



**COUNCIL OF DELEGATES  
OF THE INTERNATIONAL RED CROSS  
AND RED CRESCENT SOCIETIES**

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**Workshop Report:  
International humanitarian law and humanitarian access**

**Workshop Officers**

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**Main conclusions:**

1. Humanitarian access to victims implies acceptance and acceptance from all sides and stems from a range of factors including:
  - the quality, the coherence and the transparency of the work of the Red Cross and Red Crescent performed in the full respect of the Fundamental Principles of the Movement and of IHL norms and values,
  - Red Cross and Red Crescent work in the frame of a genuine relationship with all the parties, based ideally on commonly accepted legal grounds,
  - Red Cross and Red Crescent action which stands for our principles.
2. History, traditional culture and language play a role in the acceptability of IHL. Pre-existing ideas and norms of justice within any given culture must be examined and any relevant aspects used in communicating IHL rules and concepts.
3. The auxiliary role of National Red Cross and Red Crescent Societies to their public authorities in the humanitarian field is sometimes double edged. While it plays a significant role in allowing humanitarian access in many situations, it may also impede access where the government is disliked, or not perceived to be neutral. National Societies must remain close to power but not influenced by it.

4. The emblem plays a critical role in identifying and creating a peaceful operating space for National Societies and the Movement. However its protective role is not always understood by people outside of the Movement and its commercial and other abuse are still frequent in many parts of the world. Robust legal protection of the emblem through national laws, policing and judicial enforcement are essential, as are proactive measures of persuasion intended to discourage emblem misuse within the national territory. Serious misuse of the emblem remains today a reality.
5. While respect for IHL by parties remains a principal tool for humanitarian access, it must always be understood who one is dealing with and non IHL approaches such as dialogue, confidence building, effective communication and coherent and consistent action must be utilised when required. All this must be done without compromising the Fundamental Principles of the Movement.
6. The importance of Partnerships between National Societies, the ICRC and the International Federation was noted. The components of the Movement can complement, assist and even protect each other within a given operational context and should allocate duties bearing in mind who is best placed to do so.
7. There are areas of the world where the Red Cross and Red Crescent Movement is still not perceived as neutral and independent and work on image, perception and the reality of Red Cross and Red Crescent impartiality in action needs to be continually demonstrated. Media and publicity in promoting the work of the Movement is usually a plus, but can be negative.
8. The issue of establishing the legal qualification of various situations in IHL (e.g. International Armed Conflict, Non International Armed Conflict, Occupation, other situations of violence, etc) remains central to the discussion. No official body is in charge of this and while the ICRC's analysis or position may be persuasive, States are not bound to accept this. Courts and the United Nations may step in sometimes.
9. The growing role of the Red Cross and Red Crescent was noted in creating an impartial perception when it carries out economic, income generating or development work in poorer countries and where its staff are open based, inclusive and representative of the whole country religiously, ethnically, politically, etc.
10. The security of Red Cross and Red Crescent personnel and volunteers remains an issue in certain parts of the globe. The deaths of Red Cross and Red Crescent staff and volunteers in recent years testify to this and we salute all our members who have been killed in the line of duty.

#### **List of issues / challenges**

- Diversity within the country (languages, cultures, religions, economy, natural resources, etc.), taking into account that diversity within the NS (Governance, Management, structures, etc.);
- Presence of the National Society (NS) in the country (coverage of the territory...);
- Access limited due to the significance of the ICRC's active presence somewhere (qualification of the conflict as an armed conflict);
- Limited number of activities allowed by the Government (only food assistance for instance);
- Acceptability and acceptance by the population itself – expectations of the population and of national authorities (e.g. NS playing a role in the Bougainville development plan of action);

- Violence as a normalized and glorified phenomenon, part of the cultural, social and historical heritage;
- Absence of knowledge and understanding of some Fundamental Principles, such as neutrality, impartiality, independence and voluntary work;
- Integrity of the NS;
- Fairness and impartiality in providing services to the community (communities) in all its (their) diversity;
- Acceptability of the NS as such;
- Weakness of IHL and the lack of effective international enforcement and accountability mechanisms and norms (the International Criminal Court as an exception);
- Mentioning IHL may be counterproductive at times.

**Proposed remedies:**

- Dialogue and time (take up the rhythm of the people and tribes, etc.);
- Demystification of the glory of war;
- Look for allies (women in Papua – not interested to send their sons to war, not interested to be a prey and an exchange item);
- Freedom given to the NS to step back and to call for the ICRC to jump in and to act as a protective shield;
- Work on changing the minds;
- Strongly base our activities on the Fundamental Principles;
- Use of IHL, including the Study on customary IHL;
- Article 1 Common to the 1949 Geneva Conventions "Respect and ensure respect" – legal obligation of States Parties to act;
- Dissemination and education;
- Starting education (rather than teaching) at an early stage (age);
- Need to adapt to the evolutions of the needs of the beneficiaries – victims;
- Coordination within the Movement and with external actors;
- Dissemination already during peacetime (too late once violence has erupted) to all sectors of society, to all potential parties, etc.

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