



# Uphold the Norms that Safeguard Humanity

## Analytical Paper on WHS Self-Reporting on Agenda for Humanity Core Responsibility 2

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### Executive Summary:

In 2017, 98 Member States, NGOs and International organizations reported on their efforts and challenges in Upholding the Norms that Safeguard Humanity (Core Responsibility 2 of the Agenda for Humanity).

The majority of stakeholder reports referred to **efforts to remind parties to conflict of their obligations under international humanitarian law (IHL) and international human rights law (IHRL)**. These advocacy efforts were carried out in international fora, such as statements at the regular open debate on the protection of civilians at the UN Security Council or speaking out at the UN Human Rights Council. Efforts were also made through advocating bilaterally with non-state armed groups (NSAG) on compliance with legal norms and standards.

The above-mentioned efforts aimed to influence the parties' political will to comply with their obligations. In addition, a smaller number of reports highlighted **practical measures to improve compliance**, including measures to improve data quality on issues related to the protection of civilians. These, in turn, would enable more systematic accountability for violations and a better understanding of how to enhance the protection of civilians. A number of Member States, INGOs and United Nations entities also reported on the adoption of policies to improve the protection of civilians. Finally, several reports also highlighted the provision of technical assistance to ensure compliance with the rules of war, mainly related to alleviating weapon contamination, ensuring strict controls on arms transfers, enhancing the protection of children, and mitigating the impact of counterterrorism measures on humanitarian action. There was generally little reporting by countries affected by armed conflict.

Many reports underlined that **civilians face great suffering in armed conflict because parties do not respect their obligations under IHL or IHRL**. The main reported reason for this lack of compliance was a lack of accountability for violations. Stakeholders highlighted that accountability mechanisms needed to be strengthened. Another factor explaining insufficient compliance was a pervasive lack of political will.

Several stakeholders reported on the detrimental impact of counterterrorism efforts, which can at times infringe upon humanitarian action, medical care and fundamental human rights.

Another reported challenge in improving the protection of civilians lies in the **lack of data and analysis thereof**. A lack of data on violations of IHL and IHRL impedes the work of investigation mechanisms, and contributes to a lack of accountability for perpetrators.

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In addition, poor data quality hinders assessments of civilians' protection needs and the efficacy of protection programs, making it more difficult to identify and respond to the vulnerabilities of conflict-affected individuals in specific contexts. A lack of data also hinders forecasting, including for future interventions and funding.

### Recommendations include:

1. **Developing national policy frameworks on the protection of civilians** that build upon good practice and establish clear institutional authorities and responsibilities.
2. **Enhancing compliance by non-State armed groups** through training and the development of codes of conduct, unilateral declarations and special agreements, by which groups expressly commit to comply with their obligations or undertake commitments that may go beyond what is required by the law.
3. **Promoting compliance through advocacy and accountability** through a global effort to raise awareness of the human cost of armed conflict and demand that world leaders respect and use their influence to ensure others' respect for international law. Important components of this global effort must include better data collection, as well as credible and effective investigations into allegations of serious violations, and holding perpetrators to account.

### Overview of the current landscape

In his 2018 report on the Protection of Civilians, the UN Secretary-General painted a bleak picture of “immeasurable human and societal decimation.”<sup>2</sup> The bombing and shelling of towns and cities kill or injure tens of thousands of civilians every year and lay waste to homes and vital infrastructure, including water and power systems. Last year, the United Nations recorded the death or injury of more than 26,000 civilians in just six countries affected by conflict. Around the world, medical facilities are routinely attacked. Humanitarian and medical personnel are targeted or prevented from carrying out their duties. Parties to conflict resort to threats, looting, or impose bureaucratic impediments that prevent people from accessing the care and assistance they desperately need.

As bleak as the situation is, the Secretary-General has nevertheless offered some glimmers of hope: “There are practical steps that have been, and could again be, taken by parties to conflict and Member States to respect and ensure respect for the law and enhance the protection of civilians.” These include national policy frameworks for the protection of civilians, efforts to limit the use of explosive weapons in populated areas, action plans to end the recruitment and use of children, arms export controls based on the risk of serious violations of international humanitarian law or human rights law, and good practices in the protection of humanitarian action and medical care.

