



## Intergovernmental Process on Strengthening Respect for International Humanitarian Law (IHL)

05 November 2018

### Fifth Formal Meeting

Geneva, 3-5 December 2018

### Discussion paper for the 5<sup>th</sup> Formal Meeting

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## General remarks

In accordance with the Work Plan for 2018 adopted at the Third Formal Meeting in the intergovernmental process, the Fifth Formal Meeting (3-5 December 2018) will be dedicated to the following issues:

- *Development of proposals for strengthening respect for IHL based on the converging elements and discussions held*
- *Identification of the main proposals to be further pursued*
- *Preliminary exchange of views on elements and form of the outcome of the intergovernmental process*
- *Consideration and adoption of work plan for 2019*

The Formal Meeting of 3-5 December 2018 builds on the meetings held within the intergovernmental process in 2016 and 2017, on exchanges on converging elements that took place at the Fourth Formal Meeting of 4-6 May 2018, and on the open-ended consultation of 18 September 2018 as well as the informal meeting of 18 October 2018, at which preparatory discussions on the issues to be addressed at the Formal Meeting of 3-5 December took place.

The main purpose of the Fifth Formal meeting is for States to identify the key elements of one (or more) proposal(s) that could be further refined in the intergovernmental process in 2019 in order to present a timely outcome to the 33rd International Conference.

## Aim and structure of the discussion paper

The present discussion paper has been prepared in order to facilitate discussions at the Fifth Formal Meeting in the intergovernmental process on strengthening respect for IHL.

**Part I** aims to assist States in the development of proposals and the identification of main proposals as foreseen by the Work Plan for the Fifth Formal Meeting. It is based on guidance received from States at the open-ended consultation held on 18 September 2018 and the informal meeting held on 18 October.

At the informal meeting it was suggested by States that:

- certain factual elements related to the main ideas proposed by States for an outcome to the intergovernmental process be included,
- main ideas included in the proposals made by States be grouped by subject,
- safeguards and working practices for a possible dialogue among States on IHL be indicated, and
- textual elements for the three illustrations of possible commonalities among States' main ideas be provided (Visual C on page 15).

The discussion paper has been accordingly revised.

**Part II** presents the draft of a work plan for 2019, the adoption of which is also on the agenda of the Fifth Formal Meeting.

The last section of the discussion paper provides **questions for States on the issues** mentioned above and seeks to continue a preliminary exchange on the elements and form of the outcome of the intergovernmental process.

## PART I

### A) The current practice on IHL of the International Conference

The International Conference of the Red Cross and Red Crescent is a unique global forum which, every four years, brings together the world's largest humanitarian network and States.<sup>1</sup> The network referred to is the International Red Cross and Red Crescent Movement, which is composed of 191 National Red Cross and Red Crescent Societies, the International Federation of National Red Cross and Red Crescent Societies, and the ICRC.

The International Conference serves as the "supreme deliberative body for the Movement".<sup>2</sup> At the Conference components of the Movement gather with the States parties to the Geneva Conventions to jointly "examine and decide upon humanitarian matters of common interest and any other related matter".<sup>3</sup>

The working methods of the International Conference reflect its unique mandate and composition in regard to discussions of all matters that come before the Conference, including IHL. Thus, all Conference bodies are open to all members of the Conference at all times in order to maintain the singular opportunity presented by the Conference for Movement components to meet and exchange with States. Similarly, all Conference decisions, which take the form of resolutions, are agreed on by all members of the Conference on an equal basis. These unique characteristics of the Conference are encapsulated in the Movement's Statutes and Rules of Procedure.

The work of the Movement, and the proceedings at the International Conference, are guided by seven Fundamental Principles: humanity, impartiality, neutrality, independence, voluntary service, unity and universality.<sup>4</sup> These seven principles were unanimously adopted by all components of the Movement and States at the 20th International Conference in 1965. In 1986, they were included in the Statutes of the Movement. With regard to the International Conference, the Statutes stipulate that "[a]ll participants in the International Conference shall respect the Fundamental Principles and all documents presented shall conform with these Principles".<sup>5</sup> Thus, all debates must be free from political, racial, religious or ideological controversies.<sup>6</sup> While the Fundamental Principles are not of themselves binding on States, States must respect the Fundamental Principles while taking part in the International Conference.

The International Conference has a long record of working towards the better implementation of IHL. The central role of the Conference in respect of IHL is reflected in Article 10 of the Movement's Statutes which lists the functions of the International Conference. It provides that the Conference "contributes to the respect for and development of IHL".<sup>7</sup>

Visual A below aims to represent the current practice of the International Conference in respect of IHL. The visual shows some of the habitual IHL activities of the International Conference (in the left hand side box), among which are:

- the establishment of an IHL Commission,
- the adoption of resolutions, and
- the adoption of pledges.

Each of these activities is described in the next section of the discussion paper.

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<sup>1</sup> See Statutes of the International Red Cross and Red Crescent Movement, Article 11(1). (Hereafter "Statutes of the Movement")

<sup>2</sup> Statutes of the Movement, Article 8.

<sup>3</sup> Statutes of the Movement, Article 8.

<sup>4</sup> A detailed discussion of each principle is available online:

[https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_0513.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_0513.pdf)

<sup>5</sup> Statutes of the Movement, Article 11(4).

