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معاً من أجل الإنسانية



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**REAFFIRMATION AND IMPLEMENTATION OF  
INTERNATIONAL HUMANITARIAN LAW**

**"Preserving Human Life and Dignity in Armed Conflict"**

**DRAFT RESOLUTION**

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## REAFFIRMATION AND IMPLEMENTATION OF INTERNATIONAL HUMANITARIAN LAW

### "Preserving Human Life and Dignity in Armed Conflict"

#### DRAFT RESOLUTION

The 30th International Conference of the Red Cross and Red Crescent ("the Conference"),

[PP 1] *Recalling* the Declaration and the Agenda for Humanitarian Action adopted by the 28th International Conference of the Red Cross and Red Crescent, *stressing* that these documents remain as pertinent today as they were in 2003, and *encouraging* all members of the Conference to continue to work towards their full implementation,

[PP 2] *Convinced* that international humanitarian law remains as relevant today as ever before in armed conflicts of all types and continues to provide protection for all victims of armed conflict,

[PP 3] *Underlining*, in this regard, the complementary protection provided by international humanitarian law - as *lex specialis* in armed conflict, human rights law and refugee law to victims of armed conflict,

[PP 4] *Renewing* the unequivocal commitment of all members of the Conference to respect and ensure respect for international humanitarian law in all circumstances,

[PP 5] *Stressing*, however, that international humanitarian law governs only situations of armed conflict, and should not be extended to other situations,

[PP 6] *Deeply concerned* that civilian populations and individual civilians continue to bear the brunt of armed conflicts and remain the main victims of violations of international humanitarian law whether committed by State armed forces or armed groups, and *strongly condemns*, in this regard, attacks on civilians and civilian objects, including humanitarian relief personnel, journalists, other media professionals and associated personnel, as well as the use of human shields,

[PP 7] *Recalling* the need to take into account the specific requirements in terms of protection, health and assistance of women, children, persons who are elderly, disabled, or infirm, displaced persons, persons deprived of their liberty and other persons with specific needs,

[PP 8] *Welcoming* the universal ratification of the 1949 Geneva Conventions, *expressing* the hope that other humanitarian law treaties will also achieve universal acceptance and *calling upon* all States to consider adhering to humanitarian law treaties to which they are not yet party,

[PP 9] *Noting*, in this regard, the entry into force of Protocol III additional to the 1949 Geneva Conventions,

[PP 10] *Noting* that the principles and provisions of international humanitarian law derive not only from international treaties, but also from customary international law,

[PP 11] *Recalling* that the obligation to respect international humanitarian law binds States and armed groups, and *emphasizing* that this obligation is not based on reciprocity,

[PP 12] *Welcoming* the progress made in the implementation of international humanitarian law and *acknowledging* the importance of taking measures at all levels to achieve effective implementation, dissemination and enforcement of international humanitarian law,

[PP 13] *Noting* with appreciation the increasing number of partnerships and synergies in the fields of implementation, dissemination and development of international humanitarian law between States, international and regional organizations, the ICRC, National Red Cross and Red Crescent Societies and their International Federation, academic institutions, non-governmental organizations and civil society,

[PP 14] *Recalling*, in particular, the special responsibilities of National Societies as auxiliaries to the public authorities of their respective States in the humanitarian field, to co-operate with and assist their governments in the dissemination and implementation of international humanitarian law,

[PP 15] *Acknowledging* that, while progress has been made, efforts to enforce international humanitarian law at the domestic and international levels still fall far short of the requirements of justice, and *recognizing* that impunity for crimes under international law is not acceptable and that victims' rights can no longer be disregarded,

Resolves as follows:

### **Respect and Ensure Respect**

1. *Reaffirms* the obligation of all States and parties to an armed conflict to respect and ensure respect for international humanitarian law in all circumstances;
2. *Stresses*, in this regard, the obligation of all States to refrain from encouraging violations of international humanitarian law by parties to an armed conflict and to exert their influence, to the degree possible, to prevent and end violations, either individually or through multilateral mechanisms, in accordance with international law;