The present analytical report lays out a number of valuable efforts, adopted by a wide range of stakeholders, to develop and adopt good practices to enhance respect for the rules of war and ensure the protection of civilians.

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<sup>2</sup> [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2018\\_462.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2018_462.pdf)

## Data Source

**At the World Humanitarian Summit, 265 stakeholders made more than 800 individual and joint commitments towards Core Responsibility Two of the Agenda for Humanity: Uphold the Norms that Safeguard Humanity.**

The online Platform for Action, Commitments and Transformations (PACT) allows stakeholders to report yearly on progress made and challenges identified. This analytical paper presents progress, using only the information reported, towards commitments made at the World Humanitarian Summit in 2016 to Uphold the Norms that Safeguard Humanity.

As of 25 July 2018, 98 stakeholders had reported on their progress for 2017. Eighty stakeholders reported on taking concrete steps to improve compliance and accountability (2D)<sup>3</sup>, 55 stakeholders reported on ensuring full access to and protection of humanitarian and medical missions (2B)<sup>4</sup>, 51 stakeholders reported on upholding the rules (2E)<sup>5</sup>, 43 on ensuring the protection of civilians (2A)<sup>6</sup> and 36 on speaking out on violations (2C)<sup>7</sup>. Overall, 38% of stakeholders reporting on Core Responsibility Two were Member States (comprising only one country with an armed conflict on its territory), 31% were NGOs, 13% were International Organizations, 8% were Faith-based Organizations, 4% in the Private Sector, 3% in Academia 3%, and 3% in Other categories. An overwhelming majority of reporting Member States were from the Western European and Others Group.

This analytical paper focuses on the most commonly reported categories of achievements and challenges.

## Positive trends emerging from self-reporting

*Reminding parties to the conflict of their obligations under international humanitarian and human rights law*

The majority of stakeholders reported progress in advocacy efforts to promote respect for the rules of war, in particular by **recalling the importance of upholding IHL and IHRL**. Stakeholders undertook a variety of individual actions, such as support for intergovernmental discussions on strengthening compliance with IHL, promoting implementation of treaties such as the Anti-Personnel Mine Ban Convention, high-level advocacy events on the protection of medical care, and participation in the Security Council open debate on the protection of civilians. Collective efforts were also undertaken to advocate on emerging issues of concern. For instance, Austria coordinated Geneva-based discussions among States and civil society in order to better protect civilians from the use of explosive weapons in populated areas (EWIPA).

**Numerous reports also called on parties to conflict in specific contexts to respect the rules of war.** Many reported advocacy efforts in multilateral settings, such as speaking out at the UN Human Rights Council, diplomatic efforts, and sponsoring UN resolutions. Country-level efforts

<sup>3</sup> Transformation 2D – Take concrete steps to improve compliance and accountability

<sup>4</sup> Transformation 2B – Ensure full access to and protection of the humanitarian and medical missions

<sup>5</sup> Transformation 2E – Uphold the rules: A global campaign to affirm the norms that safeguard humanity

<sup>6</sup> Transformation 2A – Respect and Protect civilians and civilian objects in the conduct of hostilities

<sup>7</sup> Transformation 2C – Speak out on violations

included lobbying governments with respect to military practice, advocating for national authorities' respect for IHL, and launching awareness-raising campaigns such as the "Children, Not Soldiers" Campaign by the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict (SRSG CAAC). A large number of stakeholders also reported their support for accountability mechanisms such as the International Criminal Court, fact-finding missions, as well as Organization for Security and Co-operation in Europe (OSCE), European Union (EU) and national mechanisms.

### **Good practice**

The EU has supported projects on dissemination of IHL and humanitarian engagement with non-state armed groups.