<sup>6</sup> Statutes of the Movement, Article 11(4).

<sup>7</sup> Statutes of the Movement, Article 10 (2).

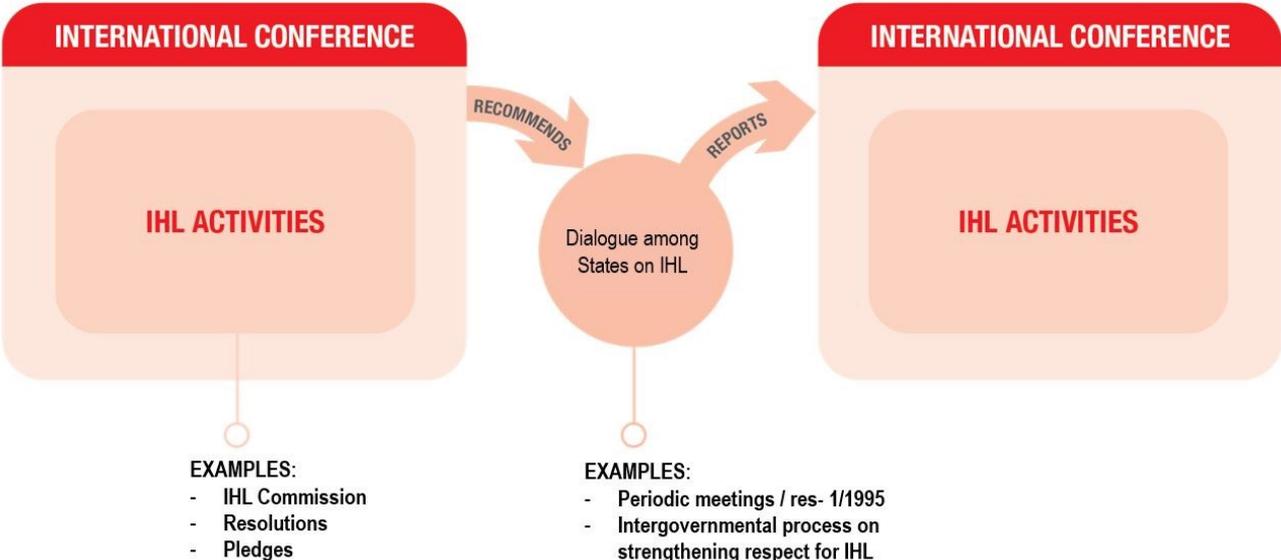
Visual A also shows (by means of a circle in the middle of the picture), that the International Conference has historically, and as recently as 2015, recommended the holding of a dialogue among States on IHL. In these instances, the Conference has also requested that feedback to it on such meetings be provided. Further clarification in this regard is also provided in the next section of the discussion paper.

The right hand side box in visual A completes the flow of IHL activities by demonstrating that they arise from and loop back into the International Conference.

It may be useful to recall that detailed factual information on the mandate, structure and working methods of the International Conference, with a specific focus on its IHL-related activities, was provided by the co-facilitators in the Background Paper prepared for the Third Formal Meeting of States held in December 2017. The paper is available on the dedicated website of the intergovernmental process at: [www.respect-ihl.ch](http://www.respect-ihl.ch), password: Geneva2019).

**VISUAL A**

**THE INTERNATIONAL CONFERENCE: CURRENT PRACTICE ON IHL**



## **B) Main ideas put forward by States on how to use the potential of the International Conference to strengthen respect for IHL**

Several proposals for a possible outcome to the intergovernmental process have been made by States since the Fourth Formal Meeting was held in May 2018.<sup>8</sup>

The second visual below (Visual B) aims to present and bring together the main ideas contained in these proposals, as well as those made previously by States, including at the Fourth Formal Meeting. The text below groups the main ideas by subject - IHL at the International Conference, dialogue among States on IHL between Conferences and a technological platform on IHL - as was requested at the 18 October informal meeting, to facilitate comparison, while also retaining a pictorial representation of their possible links in visual B. A number of proposals by States included a combination of different ideas listed in groups 1, 2 and/or 3 below.

This section of the discussion paper likewise provides brief factual reminders related to the main ideas put forward by States, based on requests made at the Informal Meeting, which may be of use for States' exchanges at the Fifth Formal Meeting.

Visual B, it is submitted, shows that the main ideas that have been put forward by States center on strengthening respect for IHL through the International Conference. They rely on this existing mechanism, i.e. on the possible enhancement of its working practices and precedents to enable more engagement by the Conference on IHL, without entailing the creation of new practices or procedures outside the Conference. In other words, most of what has been suggested is being done at the International Conference already.

In this context it should be recalled that the Statutes and Rules of Procedure of the Movement would govern the way in which possible enhancement of the working methods or practices of the International Conference would be agreed by all Conference members, and implemented.

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<sup>8</sup> These proposals have been circulated to all Permanent Missions in Geneva by means of electronic mailings and are also available on the dedicated website of the intergovernmental process.

