

## **Australian Red Cross**

### **Submission to Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT)**

### **Inquiry into the Rights of Women and Children Internationally**



Red Cross acknowledges  
the Traditional Owners of  
this land, their ancestors  
and Elders, past and present.

## Introduction

Australian Red Cross (Red Cross) welcomes the opportunity to provide a submission to the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) inquiry into the rights of women and children internationally.

Red Cross is part of the world's largest humanitarian network, the International Red Cross and Red Crescent Movement (the Movement), which has a network of millions of volunteers operating in 192 countries. We have over a century's experience of humanitarian action in crises and disasters and carry out all activities guided by our Fundamental Principles.<sup>1</sup> Red Cross and Red Crescent national societies act as auxiliary to the public authorities in the humanitarian field<sup>2</sup> and with its global presence in local communities has a unique position in the humanitarian sector to respond to disasters and other emergencies and provide humanitarian services during armed conflict. Given the mandate of the Movement, this submission focuses on humanitarian issues and approaches.

Red Cross and the Australian Government have committed to work together to ensure the safety, dignity and well-being of those facing vulnerability through a series of joint pledges agreed to at the 2019 International Conference of the Red Cross and Red Crescent, including the *2020-2023 Pledge on the Prevention of and Response to Sexual and Gender Based Violence*<sup>3</sup>; *2020-2023 Pledge on Localisation*<sup>4</sup>; *2020-2023 Joint Pledge on Modern Slavery*<sup>5</sup>; *2020-2023 Regional Pledge on the Protection of Migrants*<sup>6</sup>; and the *2020-2023 Domestic Implementation of International Humanitarian Law*<sup>7</sup>.

We commend the Australian Government for taking on a leadership role working with governments, humanitarian organisations and civil society groups in championing a focus on gender, sexual and gender-based violence, protection and women's leadership. We note in particular the commitments in the Women, Peace and Security (WPS) agenda and the advancement of United Nations Security Council Resolution 1325 under Australia's second National Action Plan (NAP) on WPS 2021-2031, many of which relate to the issues discussed below. Red Cross encourages the Government of Australia to continue to play a leadership role within its international engagement strategy, through foreign policy and the aid program, to build on this important work.

In this submission we highlight the importance of incorporating an intersectional lens and approach to any analysis of women, children and people with diverse experiences and differentiated needs. The submission emphasises the importance of maintaining a focus on protection, ensuring access to sexual and reproductive healthcare, supporting locally-led approaches and ensuring relevant international legal frameworks include robust commitments and action on gender equality and broader protection issues.

## The importance of adopting an intersectional lens and approach

In the context of humanitarian crises, it is not only women and children who face marginalisation. In terms of gender as a concept, the International Federation of Red Cross and Red Crescent Societies (IFRC) defines gender as the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for individuals based on the sex they were assigned at birth. These may change throughout life cycles and are deeply

rooted in culture and different between cultures.<sup>8</sup> However, gender is not a binary concept.<sup>9</sup> People of diverse gender identities and expressions face particular marginalisation and their experiences and needs must be considered in any analysis of gender-based experiences in humanitarian crises.<sup>10</sup>

Other intersecting diversity factors will result in different experiences of gender, and in some cases increased risk of marginalisation or lack of protection of rights.<sup>11</sup> These include age, sexual orientation, sex characteristics, ability, experiences of sexual and gender-based violence, health issues, migration/legal status, ethnicity, nationality or lack thereof, as well as many other factors that result in diverse experiences. People can experience discrimination or be privileged by the layers and combinations of these factors. Adopting an intersectional approach acknowledges the importance of considering the compounding effects of these different factors on an individual based on the power relations in the context.<sup>12</sup> Taking this into consideration, Red Cross uses the terminology 'people with diverse experiences and differentiated needs' throughout this submission.

The IFRC has found that the impacts of emergencies and disasters are not experienced equally, and millions of people are systematically left out or left behind in humanitarian response.<sup>13</sup> People with diverse experiences and differentiated needs are often at particular risk of exclusion and discrimination during humanitarian emergencies. Applying an intersectional lens furthermore demonstrates the compounding effects of intersecting diversity factors which further increase risks during emergencies. For example, after Cyclone Pam in Vanuatu in 2015, women with disabilities reported missing out on emergency information and substantial challenges in accessing evacuation shelters.<sup>14</sup> In the aftermath of Tropical Cyclone Winston in Fiji in 2016, people of diverse sexual orientations, gender identities and sex characteristics experienced many barriers to accessing emergency shelter, such as limitations accessing housing assistance, and discrimination at emergency shelters.<sup>15</sup> Children and young people, the urban poor, indigenous communities, older people, persons with disabilities, women and girls, people with diverse sexual orientations, gender identities and expressions and sex characteristics, and migrants and people who are already displaced (among many other groups) experience particular challenges and barriers to accessing support during emergencies.<sup>16</sup>

In the context of conflict, people with diverse experiences and differentiated needs facing the immediate aftermath of armed conflict in certain regions are likely to have fewer financial resources to cope with injury and property damage, are more likely to be discriminated against because of disability, may face additional barriers to accessing health care when injured (for example, women and girls who can only be examined by female health-care workers or need male guardianship to travel), and are likely to be less represented in decision-making roles regarding humanitarian aid delivery.<sup>17</sup>

It is important to note that people with diverse experiences and differentiated needs who face marginalisation as a result of having specific needs, being at risk, or who are excluded in certain circumstances are not inherently vulnerable. Differences are also strengths.<sup>18</sup> A strengths-based approach is therefore strongly encouraged to ensure that individuals and communities are empowered to have a voice and take a leadership approach in participating and designing support services which impact them.

