‘Uphold the norms that safeguard humanity’
NGO brief for the High Level Leaders’ Round Table

This brief is intended to inform discussions with stakeholders leading up to, and during the High Level Leaders’ Roundtable (HLRT) on Upholding the norms that safeguard humanity. Led by Action Contre La Faim and Christian Aid, with inputs from Save the Children, coordinated by ICVA and shared widely amongst ICVA’s membership, this brief is based on a foundation of collective NGO experience and analysis of the lack of respect for the norms that States developed to safeguard humanity.

Context

The Secretary General’s report, One Humanity: Shared Responsibility, highlights the urgent importance of leaders to mobilize resources to exert stronger influence over the way in which State and non-State actors conduct hostilities today. The report points in particular to the contagious effect of flouting the most basic rules governing the conduct of hostilities, which can amount to an invitation for all parties to lower the bar, subjecting civilian populations to a range of intolerable dangers and hardships in contravention of key principles of international humanitarian law (IHL) and in violation of their fundamental human rights. The NGO community welcomes this emphasis, and supports the Secretary General’s powerful arguments in favour of change under Core Responsibility 2.

This roundtable should reach a unified position on how overall compliance with IHL can be concretely strengthened, including specific strategies:

• to deter military actors from targeting civilians and civilian property for which there is no legitimate military objective under IHL;
• to equip military actors in distinguishing between civilian and military objects;
• to ensure that military actors are accountable for greater efforts to minimize incidental civilian injuries, deaths and damage to civilian property in both non international and international armed conflicts; and
• to fulfil the obligation of all parties to armed conflicts to facilitate the delivery of neutral and impartial humanitarian relief to populations under their effective control, where the basic needs of women, children and men are not otherwise being met.

Where strategies to improve compliance are not successful, we call on States to strengthen universal jurisdiction and to seize existing legal enforcement mechanisms such as the International Criminal Court to prosecute grave breaches of IHL. This roundtable must further consider the international influence and leadership that can be meaningfully brought to bear on parties to protracted conflicts around the world, including those which involve complex international dimensions where foreign forces are implicated in non-international armed conflicts.

In the context of aid delivery, humanitarian actors in conflict zones regularly encounter difficulties in their efforts to access populations in need. Challenges range from undue administrative delays to the lack of clear accountability of armed actors on the ground to ensure activities can be carried out safely. Indeed, many humanitarian actors experience a growing vulnerability to attack. Violence against the humanitarian mission harms not only the target of the attack but leads inevitably to restrictions on access to people in need. We need to go beyond condemnation after the fact, towards concrete initiatives that have the possibility to break new ground in encouraging respect and protection for essential humanitarian action.

Key NGO messages for this High Level Leaders’ Roundtable

In relation to Core commitments listed below, NGOs stress the importance of the following key messages for action by Member States, the UN, NGOs themselves and all actors engaged in humanitarian action.

Core commitment 1: Commit to promote and enhance respect for international humanitarian law, international human rights law, and refugee law, where applicable.
1. **NGOs call on States to adhere to obligations under IHL, including their responsibility to “respect and ensure respect” for IHL**, and international human rights law, noting the applicability of international human rights law to humanitarian crises caused by both armed conflicts and hazard-related disasters. In line with this, **adequate independent mechanisms must be established to monitor and report on violations**.

2. **NGOs call on States to reaffirm their obligation under IHL to ensure the basic needs of populations under their control.** When not in a position to meet the needs of these populations, neutral and impartial actors may offer humanitarian assistance based on need alone and regardless of gender, age, ability, ethnicity, socio-economic status or other characteristic. Where consent is given, States must allow and facilitate rapid access to humanitarian assistance. Consent is required, but cannot be withheld arbitrarily.

3. **NGOs call on States to allocate funding for research to develop lessons in relation to the arbitrary withholding of consent to humanitarian relief operations, and for the International Law Commission to develop guidance on the prevention of the arbitrary withholding of that consent.**

4. **NGOs call on States to proactively identify, condemn and work tirelessly to bring an end to collective punishment, such as sieges** (GC 14, Article 17, AP II Article 14), which severely impact the ability of crisis-affected populations to meet their basic needs. We commend the recent Security Council Resolution 2254 (2015, provision 12) in this regard.