**VISUAL B**

**MAIN IDEAS PUT FORWARD BY STATES AS CONTRIBUTIONS TOWARDS A POTENTIAL OUTCOME**

**THE POTENTIAL OF THE INTERNATIONAL CONFERENCE**

**IHL ACTIVITIES**

- Respect for IHL as part of the general debate of the International Conference
- Respect for IHL as an agenda item of the International Conference
- Special session at the International Conference on Respect for IHL/ Quadrennial “stocktaking” meeting on the margins of the International Conference
- IHL commission/Subsidiary body of the International Conference
- Engagement of dedicated IHL regional forums where they exist with the International Conference
- Recurrent resolution on the implementation of IHL or respect for IHL
- Pledges on respect for IHL
- Dialogue among States on IHL between Conferences

- States' dialogue in continuation of enhanced IHL exchanges at the International Conference
- Preparatory/follow-up expert meetings among States on IHL
- IHL special event held back-to-back with the International Conference
- Regular State meetings on IHL with a meaningful link to the International Conference
- Biennial States' dialogue on IHL in conjunction with the Universal Meetings of IHL National Committees

○ **Technological platform on IHL**

Web platform for exchanges on Respect for IHL  
Online repository of official State documents on IHL

- **Main ideas, group 1: IHL at the International Conference**

**a) General debate.** It was suggested that respect for IHL could be enhanced through the general debate of the International Conference. A segment of the general debate could be set aside for interventions by all members focused on IHL.

The general debate of the International Conference is similar to general debates at other large international gatherings. It provides all members of the International Conference - both States and the components of the Movement - with an opportunity to express and share their views on the issues on the agenda of the International Conference or on other humanitarian issues they may wish to raise. The general debate consists of the reading of written statements, for which there is no template. Its duration is not limited, i.e. it runs until all delegations who so wish have made their statement, and takes place in parallel to other items of the Conference agenda.

**b) Special/dedicated IHL session/quadrennial stocktaking.** Respect for IHL could be established as an agenda item of the International Conference in the form of a special/dedicated session on IHL for all members at the International Conference, allowing for quadrennial stocktaking.

Special sessions on a particular topic outside the standard frame of commissions and general debate are not as such a usual feature of the International Conference agenda, but have been organized on occasion. Such a segment was held at the 32<sup>nd</sup> International Conference in 2015 and was entitled “Focus on Migration”, based on a progress report (2011-2015) on the implementation of Resolution 3 of the 31st International Conference related to migration. It took the form of a panel discussion with subsequent statements and exchanges by Conference members over the course of a morning, held in plenary format. The discussion ran in parallel to other items on the Conference agenda. The plenary took note of the progress report as a follow-up to the 31st International Conference.

**c) IHL Commission.** A reformatted, recurring commission on IHL as a subsidiary body of the International Conference open to all members could be provided for.

The International Conference establishes subsidiary bodies for the duration of the Conference,<sup>9</sup> which take the form of “plenary commissions” open to all Conference participants. Each commission elects its Chairperson, Vice-Chairpersons and Rapporteurs on the proposal of the Council of Delegates.<sup>10</sup> Commissions provide a space for discussions on matters of substance, including in relation to IHL. Over the past 150 years, a number of Conferences established commissions dedicated to IHL issues. At the 32nd International Conference in 2015, five commissions were established as subsidiary bodies, one of which was focused on “Contemporary Challenges in IHL”. Discussions in this commission, which were animated by expert panels, were scheduled for two hours during the three-day Conference (in two separate language groups) and took place in parallel to other items on the Conference agenda.

**d) Engagement with dedicated IHL regional forums, where they exist.** The International Conference could provide a venue for the showcasing of the work of dedicated IHL regional forums, where they exist.

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<sup>9</sup> Statutes of the Movement, Article 10(8). See also Rules of Procedure of the International Red Cross and Red Crescent Movement, Rule 16.

<sup>10</sup> The Council of Delegates is a body in which the representatives of all the components of the Movement meet to discuss matters which concern the Movement as a whole. It is thus not a body of the International Conference. It meets biennially: once just prior to the International Conference, and once at the end of the second year following the International Conference. Through discussion, debate and adoption of resolutions, the Council develops Movement policy and strategy for humanitarian issues of global concern. The Council of Delegates also adopts the provisional agenda of the International Conference and proposes for election by the International Conference the Chairperson, Vice-Chairpersons, Secretary General, Assistant Secretaries General and other officers of the Conference. It thus plays an important procedural role in setting the Conference agenda.

Nothing similar to this has been undertaken at previous International Conference, to the best of our knowledge. Discussions within the intergovernmental process highlighted the positive contribution of dedicated IHL regional forums, where they exist, to strengthening respect for IHL. The forums referred to are those whose primary purpose is exchanges between States, or States and other actors on enhancing implementation of IHL, and not regional intergovernmental organizations within the usual international law meaning of that term. It was emphasized that the work of these forums should be seen as complementary to efforts at the global level to increase respect for IHL. Discussions indicated that ways should be explored for enabling dedicated IHL regional forums, where they exist, to share their experiences in strengthening respect for IHL at the global level. In this context it may be observed that any of the IHL segments described above could be used as an opportunity for dedicated IHL regional forums to share their experiences with members of the International Conference if they so wish.

**e) Recurring IHL Resolution.** A resolution on the implementation of IHL or respect for IHL could be adopted by each International Conference.