Red Cross calls on the Australian Government to ensure that any analysis of gender-related issues, including considerations of the rights of women and children and impacts of global disruptions on social inclusion of those groups, must be considered through an intersectional lens.

**Red Cross recommends that:**

Throughout this Inquiry and any subsequent outcome documents:

- The Committee considers the experiences of people of diverse gender identities and expressions rather than focusing only on the category of ‘women and children’; and
- The Committee apply an intersectional lens to its analysis of the experiences of people with diverse experiences and differentiated needs, and any policies or documents that are created as a result of this Inquiry.

## **Maintaining a focus on protection<sup>19</sup>**

Protection issues must be central to any discussion about the rights of people with diverse experiences and differentiated needs. Protection encompasses any specialised humanitarian action or work conducted by humanitarian and human rights actors which seeks to ensure that the rights of affected persons are understood, respected, protected and fulfilled.<sup>20</sup> It is also about ensuring that all humanitarian response activities keep people safe from violence, coercion and deliberate deprivation.<sup>21</sup> Conflict, climate-related disasters and climate-induced displacement,<sup>22</sup> and epidemics and pandemics (such as COVID-19<sup>23</sup>) are drivers of protection issues. Protection issues can include restrictions to freedom of movement, psychological abuse or distress, attacks on civilians, theft or destruction of property, forced disappearance, unlawful arrest or detention, discrimination and stigmatisation, presence of mines, early/forced marriage, forced recruitment into armed forces, family separation, forced labour, torture and inhumane, cruel or degrading treatment, among many other issues.<sup>24</sup>

People with diverse experiences and differentiated needs may be at heightened risk of experiencing protection issues during emergencies. As outlined above, humanitarian crises are a threat multiplier increasing the risk of violence, abuse and exploitation.<sup>25</sup> For example, research conducted by IFRC in Southeast Asia has found that climate-related disasters have a disproportionate impact on children who already face marginalisation – such as those who do not attend school, live on the streets, have a disability or are indigenous – also experience an increased risk of abuse and neglect, and barriers in accessing education.<sup>26</sup> Research has also shown that culturally and linguistically diverse (CALD) and migrant communities, notwithstanding their great resilience, experience additional challenges in times of disaster due to factors such as lack of translated materials, culturally inappropriate services, lack of support networks, and past traumatic experience.<sup>27</sup>

### **Case Study - Poland: Essential items**

Yana was a bank manager and confectioner before the shelling started in her region of central Ukraine. 'I woke up on 24 February not knowing what was going on. We heard very loud sirens.' After a long journey, Yana and her children arrived in northern Poland where they received help from the local Red Cross. 'Red Cross gave us diapers, baby food, new clothes. It's super important for the children to have more clothes. I left with only two sets of clothing for each of us. The older child is at kindergarten here and he needs more clothes.'<sup>28</sup>

Yana's experience shows the importance of humanitarian actors being aware of and addressing protection issues and being conscious of the increased risks people with diverse experiences and differentiated needs may face.

In Ukraine and neighbouring countries – a focus context for this Inquiry – 90 percent of people displaced by the conflict have been women, children, older persons and persons with disabilities.<sup>29</sup> Women, persons with disabilities and older persons who have fled to neighbouring countries have faced substantial challenges obtaining employment which can lead to increased risk of human trafficking, and sexual exploitation and abuse.<sup>30</sup> To address this, the Movement has been providing:

- Mental health and psychosocial support to 369,000 people;
- Child-friendly spaces;
- Other support to prevent and respond to violence, including sexual and gender-based violence, discrimination and exclusion including mainstreaming protection, gender and inclusion throughout programming which has reached 66,000 people;
- Visits to prisoners of war and civilian internees; and
- 2,000 people have accessed restoring family links services through<sup>31</sup>

Despite the substantial amount of humanitarian support being provided, gaps in services remain.

### **Sexual and Gender-based Violence<sup>32</sup> as a Specific Protection Issue**

Sexual and gender-based violence is a significant protection issue and risk that directly impacts on the rights of people with diverse experiences and differentiated needs, and often results in increased exclusion and discrimination during conflict, climate-related emergencies and other humanitarian crises.<sup>33</sup> Sexual and gender-based violence may be life-threatening and has ongoing impacts on the daily life of a victim/survivor's<sup>34</sup> dignity, rights, livelihood and health.<sup>35</sup> Research conducted by the IFRC demonstrates that risks of sexual and gender-based violence increase during emergencies as protective factors such as social connections and other service providers are limited, new actors are brought into the humanitarian sphere, and pre-existing inequalities are further exacerbated.<sup>36</sup> Sexual and gender-based violence<sup>3738</sup>

