

Strengthening compliance with international humanitarian law and improving humanitarian access - Building evidence and strategies for action and change

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1. Introduction

This submission responds to the International Development Committee’s inquiry into the root causes of international humanitarian law (IHL) adherence, particularly compliance with the rules concerning the protection of humanitarian workers and the delivery of humanitarian assistance. It is drafted by the undersigned members of the Beyond Compliance Consortium (BCC),² acting in their personal capacity. Whilst the submission draws on the conceptual framework and some of the data collected as part of the BCC research, it does not purport to reflect the views of the Consortium’s member organisations, any individuals associated with the BCC who have not signed this submission, or of the funder.

Our analytical starting point is the everyday lived experience of armed conflict of local communities – these we seek to understand through qualitative and quantitative data and analysis. In a second step, we map these experiences onto legal frameworks applicable in conflict. In doing so, we seek to promote full(er) protection in war – that is, to identify the strategies that generate compliance with IHL and international human rights law (IHRL), as well as extra-legal strategies that can contribute to restraint from *broader* violence and abuse.³ This conceptual standpoint acknowledges that although the law addresses many of the harms and needs experienced by individuals and communities in armed conflict, it does not always and fully regulate all the actions, behaviours and structural dynamics that affect everyday lived reality in war. To capture harms and needs produced by these, we stress the importance of sometimes looking *beyond the law*, rather than sticking to a purely (legal) compliance approach.

¹ With thanks to Konstantina Karagkouni for the research assistance provided.

² The Beyond Compliance Consortium is an academic-practitioner research partnership made up of the University of York, University of Glasgow and Utrecht University, and six non-governmental organisations working in the field of civilian protection – Watchlist on Children and Armed Conflict, War Child Alliance, Diakonia International Humanitarian Law Centre, Center for Civilians in Conflict, Centre on Armed Groups and Fight for Humanity. Funded with UK International Development from the UK government, the BCC develops the research “Building Evidence for Promoting Restraint by Armed Actors”. See more, <https://beyond-compliance-consortium.org>

³ See, Katharine Fortin, Ezequiel Heffes, Ioana Cismas and Jennifer Maddocks, “Beyond Compliance Symposium: Why and How to Go ‘Beyond the law’ to Address Negative Lived Experiences of Armed Conflict”, *Articles of War*, 17 September 2025; Katharine Fortin and Rebecca Sutton, “Beyond Compliance Symposium: What’s in a Frame? Understanding Everyday Lived Experiences of Armed Conflict Through a Lens of ‘harm + need’”, *Armed Groups and International Law*, 18 September 2024, Ioana Cismas and Anastasia Shesterinina, “Beyond Compliance Symposium: Compliance + Restraint Towards Full(er) Protection in War”, *Articles of War*, 18 September 2024. All available at: <https://beyond-compliance-consortium.org/blog-symposium/>.

2. Key messages

In line with the above conceptual position, in this submission we put forward three evidence-based arguments:

- (i) Denial of humanitarian access and assistance is a **major driver of humanitarian need and civilian harm**, and both a cause and an effect of IHL and IHRL violations.
- (ii) Denial of humanitarian access and assistance is reflective of a more **generalised pattern of disrespect** for humanitarian norms.
- (iii) **Double standards responses** by third parties lead to systemic challenges of international law and the erosion of normative and institutional protections in armed conflict, including those relating to humanitarian access and assistance.

In this context, we find it crucial that the UK government **meaningfully and consistently (re)affirm humanitarian norms in discourse and practice**, bound as it is by both international legal obligations and by its existing policies on human security and protection of civilians. The submission will conclude with concrete recommendations on how (re)affirming humanitarian norms can be achieved by UK governmental actors.

2.1. Denial of humanitarian access: a major driver of harm + need

The obstruction and outright denial of humanitarian access and assistance, including through the targeting of humanitarian workers, are major drivers of civilian harm and humanitarian need in armed conflict. They occur at three levels.

