Confidentiality in front of the International Criminal Court:

The specific case of the International Committee of the Red Cross

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Abstract

The International Committee of the Red Cross operates according to a very strict policy of confidentiality which is considered vital in order to carry out its mandate. Such confidentiality has been recognized as a matter of international customary law by the International Criminal Tribunal for the Former Yugoslavia and by the Rules of Procedure and Evidence of the International Criminal Court. Thus, the delegates of the International Committee of the Red Cross can never be compelled to testify before such international tribunals and court. However, the establishment of the International Criminal Court has been a very important step in the fight against impunity. In order to function effectively, it has a wide and liberal regime to admit evidence and provides some legal tools so as to protect and encourage witnesses to testify. Testimonies are crucial to bring perpetrators to justice, particularly testimonies of humanitarian workers often direct witnesses of atrocities. This thesis develops the reasons that have led to recognize an evidentiary privilege of the International Committee of the Red Cross and the scope of this privilege. It also explores the differences to war correspondents and other humanitarian organisations in order to evaluate if such differentiation is well justified.
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<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>AP</td>
<td>Additional Protocols to the Geneva Conventions</td>
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<td>GC</td>
<td>Geneva Conventions</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>ICTR</td>
<td>International Criminal Tribunal for Rwanda</td>
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<td>ICTY</td>
<td>International Criminal Tribunal for the Former Yugoslavia</td>
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<tr>
<td>MSF</td>
<td>Médecins sans Frontières</td>
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<tr>
<td>RPE</td>
<td>International Criminal Court, Rules of procedure and evidence</td>
</tr>
<tr>
<td>SCSL</td>
<td>Special Court for Sierra Leone</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNHCHR</td>
<td>United Nations High Commission on Human Rights</td>
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