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Sexual and gender-based violence:
joint action on prevention and response
(CORRECT VERSION)

Draft resolution
&
Background report

**Document prepared jointly by the International Committee of the Red Cross and the
International Federation of Red Cross and Red Crescent Societies**

Geneva, October 2015

DRAFT RESOLUTION

**Sexual and gender-based violence:
Joint action on prevention and response**

The 32nd International Conference of the Red Cross and Red Crescent,

condemning in the strongest possible terms sexual and gender-based violence in all circumstances and *deeply deploring* the suffering of all victims of such violence,

noting with particular alarm the persistent prevalence of sexual violence, particularly in armed conflict, and the growing evidence of sexual and gender-based violence in disasters and other emergencies,

recognizing that factors such as the weakening of community and institutional protection mechanisms, disruption of services and community life, destruction of infrastructure, separation of families and displacement, among others, may contribute to an increased risk and impact of sexual and gender-based violence in these circumstances,

recognizing also that, while women and girls are disproportionately affected, anyone, including men and boys, can be a victim of sexual and gender-based violence, and that factors such as age, disability, deprivation of liberty, displacement, religion, ethnicity, race and nationality, among others, may increase the risk,

affirming that, in order to adequately address this humanitarian concern, approaches are required that work effectively to prevent sexual and gender-based violence, end impunity, protect victims and respond to their respective needs in a comprehensive and multidisciplinary manner,

stressing the need to understand and address the root causes of sexual and gender-based violence, in particular inequality and discrimination, in order to prevent and respond to such violence effectively,

recognizing also that, despite their prevalence, incidents of sexual and gender-based violence are often invisible, as taboos, stigma, feelings of guilt or shame, fear of retribution, and the unavailability of support or lack of information about available support often prevent victims from coming forward, and as injuries may be less obvious than those caused by other forms of violence,

underlining that it is therefore important to work towards the prevention of such violence and to prepare appropriate responses to the needs of potential victims before specific incidents arise, and *noting* that such action can be life-saving for victims of sexual and gender-based violence,

noting with concern the findings of a growing number of studies from around the world, including the recently published report of the International Federation of Red Cross and Red Crescent Societies (International Federation), describing increased risks of sexual and gender-based violence in disasters and other emergencies;

bearing in mind that international humanitarian law applies only to situations of armed conflict,

recognizing that there have been instances of national and international humanitarian workers and other representatives of the international community committing acts of sexual exploitation and abuse, *condemning* such acts in the strongest possible terms, and *calling on* States and relevant organizations to make all possible efforts to prevent, detect, investigate, and liaise with the appropriate authorities concerning all cases of suspected sexual exploitation and abuse by staff, contractors or volunteers,

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recalling the basic mission of the International Red Cross and Red Crescent Movement (Movement) to prevent and alleviate human suffering wherever it may be found, protect life and health and ensure respect for the human being, and *expressing appreciation* for the work and efforts of the components of the Movement so far in addressing sexual and gender-based violence, in accordance with their respective mandates and institutional focuses,

expressing appreciation of existing relevant work and initiatives by the United Nations (UN), regional organizations, States, judicial bodies, humanitarian organizations and other actors, and *underlining* the complementary character of the work of the Movement and the International Conference with such work and initiatives,

recalling relevant resolutions of the International Conference, including Resolutions 1 (“International humanitarian law: From law to action, Report on the follow-up to the International Conference for the Protection of War Victims”) and 2 (“Protection of the civilian population in period of armed conflict”) of the 26th International Conference in 1995, Resolution 1 (“Adoption of the Declaration and the Plan of Action”) of the 27th International Conference in 1999, Resolution 3 (“Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict”) of the 30th International Conference in 2007, and Resolutions 2 (“4-year action plan for the implementation of international humanitarian law”) and 6 (“Health inequities with a focus on women and children”) of the 31st International Conference in 2011,

noting relevant UN resolutions, including UN Security Council Resolutions 1325 (2000) of 31 October 2000, 1820 (2008) of 19 June 2008, 1888 (2009) of 30 September 2009, 1889 (2009) of 5 October 2009, 1960 (2010) of 16 December 2010, 2106 (2013) of 24 June 2013 and 2122 (2013) of 18 October 2013, on women, peace and security; Resolution 1674 (2006) of 28 April 2006, on the protection of civilians; UN Human Rights Council Resolution 23/25 of 25 June 2013; UN General Assembly Resolution 69/135 of 12 December 2014; and UN Commission on the Status of Women Resolution 58/2 of 21 March 2014,