First, in the context of the **conduct and theatre of hostilities**, a staggering number of targeting decisions have resulted in the death of humanitarian workers. UN data indicate that 91 humanitarian workers have been killed in 2023, 120 were wounded and 53 abducted in 14 conflicts, not including the Occupied Palestinian Territory (OPT).⁴ The 2024 report of the UN Secretary-General on Children and Armed Conflict identifies that while “non-State armed groups were responsible for almost 50 per cent of grave violations” in 2023, “government forces were the main perpetrator of the killing and maiming of children, attacks on schools and hospitals, and the denial of humanitarian access”.⁵

The impact of direct attacks on humanitarian and relief workers and their reverberating effects on civilian communities are clear. The UN Security Council noted that the deliberate targeting of humanitarian efforts had exacerbated the food crisis in Gaza.⁶ The lack of adequate water and food also contributed to the outbreak of diseases.⁷ Finally, the widespread destruction of hospitals and

⁴ UN Security Council, Protection of Civilians in Armed Conflict, Report of the UN Secretary-General, 14 May 2024, p. 9, para 35, available at <https://reliefweb.int/report/world/protection-civilians-armed-conflict-report-secretary-general-s2024385-enarfrueszh>

⁵ UN General Assembly/UN Security Council, Children and Armed Conflict, Report of the UN Secretary-General, 3 June 2022, p. 3, para 10, available at <https://childrenandarmedconflict.un.org/document/secretary-general-annual-report-on-children-and-armed-conflict-3/>.

⁶ UN Security Council, [Press Statement on Humanitarian Workers and Threat of Famine in Gaza](#), UN Doc No SC/15658, April 2024. See also, Human Rights Watch, Press Release, “Gaza: Israelis Attacking Known Aid Worker Locations”, 14 May 2024, available at <https://www.hrw.org/news/2024/05/14/gaza-israelis-attacking-known-aid-worker-locations>.

⁷ World Health Organisation, “Lethal combination of hunger and disease to lead to more deaths in Gaza”, 21 December 2023, available at <https://www.who.int/news/item/21-12-2023-lethal-combination-of-hunger-and-disease-to-lead-to->

schools,⁸ has compounded the lack of access to basic medical services,⁹ and to education¹⁰ and resulted in increased child mortality.¹¹ Some of these dynamics can also be observed in other conflicts, such as those taking place in the Democratic Republic of the Congo,¹² Sudan¹³ and Syria.¹⁴

Second, denial and obstruction of humanitarian access occurs at the level of **everyday (local) governance** decisions. The setting of up roadblocks, extortionate fees at crossings and checkpoints,¹⁵ and the diversion of humanitarian assistance¹⁶ prevent or obstruct local and international humanitarian operations in different contexts. In Sudan, aid convoys have been repeatedly blocked by the Sudanese Armed Forces and Rapid Support Forces.¹⁷ In the OPT, humanitarian access has been blocked, partially denied or looted.¹⁸ In Myanmar, participants interviewed in the context of the BCC research note the “constant fear” and broader psychological effects ensuing from the insecurity of everyday life. This results as much from constant airstrikes, as it does from denial of access and diversion of humanitarian aid.¹⁹

[more-deaths-in-gaza](#).

⁸ Human Rights Watch, “Hopeless, Starving and Besieged”, 14 November 2024, available at <https://www.hrw.org/report/2024/11/14/hopeless-starving-and-besieged/israels-forced-displacement-palestinians-gaza>.

⁹ World Health Organisation, “Conflict in Israel and the Occupied Palestinian Territory and region”, 20 December 2024, available at <https://www.who.int/emergencies/situations/conflict-in-israel-and-opt>.

¹⁰ UNICEF, “45,000 first graders unable to start the new school year in the Gaza Strip”, Press Release, 9 September 2024, available at <https://www.unicef.org/mena/press-releases/45000-first-graders-unable-start-new-school-year-gaza-strip-unicef>.

¹¹ Save the Children, “Gaza: At least 3,100 children aged under five killed with others at risk as famine looms”, 10 October 2024, available at <https://www.savethechildren.net/news/gaza-least-3100-children-aged-under-five-killed-others-risk-famine-looms>.