While sexual and gender-based violence is typically understood to be an issue affecting women and girls, it is important to acknowledge that it also affects men and boys<sup>39</sup> and people of diverse sexual orientations, gender identities and expressions and sex characteristics<sup>40</sup> and persons with disabilities, including women and children with disabilities.<sup>41</sup> In contexts where suspected cases of sexual and gender-based violence must be reported to law enforcement

agencies, victims/survivors face additional barriers to accessing support such as obstructed access to health care, exposure to secondary violence and harm.<sup>42</sup>

Noting the Inquiry's focus on children, age can be a particular risk factor for sexual and gender-based violence. For example, child marriage among women and girls increases in the aftermath of disasters.<sup>43</sup> Research conducted by the IFRC following disasters in the Philippines, Indonesia and Lao PDR showed evidence of this in all three countries.<sup>44</sup> Boys (as well as girls) are also at risk of sexual and gender-based violence in conflict settings, however there is very limited understanding of their experiences and needs.<sup>45</sup> Unaccompanied or separated children, children in detention, child migrants and children associated with armed forces are at heightened risk of experiencing or being exposed to sexual and gender-based violence.<sup>46</sup> This risk increases for boys within migrant populations and of diverse sexual orientations, gender identities and expressions and sex characteristics.<sup>47</sup>

Given the Committee's particular interest in the impacts of COVID-19, we note that sexual and gender-based violence has been observed at alarming rates.<sup>48</sup> During COVID-19, rates of sexual and gender-based violence are estimated to have substantially increased. In Asia, for example, reports to police of violence increased by 30 percent, and reports to family violence hotlines increased by 137 percent in Singapore and 150 percent in Samoa.<sup>49</sup> In humanitarian settings, decreased field presence on the part of humanitarian actors and reduced services has meant victims/survivors of sexual and gender-based violence have had limited support.<sup>50</sup> Persons with disabilities – who are already at a heightened risk of sexual and gender-based violence – have faced additional attitudinal and institutional barriers to support, such as challenges reporting incidences of violence to public authorities.<sup>51</sup> The Movement's research has furthermore found that sexual and gender-based violence amongst migrants was recorded by many National Societies as increasing throughout the pandemic.<sup>52</sup>

The Australian Government has a long held committed to working in partnership with States, the Movement and communities to prevent, mitigate and respond to sexual and gender-based violence in conflict, disasters and other emergencies.<sup>53</sup> Red Cross has previously spoken comprehensively to the actions that could be taken by the Australian Government to hone its focus on preventing and responding to sexual and gender-based violence.<sup>54</sup> We emphasise the recommendations made therein. We remind the Australian Government of the importance of continuing to promote and support governments to develop survivor-centred, inclusive and holistic support services for victims/survivors, including through training health, judicial and law enforcement personnel to promote privacy, confidentiality, informed decision-making and dignity.

### **Red Cross recommends that:**

- Protection issues are central to any discussion about the rights of people with diverse experiences and differentiated needs;
- The Australian Government continue to invest in programs to address the impact of protection issues on the safety and dignity of people with diverse experiences and differentiated needs; and
- In terms of sexual and gender-based violence specifically, continue to promote and support governments to:



- Develop survivor-centred, inclusive and holistic support services for victims/survivors;
- Ensure prohibitions of sexual and gender-based violence in international and domestic legal frameworks are non-discriminatory and provide protection without discrimination; and
- Invest in training and sensitisation on survivor centred approaches for health, judicial and law enforcement personnel to promote privacy, confidentiality, informed decision-making and dignity.

## **Access to sexual and reproductive healthcare**

Australia has a strong history of advocating for the need to support female sexual and reproductive healthcare (SRH), including during disasters and crises. Access to healthcare is central to women, girls and people of diverse gender identities and expressions' safety, dignity and well-being and directly impacts their capacity to reach their potential, contribute to their communities, work, attend school and participate fully in civil, political, economic, social and cultural life.

During disasters and crises, women, girls and people of diverse gender identities and expressions' access to critical and lifesaving SRH can be interrupted and their needs are often overlooked or de-prioritised. Engaging with women, girls and people of diverse gender identities and expressions about solutions that ensure their healthcare is maintained during emergencies and that they have a key role in decision-making is essential and ultimately leads to better health gains for the whole community.

### ***Case Study – Vanuatu: Menstrual Hygiene in Emergencies***

Research has found that women and girls experience challenges managing their menstruation in a safe and dignified manner in disaster and displacement contexts. These challenges are compounded by discriminatory gender norms, societal taboos, secrecy and embarrassment around menstruation.<sup>55</sup>

In 2020 Vanuatu Red Cross conducted a consultative and solution driven dialogue with women and girls which led to changes in the way in which the national water, sanitation and hygiene (WASH) cluster addresses menstrual hygiene in emergencies. This increased the dignity and access for women and girls and other community members and ensure access to sanitary products that are culturally appropriate.<sup>56</sup>

We urge the Government to continue to reflect safe and dignified access to healthcare, including SRH, for women, girls and people of diverse gender identities and expressions in its aid investments. The economic, social, development and gender equality gains that Australia seeks to support cannot be achieved without it. This should include a focus on maintaining access to SRH during emergencies, engaging with women, girls and people of diverse gender identities and expressions on their specific needs, and ensuring they have a lead role in the design and delivery of health and WASH programs.