In accordance with article 10(5) of the Statutes of the Movement, “the International Conference shall adopt its decisions, recommendations or declarations in the form of resolutions”. In practice, and as encouraged by the Statutes, resolutions are generally adopted by consensus.<sup>11</sup> Each member of the International Conference has one independent vote (i.e. each State and each component of the Movement). The drafting and negotiation of resolutions normally takes place in the drafting committee of the Conference. All members may participate in the drafting of resolutions; in contrast, observers cannot. The 32<sup>nd</sup> International Conference in 2015 adopted a number of IHL-related resolutions, including resolution 2, on which the meetings of the current intergovernmental process are based.

**f) Pledges.** Voluntary pledges focused on respect for IHL could be submitted by members of the International Conference individually or jointly. Such pledges could also be related to an IHL dialogue among States.

In the *practice* of the International Conference, “pledges” have developed as a tool that the members of the Conference may use to submit, either individually or jointly with other members, voluntary humanitarian commitments for the four-year period until the next International Conference.<sup>12</sup> Two main types of pledges have evolved: first, specific pledges can be initiated by Conference members or observers. These pledges are normally tailored to the particular national context of the sponsor(s). Second, open pledges - which normally take the form of a petition - can also be initiated. In these cases, the sponsor of the pledge opens the pledge up to support by other members and rallies support for a cause or action. It is also possible for an open pledge to be restricted to a specific group of States and National Societies, e.g. within a region.

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<sup>11</sup> Statutes of the Movement, Article 11(7).

<sup>12</sup> For instance, at the 32<sup>nd</sup> International Conference, 215 pledges were made. [http://rcrcconference.org/wp-content/uploads/2016/05/What-is-the-International-Conference\\_Summary-EN.pdf](http://rcrcconference.org/wp-content/uploads/2016/05/What-is-the-International-Conference_Summary-EN.pdf)

- **Main ideas, group 2: dialogue among States on IHL between International Conferences**

**g) Dialogue among States on IHL.** The International Conference could provide that exchanges on IHL among States be held between International Conferences.

The main ideas for such exchanges, based on proposals submitted by States, are:

- **States' dialogue in continuation of enhanced IHL exchanges at the International Conference**  
Sustained States' dialogue in continuation of work on Respect for IHL of the International Conference at expert level
- **Preparatory/follow up expert meetings among States on IHL**  
Meetings on Respect for IHL at expert level based on resolution 1 of the 26th International Conference (1995) or on the current intergovernmental process in preparation and as a follow-up of IHL discussions at the International Conference
- **IHL special event held back-to-back with the International Conference**  
IHL special event among States on a pilot basis, held back-to-back to the International Conference and preceded by periodic thematic discussions among States
- **Regular States' meetings on IHL with a meaningful link to the International Conference**  
Regularly scheduled dialogue among States linked to the International Conference, including through reporting back to the International Conference and other appropriate measures
- **Biennial States' dialogue on IHL in conjunction with Universal Meetings of IHL National Committees**  
Biennial State dialogue feeding into the International Conference, complemented as necessary by informal preparatory consultations, benefitting from the occurrence of Universal Meetings of national committees on IHL and other similar bodies if and when these are convened

As mentioned above, the International Conference has previously recommended the holding of meetings related to IHL among States.

Thus, resolution 1 of the 26<sup>th</sup> International Conference in 1995 endorsed seven recommendations formulated by an Intergovernmental Group of Experts for the Protection of War Victims. One of them recommended "the depositary to organize periodical meetings of the States parties to the 1949 Geneva Conventions to consider general problems regarding the application of IHL". Acting on Resolution 1, the Swiss Government convened the First Periodical Meeting of States party to the Geneva Conventions on general problems relating to the application of IHL in 1998. More details on this issue are provided in the December 2017 Background Document prepared for the Third Formal Meeting.

Three years ago, in 2015, the 32<sup>nd</sup> International Conference laid the groundwork for the current intergovernmental process in resolution 2 entitled "Strengthening compliance with IHL".

Resolution 2 built on a consultation process launched by the 31<sup>st</sup> International Conference in 2011. The 2015 Conference "recommend[ed] the continuation of an inclusive, State-driven intergovernmental process based on the principle of consensus after the 32<sup>nd</sup> International Conference and in line with the guiding principles enumerated in operative paragraph 1 to find agreement on features and functions of a potential forum of States and to find ways to enhance the implementation of IHL using the potential of the International Conference and IHL regional

forums in order to submit the outcome of this intergovernmental process to the 33rd International Conference".<sup>13</sup>

As is known, four Formal Meetings have been held since then in the current intergovernmental process, as well as several informal meetings and open-ended consultations among States.

As may be concluded, in each case the International Conference recommended the holding of a dialogue on IHL among States by means of a resolution adopted by all members of the Conference. Each Conference also recommended that there be feedback to the next Conference as regards the outcome of the State meetings.<sup>14</sup>

These are important ways in which the International Conference can provide the institutional framework - and thus a safeguard - for a dialogue among States on IHL. The International Conference may also decide to undertake a review of such a dialogue and recommend its continuation, or not.

- **Main ideas, group 3: technological platform on IHL**

**h) Technological platform on IHL.** A technological platform could be set up to enable exchanges on IHL between International Conferences.