¹² Democratic Republic of Congo - Flash Update #3 : Escalation of violence significantly affects the humanitarian situation in North Kivu and South Kivu, 28 January 2025, <https://www.unocha.org/publications/report/democratic-republic-congo/democratic-republic-congo-flash-update-3-escalation-violence-significantly-affects-humanitarian-situation-north-kivu-and-south-kivu-28-january-2025>.

¹³ In Sudan, the UN Secretary General’s 2024 Protection of Civilians report identified “extensive damage to water, sanitation and electricity networks, as well as hospitals and clinics”; less than one third of “medical facilities in conflict-affected areas” functioning at the end of 2023; 6 million new internally displaced persons and 1.4 million fleeing to neighbouring countries. UN Security Council, “Protection of Civilians in Armed Conflict”, Report of the UN Secretary-General (S/2024/385), 14 May 2024, pp. 3 - 4. In the DRC, the same document identifies 2.9 million new displacements in 2023, and 6.5 million displaced overall. It also estimates that 25.4 million people (more than 25 per cent of the population) are “acutely food-insecure, including as a result of the conflict”. Ibid, pp. 4 and 6.

¹⁴ In the context of North East Syria, the NES NGO Forum Press Release of 31 October 2024 noted: “repeated attacks targeted critical facilities, including electricity transfer stations, gas and fuel plants, medical facilities, agricultural lands, silos, and major access routes, with serious impacts on access to water, power, heating, health, and food security, among other basic needs”, in NES Forum “Escalations of Hostilities in Northeast Syria”, 31 October 2024. <https://www.google.com/url?q=https://reliefweb.int/report/syrian-arab-republic/nas-forum-statement-escalations-hostilities-northeast-syria&sa=D&source=docs&ust=1738902291770150&usg=AOvVaw3N0fPb5dejsIOxOqAsoryJ>.

¹⁵ On the important effect of roadblocks and checkpoints on harm and need creation in Afghanistan, Colombia, Myanmar, and Somalia, as well as resistance, see the DIIS, “Roadblocks and Revenues: The Politics of Passage”, Working Paper Series edited by Peer Schouten, Max Gallien, Shalaka Thakur, Vanessa van den Boogaard & Florian Weigand, Copenhagen, 2024, available at <https://www.armedgroupscentre.org/reports-and-articles/politics-of-passage>.

¹⁶ Action Aid, “15 aid organisations demand an end to systematic aid obstruction in Gaza”, 20 September 2024, available at <https://actionaid.org/news/2024/15-aid-organisations-demand-end-systematic-aid-obstruction-gaza>

¹⁷ This was highlighted by the UK government in its Press Release, “UK doubles aid for Sudan and neighbouring countries facing the worst humanitarian crisis of the decade”, 17 November 2024, available at <https://www.gov.uk/government/news/uk-doubles-aid-for-sudan-and-neighbouring-countries-facing-the-worst-humanitarian-crisis-of-the-decade#:~:text=Press%20release,UK%20doubles%20aid%20for%20Sudan%20and%20neighbouring%20countries%20facing,humanitarian%20crisis%20of%20the%20decade&text=The%20UK%20has%20announced%20an%20aid%20package%20for%20Sudan%20and%20neighbouring%20countries.&text=Draft%20UN%20Security%20Council%20resolution,an%20unrestricted%20passage%20of%20aid>.

¹⁸ OCHA, Humanitarian Situation Update #243 | Gaza Strip, 3 December 2024, available at <https://www.ochaopt.org/content/humanitarian-situation-update-243-gaza-strip>.

¹⁹ Human Rights Watch, “Myanmar: Junta Blocks Lifesaving Aid”, 13 December 2021, available at <https://www.hrw.org/news/2021/12/13/myanmar-junta-blocks-lifesaving-aid>.