**Red Cross recommends that:**

- The Australian Government continue to champion and invest in safe and dignified access to life-saving SRH for women, girls and people of diverse gender identities and expressions during emergencies.

## **Embedding support for locally-led approaches, local leadership and prioritising the voice of lived experience**

### **Continuing to Champion Locally-led Approaches**

Local humanitarian actors are the first to respond when disasters strike and often have access to areas that international actors do not. Their presence within communities before, during, and after crises means they are generally best placed to link immediate response efforts to longer term resilience-building, preparedness and recovery.

In 2018, Red Cross in partnership with Humanitarian Policy Group (HPG) and Humanitarian Advisory Group (HAG) conducted the research ‘Protection in Local Response to Disasters’<sup>57</sup> in the Pacific region. The research highlighted the challenges and tensions between the role of international and local actors in the Pacific region and endorsed the principle of ‘as local as possible, as international as necessary’. Discussions with local authorities, community groups and civil society in Vanuatu, Solomon Islands and Tonga highlighted the importance of supporting a localised approach to protection and gender equality that seeks to endorse the role of local actors, with complementary support from international actors to strengthen capacity and contextualise standards. The research findings recommended international actors link with and support local protection actors to engage with and access humanitarian systems and funding opportunities and provide support in mutually identified areas such as advocacy and accountability. While the recommendations are for the Pacific region, there are key takeaways for other regions as well.

Red Cross’ 108 years of experience tells us that optimal, sustainable results are achieved when people made vulnerable by circumstances are empowered to lead their own recovery. Strength-based, localised, place-based approaches driven by the voice of lived experience are at the heart of our work, whether in the delivery of humanitarian aid overseas, responding to crises, emergencies, or natural disasters, building welcoming communities in Australia or working with marginalised youth.

### **Centring Local and Diverse Leadership During Conversations on Localisation**

The Grand Bargain, signed on the occasion of the 2016 World Humanitarian Summit (WHS), was a unique agreement which aimed to improve the effectiveness and efficiency of humanitarian action. Its latest iteration, Grand Bargain 2.0, includes a stronger focus on investing in the leadership and capacity of local actors and the provision of quality funding. Recognised as a champion of the reform agenda, the Australian Government has made significant progress by working collaboratively with partners in Australia and the region. However, progress on the goals by both governments and humanitarian agencies on localisation are still far from the stated intentions in the Grand Bargain document.<sup>58</sup>



A critical means of ensuring protection of the rights and inclusion of people with diverse experiences and differentiated needs is to promote increased diversity of representation and leadership. Data has shown that leadership structures in humanitarian organisations that are diverse and inclusive – both in terms of gender as well as other markers of diversity – will create a better culture of innovation, including in terms of addressing entrenched power dynamics and ensuring accountability to affected communities.<sup>59</sup> During its COVID-19 response, research found that teams within the Movement that had increased diversity within its leadership were more likely to adapt programs and workplaces to the changing humanitarian environment.<sup>60</sup> Support to local civil society organisations (CSOs) and human rights organisations that are women-led and led by diverse and marginalised groups is central to advancing the safety, dignity and well-being of people with diverse experiences and differentiated needs and building disaster-resilient communities.

### ***Case Study – Vanuatu: Investment in Diverse Representation***

Following Tropical Cyclone Pam in 2015, government and local humanitarian actors in Vanuatu invested in inclusive representation to better understand the needs of diverse groups. This prior investment meant that in the very early assessment missions in the response to Tropical Cyclone Harold in 2020, disability representation and Rainbow Coalition participation was already included and supported effective inclusion.

In the same period, Vanuatu Red Cross also invested in increasing their geographic coverage through volunteer training in protection, gender and inclusion and establishing networks with local civil society. Consequently, it was able to mobilise very quickly for an effective community-based response when Tropical Cyclone Harold hit.

Supporting local CSOs that are led by and represent a diverse range of groups who face increased risk of marginalisation – such as women-led organisations, CSOs led by persons with disabilities, and community organisations supporting people of diverse sexual orientations, gender identities and expressions and sex characteristics – is critical to ensuring that the rights of people with diverse experiences and differentiated needs are protected. These organisations advance safety, dignity and well-being of the communities they serve.

## **Centring the Voice of Lived Experience**

While discussions on localisation typically focus on shifting the balance of power to local actors, it is also important to ensure local voices that represent experiences of people impacted by humanitarian emergencies are also prioritised by international actors. Red Cross strongly recommends that the voice of lived experience is prioritised in any evidence that is used to inform Australian Government policy and practice relating to the experiences of people with diverse experiences and differentiated needs.

When people with lived experience are centred in our work, people have agency to advocate for themselves, to contribute to and connect with the larger society in which they live and receive affirmation that their expertise has been listened to, understood, and valued. This is because a person with lived experience has first-hand experience of the structures, services, systems, and policies that impact them.