The use of modern technology has been suggested by States as a way of facilitating exchanges on IHL. This group of main ideas is reflected in the following proposals:

- That an online repository of official State documents regarding their practice and policies related to their implementation of IHL be created. This repository would be similar to a collection of national digests - publications that collect and disseminate a State's official documents that reflect its practice in international law - but with a potentially global scope. States could provide official documents such as manuals, directives, policies, regulations, diplomatic correspondence, legislation, etc. Each State could contribute documents it deemed appropriate and would be free to update or remove documents it previously contributed. Access to the repository or to certain documents on it could generally be limited to States (or other approved users), or States could decide to allow for wider access.

- That a continuous voluntary exchange of best practices and discussion on a pertinent issue of IHL be conducted by means similar to the current dedicated website of the intergovernmental process. States could send their written contributions and exchange views using the web. For the sake of transparency the information should be made fully available to the general public.

- That a digital platform be created to facilitate exchanges on IHL among States. The platform could include: dissemination of IHL rules, ICRC Reports on Strengthening Compliance with IHL, and a database with official documents voluntarily provided by States. The platform could also have restricted areas: for information and documents before meetings, for the sharing of national or group position papers before each event, and for a database with information on National IHL Committees (or related bodies), including focal points.

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<sup>13</sup> Resolution 2, 32nd International Conference, 2015, OP 2.

<sup>14</sup> Resolution 1, 26th International Conference, 1995 OP 7; Resolution 2, 32nd International Conference, 2015, OP 2.

## **Further safeguards and working practices related to a possible dialogue among States on IHL that would be recommended by the International Conference**

At the 18 October informal meeting it was suggested that further safeguards and working practices related to a possible dialogue among States - that would be recommended by the International Conference - should be discussed. Provided below is an outline of the issues that have been raised in the exchanges within the intergovernmental process so far.

It is understood that the Guiding Principles of the intergovernmental process included in resolution 2 of the 32<sup>nd</sup> International Conference must apply to any State dialogue on IHL that may be recommended by the International Conference. Exchanges on converging elements held at the Third Formal Meeting in May 2018 served to, among other things, confirm that all States consider the Guiding Principles to be of a foundational nature.

All the Guiding Principles are of equal value. Several Guiding Principles that have been mentioned by States as particularly relevant in terms of safeguards are recalled below, followed by working practices that have likewise been noted as important in this regard.

### **- Voluntary nature of the dialogue**

A dialogue among States on IHL would be voluntary and not legally binding. States would be free to attend and participate, or not.

### **- Non-political and non-contextual nature of the dialogue**

A State dialogue on IHL must avoid politicization.

Such a dialogue must be prepared and conducted so as to ensure that exchanges do not involve country or situation-specific issues, or instances of violations of the law, which could give rise to mutual “naming and shaming”.

States would be able to speak only about their own practices and policies in the implementation of IHL and not that of other States.

Inspiration as to how procedurally to achieve this could *inter alia* be drawn from the Statutes of the Movement. Article 11 (4) provides that all participants of the International Conference “shall respect” the Fundamental Principles (to be substituted with the Guiding Principles in the case of exchanges among States). It authorizes the chairperson or official responsible for the conduct of business to ensure that “none of the speakers at any time” engages in controversies of a “political, racial, religious or ideological nature”. The Bureau of the Conference is tasked with applying the “same standard” to documents, before authorizing their circulation.

### **- State-driven and consensus-based character of the dialogue**

A State dialogue on IHL would be State-driven and consensus-based.

Such a dialogue would be conducted among States and States would determine its substantive content and procedural framework.

### **- Purpose of the dialogue**

The purpose of a State dialogue on IHL would be to contribute to a better understanding and implementation of IHL by States.

This could be achieved through thematic discussions on IHL issues, exchanges among States of practical experiences and best practices in the implementation of IHL, and allow States if they so wish to seek capacity building assistance in the implementation of IHL.

### **- Chairing of the dialogue**

The following models for the chairing of possible meetings have most often been mentioned: chairing by Switzerland, by Switzerland and another State as co-chair (the latter on rotating basis taking into account equitable geographical distribution), or on a rotating basis among States taking into account equitable geographical distribution.

- **Selection of topics for the dialogue**

Only States would be able to decide on the topics that would be addressed in a possible dialogue. Apart from States, proposals for topics could be made by the International Conference, the ICRC or National Red Cross and Red Crescent Societies.

- **Participation in the dialogue**

States would be full participants in a possible dialogue. The composition of each delegation would be for States to decide. States should take into account the need to include representatives of government entities that have the responsibility for and practical experience in the domestic implementation of IHL when determining the composition of their delegation. Representatives of National Red Cross and Red Crescent Societies could be part of a State's delegation.

The participation of National Red Cross and Red Crescent Societies as observers in the State dialogue could be provided for. National Societies could be represented through the International Federation, or based on a format that would provide for the rotational participation of a certain number of National Societies, and the International Federation, at the meetings.

- **Outcome of the dialogue**

An outcome to a State dialogue on IHL could be contained in a range of formats. In the discussions so far a factual "no action" report for the IHL segment of the International Conference was mentioned.

- **Continued contribution of the ICRC**

Discussions in the intergovernmental process confirmed States' desire for the ICRC to continue to be involved in a dialogue among States on IHL that may result from the current process. Equally, discussions highlighted the need for the continued and sustained involvement of the ICRC at the level of IHL regional forums.