Such practices must be seen against extant IHL obligations of State and non-State parties to conflict. IHL is crucial in providing protection of, and respect for, the humanitarian space in situations of armed conflict. This protection is centred around the obligation to facilitate the delivery of humanitarian aid to civilians in need, regardless of their affiliation and without adverse distinction.²⁰ In situations of occupation, the duty arises to provide essential services to the civilian population.²¹ Importantly, State parties to armed conflicts also continue to be bound by IHRL, and the tripartite respect-protect-fulfil obligations which they incur in relation to civil, cultural, economic, political, and social rights are well-established in the interpretative work of UN treaty bodies and regional human rights courts.²² International bodies and institutions have also confirmed that IHRL applies extraterritorially, thus also binding States operating in conflicts beyond their own territories.²³ Whilst for NSAGs, the source and scope of obligations remains contested, according to UN Special Procedures, “[a]t a minimum, armed non-State actors exercising either government-like functions or *de facto* control over territory and population must respect and protect the human rights of individuals and groups.”²⁴

Third, the currently compromised **(global) humanitarian landscape** itself is a meta driver of harm + need. Counter-terrorism legislation and sanctions have narrowed the humanitarian scope and quality of humanitarian engagement with NSAGs and the delivery of life-saving assistance.²⁵ Equally, if not more pressing are the failure to genuinely localise aid,²⁶ an over-reliance on some donors, and a path-dependency generated by mainstream aid and development policy and practices.

What we are currently witnessing is compounded harm + need: people already affected by conflict are grotesquely impacted by disastrous humanitarian policy decisions, including President Trump’s decision regarding USAID and the freeze in humanitarian aid.²⁷ Whilst the extent of States’ positive

²⁰ ICRC, Customary IHL Study, Rule 55.

²¹ Geneva Convention IV, Art. 55; Additional Protocol I to the Geneva Conventions, Article 69.

²² The obligation to respect refers to refraining from actions that would interfere with the enjoyment of a right; the obligation to protect requires that states prevent violations of rights by third parties; the obligation to fulfil places duties on States to take legislative, administrative, budgetary, judicial, and other measures to ensure the full realisation of rights. See, generally, K. G. Young, “Rights and Obligations” in D. Moeckli, S. Shah and S. Sivakumaran (eds), *International Human Rights Law* (4th edition, Oxford University Press, 2022), 135–140.

²³ See, for instance, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep 136, para 111; UN Human Rights Committee, ‘General Comment No 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant’ (26 May 2004) UN Doc CCPR/C/21/Rev.1/Add.13, para 10.

²⁴ Joint Statement by independent United Nations human rights experts on human rights responsibilities of armed non-State actors, 25 February 2021, available at <https://www.ohchr.org/en/press-releases/2021/02/joint-statement-independent-united-nations-human-rights-experts-human-rights> [Emphasis in the original]. For reference books on the topic see, A. Clapham, *Human Rights Obligations of Non-State Actors* (Oxford: Oxford University Press 2006); K. Fortin, *The Accountability of Armed Groups under Human Rights Law* (Oxford: Oxford University Press, 2017); E. Heffes, *Detention by Non-State Armed Groups under International Law* (Cambridge: Cambridge University Press, 2022); D. Murray, “Human rights obligations of non-state armed groups.” *Human Rights Obligations of Non-State Armed Groups*, (Bloomsbury, 2016).

²⁵ ICRC, “IHL and the Challenges of Contemporary Armed Conflict”, 2024, p.71, available at <https://www.icrc.org/en/report/2024-icrc-report-ihl-challenges>

²⁶ Refugees International, “Efforts to Localize Aid in Ukraine One Year On: Stuck in Neutral, Losing Time”, 24 February 2023, available at <https://www.refugeesinternational.org/reports-briefs/efforts-to-localize-aid-in-ukraine-one-year-on-stuck-in-neutral-losing-time/>; United Kingdom Humanitarian Innovation Hub, “Enabling the local response: Emerging humanitarian priorities in Ukraine March–May 2022”, Humanitarian Outcomes, 10 June 2022, available at https://www.humanitarianoutcomes.org/sites/default/files/publications/ukraine_review_2022.pdf; V. Barbelet, G. Davies, J. Flint, E. Davey, “Interrogating the evidence base on humanitarian localisation: a literature study”, HPG literature review, London: ODI, 2021 available at <https://odi.org/en/publications/interrogating-the-evidence-base-on-humanitarian-localisation-a-literature-study>