Finally, some stakeholders reported **advocating bilaterally with non-state armed groups (NSAG) on compliance with legal norms and standards**. Examples include the Office of the United Nations High Commissioner for Human Rights' (OHCHR) engagement on IHL implementation and the legality of detention in the Central African Republic (CAR), Libya, Mali and Ukraine; and the International Committee of the Red Cross (ICRC) who also engaged in dialogue with NSAGs.

## **New, innovative or unique programs or practices from the self-reports**

### *Practical measures to improve compliance with the rules of war*

A small number of reports focused on **practical means to improve parties' compliance with the rules of war**. The following measures were featured: 1) *improving data quality*; 2) *adopting new policy*; 3) *training*; and 4) *technical assistance*. This section goes into some detail in order to highlight a range of reported good practices that other stakeholders can adopt. If activities presented in the previous section are essential because they aim to mobilize the political will to comply with the rules of war, the practical measures presented below reflect the transformation of political will into action, and hence the practical objective of those advocacy efforts.

#### *1) Improving data quality*

Improving data quality on issues related to protection of civilians enables more systematic accountability for violations and better understanding of how to enhance the protection of civilians.

Several stakeholders reported **systematically collecting data on human rights violations** in specific countries. This data collection can have different objectives, such as to collect testimonies and evidence to open legal proceedings, and to feed into the international human rights system, including briefings to Special Rapporteurs and in reports on international human rights instruments. OHCHR, for instance, reported engaging in commissions of inquiry, fact-finding missions and other investigative bodies in Burundi, the Democratic Republic of the Congo (DRC), Myanmar, South Sudan, Syria and Yemen.

The systematic collection of data can also be used to assess compliance with the rules of war. For instance, Geneva Call conducted field visits to assess Deed of Commitment adherence by NSAGs, and the Special Representative of the Secretary-General for Children and Armed Conflict assessed the implementation of the child protection measures included in the Colombian Peace Agreements. Save the Children carried out an evaluation of the Schools as Zones of Peace

Project in the DRC and the Occupied Palestinian Territory, which showed that it led to a reduction in the number of school days lost and strengthened reporting mechanisms.

Some stakeholders also undertook **thorough research on specific topics**. These included Norwegian Refugee Council (NRC)'s commissioned research on the operational challenges and dilemmas associated with the Protection of Civilians Site mode; the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), NRC and the Jindal School of International Affairs joint study *Presence and Proximity*; Save the Children's reports on the devastating psychosocial and social impact of war on children; and Switzerland's commissioned research on the interplay of counter-terrorism measures and humanitarian action.

Finally, several actors focused on **producing best practices and recommendations** to improve parties' compliance with the rules of war. For instance, InterAction provided recommendations for enhancing the protection of civilians in major military operations. OCHA coordinated the drafting process for the Secretary-General's report on the protection of civilians in armed conflict and provided good practices in this respect. Save the Children also developed a Guide outlining activities to adapt the Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict to different contexts.

### ***Collecting good practices and recommendations***

- In order to promote regular public human rights reporting in settings where peace operations are deployed, OHCHR led a study, jointly with the Department of Peacekeeping Operations (DPKO) and the Department of Political Affairs (DPA), to document good practices, lessons learned and challenges.
- OCHA gathered and disseminated good practice to reduce harm to civilians resulting from urban warfare (e.g. by publishing a compilation of practice and holding a workshop for Member States and key stakeholders).
- With the support of the German Development Cooperation, the Federation of Iberoamerican National Human Rights Institutions has re-compiled best practices on the prevention of torture.

## *2) Adopting policy to protect civilians*

Several Member States, INGOs and United Nations entities reported on the adoption of policies to improve the protection of civilians. Some were designed to improve state forces' compliance with the rules of war, while others were directed at ensuring compliance by non-state armed groups. Some policies were meant to improve humanitarian actors' delivery of assistance and understanding of the rules of war.

**Member States reported adhering to international treaties and other instruments** such as the Protocol to the Hague Convention for the Protection of Cultural Property (e.g. France, the United Kingdom), the UN Treaty on the Prohibition of Nuclear Weapons (TPNW) (e.g. Ireland), the Kigali Principles on the Protection of Civilians (e.g. Spain), the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers (Canada); the



Safe Schools Declaration (e.g. Belgium, Canada) and the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict (Belgium).

