HUMANITARIAN LAW & POLICY

Fact-finding in the age of distrust: the continued relevance of the IHFFC

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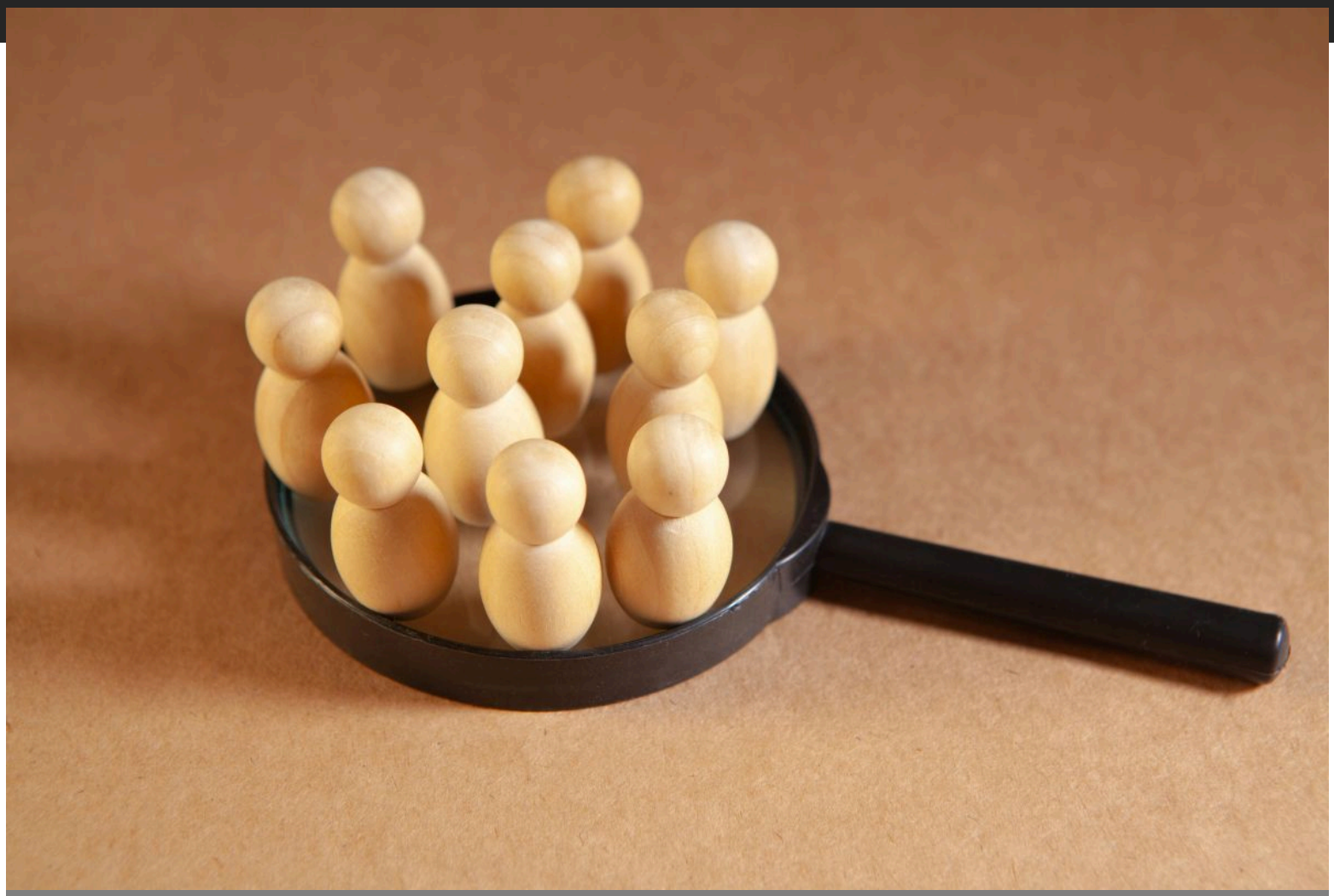
Cristina Azzarello
Humanitarian Affairs Adviser, Permanent Mission of Italy to the UN and other International Organizations