### **Fundamental Guarantees**

3. *Reaffirms* that all persons in the power of a party to a conflict, including persons deprived of their liberty for reasons related to the conflict, are entitled to the fundamental guarantees established by international humanitarian law in both international and non-international armed conflict and that, as a result, no one can be outside the law;
4. *Stresses* that these fundamental guarantees apply without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria;
5. *Reaffirms*, in this regard, the continued importance of full compliance with Article 3 common to the 1949 Geneva Conventions, expressing certain fundamental guarantees, as supplemented by applicable treaty law and customary international law;
6. *Reaffirms* the obligation of humane treatment for all persons in the power of a party to a conflict, including persons deprived of their liberty for reasons related to the conflict, and the obligation to respect their personal convictions and religious practices, and *reaffirms*, in this regard, the prohibition of murder, torture, whether physical or mental, cruel or inhuman treatment, outrages upon personal dignity, in particular humiliating and degrading treatment, corporal punishment, mutilations, medical or scientific experiments, rape and other forms of sexual violence, the taking of hostages, enforced disappearance and collective punishments;
7. *Stresses* the vital importance of providing all persons deprived of their liberty for reasons related to a conflict, whether detained or interned, with procedural safeguards aimed at ensuring that such detention or internment is lawful and does not amount to arbitrary deprivation of liberty, including a review of the basis and continued legality of the detention or internment by an independent and impartial body, without prejudice to the legal regime applicable to prisoners of war;

8. *Reaffirms* that all persons subject to arrest on a criminal charge and those on trial are entitled to a fair trial affording all essential judicial guarantees, including the presumption of innocence, trial by an independent, impartial and regularly constituted court, and necessary rights and means of defence;

9. *Recognizes* that additional, specific protections are provided under international humanitarian law to prisoners of war and other protected persons, such as civilian internees;

### **Humanitarian and Medical Assistance**

10. *Reaffirms* the obligation of parties to a conflict, as well as third States, to grant humanitarian relief and relief workers unimpeded and rapid access to civilian populations in need, subject to and in accordance with international humanitarian law, including sovereign consent, and further *reaffirms*, in this regard, the obligation to respect and to protect humanitarian relief personnel;

11. *Recalls* the obligation to respect and to protect medical personnel, including Red Cross and Red Crescent workers, their means of transport, as well as medical establishments and other medical facilities at all times, in accordance with international humanitarian law, and *recognizes* the importance of medical personnel having access to any place where their medical services are required;

12. *Stresses* the obligation of all parties to an armed conflict to recognize and uphold the protective value of the distinctive emblems recognized by the Geneva Conventions and their Additional Protocols;

13. *Deplores* the misuse of medical establishments and other medical facilities and of the distinctive emblems to carry out military operations that place civilians, the wounded and sick, and medical personnel in danger;

### **Conduct of hostilities**

14. *Reaffirms* the principle of distinction between civilians and combatants and between civilian objects and military objectives as a cardinal principle of international humanitarian law strictly to be observed by all parties to armed conflict at all times, regardless of the motives underlying the conflict;

15. *Reaffirms* the prohibition of attacks directed at civilians or civilian objects, the prohibition of indiscriminate attacks, the principle of proportionality in attack, the obligation to take all feasible precautions in attack, as well as against the effects of attack, to protect and spare the civilian population, and the prohibition on using human shields;

16. *Reaffirms* the prohibition of acts or threats of violence the primary purpose of which is to spread terror among the civilian population;

17. *Reaffirms* that the right of the parties to a conflict to choose methods and means of warfare is not unlimited and that it is prohibited to employ weapons, projectiles and material and methods of warfare of a nature to cause superfluous injury or unnecessary suffering;

