humanitarian law and assist Government in ensuring respect for IHL, the Australian Red Cross IHL Program works with a wide range of stakeholders (including the broader network of the International Red Cross and Red Crescent Movement) to promote the laws of war in Australia. The Australian Red Cross IHL Program supports Australian organisations with operations in conflict zones to embed IHL into their organisational policies and capabilities to improve humanitarian outcomes for people impacted by conflict.

Royal Melbourne Institute of Technology (RMIT) School of Global, Urban and Social Studies

The School of Global, Urban and Social Studies is multi-disciplinary and offers education and training in a variety of programs and courses, including international studies, development, sustainability and public policy. Across these themes, a key strength is the integration of practice and theory, and the kinds of complex thinking that come from approaching topics from a range of perspectives. The School of Global, Urban and Social Studies contributes key staff to RMIT's vibrant, interdisciplinary community of research, teaching and learning relating to disaster, crisis and conflict.

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This event was held on World Humanitarian Day 2022. On 19 August 2003, a bomb attack on the Canal Hotel in Baghdad, Iraq, killed 22 humanitarian aid workers, including the UN Special Representative of the Secretary-General for Iraq, Sergio Vieira de Mello. Five years later, the General Assembly adopted a resolution designating 19 August as World Humanitarian Day (WHD). Each year, WHD focuses on a theme, bringing together partners from across the humanitarian system to advocate for the survival, well-being and dignity of people affected by crises, and for the safety and security of aid workers.

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Executive Summary

In 2019, Australian Red Cross and the Centre for Humanitarian Leadership (CHL) co-facilitated a symposium on international humanitarian law (IHL) and humanitarian access – the 2019 IHL Symposium. The event was inspired in part by three key trends identified in the [2018 State of the Humanitarian System](#) report:

- Firstly, that bureaucratic restrictions were ‘the most important overall impediment to providing humanitarian support to people in need’;
- Secondly, that humanitarian actors were increasingly working in situations where neither government nor non-state armed groups are prepared to follow IHL; and
- Thirdly, that humanitarian actors often did not understand the humanitarian principles and IHL, and therefore were not able to apply them or advocate for them.

In that context, the 2019 IHL Symposium sought to explore how IHL could be better leveraged to address these issues and improve humanitarian outcomes. There was consensus during the 2019 IHL Symposium that although respect for IHL and the humanitarian principles had declined, it remained necessary to understand these rules and principles to understand the foundations upon which humanitarian actors operate, and that tailored approaches need to be considered in different contexts. It was also recognised that legislative and regulatory environments were critically important in either enabling or constraining humanitarian access. It was agreed that humanitarian actors had a critical role to play in tackling these challenges strategically, collectively and with a clear and consistent voice. A report summarising the key themes and challenges discussed during the 2019 IHL Symposium can be viewed [here](#).

Since the 2019 IHL Symposium was held, the world has changed considerably. Although the overall impact of the COVID-19 pandemic on humanitarian access is yet to be measured, it has been described as a ‘fragility multiplier’ that has created a significantly greater need for humanitarian assistance.¹ Additionally, the pandemic has further complicated the delivery of, and access to, aid as a result of travel restrictions and bans as well as quarantine and social distancing regulations. It has also led to a global financial downturn which has reduced overseas expenditure and humanitarian and charitable budgets globally.

In addition to the pandemic, new conflicts have emerged and old conflicts have evolved and continued. The armed conflict in Ukraine has dominated international affairs since the escalation of hostilities early in 2022, while protracted conflicts, such as the conflicts in Israel-Palestine, Yemen, Syria, Somalia, the Central African Republic, and Sudan, among many others, remain unresolved.

It was within this context that the 2022 IHL Symposium was held on 19 August 2022. The event was cofacilitated by Australian Red Cross and the Royal Melbourne Institute of Technology (RMIT) School of Global, Urban and Social Studies. It brought together humanitarian practitioners, academics and others to explore the evolving challenges to humanitarian access since the 2019 IHL Symposium was held, and reconsider how IHL could be leveraged to address these issues and improve humanitarian outcomes.