Incorporating the voice of lived experience also recognises the differing needs of people and their individual and unique experiences and backgrounds, thereby reinforcing an intersectional approach. Our experience to date based on advice from people with lived experience is that amplifying voices of lived experience works best and is most effective when:

- Engagement processes are inclusive, trauma informed and sensitive to the cultural needs of all individuals;
- People are remunerated for contributing their personal lived experience and expertise; and
- Tailored and consistent training and development opportunities in areas that people with a lived experience identify they wish to develop are provided.

### **Red Cross recommends that:**

- The Australian Government support a localised approach to protection in humanitarian response that seeks to endorse the role of local actors, with complementary support from international actors, to strengthen capacity and contextualise standards;
- Continue to support and promote increased diversity in leadership; and
- Ensure the voice of lived experience is incorporated into the Committee's analysis and any subsequent policies or documents, recognising the differing needs of people and their individual and unique experiences and backgrounds.

## **Relevant international legal frameworks: gender equality and protection**

The general and special rights, freedoms and protections afforded to women and children (including girls) under international law are predominately provided for under International Humanitarian Law (IHL), International Human Rights Law (IHRL) and International Refugee Law (IRL). The emerging field of International Disaster Response Law (IDRL) also provides guidance on the treatment of women and children during disasters by strengthening domestic legal frameworks relating to disaster risk management in line with international frameworks such as IHRL. They are complementary bodies of law<sup>61</sup> that share a common goal around the protection of the lives, health and dignity of all persons, including women and children.

As part of the Red Cross mandate, we work with the Australian Government to respect and ensure respect for IHL in particular.

IHL is a body of rules restricting the means and methods of warfare in order to limit the humanitarian effects of armed conflict. IHL contains comprehensive protections that generally apply without discrimination, such as the protections afforded to civilians,<sup>62</sup> combatants, or persons who are *hors de combat* (as persons who are no longer participating in hostilities)<sup>63</sup> as well as special protections for women, children, the aged and sick, and displaced persons.

The Geneva Conventions of 1949<sup>64</sup> and their Additional Protocols of 1977,<sup>65</sup> as the core IHL treaties, recognise the specific needs and vulnerabilities of women affected by armed conflict.<sup>66</sup> These treaties contain 19 specific provisions that afford special protections to pregnant women, mothers<sup>67</sup> and women in detention,<sup>68</sup> and contain rules which address the vulnerability of women to sexual violence during armed conflict.<sup>69</sup>

These IHL treaties also afford special protections to children<sup>70</sup> regardless of their gender. Special protections are afforded to new-born children,<sup>71</sup> children that are orphaned or separated,<sup>72</sup> as well as children who are arrested, detained, or interned.<sup>73</sup> IHL also gives priority to children and pregnant mothers when it comes to the distribution of relief items in armed conflict<sup>74</sup> and seeks to protect children from assault, recruitment in the participation of hostilities and the death penalty.<sup>75</sup>

IHRL, IRL and IDRL also afford general and special protections for women and children, which unlike IHL, apply during peacetime as well as times of armed conflict. These bodies of law reinforce the non-discriminatory nature of international law in general and seek to address particular vulnerabilities faced by women and children in various contexts. For example:

- IHRL provides special status and protection to women and children through treaties such as the *Convention on the Elimination of All Forms of Discrimination Against Women*,<sup>76</sup> the *Convention on the rights of the Child*<sup>77</sup> and its *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*.<sup>78</sup>
- Under IRL, the *Convention Relating to the Status of Refugees 1951*<sup>79</sup> and its *Protocol*<sup>80</sup> are generally interpreted and implemented on the understanding that women and girls may be forced to seek asylum where they face “harsh or inhuman treatment due to their having transgressed the social mores of the society in which they live.”<sup>81</sup>
- IDRL guidance by the IFRC provides that any disaster relief and recovery assistance should be responsive to the “special needs of [women and children]”.<sup>82</sup> For example, research conducted by the IFRC has found that governments should increase their focus on strengthening implementation of the protections for women articulated in IHRL to ensure that relevant disaster risk management laws are gender-sensitive and provide robust measures to prevent and address sexual and gender-based violence in emergencies.<sup>83</sup>

The faithful implementation of these legal protections requires addressing the structural inequalities within a particular context that may exacerbate harm to people with diverse experiences and differentiated needs as outlined throughout this submission. To minimise the impact these types of harm have on persons with diverse experiences and differentiated needs, further consideration of gender, youth and broader perspectives must be undertaken when interpreting and implementing the international legal frameworks that apply in different contexts, including in times of peace, armed conflict and disasters.

#### **Red Cross recommends that:**

- Efforts to enhance and promote respect for international law, in particular international humanitarian law, human rights law and refugee law, should involve robust commitments and action on gender equality and broader protection issues.
- The Australian Government increase its focus on strengthening implementation of the protections for women articulated in IHRL to ensure that relevant disaster risk management laws are gender-sensitive and provide robust measures to prevent and address sexual and gender-based violence in emergencies and support other governments to do the same.

## Conclusion

Red Cross thanks the Committee for the consultative process. Red Cross recognises and commends the Australian Government on its ongoing leadership role regionally and globally promoting the rights and needs of people with diverse experiences and differentiated needs, including women and children, through its foreign policy and aid program. We look forward to working with Government on elevating this work.

As always, we remain available to provide additional support and information as needed.