**At the national level**, Belgium reported amending the Flemish Arms Trade Act to include a more thorough attention to IHL and human rights in criteria for arms exports. InterAction launched recommendations intended to educate legislators about measures to mitigate harm to civilians in United States military operations and security partnerships. New mechanisms were also created to ensure better compliance with rules of war, such as Portugal's National Commission for International Humanitarian Law and Ukraine's Inter-Ministerial Commission on Application and Implementation of International Humanitarian Law.

***Good practice – Improving policies at national level***

InterAction engages regularly with the U.S. Defense Department to convey the concerns and priorities of humanitarian agencies regarding the protection of civilians. It also works with its members to proactively engage other U.S. government representatives to improve policy and practice on the protection of civilians in armed conflict.

Several Member States reported on their efforts to **ensure that their armed forces operate under strict rules of engagement consistent with their obligations under IHL** and that mechanisms are in place to investigate violations (e.g. Australia). Belgium, Denmark and New Zealand published national military manuals (e.g. Belgium, Denmark, New Zealand, while Canada and Save the Children provided advice to the North Atlantic Treaty Organization (NATO) on the development of its new concept on the protection of civilians.

Some reports focused on the **adoption of policies by NSAGs to improve their compliance with IHL**. Geneva Call reported collecting new signatures of armed groups on their Deeds of Commitment, and working with others to revise their codes of conduct and integrate IHL.

Two United Nations entities reported the adoption of **new policies to improve humanitarian action**. The International Organization for Migration (IOM) developed internal and external operational guidelines for the safe evacuation of migrant children caught in hostilities. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) field offices developed action plans to address violence against children. The United Kingdom (UK) also published a new Humanitarian Reform Policy clearly stating the UK's commitment to international humanitarian law and humanitarian principles.

### 3) Training

Member States reported **training their own security forces** (e.g. Australia, Austria, Belgium, Ireland, Spain), as well as **foreign military forces** (e.g. Australia and France to Iraq), on IHL. France provided training to armed forces of States contributing to United Nations Peacekeeping Operations, to Malian and Central African Republic Armed forces within the framework of the European Union Training Missions (EUTMs), and to the G5 Sahel's task force. Austria organized the 9th Vienna Course on International Law for Military Legal Advisers, training more than 200 legal advisers in the Armed Forces or the Ministries of Defense from 30 European States. Geneva Call trained **NSAGs on humanitarian norms** in six countries.

Several **INGOs reported training their national and international staff** on IHL, humanitarian principles in practice and/or the protection of civilians (e.g. CARE International, Concern Worldwide, Norwegian Refugee Council). Some Member States also reported providing support to non-governmental humanitarian actors. For instance, Germany supported German humanitarian actors in strengthening and building capacity in humanitarian negotiation to enhance and preserve humanitarian access. Sweden supported organizations and professionals in the field working to strengthen respect for IHL and humanitarian principles by developing technical capacity, methods, practical tools and training for local use.

#### 4) *Technical assistance*

Member States, INGOs and UN entities provided technical assistance to ensure compliance with the rules of war. Technical assistance mainly related to reducing weapon contamination, adopting strict controls on arms transfers, ensuring the protection of children, and mitigating the impact of counterterrorism measures.

Several Member States provided technical assistance to **improve compliance with international treaties relating to weapons**. For instance, Belgium supported EU outreach activities on the Arms Trade Treaty by providing expertise for legal workshops and training. Several States provided technical assistance or funding for the clearance of explosive hazards such landmines and improvised explosive devices (e.g. France, Germany, Netherlands, Norway, Switzerland). Assistance consisted of raising awareness, strengthening local capacities, and deploying experts to UN mine action programs. For instance, the Netherlands and Norway organized a workshop on cluster munitions clearance in the Western Balkan region, at which relevant regional parties were brought together to discuss best practices and to work towards a world free of cluster munitions.