¹ The Impact of COVID-19 on Humanitarian Access, Dr Rebecca Brubaker, Dr Adam Day, Sophie Huvé, United Nations University Centre for Policy Research, <https://cpr.unu.edu/research/projects/the-impact-of-covid-19-on-humanitarian-access.html#outline>, accessed 6 October 2022.

The first session of the 2022 IHL Symposium sought to reconsider the relevance and value of the tools (humanitarian principles) and rules (IHL) of humanitarian action in the context of contemporary and emerging conflicts. In the second session, Australian Red Cross and the Humanitarian Advisory Group (HAG) facilitated a workshop relating to research which indicates that enhanced IHL knowledge and training can lead to greater humanitarian outcomes and reduce organisational and individual risks. Finally, in the last session, five humanitarian practitioners were invited to speak about their experiences and examples of IHL and the humanitarian principles in practice, to illustrate the strengths and weaknesses of these tools in the field.

Key themes and issues that were discussed during the 2022 IHL Symposium, which are detailed in this report, included:

- **The perceived decline in respect for IHL and the humanitarian principles identified during the 2019 IHL Symposium has persisted, and this continues to challenge the ability of humanitarian organisations to provide assistance to those in need.** Although respect for and compliance with these laws and principles has been further challenged over recent years, they still reflect critical and fundamental moral standards and are tools that can limit the devastating effects of armed conflict, protect civilians from harm, and minimise civilian suffering. For this reason, efforts to promote and respect the laws of war should continue, and humanitarian actors should persist in their efforts to work collaboratively to enhance respect for these laws and principles.
- **Other existing challenges to humanitarian access have persisted and new challenges have emerged.** The global COVID-19 pandemic has further complicated the delivery of humanitarian aid and continuous developments in warfare and technology have and will complicate humanitarian action further. Humanitarian organisations are operating in complex conflict settings and are increasingly expected to respond to increasing and significant humanitarian needs with decreasing resources.
- **IHL is a tool that can be leveraged to achieve greater humanitarian outcomes in the field and to reduce organisational and individual risks.** It is one of many tools that can be used to enhance humanitarian negotiations and access.

The 2022 IHL Symposium was held under the Chatham House rule, meaning that none of the comments made during discussions would be publicly attributed to individuals or their organisations without consent. As such, many of the points made during the symposium have been thematically aligned and integrated into this report. The sections of the report that do attribute comments to individuals have been included with their permission.

IHL and the Humanitarian Principles: An Overview

Clementine Rendle, Regional Legal Adviser in the Pacific for the International Committee of the Red Cross (ICRC), provided an overview of IHL and the humanitarian principles, and their relevance and importance in the context of contemporary armed conflict.

The 1949 Geneva Conventions are the legal foundations of IHL. They regulate the conduct of armed conflict and seek to limit the effects of war, and it is these Conventions, as well as their Additional Protocols and related customary international humanitarian law, that give the ICRC and any other impartial humanitarian organisations the ability to undertake humanitarian activities in response to armed conflicts. Among other things, IHL provides that humanitarian relief personnel must be respected and protected; that humanitarian relief for civilians in need must be allowed and facilitated rapidly and without impediment; and that authorised humanitarian relief personnel must be afforded freedom of movement that is essential to the exercise of their functions.

Alongside IHL, there are four key humanitarian principles that have come to characterise humanitarian action: humanity, impartiality, neutrality, and independence.

The principle of **humanity** is the desire to prevent and alleviate human suffering wherever it is found and to protect life and dignity, with particular attention paid to the most vulnerable. This principle is said to be the driving force of all humanitarian action and should be the basis from which the other principles stem.

The principle of **impartiality** requires that humanitarian assistance must be provided solely on the basis of need, without discrimination. Although the principle of impartiality is widely recognised and accepted in theory, challenges arise in practice. For example, donors may seek to direct their funding to specific activities or contexts, and authorities may restrict or deny humanitarian access, making it impossible to access and deliver aid to all. Humanitarian organisations engage with relevant actors to address such challenges, sometimes differing in their approaches. It was also acknowledged that there had been a recognition in recent years of systemic racism within some humanitarian organisations which has meant that assistance has not always been delivered impartially, and in some cases, may have propagated systemic racism.

