

# Report Launch

## Forced to report: Mandatory reporting of sexual violence in armed conflict

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Panellists:

Jelia Sane, Barrister, Doughty Street Chambers

Camille Michel, Legal Advisor, MSF

Ghida Anani, Founder and Director, ABAAD

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ICRC

## Opening



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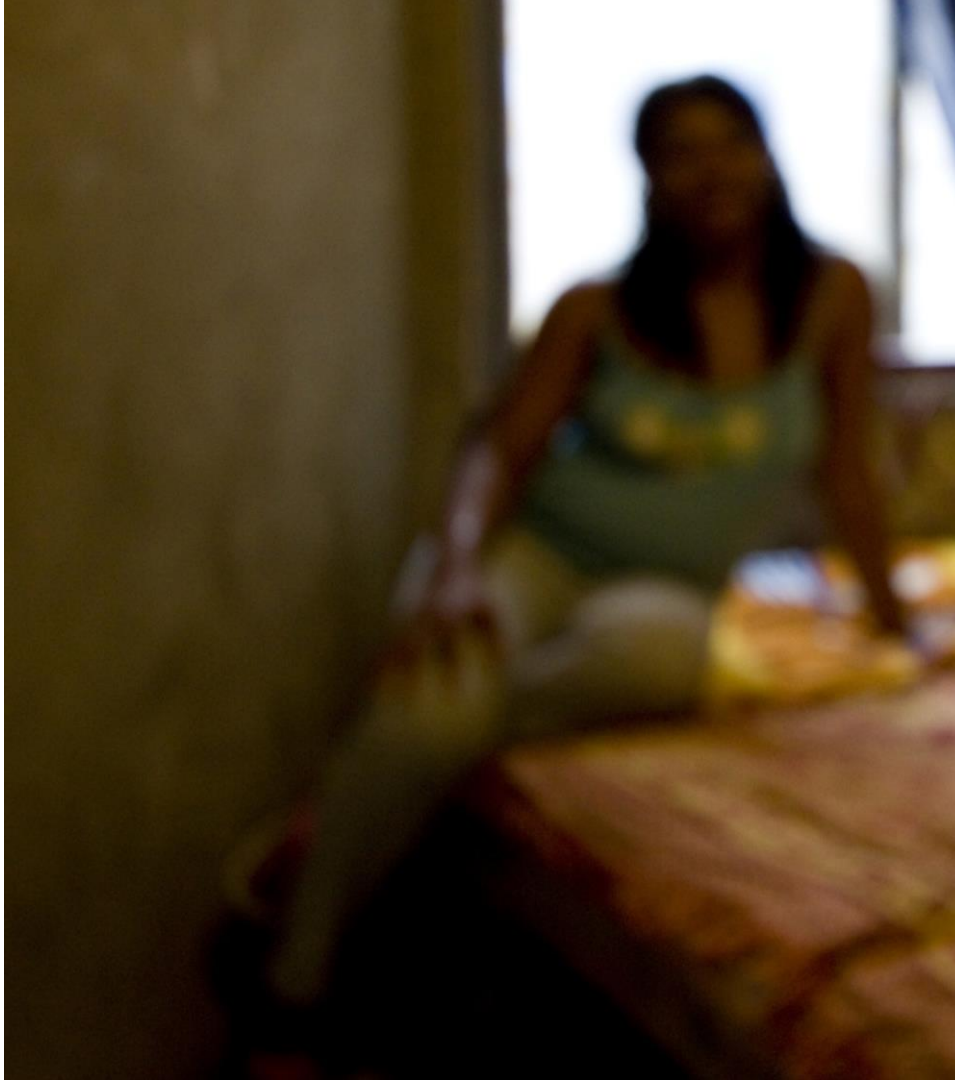
# Forced to Report

**The humanitarian impacts  
of mandatory reporting on  
access to health care for  
victims/survivors of sexual  
violence in armed conflict  
and other emergencies**

# What is mandatory reporting?

- A **legislative or policy requirement** for *certain individuals* and/or institutions (often health-care) to report criminal offences to a *designated authority* (often law enforcement)
- Includes **personal identifying information**
- **Does not require the consent** of the victim
- Failure to report can lead to **sanction** for the medical actor
- At times, *the victim/survivor* is required to make a report to the police **in order to access health care**

# Features of mandatory reporting regimes



- Where are reporting obligations delineated?
- Which incidents trigger mandatory reporting obligations?
- Whose duty is it to report?
- Who receives the report?
- When does the report need to be made?
- What are the reporting procedures?
- What are the requirements for accessing specialised services?
- What exceptions exist?

# Humanitarian consequences

## 1. Reduced health-seeking behaviour

*“When they are informed by the hospital of the reporting duty, many become afraid... They fear reprisals and do not trust that they will be protected by the system... there is little police presence. As a result, many women abandon the process and do not continue to seek care. At this point, we lose contact with many of them.”*  
– civil society actor.

## 2. Obstructed provision of health care

*“No one will touch the patient unless they provide the hospital with the police paper.”*  
– medical doctor.

## 3. Secondary violence and harm

*“When the perpetrator is a soldier, he will often threaten the victim into not reporting, threatening death on her or her family.”*  
– police officer.