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At a time when allegations of serious violations of international humanitarian law (IHL) are increasingly contested, establishing the facts independently and impartially seems more important yet difficult than ever. Political divisions and declining trust in international institutions have made credible fact-finding particularly challenging. Yet the international community does not need to start from scratch. More than three decades ago, states established the International Humanitarian Fact-Finding Commission (IHFFC), a permanent, independent mechanism to inquire into alleged serious violations of IHL and facilitate the restoration of

respect for the law. The Commission has demonstrated its ability to operate, yet it is rarely used. The challenge is therefore not to create new mechanisms, but to make better use of those already existing, particularly those rooted in international treaties.

In this post, Cristina Azzarello, Humanitarian Affairs and Migration Adviser at the Permanent Mission of Italy in Geneva, examines the continued relevance of the IHFFC at a time when compliance with IHL is under considerable strain. Rather than questioning whether the Commission can operate, she considers what its experience tells us about its potential and how it might play a more significant role in the efforts to strengthen respect for IHL.

A hospital has been hit during an armed conflict. Contradictory reports emerge about who was responsible and what happened. Reports, photos and videos spread rapidly. Distinguishing reliable evidence from misinformation or manipulated content can be difficult. Under these conditions, independent and impartial fact-finding could be essential to establish what happened, prevent further violations and restore respect for international humanitarian law (IHL).

The International Humanitarian Fact-Finding Commission (IHFFC) was established under *Article 90 of Additional Protocol I of 1977 (API) to the Geneva Conventions* of 1949 to enquire into any facts alleged to constitute grave breaches or other serious violations of IHL and to facilitate, through its good offices, the restoration of an attitude of respect for the provisions of the Geneva Conventions of 1949 and API. To date, 78 states have *formally recognized* the Commission's competence under Article 90, while its good offices have been invoked on only two occasions, in 2017 and 2024. It is striking that the IHFFC has been used so rarely. Unlike a court or criminal tribunal, its purpose is not to look into accountability, determine criminal responsibility or draw legal conclusions about whether a certain conduct constitutes an IHL violation, but to establish the facts independently and impartially and to reinforce the credibility of mechanisms designed to uphold IHL.*[1]*

Past practice has shown that it is *no longer a body waiting to be activated*. Yet, the IHFFC has still been called upon in a limited number of cases and the question is what can be done to further encourage its use.

Fact-finding under pressure

Even when an independent enquiry is technically possible, securing the cooperation of states may prove far more difficult and even independently verified findings may be challenged or rejected. Geopolitical divisions, competing narratives and accusations of double standards in the application of international law have contributed to an environment in which the credibility of international investigations is increasingly questioned. The difficulty is therefore not only to determine what happened but also to ensure that the findings of an enquiry are perceived to be trustworthy.

For the IHFFC, this challenge is also linked to the question of state consent. Under Article 90, states may recognize the Commission's competence in advance, allowing it to conduct enquiries concerning other states that have accepted the same obligation, without requiring a further agreement. In other cases, an enquiry may be initiated only with the consent of the parties concerned if the parties have not both accepted the Commission's competence in advance. Furthermore, the Commission may also offer its good offices on the basis of arrangements agreed with the parties involved. This distinction matters: the Commission's ability to act depends not only on the relevant legal basis but also on the willingness of the parties to cooperate.

Reluctance of parties to make use of the good offices of the IHFFC is one of the main difficulties for the Commission's wider use.*[2]* States may be hesitant to open sensitive incidents to external examination, particularly when their own conduct or that of their armed forces is questioned. Yet refusing independent fact-finding can leave competing accounts unresolved, further undermine confidence in the relevance of IHL and lead to further criticisms of the states' conduct.