I. Sexual violence, in particular in armed conflicts*Legal and policy frameworks*

1. *recalls* all existing provisions of international humanitarian law that prohibit acts of sexual violence in armed conflict, which are binding upon both State and non-State parties to armed conflict, and *notes* that acts of sexual violence are also addressed in other legal frameworks, as applicable;
2. *recalls also* that sexual violence can constitute a crime against humanity or a constitutive act of genocide, that rape and other forms of serious sexual violence in armed conflict are war crimes, that acts of sexual violence can amount to torture, and that in international armed conflicts acts of sexual violence can constitute grave breaches as listed in the 1949 Geneva Conventions;
3. *underlines* the need for States to comply with their relevant obligations to put an end to impunity and to effectively use all appropriate means to thoroughly investigate and prosecute those subject to their jurisdiction that are alleged to have committed such crimes;
4. *stresses* the important contribution of, in particular, the ad hoc international criminal tribunals and the International Criminal Court to ending impunity by ensuring, where competent, accountability and by punishing those responsible for crimes of sexual violence at the international level, complementing applicable responsibilities of States at the domestic level;
5. *invites* all States to consider ratifying or acceding to international humanitarian law treaties to which they are not yet party and whose provisions prohibit acts of sexual violence;

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6. *calls upon* States to review their domestic legal frameworks to determine whether they fully implement applicable obligations with respect to sexual violence, provide for investigation and prosecution, and offer protection and other necessary responses to the needs of victims;
7. *also calls upon* States to make every feasible effort to ensure that their authorities at all levels, including military and civilian commanders and superiors, adopt a zero-tolerance policy towards sexual violence;

Prevention

8. *calls upon* States, in time of peace as in time of armed conflict, to disseminate international humanitarian law, including its existing provisions that prohibit sexual violence in armed conflict, as widely as possible in their respective countries and, in particular, to include it in their programmes of military and, if possible, civil instruction, with the support of the components of the Movement as appropriate and in accordance with their respective mandates;
9. *in particular calls upon* States to make every feasible effort to ensure that the existing prohibitions of sexual violence are fully integrated into the planning and operations of their armed and security forces and their detaining authorities, by, in particular, including the prohibitions in all relevant aspects of doctrine, training and exercises, with the support of the components of the Movement as appropriate and in accordance with their respective mandates;
10. *underlines* the important role that, for example, local leaders and civil society, including women's organizations, can play in raising awareness among the wider population of the prohibition of sexual violence, the need to assist and protect victims, including against further victimization and stigmatization, and the avenues for obtaining redress, and *encourages* States to support their activities, to the degree practicable;
11. *further calls upon* States to make every feasible effort to ensure that their armed and security forces and their detaining authorities have in place appropriate internal systems for monitoring, reporting on and evaluating acts of sexual violence that support victims, for example by offering confidential consultation with trained advisers about the actions open to them, and that can contribute to the effective prevention and, as necessary, punishment of persons found guilty of committing such violence;
12. *encourages* States to exchange experiences and good practices concerning integration of the relevant prohibitions of sexual violence into military and other instruction programmes and concerning internal monitoring, reporting and evaluation systems, and *invites* them to include information thereon in their reporting to the 33rd International Conference;

Protection and access to justice

13. *underlines* the need for States to make every feasible effort to increase individuals' protection from sexual violence by addressing security and safety concerns through, for example, awareness-raising and involvement of local communities in a culturally sensitive manner, the placement of infrastructure (e.g. communal wells), or the planning and organization of detention facilities;
14. *calls upon* States to make every feasible effort to put in place specific training for the personnel of all their institutions who may need to respond to instances of sexual violence, including those who may first become aware of them, such as medical and detention personnel and personnel of inspection bodies, to enable them to respond to acts of sexual violence in an effective, appropriate, culturally sensitive and victim-oriented manner, taking care also that, where children are concerned, their best interests underpin any action and

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their views and those of their guardians are sought, within the framework of applicable national and international law;

15. *underlines* the need for States to make every feasible effort to ensure access to justice for victims of sexual violence, including by creating, in a culturally sensitive manner, an environment where victims can easily report incidents of sexual violence through, for example, victim services, testimonial support, and the possibility of publication bans, by improving victim and witness protection, and by protecting confidentiality and privacy rights, within the framework of applicable national and international law;

Investigating and prosecuting

16. *underlines also* that the effective investigation and ethical documentation of sexual violence can be instrumental in ensuring access to justice for victims and in bringing alleged perpetrators to justice;
17. *calls upon* States to make every feasible effort to remove undue legal or procedural impediments to the full and effective investigation, prosecution and punishment of sexual violence, within the framework of applicable national and international law;
18. *also calls upon* States to put in place, to the degree practicable, specific training for their police, prosecutors, judiciary and relevant supporting personnel to enable them to investigate, prosecute and try acts of sexual violence in an effective and appropriate manner that, while guaranteeing the rights of alleged perpetrators, also fully respects the rights and needs of victims;
19. *encourages* States, in particular in the aftermath of armed conflicts, to consider including sexual violence issues in truth and reconciliation processes, as appropriate;