The principle of **neutrality** requires that humanitarian action must not favour any side in an armed conflict or engage in any other disputes and controversies (such as those of a political, racial, religious or ideological in nature). The International Red Cross Red Crescent Movement (the Movement) has adopted the principle of neutrality as one of its Fundamental Principles, and for this reason, it does not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature in order to continue to enjoy the confidence of all. In conflict zones, humanitarian actors must navigate high levels of mistrust, division, and violence, all of which can hinder humanitarian action. By remaining neutral, humanitarian actors can gain greater trust and acceptance from parties to a conflict as well as authorities and the civilian population. In this regard, Ms Rendle noted that:

'Neutrality is what allows (the ICRC) to cross frontlines. It's what allows us to visit detainees on both sides. It's what allows us to recuperate the remains of the dead, and to play a role in the release of prisoners and hostages.'

Neutrality is also what gives the ICRC the ability to establish constructive and confidential dialogue with authorities, which is a space in which humanitarian diplomacy occurs. It is within these spaces of negotiation that the ICRC can persuade authorities to put an end to current violations or prevent potential violations from occurring. It was clarified, however, that neutrality should not be equated with silence or indifference. It simply means not engaging in controversies that divide people. Humanitarians can and have publicly condemned actions without compromising their neutrality. However, the decision of whether or how to speak out must be weighed against considerations of access, security, and acceptance. When the ICRC does publicly denounce parties for their conduct in wartime, it is when all avenues for persuasion are exhausted, and when it is in the interests of the victims to do so.

Despite its strengths, neutrality remains a contested and complex principle for humanitarian actors and it can be challenging to be understood and accepted as neutral. The public reaction to former ICRC President Peter Maurer's visit to Russia and meeting with the Russian Foreign Minister, Sergei Lavrov, was discussed as an example of this challenge. It was noted that the controversy that resulted from such routine humanitarian diplomacy efforts had a chilling effect on organisations trying to work under the same principles in that context. Maintaining neutrality should be understood as a long-term proposition and commitment to this principle must be consistent, constantly reinforced, and done so transparently. It can take years for humanitarian organisations to build trust, but that trust can be broken in seconds.

Finally, the principle of **independence** requires the autonomy of humanitarian objectives away from political, economic, military or other objectives. The principle of independence can be similarly difficult to comply with in practice. Humanitarian access is often dependant on the consent of authorities, funding is often provided and tied by governments, and the delivery of aid often requires negotiation and coordination with authorities. However, maintaining independence from the authorities or parties to a conflict is critical to maintaining the trust of the beneficiaries of humanitarian assistance and enhances perceptions of neutrality.

Declining Respect for IHL and the Humanitarian Principles

At the 2019 IHL Symposium, it was suggested that humanitarian actors were seeing a movement away from acceptance of IHL as a common operating framework, and that this was posing one of the most fundamental challenges to humanitarian access at that point in time.

At the 2022 IHL Symposium, Sean Healy, Head of Reflection and Analysis at Médecins Sans Frontières (MSF), considered how the fundamental norm of humanity continues to be challenged in dangerous ways in contemporary conflicts. Mr Healy described examples of reported IHL violations in Ukraine, including reports of attacks against a maternity hospital, primary schools, murders of civilians, and the use of torture on prisoners of war, among other allegations. Mr Healy also reflected that many actors, including large and powerful States, continue to challenge and violate a number of branches of public international law, including IHL, human rights law, refugee law, and maritime law in relation to search and rescue at sea. These State actors are often central to the international community and should be the ones who are advocating for and enforcing these laws, rather than violating them.

In the discussion that followed the first panel, it was also suggested that in certain contexts, IHL has been used inappropriately to block or impede humanitarian access by arbitrarily withholding consent for humanitarian actors to access and deliver assistance to people in need. It was noted that this limitation of IHL likely stems from the fact that IHL was designed to work through the sovereignty of states, and not against it. It was agreed that this apparent lack of respect for and compliance with the fundamental principles of IHL and the principles of humanitarian action made it increasingly difficult for humanitarian organisations to work in such contexts.