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<sup>1</sup> 25<sup>th</sup> International Conference of the Red Cross and Red Crescent (1986, amended in 1995 and 2006). [Statutes of the International Red Cross and Red Crescent Movement](#). Preamble. See Australian Red Cross, [Fundamental Principles](#).

<sup>2</sup> See inter alia [Royal Charter Consolidated and Fourth Supplemental Charter and Article 4 \(3\) of the Movement Statutes](#).

<sup>3</sup> 33<sup>rd</sup> International Conference of the Red Cross and Red Crescent Pledge: [Prevention of and Response to Sexual and Gender-Based Violence – PS330222](#).

<sup>4</sup> 33<sup>rd</sup> International Conference of the Red Cross and Red Crescent Pledge: [Strengthening locally led humanitarian action with a focus on the Pacific- SP330233](#).

<sup>5</sup> 33<sup>rd</sup> International Conference of the Red Cross and Red Crescent Pledge: [Modern Slavery – SP330198](#).

<sup>6</sup> 33<sup>rd</sup> International Conference of the Red Cross and Red Crescent Pledge: [Protection of Migrants – SP330199](#).

<sup>7</sup> 33<sup>rd</sup> International Conference of the Red Cross and Red Crescent Pledge: [Open Pledge to Report on the Domestic Implementation of International Humanitarian Law - OP330050](#).

<sup>8</sup> IFRC (2022). [Protection, Gender and Inclusion Policy](#); IFRC (2018) [Minimum standards for protection, gender and inclusion in emergencies](#). Page 10.

<sup>9</sup> IFRC (2022). [Protection, Gender and Inclusion Policy](#). Page 5.

<sup>10</sup> See discussion in Devikara (Prim) Devakula, Elisabeth Dotter, Emily Dwyer and Maria Holtsberg (2017). [Pride in the Humanitarian System Bangkok 4-7 June Consultation Report](#).

<sup>11</sup> IFRC (2018) [Minimum standards for protection, gender and inclusion in emergencies](#). Page 8.

<sup>12</sup> IFRC (2022). [Protection, Gender and Inclusion Policy](#). Page 5.

<sup>13</sup> IFRC (2018). [World Disasters Report: Leaving No One Behind](#).

<sup>14</sup> University of Melbourne and CBM et al (2017). [Disability Inclusion in Disaster Risk Reduction: Experiences of people with disabilities in Vanuatu during and after Tropical Cyclone Pam and recommendations for humanitarian agencies](#). Pages 11-14.

<sup>15</sup> Emily Dwyer and Lana Woolf (2018). [Down by the River: Addressing the Rights, needs and Strengths of Fijian Sexual and Gender Minorities in Disaster Risk Reduction and Humanitarian Response](#). Rainbow Pride Foundation, Edge Effect and Oxfam Report. Page 24-25.

<sup>16</sup> IFRC (2020). [World Disasters Report 2020: Come Heat or High Water](#).

<sup>17</sup> ICRC (2022). [Gendered impacts of armed conflict and implications for the application of IHL](#).

<sup>18</sup> IFRC (2018). [Minimum standards for protection, gender and inclusion in emergencies](#). Page 5.

<sup>19</sup> Protection includes 'all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law that is, international human rights law, international humanitarian law and international refugee law'. In practice, this means doing no harm and ensuring the safety, dignity and well-being of all persons in disasters and crises. See the Inter-Agency Standing Committee Policy (2016). [Protection in Humanitarian Action](#); Sphere Project (2018). [Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response](#); ICRC et al. (2018). [Professional Standards for Protection Work Carried Out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence](#); IFRC (2018). [Minimum standards for protection, gender and inclusion in emergencies](#).

<sup>20</sup> Sphere Project (2018). [Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response](#); Inter-Agency Standing Committee Policy (2016). [Protection in Humanitarian Action](#); ICRC et al. (2018). [Professional Standards for Protection Work Carried Out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence](#).

<sup>21</sup> Ibid. To ensure these principles are mainstreamed throughout all operations, IFRC adopted the following standards: (2018) [Minimum standards for protection, gender and inclusion in emergencies](#). These standards draw

on and complement existing international standards and policies in international protection work, including those listed above. ICRC has also adopted a complementary framework: (2019). [The Minimum Protection Approach](#).

<sup>22</sup> IFRC (2020). [Come Heat or High Water: Tackling the Humanitarian Impacts of the Climate Crisis Together](#).

<sup>23</sup> IFRC (2021). [Drowning just below the surface: The socioeconomic consequences of the COVID-19 pandemic](#)

<sup>24</sup> See Global Protection Cluster (2022). [Protection issues](#).

<sup>25</sup> IFRC (2020). [World Disasters Report 2020: Come Heat or High Water](#).

<sup>26</sup> IFRC and the Global Child Protection Area of Responsibility (2022). [We Need to Do Better: Climate Related Disasters and Child Protection in Southeast Asia](#).

<sup>27</sup> International Organization for Migration (2017). [Migrants in Disaster Risk Reduction: Practices for Inclusion](#).

<sup>28</sup> Ibid.