## C) Illustrations of commonalities among main ideas

The third visual below (*Visual C*) aims to illustrate the ways in which the main ideas contained in States' proposals submitted so far could be combined to strengthen respect for IHL by enhancing the IHL role of the International Conference while remaining within its existing working methods.

A number of proposals made by States provide a combination of main ideas. Each of the three illustrations below is made up of a combination of main ideas proposed by States which were listed and discussed in the previous section. Thus, a different IHL segment at the International Conference is combined with a different format for a dialogue among States in each of the three pictures. In every case, the illustration indicates that the International Conference is the focus of IHL activity: that there may be an enhanced exchange on IHL among all Conference members at the Conference, and that the Conference may recommend a dialogue among States on IHL that would report back to it.

Each of the three illustrations also includes representations of the main elements related to the showcasing of the activities of dedicated IHL regional forums, where they exist, and of States' proposals to set up a technological platform on IHL.

The illustrations are intended to provide a starting point for States' exchanges and do not present options, nor a substitute for States' proposals. Their purpose is to show the similarities, convergence and commonalities between States' main ideas.

The combinations of main elements proposed by States were assembled so as to show how the interface between certain main ideas could be envisaged and thereby assist them in advancing towards an outcome to the intergovernmental process that could be agreeable to all.

It must be stressed that the elements contained in the three illustrations are not mutually exclusive. Rather, they should be seen as interchangeable, i.e. capable of producing more combinations than the ones provided for in each of the three separate illustrations. Their elements could thus be moved around, i.e. differently placed (or "matched") between the illustrations and serve to inspire new solutions and contributions by States.

As mentioned above, the purpose of the illustrations is to help prepare the ground for States ahead of the Fifth Formal Meeting with a view to the development and identification of main proposals, as foreseen in the work plan for 2018.

Provided below first is a brief narrative summary of each illustration.

At the 18 October informal meeting it was suggested that the illustrations and summaries be accompanied by textual elements so as to advance States' reflection and facilitate their discussions on identifying one or more main proposals to be pursued going forward. Thus, possible textual elements related to the illustrations follow thereafter, without purporting to be complete or exhaustive.

### **Illustration 1**

- *Summary*

This illustration combines a dedicated session on IHL of the International Conference with an IHL special event/ or quadrennial stocktaking on a "pilot" basis, preceded by thematic discussions among States.

Illustration 1 envisages a somewhat novel way of addressing IHL issues at the International Conference. A dedicated session of the International Conference on IHL could be included in the Conference agenda to allow States and all components of the Movement to focus on ways of enhancing respect for IHL. To prepare for such a gathering, a special event on IHL/ or quadrennial IHL stocktaking could be held among States close to the International Conference. This event/or stocktaking could initially be held on pilot basis to ensure that the format envisaged fits its purpose and States' expectations. Thematic discussions among States could

be organized annual basis preceding the year in which the special event/quadrennial stocktaking takes place. An online repository/website platform could also be made available to enable continuous exchanges among States on IHL issues.

## **Illustration 2**

- *Summary*

This illustration combines a standing item on IHL as part of the general debate of the International Conference with a biennial State dialogue on IHL, supplemented by informal consultations, as may be agreed.

Illustration 2 envisages a more prominent focus on IHL as part of the general debate of the International Conference combined with a biennial State dialogue. The biennial State dialogue feeding into the International Conference would constitute a continuation of the current intergovernmental process on strengthening respect for IHL. Thus, formal meetings as part of the State dialogue could be complemented as necessary by informal preparatory consultations. The State dialogue could further benefit from the occurrence of Universal Meetings of national committees on IHL and other similar bodies if and when these are convened. An online repository/website platform could also be made available to enable continuous exchanges among States on IHL issues.

## **Illustration 3**

- *Summary*

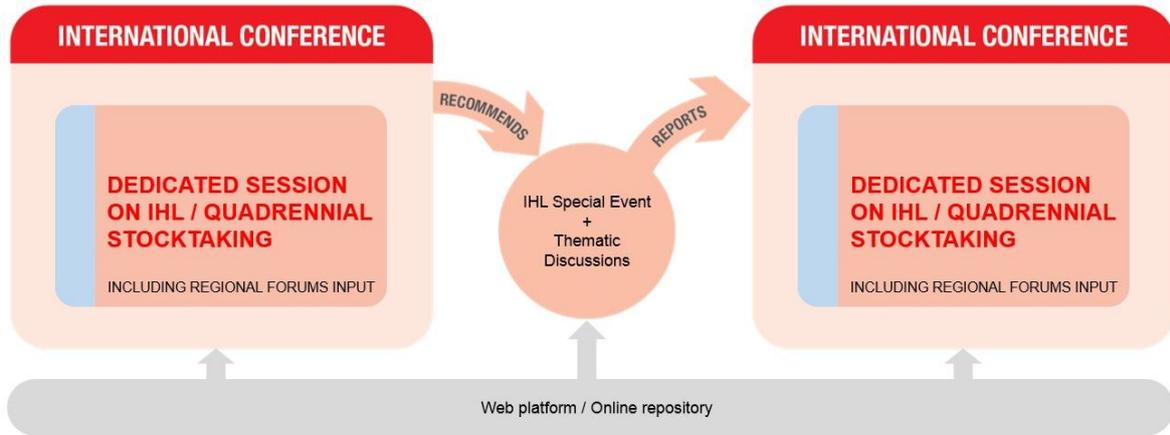
This illustration combines an IHL Commission as a recurring subsidiary body of the International Conference with expert meetings among States.