Although the perceived decline in respect for IHL and the humanitarian principles certainly seems to have persisted since the 2019 IHL Symposium, it was noted at the 2022 IHL Symposium that violations of domestic and international laws are always much more apparent, and often more newsworthy, than instances of compliance. This should not automatically lead us to view IHL as completely insufficient or ineffective. On the contrary, in many contexts, IHL is respected and fulfilled on a daily basis, and a number of examples were discussed during the 2022 IHL Symposium which illustrated the potential value of respect for and compliance with IHL and the humanitarian principles in the context of armed conflicts.

Dr Edouard Delaplace, Detention Adviser with ICRC in Geneva, reflected on his use of IHL principles during his deployment to Ukraine early in 2022. He described how IHL and the humanitarian principles enabled the ICRC to negotiate access to people affected by the conflict, including people in detention, and had helped the ICRC to engage in humanitarian diplomacy with the authorities in these circumstances. Dr Delaplace also described how the Central Tracing Agency (CTA) was operating to put into practice the laws of war relating to the restoration of family links of people deprived of their liberty in conflicts and explained how the CTA had enabled people in detention and civilians affected by the conflict to restore contact with members of their families.

Lily Gardener, International Humanitarian Diplomacy Lead at Australian Red Cross, reflected on the value of the humanitarian principles in practice and their value from a policy perspective. Ms Gardener noted that she and her team put humanitarian diplomacy into practice on a daily basis in their work. Humanitarian diplomacy involves persuading decision makers and opinion leaders to act, at all times, in the interests of vulnerable people, and with full respect for fundamental humanitarian principles. It aims to mobilise public and governmental support and resources for humanitarian operations and programmes, and to facilitate effective partnerships to respond to the needs of vulnerable people. Indeed, Ms Gardener highlighted the importance of working collaboratively and placing humanity at the heart of everything humanitarians do.

Dr Boyd van Dijk, McKenzie Fellow at the University of Melbourne, made a powerful plea for returning to the past and explained in his presentation at the 2022 IHL Symposium that IHL scholarship has been evolving remarkably in recent years in ways that enrich our understanding of the history and present of IHL. In this regard, Dr van Dijk highlighted that greater attention is now more appropriately being paid to the role of marginalised groups in the history of IHL, as well as more structural phenomena impacting the law's present mechanisms, from the question of peace to the role of gender on the battlefield.

Clementine Rendle concluded that although the rules and tools of humanitarian action may be challenging to implement in practice in the context of contemporary conflicts, they are still critical to the ICRC's ability to do its humanitarian work. She noted that adherence to these principles requires tailored, contextualised approaches, as well as constant communication and transparency to build and maintain relationships. Similarly, Sean Healy concluded that although respect for and compliance with IHL and the humanitarian principles continues to be challenged, these laws and principles stem from fundamental moral standards that cannot be forsaken, and they retain significant value as tools that can be used to limit the devastating effects of armed conflict. For this reason, it is critical that we continue to reinforce the importance of these laws and principles and their humanitarian and moral foundations.

Other Persisting and Emerging Challenges to Humanitarian Action

The COVID-19 Pandemic and the Burden on Humanitarian Organisations

The COVID-19 pandemic has had an unprecedented effect on humanitarian operations globally. It has been described as a 'fragility multiplier', creating 'greater humanitarian needs and complicating issues around access and delivery'.² Indeed, research suggests that the pandemic contributed to 'significantly greater humanitarian needs in many settings, alongside a high likelihood of longer-term socioeconomic risks that may push more people into vulnerability'.³ At the same time, it has frustrated humanitarian access and action because of 'restrictions of travel into and within countries; quarantining and other restrictions on group activities; increased bureaucratic hurdles by governments and other actors; and a global financial downturn that has reduced overseas spending'.⁴

During the 2022 IHL Symposium, a number of challenges posed by the pandemic were discussed. Sean Healy illustrated some of the challenges posed by the pandemic by explaining the complexities of delivering health services in Myanmar. He noted the challenges MSF faced when delivering standard healthcare to the population in that context, let alone specialised treatment to COVID-19 sufferers. Other symposium participants similarly highlighted the ever-increasing levels of humanitarian need globally in contrast to the reduced capacity of humanitarian organisations to respond as a result of reduced freedom of movement, significantly increased risks to staff, and reduced funding and resources.