Support for victims

20. *calls upon* States to make every feasible effort to ensure, insofar as possible, that victims of sexual violence have unimpeded and ongoing access to non-discriminatory and comprehensive health care, physical rehabilitation, psychological and psychosocial support, legal assistance and socio-economic support, as required, always keeping in mind the need to ensure the dignity and safety of victims, and the importance of confidentiality and privacy, in order to reduce the likelihood of victims not seeking help and to avoid re-victimization;
21. *encourages* States to establish programmes that combine, as appropriate, both individual and collective support for victims of sexual violence, including, to the degree possible, in the long term, for example by addressing issues such as social stigmatization of victims and following-up on perpetrators;

II. Sexual and gender-based violence in disasters and other emergencies*Legal and policy frameworks*

22. *recalls* that international human rights law requires States to take positive action to prohibit and respond to sexual and gender-based violence;
23. *calls upon* States to review their domestic legal frameworks to determine whether they fully implement applicable international obligations related to sexual and gender-based violence, provide for investigation and prosecution, and offer protection and other necessary responses to the needs of affected persons in disasters and other emergencies in their territory;

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24. *also calls upon* States to assess whether their domestic laws, procedures, policies and contingency and preparedness plans related to disasters and other emergencies in their territory ensure that responders pay adequate attention to preventing sexual and gender-based violence (such as in the planning and organization of displacement camps and temporary shelters), and include the active participation of women;

Information and training

25. *encourages* States, with the support of their National Red Cross and Red Crescent Societies (National Societies) and other civil-society actors, including women's organizations, to make every effort before, during and after disasters and other emergencies to make the prohibition of sexual and gender-based violence, and all services, facilities, mechanisms and support services available to address it, known as widely as possible among their populations;
26. *also encourages* States to gather, analyse and disseminate sex-, age- and disability-disaggregated data and information pertinent to sexual and gender-based violence in disasters and other emergencies in their territory, with support, as appropriate, from their National Societies, the International Federation, and other partners;
27. *calls upon* States to put in place specific training for relevant emergency- and disaster-response personnel on the particular risks of sexual and gender-based violence in disasters and other emergencies and the measures that they should take to mitigate those risks;
28. *also calls upon* States to put in place specific training for their police, prosecutors, judiciary and all supporting personnel to enable them to investigate, prosecute and try acts of sexual and gender-based violence effectively in disasters and other emergencies, and in a manner that takes into account the needs and well-being of victims;
29. *invites* international humanitarian organizations, including representatives of relevant sectors and clusters, to share good practices, guidelines and experiences related to addressing sexual and gender-based violence in disasters and other emergencies with domestic disaster managers and civil-society actors, and to extend training opportunities that they have developed for international responders to domestic actors as well;

Preparedness and response

30. *encourages* States to put in place regularly updated business continuity plans and measures to ensure that their law enforcement and justice systems are gender-sensitive, have gender-balanced personnel and are equipped to prevent and respond to incidents of sexual and gender-based violence during and in the aftermath of disasters and other emergencies;
31. *calls upon* States, National Societies, the International Federation and other relevant humanitarian and development stakeholders to ensure that their disaster- and emergency-management plans and activities include measures to prevent and respond to sexual and gender-based violence, and *encourages* them to include women in disaster- and emergency-response teams;
32. *also calls upon* States and National Societies to engage community members, in particular women, in decision-making about disaster risk management in order to benefit from their perspectives in the prevention of, and response to, sexual and gender-based violence;
33. *stresses* the need for States to make every feasible effort to ensure access to justice for victims of sexual and gender-based violence during and in the aftermath of disasters and other emergencies, including by creating an environment where, within the framework of applicable national and international law, victims can easily report incidents;

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34. *calls upon* States, with support, as appropriate, from National Societies and other partners to make every effort to ensure that persons affected by sexual and gender-based violence during and in the aftermath of disasters and emergencies have unimpeded and ongoing access to non-discriminatory and comprehensive health care, physical rehabilitation, psychological and psychosocial support, legal assistance, and socio-economic support, as required, always keeping in mind the need to ensure their dignity and safety, and the importance of confidentiality and privacy, in order to reduce the likelihood of them not seeking help and to avoid re-victimization;