5. **NGOs also call on States to**:
   - Adopt and implement International Disaster Relief and Initial Recovery Assistance (IDRL) guidelines
   - Adopt regional conventions developed to protect internally displaced populations in a manner consistent with the Kampala Convention on IDPs
   - Ensure that persons fleeing armed conflict are allowed to access a country of asylum and be protected from refoulement in line with State responsibilities under the 1951 Refugee Convention and its 1967 Protocol, and support the wider adoption of the 1951 Refugee Convention and its Protocol

**Core Commitment 2: Commit to promote and enhance the protection of civilians and civilian objects, especially in the conduct of hostilities, for instance by working to prevent civilian harm resulting from the use of wide-area explosive weapons in populated areas, and by sparing civilian infrastructure from military use in the conduct of military operations.**

6. **NGOs call on States to publically recognize that the use of explosive weapons in populated areas causes significant harm to civilians through death, injury, damage to vital infrastructure such as schools and hospitals, restrictions on access to humanitarian aid, and long term psychological harm – and that there is a need to address this harm.** NGOs will also continue to document the harm caused by this practice and call for measures to alleviate this harm including towards advocating for, and contributing to, the development of stronger international standards.

7. **NGOs call on States to put in place concrete measures to curb as much as possible the use of educational facilities for military purposes**, for instance through military manuals, doctrine, rules of engagement or operational orders. We call on States to commit to use the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict which offer valuable practical guidance in this regard for all actors present in conflict areas.

8. **NGOs call on States to cease military supplies and diplomatic support** to any party that does not comply with the fundamental IHL principles of distinction, proportionality and precaution.

9. **NGOs call for humanitarian aid to be directly allocated to local humanitarian action that supports preventative and remedial responses to humanitarian protection issues raised by civilians**, in support of the centrality of protection in humanitarian response.
Core Commitment 3: Commit to ensure all populations in need receive rapid and unimpeded humanitarian assistance.

10. NGOs call on ourselves, States and other stakeholders present in humanitarian settings to reaffirm their respect for and compliance with the core humanitarian principles of humanity, impartiality, independence and neutrality. Specifically, State and non-State actors should respect the distinction of principled humanitarian actors from other international actors or coalitions with political, military or peace-keeping mandates, and allow them rapid and unimpeded humanitarian access to populations in need of assistance so that aid reaches those most in need in support of the principle of impartiality.

11. NGOs call for an independent rapporteur to advise the UN Secretary General and parties to a conflict in relation to the unimpeded and safe delivery of humanitarian assistance, and to record and address protection concerns raised by humanitarian actors. We request that lessons learned inform investment in State preparedness for any future humanitarian situations.

12. As NGOs we reaffirm that, as humanitarian actors, we must be empowered to engage in dialogue with all relevant State and non-State actors to enhance acceptance and facilitate the delivery of impartial humanitarian assistance for all populations in need of relief. Counter-terrorism legislation and the prohibitions on contact are impeding reaching those most in need and must be reviewed so that impartial and neutral humanitarian actors are able to provide assistance to remote and dangerous areas where there is urgent need and which are otherwise inaccessible.

13. NGOs call on States to reaffirm that humanitarian action cannot be implicitly or otherwise linked to any military action whether or not determined by the UN Security Council under Chapter VII of the UN Charter. Recommendations made by Governments must be determined by the humanitarian needs of communities at risk, not the security interests of humanitarian donors. Humanitarian action must not be a substitute for expedited settlement of disputes under Chapter VI of the UN Charter.

Core Commitment 5: Commit to speak out and systematically condemn serious violations of international humanitarian law and serious violations and abuses of international human rights law and to take concrete steps to ensure accountability of perpetrators when these acts amount to crimes under international law.

14. NGOs support the creation of a global watchdog to systematically track, collect data and make transparent trends of serious violations, including the arbitrary withholding of humanitarian access, direct and disproportionate attacks on civilian infrastructure and civilians, and serious and deliberate attacks on humanitarian workers, in the interests of identifying persistent perpetrators and fighting impunity.

15. NGOs call on States to be united in their systematic condemnation at the Security Council in the event of serious violations of international humanitarian and human rights law, demand accountability for those with command responsibility for direct and disproportionate attacks on civilians or humanitarian workers by any State or non-State actor;

16. NGOs call on States to ensure that criminal and abusive behaviour by soldiers operating under the auspices of United Nations peacekeeping missions is prosecuted immediately and with the full force of the law, and the facts publically known.

17. NGOs support the UN Secretary General’s proposal for a global campaign to mobilise State parties, civil society and other global leaders to ardently pursue the protection of civilians and prevent the erosion of international law.