Noting the impact of the COVID-19 pandemic on humanitarian organisations and their operations generally, it was also suggested that certain UN agencies and organs appear to be stepping away from responding to the needs of civilians and leaving humanitarian organisations to fill the vacuum left.

² The Impact of COVID-19 on Humanitarian Access, Dr Rebecca Brubaker, Dr Adam Day, Sophie Huvé, United Nations University Centre for Policy Research, <https://cpr.unu.edu/research/projects/the-impact-of-covid-19-on-humanitarian-access.html#outline>, accessed 6 October 2022.

³ Ibid.

⁴ Ibid.

Despite the challenges the pandemic created, and continues to create, it was apparent during the 2022 IHL Symposium that many Australian humanitarian organisations were proving to be remarkably agile and adaptable in the circumstances, and humanitarian operations were cautiously resuming. However, as the impacts of the pandemic continue to reverberate globally, humanitarian organisations will need additional support to meet these ongoing challenges.

Protracted Conflicts and the Mandates of Humanitarian, Development, and Peacebuilding Organisations

Dr Eitan Diamond, Manager and Senior Legal Expert at Diakonia International in Jerusalem, reflected on challenges to IHL in the context of the occupied Palestinian territory. One of the challenges he highlighted concerns the indefinitely protracted duration of the occupation. This has given rise to a reality that is markedly different from the temporary situations that the IHL rules on belligerent occupation were designed to regulate. He further observed that a consistent failure to hold anyone to account for IHL violations committed in the occupied territory over the decades has caused many of the people impacted by the conflict to develop a cynical attitude towards this body of law, regarding it as ineffective.

Despite this challenge, Dr Diamond argued that IHL is a crucial part of the solution. He argued for an actualisation of the law, where creating a culture of respect for IHL can result in IHL being internalised by actors. Defending and promoting IHL among both sides of the conflict is also important in generating pressure for the parties to conflict to adhere to IHL.

Azadah Raz Mohammad, PhD Candidate at the University of Melbourne, similarly reflected on the challenges of leveraging enforcement mechanisms to prosecute and respond to serious violations of IHL in the context of the ongoing protracted conflict Afghanistan. However, she also provided examples of how IHL training completed by Afghan army personnel had positively influenced their conduct.

A number of symposium participants also raised the issue of the ‘Triple Nexus’ of action taken by development, peacebuilding, and humanitarian actors in protracted conflict settings. Development and peacebuilding agendas are often aligned with the objectives of national governments that do not need to function in compliance with the humanitarian principles of impartiality and neutrality. This often leads to poor humanitarian outcomes, as vulnerable groups, who often suffer disproportionately in conflicts, may not be given the necessary assistance because of inequalities within national systems. However, another symposium participant pointed out that such collaboration cannot be avoided in practice, and humanitarian and development practitioners and peacemakers need to improve their collaboration to achieve better humanitarian outcomes. This symposium participant highlighted the importance of recognising when the humanitarian principles may be replaced by the agendas of states and political parties and urged humanitarian actors to draw, and subsequently hold, a line of not allowing their positive work to be subverted by the political intention and agendas of particular states.

Developments in Technology and Warfare

Contemporary conflicts, such as the conflict in Ukraine, provide clear examples of how new technology and advanced weaponry is changing the nature of traditional warfare in ways that may not have been considered when the Geneva Conventions were being drafted. Similarly, new frontiers of warfare, such as online environments, did not exist at the time these legal frameworks were drafted.

Larry Maybee, IHL National Manager Operations at Australian Red Cross, explained how cyber warfare is an emerging frontier that is creating unique and unanticipated challenges to the laws of war. However, to illustrate how the existing IHL framework can still address and accommodate developments in warfare and technology, he described a [project that Australian Red Cross had worked on with ICRC to develop a digital emblem](#). In essence, the red cross, red crescent and red crystal emblems are physical symbols that show that those who wear them, and facilities and objects marked with them, are legally protected against harm. However, with the sharp rise in digital technology, much work is conducted online, and personal and sensitive records are now stored in cyber space. The need for signalling that certain digital infrastructures are legally protected against harm in cyber warfare is significant because cyber operations against medical facilities and other humanitarian organisations are already happening and risk causing harm. An example of this was the 2022 cyber-attack against ICRCs attack on the Red Cross and Red Crescent Movement's Restoring Family Links database. To respond to this emerging challenge, the project sought to explore the feasibility, and the advantages and disadvantages, of replicating the red cross emblem in the digital sphere. The project ultimately determined that progressing the digital emblem project would be worthwhile, even if there was only a small reduction in harm, but that for it to be effective, the digital emblem would have to be incorporated into the existing IHL framework.