III.Movement implementation, cooperation and partnerships

35. *encourages* the International Committee of the Red Cross (ICRC) to pursue its work on preventing sexual violence and protecting and assisting the victims thereof, in line with its mandate as laid down in the Statutes of the Movement, including research and analysis, and to cooperate with other components of the Movement, in accordance with their respective mandates, as appropriate;
36. *also encourages* the International Federation, in collaboration with National Societies and other relevant partners, to continue its research and consultations with a view to formulating additional recommendations, guidance and/or tools to prevent and respond to sexual and gender-based violence in disasters and other emergencies, taking into account existing internationally recognized tools and best practices;
37. *calls upon* the components of the Movement, in accordance with their respective mandates and institutional focuses, to make every possible effort to make capacity building on preventing and responding to sexual and gender-based violence a priority, including by specifically training their relevant staff and volunteers at all levels, coordinating and cooperating with each other in line with their respective mandates and roles within the Movement, and exchanging experiences and good practices as appropriate;
38. *also calls upon* all components of the Movement to adopt and enforce zero-tolerance policies on sexual exploitation and abuse of beneficiaries by their staff and volunteers;
39. *further calls upon* the components of the Movement, in accordance with their respective mandates, to make every effort to support, where and when appropriate, the development and strengthening of the capacity of national institutions to prevent and respond to sexual and gender-based violence, and to invest in training and strengthening local expertise and in community-based initiatives;
40. *further calls upon* the components of the Movement to make every effort to coordinate and cooperate with other relevant stakeholders working on preventing and responding to sexual and gender-based violence, such as the UN, regional organizations and humanitarian organizations, including, as appropriate, by exchanging experiences and good practices;
41. *requests* the ICRC and the International Federation to report to the 33rd International Conference on progress they have made and on any information provided for this purpose by members of the International Conference about their respective efforts.

BACKGROUND REPORT

Executive summary

The International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (International Federation) submit this report to the 32nd International Conference of the Red Cross and Red Crescent (International Conference) in support of the proposed resolution on sexual and gender-based violence.

Sexual and gender-based violence in situations such as armed conflicts and disasters has devastating consequences for victims, their families and often their wider communities. Preventing such violence, protecting the victims and providing comprehensive responses to their needs is a critical humanitarian concern.

Much has been done in recent years – for example, by the United Nations (UN), regional organizations, individual States, judicial bodies and various humanitarian organizations – to put sexual and gender-based violence in situations such as armed conflicts and disasters prominently on the international agenda. Elements of this issue were also addressed by earlier International Conferences, and by the components of the International Red Cross and Red Crescent Movement (Movement), in line with their respective mandates and institutional focuses.

However, despite these efforts, sexual and gender-based violence remains a disturbing reality in situations such as armed conflicts and disasters. The ICRC and the International Federation therefore think it is timely to bring this issue before the 32nd International Conference in the form of a dedicated resolution.

Seizing on the opportunity offered by the unique global forum that is the International Conference, which brings together all States party to the 1949 Geneva Conventions and all components of the Movement, the proposed resolution emphasizes the impact that joint action by States, the components of the Movement and other stakeholders can have on preventing sexual and gender-based violence in situations such as armed conflicts and disasters, on protecting the victims and on responding to their needs.

The proposed resolution underlines the grave humanitarian concerns raised by sexual and gender-based violence, focusing in particular on sexual violence in situations such as armed conflicts and on sexual and other forms of gender-based violence in disasters and other emergencies. It recalls existing obligations under international law, as applicable; points out concrete implementation measures that can be taken; raises awareness of problems that may so far have received relatively less attention; and highlights the importance of protecting victims and providing comprehensive and multidisciplinary responses to their needs.

1) Background

Sexual violence and gender-based violence¹ are pervasive threats to the lives and well-being of millions of people in countries around the world. Throughout history, sexual violence has been

¹ Different actors employ various definitions of the terms “sexual violence” and “gender-based violence.” After a review of definitions used by external actors, and consultations with National Societies and the other components of the Movement in 2014-2015, the Movement coordination group on sexual and gender-based violence developed the following working definitions, which have been proposed to the Movement’s Council of Delegates. They are reproduced below by way of reference but have not been proposed for inclusion in the draft resolution and are not intended to be binding on the members of the International Conference:

Sexual violence: Acts of a sexual nature committed against any person by force, threat of force or coercion. Coercion can be caused by circumstances such as fear of violence, duress, detention, psychological oppression or abuse of power. The force, threat of force or coercion can also be directed against another person. Sexual violence also comprises acts of a sexual nature committed by taking advantage of a coercive environment or a person’s incapacity to give genuine consent. It furthermore includes acts of a sexual nature a person is caused to engage in by force, threat of force or coercion, against that person or another person, or by taking advantage of a coercive environment

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widespread in situations such as armed conflicts, and often regarded as an unavoidable corollary thereof. While absolutely prohibited under international law, such violence continues to be prevalent. For example, to this day, rape and other forms of sexual violence continue to cause terrible suffering to countless people in international and non-international armed conflicts worldwide, despite an explicit prohibition under international humanitarian law that binds both State and non-State parties to armed conflict.

There is also growing and worrying evidence that sexual and other forms of gender-based violence either increase in disasters and other emergencies or present special concerns (for example, when domestic and sexual violence is carried out in evacuation centres that are under the oversight and responsibility of governmental or humanitarian actors). Here again, international norms, in particular international human rights law, apply, but there is clearly still work to be done to improve outcomes on the ground.