This illustration envisages reinforcement of the role of the International Conference in strengthening respect for IHL by transforming a current practice of the International Conference - the establishment of a Commission on IHL - into a recurring (and reformatted) feature. In follow-up to and preparation of the IHL Commission, expert meetings modeled on the periodic meetings foreseen in Resolution 1 of the 26<sup>th</sup> International Conference of 1995 could enable a continued States' dialogue on IHL. The IHL Commission could provide suggestions to the experts meetings and benefit from their exchanges and discussions. An online repository/website platform could also be made available to the expert meetings. Illustration 3 arranges States' ideas in a way that consolidates the existing and past practice of the International Conference.

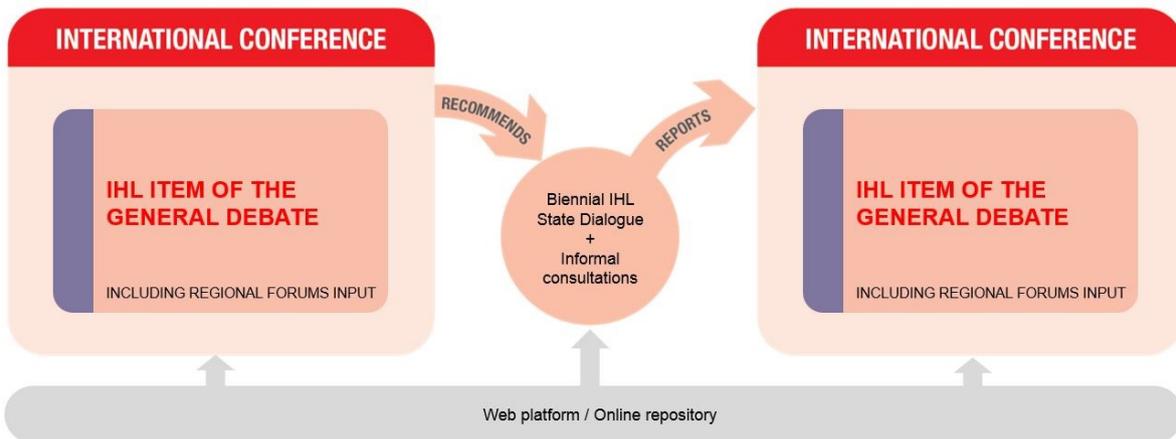
VISUAL C

# ILLUSTRATIONS OF COMMONALITIES AMONG MAIN IDEAS

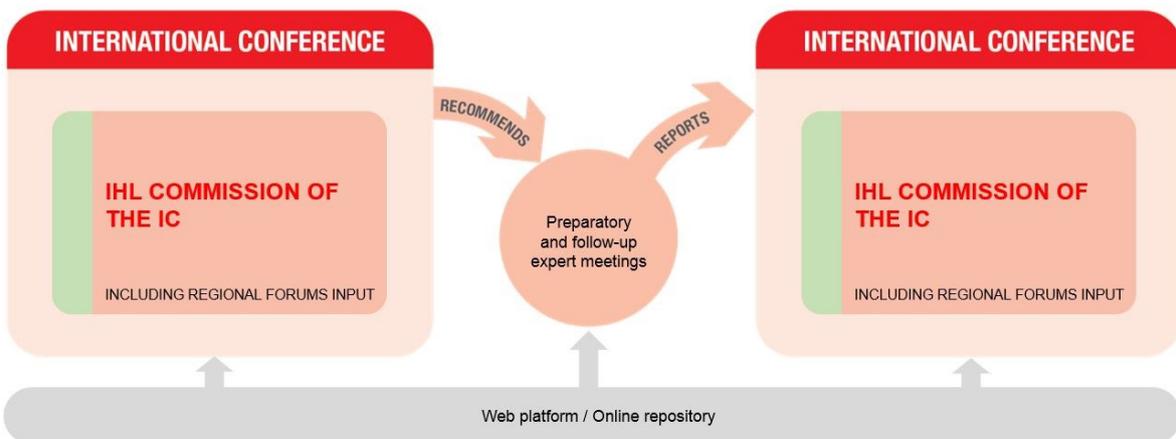
## 1 A dedicated session on IHL complemented by an IHL quadrennial event on a pilot basis



## 2 An IHL item of the general debate combined with a biennial IHL Dialogue as a continuation of the intergovernmental Process



## 3 An IHL Commission enhanced by preparatory/follow-up Expert meetings based on res. 1/1995



## Textual elements

The 33<sup>rd</sup> International Conference could in a resolution recommend that:

### 1. **Enhancement of IHL activities at the International Conference**

- *a recurring dedicated plenary session on strengthening respect for IHL be included in the agenda of the International Conference,*

**or**

- *a recurring segment of the general debate of the International Conference be devoted to strengthening respect for IHL,*

**or**

- *a recurring IHL Commission be established during the International Conference,*

allowing for enhanced exchanges and stocktaking on strengthening respect for IHL among all members of the International Conference, in particular allowing to take note of the report of a dialogue among States on IHL between International Conferences and to highlight the work on IHL of National Societies and of dedicated IHL regional forums where they exist.