In addition to interpreting IHL by considering its overarching intentions to accommodate developments in technology and warfare within existing legal frameworks, Dr van Dijk noted that in IHL scholarship, there was also an increased focus on the contingencies of the past and present; that is, those powerful ideas of humanity that were considered in the drafting of the Geneva Conventions but were not always turned into codified law. Illustrating this point, he noted that nuclear warfare, particularly relevant in 2022 because of the conflict in Ukraine and the nuclear capabilities of Russia, was widely discussed in the 1940s but not expressly outlawed by the Geneva Conventions. In this regard, Dr van Dijk noted that we can learn as much from reconstructing the history of accepted provisions as of those rejected and ignored by the drafters while imagining a more humane future.

Overcoming Challenges

Research relating to the Impact and Value of IHL Knowledge and Training

During the 2022 IHL Symposium, Australian Red Cross and the Humanitarian Advisory Group (HAG) cofacilitated a workshop relating to an ongoing research project which aims to develop an evidence base to illustrate the value and impact of IHL dissemination and a mechanism by which the value and impact of IHL knowledge and training can be measured. This research project seeks to achieve this by defining how IHL education and training can translate to increased respect for and compliance with IHL, and therefore lead to enhanced humanitarian outcomes and reduced individual and organisational risks.

Phase One of this research, which was completed in 2019, involved building an evidence base to illustrate how training on IHL and the humanitarian principles can translate to greater humanitarian outcomes and reduce individual and organisational operational risks. During the 2019 IHL Symposium, the [‘Gaining Traction: Measuring the Impact of IHL Training’](#) report was launched, and five key findings were presented:

- 1. IHL training can be linked to improved humanitarian outcomes;**
- 2. Training in IHL is just one step in the learning journey.** Knowledge and confidence in applying these principles in the field relies on ongoing engagement, recalibration, refreshment, and practice.
- 3. The application of IHL and humanitarian principles is supported if there are other practitioners in the field who also understand and support the principles.** The impact of training is weakened when there is only a small proportion of staff that understand and have confidence to apply IHL and the principles.
- 4. Training for field practitioners needs to be practical and contextualised.** IHL training is better understood when participants learn knowledge that is specifically and contextually relevant to their job profiles and to the types of scenarios that they may encounter.
- 5. Awareness of IHL and the principles mitigates individual and operational risks in the field.**

During the 2022 IHL Symposium, HAG provided an overview of Phase Two of the research project. The objective of this phase was to create practical tools that could be used to measure the impact of IHL knowledge. To this end, HAG has developed the [International Humanitarian Law Knowledge Framework for Australian Red Cross and Australian Humanitarian Agencies](#) which can be used to identify the different job profiles across the humanitarian sector that regularly engage in situations where IHL knowledge may be helpful, and to better understand the level of IHL knowledge that might be needed by personnel in these roles. It is hoped that organisations will be able to use this framework to assess whether their personnel need additional IHL training to achieve better humanitarian outcomes.

In Phase Three and beyond, Australian Red Cross hopes to continue working with interested organisations in the humanitarian sector to further refine and implement these tools, and to help organisations measure, track and strengthen their IHL knowledge levels throughout the 2022-2023 Financial Year. Red Cross will then seek to assess the impact that this work is having. It is hoped that, over time, an improvement in the sector's understanding of and promotion of IHL will be seen, resulting in greater humanitarian outcomes and reduced individual and organisational risks.

Principles for IHL Best Practice

As noted during the 2019 IHL Symposium, Australian Red Cross has committed to adopting and demonstrating best practice with regard to IHL. To this end, it has adopted the Australian Red Cross IHL Action Plan, detailing the steps that it is taking to implement seven Principles for IHL Best Practice, across its policies, the capacity and capability of its people, operations, and commitments to transparency and accountability.