The components of the Movement have been working on different aspects of these issues over the past decades:

- Following a pledge made at the 27th International Conference in 1999 that addressed the prohibition of sexual violence and the specific needs of women and girl children in armed conflict,² the ICRC published its *Women facing war* study in 2001.³ In the following years, it implemented several programmes focusing on sexual violence and, in 2013, the organization committed to expanding and enhancing its activities addressing sexual violence in situations such as armed conflicts over four years (2013-2016).⁴
- Nearly 25 years ago, the International Federation produced guidance on the assistance and protection needs of women in armed conflict and disasters.⁵ Subsequently, in 1999, the International Federation developed a *Gender Policy* and, in 2013, the *Strategic Framework on Gender and Diversity Issues* set out commitments to addressing gender-related concerns, including sexual and gender-based violence.⁶
- A number of National Red Cross and Red Crescent Societies (National Societies) also address various aspects of such violence in their work.
- A survey of Movement activities addressing sexual and gender-based violence related to armed conflict and disaster was undertaken between October 2014 and April 2015. The survey data collected identified that the ICRC, the International Federation and *at least* 47 of the Movement's 189 National Societies are addressing aspects of sexual or gender-based violence related to armed conflict and disaster in some way, in line with their mandates and institutional focuses.⁷
- Furthermore, following a workshop on Movement responses to sexual and gender-based violence in armed conflict and disaster at the 2013 Council of Delegates,⁸ a Movement coordination group on sexual and gender-based violence was established.

or the person's incapacity to give genuine consent. Sexual violence encompasses acts such as rape, sexual slavery, enforced prostitution, forced pregnancy or enforced sterilization.

NB: For sexual violence as defined above to fall under the scope of application of international humanitarian law, it needs to take place in the context of and be associated with an armed conflict.

Gender-based violence: An umbrella term for any harmful act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to a woman, man, girl or boy on the basis of their gender. Gender-based violence is a result of gender inequality and abuse of power. Gender-based violence includes but is not limited to sexual violence, domestic violence, trafficking, forced or early marriage, forced prostitution and sexual exploitation and abuse.

² ICRC, *Women and War: Implementation of the ICRC Pledge to the 27th International Conference*, Report prepared by the ICRC, 28th International Conference, 2-6 December 2003, available at: www.icrc.org/eng/resources/documents/misc/5xrd58.htm

³ ICRC, Charlotte Lindsey, *Women facing war: ICRC study on the impact of armed conflict on women*, October 2001, available at: www.icrc.org/eng/resources/documents/publication/p0798.htm

⁴ ICRC, *Special Appeal: Strengthening the Response to Sexual Violence* 2014, December 2013.

⁵ K. Stoltenberg, "Working with women in emergency relief and rehabilitation programmes", *Field Studies Paper No. 2*, League of Red Cross and Red Crescent Societies, 1991.

⁶ International Federation, *IFRC Strategic Framework on Gender and Diversity Issues 2013-2020*, 2013. See also the *Explanatory Note to the Strategic Framework on Gender and Diversity Issues*.

⁷ With a response rate of approximately 30 per cent of National Societies, there was no data available for 114 National Societies and, as such, the survey's findings do not provide an exhaustive picture of all Movement activities and projects. However, they do provide insights into some trends and patterns in terms of the Movement's engagement on this issue. A full report on the survey will be submitted to the Movement's Council of Delegates in 2015.

⁸ *Report on the work of workshop No. 9: Movement responses to sexual and gender-based violence in armed conflict*

These undertakings by the Movement complement the considerable commitments that, for example, States, international organizations and various humanitarian actors have made over the past decades for the prevention of and response to sexual and gender-based violence. To give but a few examples, rape and other forms of sexual violence were included explicitly in the list of war crimes and crimes against humanity in the 1998 Statute of the International Criminal Court; sexual and gender-based violence has been addressed in a number of resolutions of the UN General Assembly and UN Security Council; and sexual and gender-based violence has been the topic of several initiatives, such as the Preventing Sexual Violence in Conflict Initiative, the 2014 Global Summit to End Sexual Violence in Conflict, the Call to Action on Protection from Gender-Based Violence in Emergencies, and the Safe from the Start initiative.