The distinctive approach of the Commission may offer some advantages in this respect. Its independence, impartiality and confidentiality, combined with its cooperative rather than adversarial character,*[3]* can make its involvement more acceptable in politically sensitive circumstances. Confidentiality, in particular, may encourage states to accept independent scrutiny, since the Commission's findings are not made public unless all parties request their publication. It can however also reduce the visibility of the Commission's work.

From theory to practice

The Commission's two publicly known fact-finding inquiries offer useful examples of how its expertise has been used. Although different in their legal basis and practical arrangements, both show that the IHFFC's role need not remain confined to the provisions of a treaty.

In 2017, following an explosion in eastern Ukraine that killed a paramedic and injured two members of the Organization for Security and Cooperation in Europe's (OSCE) Special Monitoring Mission, the IHFFC was asked by the OSCE to assemble and lead an independent forensic investigation. The investigation was conducted under agreed terms of reference and its *findings were reported to the OSCE*. In 2024, following the *killing of seven humanitarian workers* of the non-governmental organization (NGO) World Central Kitchen in the Gaza Strip, the IHFFC *offered its good offices* to the states whose nationals had been killed. Poland accepted the offer, leading to a Memorandum of Understanding being signed between the IHFFC and Poland in June 2024 in respect of this incident and the submission of a *confidential report* to the Polish Government in October that year. Unlike the Ukraine investigation, the scope and findings of this engagement remained confidential, as provided by the *rules governing the Commission*.

While the two experiences differed in their legal basis and operational arrangements, both concerned incidents affecting humanitarian personnel. This makes them particularly relevant in light of growing concerns over the safety of such personnel and the need for credible fact finding into incidents affecting them. It also provides a concrete link to the *Declaration for the Protection of Humanitarian Personnel*, the fourth pillar of which calls for independent and impartial investigations into incidents affecting humanitarian personnel and for strengthened national and international investigative capacities.[4] Although the IHFFC cannot replace judicial proceedings or states' responsibility to investigate violations, its existing expertise and capacity to establish facts impartially could give effect to these commitments, where the conditions for its involvement are met. The challenge is to make greater use of this existing capacity.

Making greater use of the IHFFC

The IHFFC's experience shows that its limited use cannot be explained only by practical barriers to the activation of its mandate. Several steps could help make the Commission more accessible and effective for states and other relevant actors.

One possibility is to make fuller use of the Commission's good offices function, provided under Article 90 of API. This aspect of its mandate deserves greater attention, particularly in situations where the parties may be reluctant to consent to a formal enquiry. The *function* seeks to restore an attitude of respect for IHL by communicating the conclusions on the points of facts, commenting on the possibilities of a friendly settlement and making written and oral observations by states concerned. The Commission itself has been *examining* how to operationalize further its good offices' function, including the challenges arising when the parties' consent has not been secured. The Commission's experience in Ukraine and Gaza illustrates how its expertise can be mobilized through arrangements tailored to specific circumstances. *Good offices* may offer opportunities for confidential engagement, dialogue and cooperation. This flexibility should not, however, be understood as a means of circumventing the consent of the parties concerned or replacing efforts to establish responsibility for serious violations.

A further objective would be to encourage more states to recognize the Commission's competence under Article 90 API. Broader recognition could strengthen its standing and enable the Commission to inquire into alleged grave breaches or serious violations of the Geneva Conventions and API without requiring *ad hoc* consent. It may also conduct enquiries in non-international armed conflicts with the consent of the parties concerned. Recognition alone would not guarantee greater use of the IHFFC, but it would be a concrete step towards making its services more readily available.