Australian Red Cross remains willing to support Australian organisations operating in conflict contexts to adopt similar principles, or approaches to good or best practice, by assisting them to review their own position using the Principles for IHL Best Practice as a reference, helping them to understand their rights and responsibilities under IHL, and seeking to identify and develop solutions.

Other Tools of Humanitarian Action

James Sadlier, Operations Manager for Asia at the Centre of Competence on Humanitarian Negotiation (CCHN) in Geneva, reflected on the value of CCHN's community of practice in the domain of humanitarian negotiation, and explained how this was making it possible to effectively address normative concerns and find acceptable compromises in support of humanitarian objectives. These compromises needed to be made to find a balance between theoretical ideals of humanitarian action and the practical realities in conflict situations. Mr Sadlier suggested that while enhanced knowledge of IHL is a valuable tool, other tools of humanitarian action are also needed and are just as important to enhance humanitarian outcomes in the field. In particular, he suggested that when faced with negotiating specific objectives that are required to fulfill their mandate, humanitarians have to build better trusted relationships with negotiation counterparts. This needs to be done on a case-by-case basis and in a way that complements advocacy and diplomatic approaches. Mr Sadlier noted:

'We need to consider the feelings and background of our counterparts and approach them with our observance of IHL framed in a way that they can relate to it. They can make some compromises, if they can see that we can make compromises. Then, we are seen more as partners, even when we are talking about difficult violations. For our humanitarian objectives to be effective, we need to have this space for the negotiations to go on.'

Indeed, in the 2019 IHL Symposium, it was similarly suggested that IHL should be viewed as an 'instrument, not an ideal'.

During the final panel of the 2022 IHL Symposium, there was consensus that IHL could be used to achieve greater humanitarian outcomes in the field and to reduce operational and individual risks, but that it is only one of many tools that can be used to enhance humanitarian access. It was also agreed that the way humanitarian actors can apply and leverage IHL and the humanitarian principles is contingent on the specific contexts in which they are operating. Different contexts require different solutions and different forms of negotiation, and the ineffectiveness of IHL in one context does not justify foregoing its use in another.

Reflections on the 2022 IHL Symposium

The 2022 IHL Symposium sought to reconsider whether the tools (humanitarian principles) and rules (IHL) of humanitarian action are still relevant in the context of current and future conflicts situations, and whether IHL could be better used as a tool to enhance humanitarian outcomes and reduce individual and operational risks.

It was apparent from the first session of the 2022 IHL Symposium that the perceived decline in respect for IHL and the humanitarian principles identified during the 2019 IHL Symposium seems to have persisted. It was also recognised that this decline in respect for IHL and the humanitarian principles was continuing to challenge the ability of humanitarian organisations to provide assistance to those in need.

At the 2019 IHL Symposium, it was questioned whether there had ever actually been a “golden era” in which IHL and humanitarian principles were well respected. As such, it may have been more appropriate to question whether we were pushing the boundaries of where and how we were operating amid conflict, whether we were looking to IHL to do more than we ever had before, and whether, as a consequence, we were starting to find its limitations.

Indeed, since the 2019 IHL Symposium was held, the boundaries of humanitarian assistance have been pushed exponentially. The global COVID-19 pandemic and the complexities of ongoing protracted conflicts has further complicated the delivery of humanitarian aid. Continuous developments in warfare and technology have and will complicate and challenge humanitarian action further.

Although it was acknowledged that compliance with the humanitarian principles can sometimes be difficult to achieve in practice, and that these tools and rules operate alongside other important tools of humanitarian action, there was consensus that the rules of war and the humanitarian principles that guide humanitarian action reflect critical and fundamental moral standards that must always be borne in mind by humanitarian practitioners. They retain significant value as tools that can be used to limit the devastating effects of armed conflict and enhance humanitarian outcomes, as well as reduce operational and individual risks. Although there is a need to continuously think about how to adapt the humanitarian principles in complex conflict environments, efforts to promote and respect the laws of war should continue, and humanitarian actors should persist in their efforts to work collaboratively to enhance respect for these laws.

Australian Red Cross looks forward to continuing its collaboration with the Australian humanitarian sector to achieve this objective.

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