*“It is common that when you go, people will laugh at you, men will reject you.”*  
– community member.



# Objectives and justifications for mandatory reporting

There is public interest in identifying and punishing perpetrators in order to reduce impunity and contribute to the prevention of crimes and the protection of society.

1. Improved access to justice
2. Fortified prevention (through deterrence)
3. Provision of victim protection and assistance

Question: Does mandatory reporting serve these purposes?



# Mandatory reporting and access to health care

**“The issue with [mandatory reporting] is that it risks exposing your story to many people and it delays your care.”**

– humanitarian actor.

- A right to health and health care within IHRL and IHL
- A right to medical confidentiality
- International standards for provision of care
- Medical ethics

# Legal, ethical and operational dilemmas

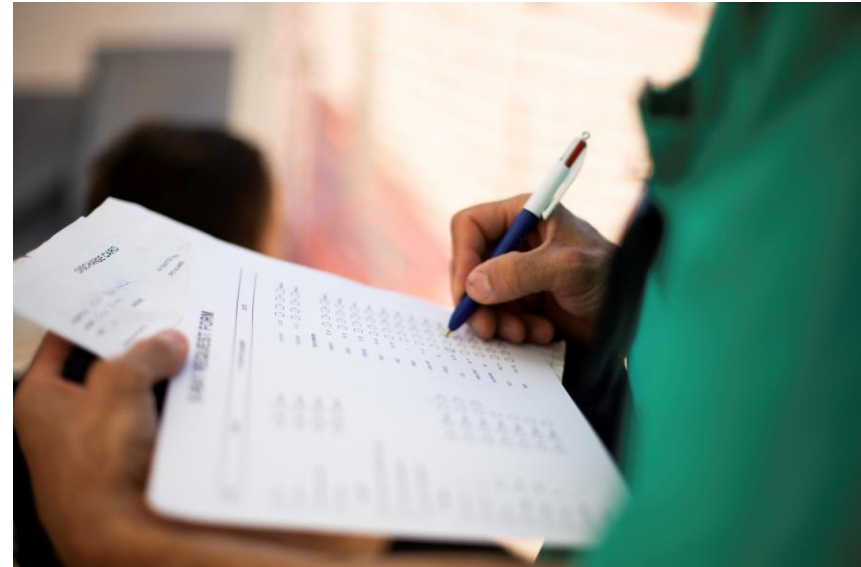
- May constitute a disproportionate interference with the rights to health and privacy.
- Incompatible with medical ethics of confidentiality, informed consent and patient autonomy – and survivor-centred approaches
- May lead to further harm to the patient
- Challenges application of the humanitarian principles of humanity, impartiality and neutrality
- Can put health-care personnel and medical missions at risk
- May even be detrimental to the aim of improved reporting, care and justice.



# Legal and ethical analysis

Mandatory reporting regimes are potentially incompatible with international law and medical ethics where they do not meet all the requirements below:

- Strictly prescribed by domestic law
- Pursue a legitimate aim
- Strictly necessary
- Proportionate to the aim





# Mandatory reporting and practical solutions

## Avoidance mechanisms

create barriers to quality of care and to future investigations and prosecutions.

## Practical solutions identified by health-care personnel as 'assistive':

- Anonymised information on trends
- Measures to support survivors to voluntarily report
- Survivor-centred systems.



# Conclusion



- Safe and dignified access to health care, as part of a holistic response to sexual violence, must be the ultimate priority.
- Where safeguarding measures are absent or incapable of guaranteeing survivor safety and dignity, reporting to law enforcement should not take place without informed consent.
- Priority should be given to safe and effective voluntary reporting and survivor-centred approaches to health care provision
- Impacts of mandatory reporting on access to health care for survivors of sexual violence should be examined and addressed, and where harms outweigh benefits, should be reconsidered and revised.
- Further research

# Recommendations for **States with mandatory reporting**

1. **Treat sexual violence as a medical emergency.**
2. Conduct analysis and **revise obligations where risks outweigh benefits.**
3. Invest in **fully informed voluntary reporting** and procedures that promote safety, privacy and dignity.
4. **Introduce special exemptions** where risks to individuals are high.
5. **Resolve the tension between competing** obligations for health-care personnel.
6. Invest in **effective protection for survivors.**
7. Build safe environments for disclosure and **address stigmatisation.**
8. **Develop guidance on sexual violence** to strengthen protection and respect for survivors.

# Recommendations for donors and health-care providers

1. **Highlight the negative consequences**, including on humanitarian assistance.
2. **Raise awareness** on sexual violence as a medical emergency.
3. Provide support for **fully informed voluntary reporting**.
4. Support **survivor-centred, holistic service provision**.
5. Support confidential, safe, dignified and **trauma-sensitive consultations** to inform decision making.
6. Support **training for judiciary, law enforcement and health-care providers**.
7. Conduct **sensitisation on the rights of sexual violence survivors**.
8. **Champion and fund further research** on the impact of mandatory reporting and potential alternatives.





## With special thanks to:

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- May Maloney and Sophie Sutrich at the ICRC
- All colleagues and contributors across the British Red Cross, ICRC and external experts

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# Thank You



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