The issue of sexual and gender-based violence is also not new to the International Conference. Elements of it were, for example, addressed in the context of the 26th International Conference in 1995,⁹ the 27th International Conference in 1999,¹⁰ and the 30th International Conference in 2007.¹¹ Most recently, the 31st International Conference in 2011 expressed its deep concern “that armed conflicts continue to cause enormous suffering, including violations of international humanitarian law, such as (...) rape and other forms of sexual violence”;¹² addressed sexual and gender-based violence as an element of enhancing the protection of women in armed conflict;¹³ and, in the context of health inequities, called upon National Societies to “scale up efforts for social inclusion by non-discrimination programming and by ending violence against women and children” and strongly encouraged States to “make a firm commitment to gender equality, non-discrimination, and to ending violence against women and children.”¹⁴ Several members of the International Conference also registered pledges on issues related to sexual and gender-based violence at the 31st International Conference.¹⁵

However, despite all these efforts, sexual and gender-based violence in situations such as armed conflicts and disasters remains a disturbing reality and a significant humanitarian challenge. Convinced that this challenge is a common concern to all, and confident that the response to it can benefit from the joint action of the members of the International Conference, the ICRC and the International Federation have decided to submit a resolution to the 32nd International Conference that is specifically dedicated to the topic of sexual and gender-based violence.

and disaster, 2013 Council of Delegates, available at: www.icrc.org/eng/assets/files/red-cross-crescent-movement/council-delegates-2013/cod13-ws9-summary-sgbv-eng.pdf

The recommendations of the workshop were: to develop a common Movement terminology and definitions of key terms (gender, gender-based violence, sexual violence); to undertake a mapping of the current activities being implemented by the Movement related to sexual and gender-based violence; to maintain interest and momentum; and to include the topic in the agenda of the 32nd International Conference.

⁹ Resolution 1 of the 26th International Conference, “International humanitarian law: From law to action, Report on the follow-up to the International Conference for the Protection of War Victims”; Resolution 2, “Protection of the civilian population in period of armed conflict.”

¹⁰ Resolution 1 of the 27th International Conference, “Adoption of the Declaration and the Plan of Action.”

¹¹ Resolution 3 of the 30th International Conference, “Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict.”

¹² Resolution 1 of the 31st International Conference, “Strengthening legal protection for victims of armed conflicts.”

¹³ Resolution 2 of the 31st International Conference, “4-year action plan for the implementation of international humanitarian law,” Annex 1: Action plan for implementing international humanitarian law:

“Objective 2.2: To enhance the protection of women in armed conflict

a) *Ratification, implementation and enforcement of relevant international law*

... States commit themselves to putting an end to impunity and to prosecute, in accordance with their obligations under international law, serious violations of international humanitarian law involving sexual and other forms of violence against women and girls ...

b) *Prevention of sexual and other gender-based violence against women*

States ensure that all feasible measures are employed to prevent all serious violations of international humanitarian law involving sexual and other forms of gender-based violence against women. ...

c) *Displaced women*

... Particular attention should be paid ... to protective measures for internally displaced persons against gender-based violence, such as location and protection of shelter, identified support and reporting systems, as well as access to female and child health care services and those who provide it.”

¹⁴ Resolution 6 of the 31st International Conference, “Health inequities with a focus on women and children.”

¹⁵ Information on pledges at the 31st International Conference is available at: www.icrc.org/pledges

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The International Conference brings together all States party to the 1949 Geneva Conventions and all components of the Movement, with their respective responsibilities, mandates, experience and expertise. Taking advantage of this unique global forum, the proposed resolution therefore underlines the impact that joint action by States, the components of the Movement and other stakeholders can have on preventing sexual and gender-based violence in situations such as armed conflicts and disasters, on protecting the victims, and on responding to their needs. If the appalling phenomenon of sexual and gender-based violence in such situations is to be brought to an end, efforts at both the domestic and the international level, as well as coordination and cooperation among all stakeholders, are required. To this end, the proposed resolution recalls, in particular, existing obligations under international law, as applicable; points out concrete implementation measures; raises awareness of problems that may so far have received less attention; and highlights the importance of protecting victims of sexual and gender-based violence and of providing comprehensive and multidisciplinary responses to their needs.

The ICRC and the International Federation concentrate their work on specific aspects of sexual and gender-based violence. The ICRC focuses on sexual violence, in the situations falling under its mandate as laid down in the Statutes of the Movement. The International Federation works on the broader issue of sexual and other forms of gender-based violence in disasters and other emergencies, in accordance with its mandate and institutional focus, and in view of the relative lack of attention to the issue. While underlining the grave humanitarian concerns raised by sexual and gender-based violence in all circumstances and deploring the suffering of everyone affected by such violence, the ICRC and the International Federation are of the view that these particularly alarming aspects of sexual and gender-based violence are especially suited to a dedicated deliberation by the International Conference.

2) Analysis

a. Sexual violence, particularly in situations such as armed conflict

In armed conflicts, whether international or non-international, acts of sexual violence are prohibited under international humanitarian law, which binds both State and non-State parties to armed conflict. International human rights law, as applicable, also prohibits sexual violence.¹⁶ Addressing States' *legal and policy frameworks*, the resolution's proposed operative paragraphs on sexual violence therefore begin by recalling the prohibition of sexual violence under international law and condemning all acts of sexual violence, including those committed by State and non-State parties to armed conflict. They recall that sexual violence constitutes various international crimes and underline the need for States to comply with their relevant obligations to end impunity, while also stressing the contributions in this regard of the international criminal tribunals, by way of example. The operative paragraphs also invite States to consider becoming party to relevant treaties and calls upon them to review their domestic legal frameworks to determine whether they fully implement applicable prohibitions, provide for investigation and prosecution, and offer protection and other necessary responses to the needs of victims. They also call upon States to make every effort to ensure that their authorities adopt a zero-tolerance policy towards sexual violence.