<sup>29</sup> UNHCR (2022). [Unaccompanied and separated children fleeing escalating conflict in Ukraine must be protected](#);

IFRC and ICRC (2022). [Six Months of Armed Conflict in Ukraine](#). Page 29.

<sup>30</sup> IFRC and ICRC (2022). [Six Months of Armed Conflict in Ukraine](#).

<sup>31</sup> Ibid.

<sup>32</sup> Broadly, the International Red Cross and Red Crescent Movement uses the term 'sexual and gender-based violence'. Sexual and gender-based violence is used as an umbrella term for any harmful act that does or is likely to result in physical, sexual or psychological harm or suffering on the basis of gender. This can include, but is not limited to, sexual violence, intimate partner violence, trafficking, forced or early marriage, forced prostitution, sexual harassment, femicide, female genital mutilation, sexual exploitation and abuse, and denial of resources, opportunity and services. See IFRC (2022). [Protection, Gender and Inclusion Policy](#) and discussion in ICRC and IFRC (2015). [Sexual and gender-based violence: joint action on prevention and response: Background report](#).

<sup>33</sup> Ibid.

<sup>34</sup> It is important to note that the most appropriate terminology used to describe persons who have experienced sexual and gender-based violence is the subject of substantial discussion. Broadly, the terminology 'survivor' is considered by some to have more empowering connotations and implying resilience. However, some persons do not identify with the experienced of having survived violence if their healing process remains ongoing and may feel that the label 'victim' is more appropriate. For legal and medical matters, the term 'victim' may be more relevant. There are also many other terms which may be used. While Red Cross adopts the terminology 'victim/survivor' throughout this report, we emphasise that it is the right of any individual to choose whichever term is most appropriate for them noting that preference may change over time.

<sup>35</sup> IFRC (2018). [Responsibility to Protect from Sexual and Gender Based Violence in Emergencies](#).

<sup>36</sup> Ibid.

<sup>37</sup> For example, Articles 10(2)(b) and 10(3) of the UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171; Article 37(c) of the UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3; Article 11 of the UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, 1465, p.85. For further guidance, see ICRC Advisory Service on International Humanitarian Law, '[Prevention and Criminal Repression of Rape and Other forms of Sexual Violence during Armed Conflicts](#)' (2015).

<sup>38</sup> For example, see Article 27(2) of *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (GCIV), 12 August 1949, 75 UNTS 287 provides that "[w]omen shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault". Further, Article 76(1) of *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts* (API), 8 June 1977, 1125 UNTS 3 (API) provides that; "Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault." For more comprehensive guidance, see ICRC Advisory Service on International Humanitarian Law, '[Prevention and Criminal Repression of Rape and Other forms of Sexual Violence during Armed Conflicts](#)' (2015).

<sup>39</sup> Norwegian Red Cross and ICRC (2022). ["That Never Happens Here": Sexual and Gender-Based Violence Against Men, Boys and/Including LGBTIQ+ Persons in Humanitarian Settings](#). See also ICRC (2022). ["My Father and Cows Will go to Court, Not Me": Male Perceptions of Sexual Violence in South Sudan and the Central African Republic](#).

<sup>40</sup> Norwegian Red Cross and ICRC (2022). ["That Never Happens Here": Sexual and Gender-Based Violence Against Men, Boys and/Including LGBTIQ+ Persons in Humanitarian Settings](#).