The United Nations Children’s Fund (UNICEF), the SRSG CAAC and World Vision International reported different approaches to **increase child protection in armed conflict**. At the international level, World Vision engaged with the UN Security Council to ensure that UN Peacekeeping missions have adequate Child Protection Advisors. At the national level, two additional action plans were signed by parties under the SRSG CAAC’s auspices to end and prevent violence against children in conflict: one in Mali and another in

#### **Good practice - Training**

##### *For national authorities*

- The United Nations Children’s Fund (UNICEF) builds the capacity of governments, civil society and local actors for the coordination and rapid scale-up of life-saving and protection services in humanitarian crises. This includes improving delivery systems for health, nutrition, and water, sanitation and hygiene, as well as for education programming.

##### *For humanitarian staff*

- Medair held strategy meetings in different country programs to explain humanitarian principles. These meetings were followed by group discussions on humanitarian principles, how to apply them in Medair’s work, and where the greatest challenges lie in their application.

#### **Good practice – technical assistance**

“The possibility to request support by affected States under the Anti-Personnel Mine (APM) Ban Convention has significantly reduced APM stockpiles and the progress of mine clearance activities, as well as victim assistance.”

*(Austria, self-report, 2A)*

Nigeria. UNICEF provided advice and support to strengthen the protection of children from grave violations and other abuses.

On **counterterrorism**, OHCHR provided legal and policy advice on human rights while countering terrorism and preventing violent extremism in Sri Lanka, Swaziland, Myanmar and Boko Haram-affected countries.

Finally, stakeholders also reported on the **provision of legal advice and support** to adopt national legislation pertaining to their international humanitarian law obligations (e.g. EU), specialized legal advice on the interpretation and application of International Humanitarian Law to informed operational decisions (e.g. NRC), local capacity building on IHL including national human rights institutions (e.g. Sweden, OHCHR).

## Obstacles/impediments to collective progress

*A lack of compliance with IHL and IHRL and a lack of accountability for violations*

The main impediments, as reported by stakeholders, to Upholding the Norms that Safeguard Humanity are a lack of compliance with IHL and IHRL and a lack of accountability for violations.

Several factors were mentioned to explain why the protection of civilians is lacking. The most reported factor was the **lack of accountability for violations of IHL and IHRL**. Several stakeholders (e.g. Canada, Germany, Save the Children) mentioned pervasive impunity for violations of international law and UN Security Council resolutions, and some highlighted the need for a monitoring mechanism on IHL and IHRL compliance (e.g. Sweden, Spain). Stakeholders also emphasized that accountability mechanisms that are in place should be strengthened. At the international level, some (e.g. UK and Ireland) reported that adequate resources should be made available to the ICC and other tribunals. Others (e.g. UK, Save the Children) stressed that support should be provided to national judicial systems.

A second reported factor explaining insufficient compliance with IHL and IHRL was a pervasive **lack of political will**. Oxfam reported that the deterioration of security situations has led governments to be less receptive to messaging on compliance with international law. In terms of implementation, the Office of the United Nations High Commissioner for Refugees (UNHCR) noted that maintaining the civilian character of asylum and refugees or IDPs settlements is challenged when security actors are unwilling to cooperate. Strengthening NSAGs' political will to comply with IHL was raised several times (e.g. Austria, Sweden, IOM). Sweden and IOM highlighted the importance of supporting and guiding impartial humanitarian actors in their efforts to engage in dialogue with non-state armed groups.

Finally, OHCHR highlighted the **harmful impact of counterterrorism efforts** in certain contexts, adding that some states have adopted measures that infringe human rights through legislation based upon vague notions of 'terrorism' or 'extremism'.



### *Lack of available or accessible data*

Stakeholders who reported on challenges relating to data described a lack of accessible or available data for use in developing effective policies, projects, and interventions towards upholding the norms that safeguard humanity.

Reports highlight that a lack of data, and of analysis thereof, has been **an impediment to taking concrete steps to improve the protection of civilians and accountability for violations**.