The proposed operative paragraphs then highlight several concrete measures whereby States can decisively contribute to the *prevention* of sexual violence in situations such as armed conflict. They call upon States to make every effort to make the prohibition of sexual violence as widely known as possible among their populations, also underlining the role that community leaders, for example, can play in this respect. The operative paragraphs furthermore call upon States to make every effort to ensure that the prohibition of sexual violence is fully integrated into the planning and operations of their armed and security forces, and that those forces have in place appropriate internal systems of monitoring and reporting on sexual violence. In addition, the operative

¹⁶ For a brief overview of the prohibitions of sexual violence under both international humanitarian law and international human rights law, see, for example, the ICRC Customary IHL Database, Rule 93, available at: www.icrc.org/customary-ihl/eng/docs/v1_rul_rule93

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paragraphs encourage States to exchange experiences and good practices, and invite them to report thereon to the 33rd International Conference.

The proposed operative paragraphs on sexual violence also point out several measures that contribute to the *protection* of victims, including when seeking *access to justice*. They underline the need for States to make every effort to increase protection from sexual violence by addressing security and safety concerns, and they call upon States to make every effort to put in place specific training for the personnel of all their institutions who may need to respond to instances of sexual violence. The operative paragraphs furthermore underline the need for States to make every effort to ensure access to justice for victims of sexual violence, including by creating an environment where victims can easily report incidents of sexual violence.

If acts of sexual violence in situations such as armed conflicts occur, there is a need for effective and appropriate *investigation and prosecution*. The proposed operative paragraphs therefore underline the importance of effective investigation and documentation, call upon States to make every effort to remove inappropriate impediments to the investigation, prosecution and punishment of sexual violence, and call upon States to put in place, to the degree possible, specific training for their police, prosecutors, judiciary and supporting personnel. The operative paragraphs also encourage States, in particular in the aftermath of armed conflicts, to consider including sexual violence issues in truth and reconciliation processes, as appropriate.

The proposed operative paragraphs then note several important measures of *support for victims* of sexual violence in situations such as armed conflicts, such as unimpeded access to non-discriminatory and comprehensive health care, physical rehabilitation, psychological and psychosocial support, legal assistance, and socio-economic support, as required. Finally, the operative paragraphs encourage States to establish programmes that combine, as appropriate, both individual and collective support for victims of sexual violence, including, to the degree possible, in the long term, for example by addressing issues such as social stigmatization.

b. Sexual and gender-based violence in disasters and other emergencies

The proposed resolution also calls for specific attention to sexual and other forms of gender-based violence in disasters and other emergencies. Again, specific definitions of these terms have not been included in the draft resolution, but the drafters had in mind situations that do not amount to armed conflict, during which sexual and gender-based violence can result in serious humanitarian consequences for victims of such violence. These would include public health emergencies as well as situations of displacement and mass population movements.

While the term “gender-based violence” is not expressly referenced in the most widely ratified global human rights treaties, those treaties have been interpreted as requiring State action to address many of the components of gender-based violence, including discrimination on the basis of gender, domestic violence, sexual violence, forced and early marriage, sexual exploitation and abuse, trafficking and forced prostitution.¹⁷ However, the treaties do not provide specific guidance as to how to address these issues in disasters or other emergencies.

Moreover, relatively little research has been carried out into the effects of disasters and emergencies on the incidence and impact of sexual and gender-based violence. In 2015, the

¹⁷ See, for example, Committee on the Elimination of all forms of Discrimination against Women, General Recommendation No. 19 (1992) (noting with respect to the Convention on the Elimination of all forms of Discrimination against Women that “[g]ender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men”); Committee on Economic, Social and Cultural Rights, General Comment No. 16 (2005) (noting with respect to the International Covenant on Economic Social and Cultural Rights that “[g]ender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality”); Committee Against Torture, General Comment No. 2 (2008) (noting that “States parties’ failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation, and trafficking” is a violation of the Convention against Torture); Human Rights Committee, General Comment No. 19 (1994) (noting that the International Covenant on Civil Political Rights forbids marriage before both parties are of sufficient age to be able to provide consent).

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International Federation carried out research in nine disaster-affected countries¹⁸ with the objective of determining the characteristics and specificities of sexual and gender-based violence in disasters; the impact of such violence on victims and communities; how legal and policy frameworks, including those on disaster risk management, can be adapted to address sexual and gender-based violence; and the role of local actors (including National Societies) in addressing such violence and the support they require to fulfil this role. Findings from the country-based research, together with academic and other secondary sources, provided the basis for the development of the proposed resolution.