### 2. **Dialogue among States on IHL between International Conferences**

a dialogue among States on strengthening respect for IHL be held between International Conferences, in accordance with the guiding principles provided for in resolution 2 of the 32<sup>nd</sup> International Conference, and as further provided for in the Annex below. Such a dialogue could be undertaken:

- *on a pilot basis and be reviewed by the 34<sup>th</sup> International Conference. It would comprise a special event on respect for IHL that would take place ahead of the International Conference in order to take stock of the dialogue among States on strengthening respect for IHL and to prepare a report to the International Conference*
- *in preparation, thematic discussions on respect for IHL would take place on an annual basis in the years preceding the year in which the 34<sup>th</sup> International Conference is held, complemented by continuous exchanges through a digital platform,*

**or**

- *in continuation of the intergovernmental process established by the 32<sup>nd</sup> International Conference. It would comprise a biennial dialogue among States that would be held between International Conferences devoted to strengthening respect for IHL, with a report of the dialogue prepared for the next International Conference,*
- *informal consultations of States in preparation for and in follow up to the biennial dialogue would be held, as may be deemed necessary by States, complemented by continuous exchanges through a digital platform,*
- *a biennial State dialogue could benefit from the occurrence of Universal Meetings of national committees on IHL and other similar bodies if and when these are convened,*

**or**

- *in continuation of resolution 1 of the 26<sup>th</sup> International Conference of 1995. It would comprise meetings at expert level among States devoted to strengthening respect for IHL, complemented by continuous exchanges through a digital platform, with a report of such meetings and exchanges to be submitted to the next International Conference.*

### **3. Dedicated digital platform on IHL**

- a dedicated digital platform be established to enable continuous exchanges on strengthening respect for IHL [among States/all members of the International Conference].

The **Annex** regarding the dialogue among States on strengthening respect for IHL between International Conferences could include the following elements:

#### **Guiding principles**

- the Guiding Principles of the intergovernmental process will serve as guidance for the dialogue among States on IHL:
  - voluntary
  - non politicized and non-contextual
  - State-driven and consensus based, etc.

#### **Working practices**

##### Chairing

- *Rotating basis among States* (taking into account equitable geographical distribution)

**or**

- *Switzerland and another co-chair* (the latter on rotating basis taking into account equitable geographical distribution),

**or**

- *Switzerland*

The chair would have the authority to ensure the conduct of business so that in oral statements and documents States refer only to their own practices and policies in the implementation of IHL and not that of other States

##### Selection of topics

States are to decide on the topics for the dialogue on IHL. Topics may be proposed by:

- States
- The International Conference
- The ICRC
- National Red Cross and Red Crescent Societies

### Participation

States define the composition of their delegations, which may include representatives of National Red Cross and Red Crescent Societies

The International Federation of the Red Cross and Red Crescent Societies and National Red Cross and Red Crescent Societies may participate in the dialogue among States on IHL as observers [pursuant to a formula to be determined]

### Outcome

["no action" report to the International Conference]

### Contribution of the ICRC

[to be added]

**PART II**

**Draft work plan for 2019**

As mentioned above, the Work Plan for 2018 adopted at the Third Formal Meeting in the Intergovernmental Process on Strengthening Respect for IHL provides that the Fifth Formal Meeting (which will be held on 3-5 December 2018) is to be dedicated, among other items, to the consideration and adoption of a work plan for 2019.

The draft work plan included below is based on the understanding that the formal meetings in 2019 should allow for sufficient discussion of a consensual proposal for strengthening respect for IHL as a result of the intergovernmental process and on the elements and form of an outcome to the intergovernmental process, with a view to finalizing the outcome by mid-2019.

Beginning of 2019	<b>Informal consultations</b>
March 2019	<b>Sixth formal meeting on strengthening respect for IHL</b> <ul style="list-style-type: none"><li>- Refinement and negotiation of a consensual proposal for strengthening respect for IHL</li><li>- Discussion of and agreement on the form of the outcome of the intergovernmental process on strengthening respect for IHL</li></ul>
March to June 2019	<b>Informal consultations</b>
June 2019	<b>Seventh formal meeting on strengthening respect for IHL</b> <ul style="list-style-type: none"><li>- Finalization and adoption of the outcome of the intergovernmental process for submission to the International Conference</li></ul>

### **Questions/issues for discussion:**

- 1) Do the discussion paper and visual B adequately reflect the main ideas included in States' proposals for an outcome to the intergovernmental process?
- 2) Which possible combination of States' main ideas would you suggest be identified as the basis of one (or more) consensual proposals going forward? Please refer to the textual elements on pp 16-18 to the extent useful.
- 3) The discussion paper provides an overview of safeguards and working practices related to a possible dialogue among States on IHL. Are any missing? If so which? What elaborations would you propose to the safeguards and working practices that are included in the discussion paper?
- 4) How should work toward reaching a consensual proposal be organized in 2019?
- 5) Please provide your views on the draft Work Plan for 2019.
- 6) Please provide any initial views you may have on the desired elements and form of the outcome of the intergovernmental process.