

32nd International Conference of the Red Cross and Red Crescent, Strengthening international humanitarian law protecting persons deprived of their liberty

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Strengthening international humanitarian law protecting persons deprived of their liberty

[Preamble]

- [1] The 32nd International Conference of the Red Cross and Red Crescent (International Conference),
- [2] *mindful* that deprivation of liberty is an ordinary and expected occurrence in armed conflict, and that under international humanitarian law (IHL) States have, in all forms of armed conflict, both the power to detain, and the obligation to provide protection and to respect applicable legal safeguards, including against unlawful detention for all persons deprived of their liberty, and in this regard,
- [3] *deeply concerned* that persons deprived of their liberty in relation to armed conflict are vulnerable to murder, forced disappearance, the taking of hostages, torture, cruel or inhumane treatment, rape and other forms of sexual violence, summary executions and disregard for their basic needs and condemning any such acts,
- [4] *recognizing* that this Resolution does not give rise to new legal obligations under international law,
- [5] *also recognizing* that this Resolution does not modify the mandates, roles and responsibilities of the components of the International Red Cross and Red Crescent Movement (Movement) as prescribed in the Statutes of the Movement.
- [6] *recalling* the universal ratification of the 1949 Geneva Conventions,

[7] *reiterating* that international humanitarian law – in particular the four Geneva Conventions and their Additional Protocols, as applicable to State parties thereto, and customary international law – remains as relevant today as ever in international armed conflict (IAC) and non-international armed conflict (NIAC) and continues to provide protection for all persons deprived of their liberty in relation to such conflicts,

[8] *stressing* that greater respect for and implementation of international humanitarian law, by all parties to an armed conflict, is an indispensable prerequisite for improving the situation of persons deprived of their liberty in relation to armed conflict,

[9] *mindful* of the need to strengthen international humanitarian law, in particular through its reaffirmation in situations when it is not properly implemented and its clarification or development when it does not sufficiently meet the needs of victims of armed conflict,

also mindful of the need to strengthen international humanitarian law in relation to the deprivation of liberty related to armed conflicts, in particular in NIAC,

[11] *recalling* the important roles of the International Committee of the Red Cross (ICRC), the National Red Cross and Red Crescent Societies (National Societies) and the International Conference with respect to strengthening international humanitarian law, as set forth in the Statutes of the Movement,

[12] *recalling* that Resolution 1 of the 31st International Conference recognized the importance of analysing the humanitarian concerns and military considerations related to the deprivation of liberty in relation to armed conflict with the aim, *inter alia*, of ensuring humane treatment, adequate conditions of detention (taking into account age, gender, disabilities and other factors that can increase vulnerability), and the requisite procedural and legal safeguards for persons deprived of their liberty, interned or transferred in relation to armed conflict,

[13] *recalling* that Resolution 1 of the 31st International Conference invited the ICRC to pursue further research, consultation and discussion in cooperation with States and, if appropriate, other relevant actors, including international and regional organizations, to identify and propose a range of options and its recommendations to ensure that international humanitarian law remains practical and relevant in providing legal protection to all persons deprived of their liberty in relation to armed conflict,

[14] *noting* the consultative process facilitated by the ICRC, which included four regional consultations, two thematic consultations and one meeting open to all States, and the ICRC's respective reports and chair's conclusions summarizing those discussions, with a view to providing States with a relevant basis for discussions, and *expressing appreciation* to all stakeholders who contributed to the consultation process,

[15] *acknowledging with appreciation* the close cooperation of States throughout the consultation process, and *thanking* in particular those States that hosted consultations,

1. *commends* the ICRC for facilitating consultations on strengthening international humanitarian law protecting persons deprived of their liberty, which included notably an initial exchange of ideas on areas of humanitarian concern and related legal protections that should be considered for strengthening;

2. *thanks* the ICRC, and *takes note* of its concluding report submitted to the 32nd International Conference, the consultations held and the issues discussed, and the divergence of views expressed, based on the understanding that this concluding report is the sole responsibility of the facilitators and does not necessarily express the agreed views of States;
3. *thanks* States that participated in the consultation process for their constructive engagement on strengthening international humanitarian law protecting persons deprived of their liberty in relation to armed conflict and for their willingness to share their operational knowledge and experience;
4. *recommends* that States engage in further work on strengthening international humanitarian law protecting persons deprived of their liberty, in close cooperation with the ICRC, taking into account the discussions during the 2012-2015 consultation process and other recent work done by States;
5. *acknowledges* that strengthening the IHL protection for persons deprived of their liberty by any party to an armed conflict is a priority
6. *reaffirms* the paramount importance and continued relevance of treaty-based and customary international humanitarian law in protecting persons deprived of their liberty in relation to armed conflict, and *emphasizes* that any future efforts towards strengthening international humanitarian law protecting persons deprived of their liberty in relation to armed conflict take into account these and other relevant bodies of law, within their scope of application;
7. *takes note* that the areas identified for analysis by Resolution 1 of the 31st International Conference – ensuring humane treatment and adequate conditions of detention, taking into account age, gender, disabilities and other factors that can increase vulnerability, and the requisite procedural and legal safeguards for persons detained, interned or transferred in relation to armed conflict – provide a basis for continued discussions;
8. *recommends* the pursuit of further in-depth work, in accordance with this Resolution, with the goal of producing one or more concrete and implementable outcomes in any relevant or appropriate form of a non-legally binding nature with the aim of strengthening IHL protections and ensuring that IHL remains practical and relevant to protecting persons deprived of their liberty in relation to armed conflict, in particular in relation to NIAC;
9. *welcomes* the readiness of States and the ICRC to collaborate in determining, at the outset of their further work and with the consensus of the participating States, the modalities of further work in order to ensure its State-led, collaborative and non-politicized nature in accordance with this Resolution;
10. *invites* the ICRC to facilitate the work of States and to contribute its humanitarian and legal expertise in accordance with this Resolution and the Statutes of the Movement;
11. *also invites* States and the ICRC to consult with National Societies and other relevant actors, including international and regional organizations, to enrich the discussions where appropriate;

12. *stresses* that this Resolution and any outcomes should neither affect the legal status of parties to armed conflict, nor be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means complying with IHL, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State;

13. *invites* the ICRC to present a report on the work done pursuant to this Resolution to the 33rd International Conference.

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