A full report of the findings of the study will be published prior to the International Conference. In summary, however, the findings were as follows:

- In at least some settings, both domestic violence and sexual violence – assault and sexual abuse and exploitation – increase in the aftermath of disaster, in part due to the extraordinary stresses experienced by perpetrators and to the increased vulnerabilities of those affected.
- Displacement can increase the incidence of sexual and gender-based violence, both in initial temporary shelters and later when displacement becomes protracted.
- Disasters cause impoverishment, which may lead people to adopt negative coping mechanisms, including transactional sex.
- While previous studies and news reports have found increases in both early marriage and trafficking in disaster settings, this was not a major finding in the field studies carried out for this report.
- With respect to health emergencies, there is substantial research evidence that gender-based violence increases the incidence of HIV/AIDS and that HIV/AIDS can lead to increased gender-based violence. Anecdotal reports from practitioners and governments indicate that gender-based violence also increased during the Ebola crisis.
- Given the stigma and shame associated with gender-based violence, statistics on its incidence are always problematic and this seems to hold in disaster situations as well. In addition, those responding to disasters are not aware of the possible occurrence of gender-based violence in disasters and are neither looking for it nor preparing for it. At the same time, the lack of concrete data on its prevalence contributes to a lack of awareness.
- While all nine countries studied have both national policies on disasters and national legislation on gender, and a few refer to gender in their national disaster policies, none mentions the need to prevent or prepare for sexual and gender-based violence as part of their disaster planning. The fact that it is not mentioned may both reflect and contribute to the lack of awareness of gender-based violence in disasters.
- Several of the case studies remarked on a lack of police records from post-disaster periods, which may indicate “business continuity” gaps in terms of law-enforcement activities in emergency settings.

Drawing on the findings of this study and on consultations with National Societies since the Movement Coordination Group was formed in 2014, the proposed resolution calls for a number of steps to raise awareness of sexual and gender-based violence in disasters and emergencies and to strengthen cooperation on prevention and preparedness measures. These include steps to ensure that relevant legal and policy frameworks fully implement international prohibitions, that adequate attention is paid to the issue in disaster risk management, and that preparations are in place to ensure business continuity of law enforcement. It also calls for greater research and information sharing, training of disaster managers and law enforcement forces, and the provision of legal, medical, physical rehabilitation and psychosocial support to affected persons.

c. Movement implementation, cooperation and partnerships

The proposed resolution concludes with operative paragraphs that highlight steps to be taken by the components of the Movement, in accordance with their respective mandates and institutional focuses. Such steps include components of the Movement pursuing research and analysis alone

¹⁸ The nine countries were Bangladesh, Bosnia-Herzegovina, El Salvador, Haiti, Malawi, Myanmar, Namibia, Romania and Samoa.

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or with other Movement and/or external partners; strengthening knowledge, skills and capacities, as well as sharing experiences and good practices across the Movement; adopting and enforcing a zero-tolerance policy on sexual exploitation and abuse of beneficiaries; supporting the strengthening of the capacity of relevant national institutions; and coordinating and cooperating with all relevant stakeholders in order to create greater momentum for preventing and responding to sexual and gender-based violence in situations such as armed conflict and disasters.

3) Conclusion

As pointed out above, in armed conflicts, acts of sexual violence are prohibited under international humanitarian law, binding both State and non-State parties to armed conflict. International human rights law, as applicable, also prohibits sexual violence. As so often, the problem is therefore not a lack of international legal norms, but rather a lack of full and effective implementation of the existing law. Dedicated measures for the implementation of the prohibition of sexual violence will be decisive if such violence is to be reduced and ultimately eradicated. While working towards this ambition, victims must be protected and their needs must be met with comprehensive and multi-disciplinary responses. In accordance with its mandate and institutional focus, the ICRC is committed to continuing its work on the prevention of sexual violence and to protecting and assisting those who become victims thereof. It is furthermore convinced that sexual violence in situations such as armed conflict is not inevitable, but can and must be eliminated. The ICRC stands ready to join forces with States, other components of the Movement and all other stakeholders to work towards achieving this imperative goal.

With regard to sexual and gender-based violence in disasters and emergencies, the data is as yet incomplete and the problem is even less visible. However, the existing evidence, supplemented by the research undertaken by the International Federation, is more than sufficient to indicate the need for much greater attention to be paid to the issue by law enforcement, disaster management officials, and humanitarian organizations, including National Societies. The International Federation hopes to support interested National Societies to strengthen their own capacity to prevent and respond to incidents of such violence as well as to offer their advice and assistance to relevant officials, in particular with regard to small and seasonal disasters that do not attract substantial international attention or support.