18. *Calls* on all States to increase their efforts to strengthen the protection of civilians against the indiscriminate use and effects of weapons and *recognizes*, in this regard, the need to address the humanitarian concerns resulting from the use of cluster munitions, including through rigorous application of existing rules of international humanitarian law and additional national and international actions that will minimize the harmful effects of these weapons on civilians;

19. *Recalls* the obligation of States as expressed in Additional Protocol I (Art. 36) to review the legality of new weapons, means and methods of warfare and *urges* all States to consider establishing specific review mechanisms to this effect;

20. *Stresses* that, in light of the obligation of States to respect and ensure respect for international humanitarian law, adequate measures to control the availability of arms and ammunition are required so that they do not end up in the hands of those who may be expected to use them to violate international humanitarian law;

## **Achieving Effective Implementation**

### **a. National Implementation**

21. *Recalls* that the obligation to respect international humanitarian law cannot be fulfilled without domestic implementation of international obligations and therefore *reiterates* the need for States to adopt all the legislative, regulatory and practical measures that are necessary to incorporate international humanitarian law into domestic law and practice;

22. *Emphasises*, in this regard, the need to adopt such measures for the use and protection of the distinctive emblems, the repression of serious violations of international humanitarian law, the protection of cultural property, the regulation of means and methods of warfare and the protection of the rights of missing persons and their families, among others;

23. *Acknowledges* with satisfaction the effective role and increasing number of national committees and other bodies involved in advising and assisting national authorities in implementing, developing and spreading knowledge of international humanitarian law, and *encourages* States which have not yet established national committees or similar bodies to do so;

### **b. Doctrine, Training and Education**

24. *Recalls* that, in order to ensure respect for international humanitarian law in the conduct of military operations, it is essential that the law be translated into measures and mechanisms, at both the level of doctrine and procedures. It is equally important that armed forces personnel at all levels be properly trained in the application of international humanitarian law;

25. *Stresses*, in this regard, the responsibility of military commanders for the training of their personnel and for the orders they give to their subordinates, and *recalls* that it is essential therefore that commanders receive training commensurate with their responsibility;

26. *Recalls* the importance, to this end, of the availability within armed forces of legal advisers to advise commanders, at the appropriate level, on the application of international humanitarian law;

27. *Reaffirms* that it is equally important that the civilian population be educated about international humanitarian law and, in this regard, *encourages* States to intensify their efforts and, in particular, to adopt educational programmes for young people, such as the education modules Exploring Humanitarian Law, and *encourages* National Societies to increase their efforts to spread knowledge of international humanitarian law in all sectors of society;

### **c. Ending Impunity**

28. *Recognizes* that while implementation, training and education are prerequisites for States to comply with their obligation to respect international humanitarian law, enforcement, in particular through the rigorous application of the system of individual responsibility for serious violations of international humanitarian law, is required to put an end to impunity and to encourage future respect;

29. *Stresses*, in this regard, that it is indispensable that all States create a domestic legal framework for the investigation of crimes under international law, in particular war crimes,

and for the prosecution or extradition of persons suspected of having committed such crimes;

30. *Underlines* the importance of visible, predictable and effective sanctions, whether penal or disciplinary, in order to ensure respect for international humanitarian law and to deter future violations;

31. *Urges* States to make further progress in promoting accountability for the commission of crimes under international law by making domestic criminal justice more effective through, *inter alia*, assistance to States in developing the capacities of their domestic courts, by improving international judicial cooperation among States, as well as between States and international and "mixed" criminal courts and tribunals, by considering becoming party to the Statute of the International Criminal Court and by providing for universal jurisdiction over such crimes subject to and in accordance with international law;

32. *Encourages* the use of fact-finding mechanisms, such as the International Fact-Finding Commission established under Article 90 of Additional Protocol I, in restoring respect for international humanitarian law;

33. *Reminds* States of the need to address victims' rights, including by the provision of full and effective reparation, in accordance with international law;

34. *Calls upon* all Members of the Conference to take effective measures to implement this resolution.