Making greater use of the IHFFC also requires a clearer understanding of how to engage with it. The Commission already has rules governing its organization and procedures, including enquiries. At its annual meeting in June 2026, the Commission adopted its *first operational guidelines*,[5] although their content and public availability remain to be clarified. Building on these developments, the Commission could consider making practical information more readily available, especially regarding the manner in which to request its services, the practical modalities for cooperation with the parties concerned, applicable procedural safeguards, and the handling of information and evidence. Such guidance could help address states' reservations about independent scrutiny, particularly among those unfamiliar with the Commission's procedures.

However, procedural clarity will have limited impact if the IHFFC remains insufficiently known. Existing initiatives provide useful starting points, including some limited exchanges with states considering recognition of its competence, engagement with *National IHL Committees* and presentations to the European Union's Working Party on Public International Law.[6] These initiatives could be taken a step further through more regular dialogue with states and relevant national institutions. The Global Initiative to Galvanize Political Commitment to IHL, launched by six states – Brazil, China, France, Jordan, Kazakhstan and South Africa – together with the ICRC, has offered a particularly important platform. Both the outcome documents on *Workstream 1*, on Prevention Good Practices, and *Workstream 5*, on Achieving Meaningful Protection for Hospitals in Armed Conflict, explicitly refer to the IHFFC as an existing impartial and independent mechanism for fact-finding, to document allegations of serious IHL violations and present its findings to the parties, or to use its good offices aimed at restoring an attitude of respect for IHL for example by supporting follow-up engagement on such inquiries. These references could support a useful basis for more systematic engagement on the Commission's role and potential contribution. The aim would be not only to increase awareness of the IHFFC's existence but also to improve understanding of when and how its services could be useful.

Finally, the IHFFC operates alongside a growing range of international fact-finding and investigative bodies, including UN commissions of inquiry and fact-finding missions. However, significantly, its permanent, unique treaty-based character, confidentiality and good offices mandate distinguish it from these bodies. The Commission has already explored opportunities for *complementarity*, including through discussions with OHCHR experts and exchanges at the 34th International Conference of the Red Cross and Red Crescent in 2024.[7] Building on these efforts, further dialogue could facilitate exchanges of technical expertise and operational experience, while respecting the different mandates and confidentiality requirements of the bodies concerned. Such cooperation would clearly not involve joint investigations nor the sharing of sensitive information.

The 2026 IHFFC elections and the way forward

The *elections* held in Bern on 20 November 2026 marked the renewal of the Commission's fifteen members. With 23 candidates, the process also highlighted the importance of geographical diversity and gender balance. Beyond individual qualifications and expertise, a Commission reflecting different legal traditions and regional perspectives would be better placed to build further trust with states and respond to the challenges of contemporary armed conflicts. Greater use of the Commission would also require sustained attention to its operational readiness and consequently the financial and human resources needed to respond effectively when called upon.

The renewal of the Commission comes at a time of increased international attention to strengthening respect for IHL. *The Global IHL Dialogue* organized by Switzerland and the ICRC earlier this month, and the *High-level Conference on Upholding Humanity in War to be held in Jordan* in December, are part of a broader effort to move from political commitment to practical measures to uphold IHL. In this context, the IHFFC offers a useful example of an existing mechanism whose potential has yet to be fully explored.

The task of the *newly elected members of the IHFFC* will be to turn this momentum into greater awareness of, and recourse to, its services. The initiatives outlined above, from making fuller use of its good offices to strengthening engagement with states and encouraging wider recognition of its competence, offer possible starting points. Ultimately, the Commission's future relevance will also depend on the states' willingness to make use of the mechanism they established.

References

[1] Marco Sassòli, International Humanitarian Law, Edward Elgar Publishing, 2019, p. 149.

[2] Ibid, p. 148.

[3] Art. 89 API.

[4] See paragraphs 21.4 a) and b).

[5] The last one known were from 2003: see *https://www.ihffc.org/media/pdf/en/compilation-procedural-rules.pdf*, p. 29.

[6] See *https://www.ihffc.org/media/pdf/en/2024-presidential-report-activities.pdf*, p.6.

[7] Ibid, p.4.

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