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- <sup>41</sup> University of Melbourne and CBM et al. (2017). [Disability Inclusion in Disaster Risk Reduction: Experiences of people with disabilities in Vanuatu during and after Tropical Cyclone Pam and recommendations for humanitarian agencies](#). Pages 11-14.
- <sup>42</sup> British Red Cross and ICRC (2020). [Forced to report: The humanitarian impact of mandatory reporting on access to health care for victims/survivors of sexual violence in armed conflict and other emergencies](#). This is also an issue in the Australian context in particular for victims/survivors of forced marriage. The Australian Institute of Criminology has identified that 'the fear of authority' is a significant factor in shaping help-seeking behaviours. They also recognised that from people they interviewed that '...There was acknowledgement that some victim/survivors, particularly children, will be reluctant to report their circumstances —from fear not just of what will happen to them but of what they think will happen to their parents or other relatives', Australian Institute of Criminology (2018) *The nature and context of forced marriage in Australia and New Zealand*. Page 58 and 81.
- <sup>43</sup> IFRC (2018). [Responsibility to Protect from Sexual and Gender Based Violence in Emergencies](#).
- <sup>44</sup> Ibid.
- <sup>45</sup> Norwegian Red Cross and ICRC (2022). ["That Never Happens Here": Sexual and Gender-Based Violence Against Men, Boys and/Including LGBTIQ+ Persons in Humanitarian Settings](#).
- <sup>46</sup> Ibid.
- <sup>47</sup> Ibid.
- <sup>48</sup> UNDP (2020). [Gender-based violence and COVID-19](#).
- <sup>49</sup> IFRC (2021). [Beyond the data: Time for violence against women and children to end](#).
- <sup>50</sup> Sophie Sutrich (2020). [COVID-19, conflict and sexual violence: reversing the burden of proof](#), *ICRC Humanitarian Law & Policy Blog*.
- <sup>51</sup> NG'AA Michael Mwendwa (2020). [Disability and sexual violence in the COVID-19 era](#) *ICRC Humanitarian Law & Policy Blog*.
- <sup>52</sup> Global Migration Lab (2021). [Locked Down and Left Out? Why access to basic services for migrants is critical to our COVID-19 response and recovery](#). Page 28.
- <sup>53</sup> 32<sup>nd</sup> International Conference of the Red Cross and Red Crescent, '[Resolution: Sexual and gender-based violence: Joint action on prevention and response](#)' (2015); 32<sup>nd</sup> International Conference of the Red Cross and Red Crescent, '[Pledge: Prevention of and Response to Sexual and Gender-based Violence](#)' (Pledge SP330222 between Australia and Australian Red Cross, 2020).
- <sup>54</sup> See Australia Red Cross (July 2020). 'Submission on the Human Rights of Women and Girls in the Pacific', Parliamentary Inquiry and Australian Red Cross (May 2020). 'International Strategy on Human Trafficking and Modern Slavery', Submission to the Department of Foreign Affairs and Trade.
- <sup>55</sup> Burnet Institute, WaterAid Australia and the International Women's Development Agency (2017). [The Last Taboo: Research on Managing Menstrual Hygiene in the Pacific](#)
- <sup>56</sup> Vanuatu Red Cross, Australian Red Cross, James Cook University (2020). [Menstrual Hygiene Management Research in Vanuatu](#).
- <sup>57</sup> ARC, HAG and HPC (2018). [Protection in Local Response to Disasters: Reflections and Insights from the Pacific region](#).
- <sup>58</sup> See ODI (2021). [The Grand Bargain at five years: an independent review \(odi.org\)](#) and Development Initiatives (2022). [Global Humanitarian Assistance Report](#).
- <sup>59</sup> HAG (2021). [Leading for Impact: The Measurable Effect of Diverse and Inclusion Humanitarian Leadership Teams](#).
- <sup>60</sup> HAG (2021). [How Diverse Leadership Shaped Responses to COVID-19 with the International Red Cross and Red Crescent Movement](#).
- <sup>61</sup> While these bodies of international law are complementary and do not displace one another, international humanitarian law may be considered *lex specialis* during armed conflict. This means that, to the extent that there may be a conflict between the application of IHL and IHRL during armed conflict, international humanitarian law may prevail to the extent of such an inconsistency.
- <sup>62</sup> For example, see Article 51 of the International Committee of the Red Cross (ICRC), *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts* (API), 8 June 1977, 1125 UNTS 3 (API); Article 13-17 of the *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts* (APII), 8 June 1977, 1125 UNTS 609; *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (GCIV), 12 August 1949, 75 UNTS 287 and Common Article 3 to the *Geneva Conventions, 1949* (CAIII).
- <sup>63</sup> For example, see Article 41, API; Article 4, APII; CAIII.



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<sup>64</sup> ICRC, *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (GCI), 12 August 1949, 75 UNTS 31; *Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea* (GCII), 12 August 1949, 75 UNTS 85; *Geneva Convention Relative to the Treatment of Prisoners of War* (GCIII), 12 August 1949, 75 UNTS 135; GCIV.

<sup>65</sup> ICRC, API; APII; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem* (APIII), 8 December 2005.

<sup>66</sup> For example, see Article 12 of GCI; Article 12 of GCII; Article 27, GCIV.

<sup>67</sup> For example, see Article 76(2)-(3) API.

<sup>68</sup> Article 75 API; Article 25, 29, 49, 88, 97, 108 GCIII; Article 76, 85, 119 GCIV.

<sup>69</sup> For example, see Article 27(2) of GCIV provides that “[w]omen shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault”. Further, Article 76(1) of API provides that: “Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.”

<sup>70</sup> Article 70, 74-78 API. Article 4-6, APII; Article 16 and 49, GCIII; Article 14, 16-18, 21-27, 38, 49, 50-51, 68, 76, 81-82, 85, 89, 91, 94, 119, 127, 132, 136-140 GCIV;

<sup>71</sup> Article 8 API, which provides that new-borns shall benefit from the same protections as those granted to the wounded and sick.

<sup>72</sup> Article 24 GCVI; Article 78 of API, which relate to the needs of separated or orphaned children being taken care of, including their maintenance and the exercise of their religion and education. There are also general rules around the reunification of separated families see Article 25, GCIV.

<sup>73</sup> Article 77 API; Article 75-76, 82, 89, 94, 132 GCIV.

<sup>74</sup> Article 23 GCIV; Article 70 API

<sup>75</sup> Article 77, API; Article 68 GCIV; Article 6, APII; Article 50-51 GCIV.

<sup>76</sup> UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13.

<sup>77</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

<sup>78</sup> UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, 25 May 2000.

<sup>79</sup> UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137.

<sup>80</sup> UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267.

<sup>81</sup> Executive Committee of the United Nations High Commissioner for Refugees, Conclusion No. 39 (XXXVI), 1985, on refugee women and international protection, para. k.

<sup>82</sup> See IFRC (2017). [Introduction to the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance \(IDRL Guidelines\)](#). Page 15.

<sup>83</sup> IFRC (2017). [Global Study: Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters](#).