Some stakeholders underlined the particular challenge of using existing **investigation mechanisms** such as fact-finding missions. For example, Spain reported that without the required access to gather information, inquiry commissions are severely impeded, and noted a need for independent and objective data gathering. The country also highlighted a need to improve the gathering and preservation of evidence for future use by national jurisdictions.

Others reported on challenges relating to a **lack of data to assess protection needs and the efficacy of protection programs**. Sweden reported a need for more comprehensive data and analysis to assess needs, particularly for the protection of medical missions during conflict. Slovenia, Christian Aid, Germany and Spain all reported along the same lines, noting that a lack of gender, age and disability disaggregated data and vulnerability assessments pose a challenge in reaching the most vulnerable groups and tailoring humanitarian programming. Australia highlighted that with insufficient data on marginalized groups, they are unable to adequately assess the results of the protection programs and organizations to which they financially contribute.

Australia, Spain and the Academic Council on the UN System (ACUNS) reported that a lack of data also affects **planning**, including future interventions and funding. ACUNS hosted two conferences in 2017 that facilitated conversations about *Revitalizing the United Nations for Human Rights, Peace and Development* and *Implementing the 2030 Agenda*. Participants underlined that it is critical to have good and relevant data to measure change. They acknowledged that it is both politically sensitive and resource intensive to build this data, and this remains a challenge. Luxembourg reported that data would benefit their future planning for programmes and funding. Slovenia offered financial, in-kind, political and diplomatic support for condemning the use of anti-personnel mines and cluster munitions, and reported that although basic analysis is being conducted, more effective follow-up could be achieved with more data and analysis.

## **Recommendations**

- **Develop national policy frameworks on the protection of civilians:** To ensure the effective implementation of international humanitarian and human rights law, Member States should develop national policy frameworks that build upon good practice and establish clear institutional authorities and responsibilities for the protection of civilians and civilian objects in the conduct of hostilities.
- **Enhance compliance by non-State armed groups:** Enhancing respect for IHL and IHRM must include efforts to improve the behaviour of non-State armed groups. Training and the

development of codes of conduct, unilateral declarations and special agreements, as envisaged under international humanitarian law, through which groups expressly commit to comply with their obligations or undertake commitments that may go beyond what is required by the law, can play a key role and should be encouraged. These could usefully include specific civilian harm mitigation measures.

- **Promote compliance through advocacy and accountability:** In order to strengthen the protection of civilians, there continues to be an urgent need for a global effort to raise awareness of the human cost of armed conflict and demand that world leaders respect and use their influence to ensure others' respect for international law. Central to this is the need to overcome an apparent lack of empathy and outrage concerning the plight of civilians caught in armed conflict. An important component of this global effort must include better data collection, and its disaggregation by sex and age, to facilitate evidence-based analysis of trends in civilian harm and improved public reporting. More attention is also urgently required with respect to ensuring accountability for serious violations of international humanitarian and human rights law. In particular, Member States should undertake credible and effective investigations into allegations of serious violations and hold perpetrators to account, with the support of the United Nations, as necessary. Where national action is lacking, greater recourse should be made to international mechanisms and resources should be made available to them.

#### About this paper

All stakeholders who made commitments at the World Humanitarian Summit (WHS) in support of advancing the Agenda for Humanity were invited to self-report on their progress in 2017 through the Platform for Action, Commitments and Transformation (PACT) ([agendaforhumanity.org](http://agendaforhumanity.org)). The information provided through the self-reporting is publicly available and forms the basis, along with other relevant analysis, of the annual synthesis report. The annual synthesis report will be prepared by OCHA and will highlight trends in progress, achievements and gaps that need more attention as stakeholders collectively work toward advancing the 24 transformations in the Agenda for Humanity. In keeping with the multi-stakeholder spirit of the WHS, OCHA invited partners to prepare short analytical papers that analyze and assess self-reporting in the PACT, or provide an update on progress on initiatives launched at the World Humanitarian Summit. The views expressed in this paper are those of the authors and do not necessarily reflect the views of the United Nations Secretariat.