²⁷ Reuters, “US issues broad freeze on foreign aid after Trump orders review”, 25 January 2025, available at <https://www.reuters.com/world/us/trump-pause-applies-all-foreign-aid-israel-egypt-get-waiver-says-state-dept-memo-2025-01-24/>; Institute of Development Studies, “The Turbulence and the Toll of USAID freeze”, 3 February 2025, available at <https://www.ids.ac.uk/opinions/the-turbulence-and-the-toll-of-the-usaid-freeze/>

legal obligations to provide international assistance (beyond aspects regulated by IHL) remains debated,²⁸ many donors – States and non-State alike – have made political commitments as part of the Agenda for Humanity.²⁹ At the very least, these actors must not exacerbate harm and need through their decisions, policies and implementation.

2.2. A generalised pattern of disrespect for humanitarian norms

The empirical data cited above reveals that *humanitarian access and assistance, and the principles upon which it is based, are under attack* in areas of hostilities, in local governance settings, in offices of government, and in the public discourse. The norms that seek to preserve the life of those not fighting, in need of help, and those helping, are under attack. We submit that this state of fact reflects a more generalised pattern of disrespect for IHL and IHRL norms and in illustrating this, we focus on two interrelated dynamics of special concern.

(a) Strategic misinterpretation, misuse and avoidance of IHL by States

First, we are gravely concerned by the strategic **misinterpretation and misuse of IHL** by States – including and beyond the rules relating to humanitarian workers and assistance. This was particularly notable in the context of the Israel/Occupied Palestinian Territory conflict where parties have made bad faith interpretations of the rules governing the conduct of hostilities, thus stripping the law of its protective value. We express deep concerns relating to the following observed behaviour:

- Men of fighting age were assumed to be lawful targets, thus eroding the presumption of civilian status required under IHL.³⁰
- Areas were designated as no-go zones and the mere presence of individuals within them was used as a justification to harm civilians.³¹
- Reductive interpretations were used to justify extensive harm directed towards objects with special protection, such as hospitals, medical facilities,³² and aid convoys.³³
- Exceedingly high levels of civilian casualties (death and injury) were justified as non-excessive in relation to military advantage sought.³⁴
- Targeting decisions lacked consideration of the second and third effects.³⁵

²⁸ See, for example, T. Karimova, *Human Rights and Development in International Law* (Routledge 1st edn., 2016).

²⁹ Agenda for Humanity, Core commitments, available at <https://agendaforhumanity.org/core-commitments.html>.

³⁰ The concept of “active fighter status by default” is explained in Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, “Anatomy of a Genocide”, A/HRC/55/73, para. 25.

³¹ Al Jazeera, “How Israel is shrinking Gaza’s ‘safe zones’”, 25 July 2024, available at <https://www.aljazeera.com/news/2024/7/25/how-israel-is-shrinking-gazas-safe-zones/>

³² L. S. Rubenstein and J. S. Morrison, “Facts and Falsehoods: Israel’s Attacks Against Gaza’s Hospital, How Biden could intervene against Israel’s assaults on Gaza’s hospitals”, Think Global Health, 15 March 2024, available at <https://www.thinkglobalhealth.org/article/facts-and-falsehoods-israels-attacks-against-gazas-hospitals>

³³ BBC, “Gaza aid convoy strike: what we know”, 5 April 2024, available at <https://www.bbc.co.uk/news/world-middle-east-68714128>.

³⁴ L. Rubenstein, “Israel’s Rewriting of the Law of War”, Just Security, 21 December 2023, available at <https://www.justsecurity.org/90789/israels-rewriting-of-the-law-of-war/>

³⁵ K. Klonowska, “Israel-Hamas 2024 Symposium – AI-Based Targeting in Gaza: Surveying Expert Responses and Refining the Debate”, Articles of War, 7 June 2024, available at <https://lieber.westpoint.edu/ai-based-targeting-gaza-surveying-expert-responses-refining-debate/>

One notes that the above-documented practice of Israel misinterpreting, or sidestepping, IHL is not unique. For example, Russia has denied the very applicability of IHL in its first and second armed conflict in Chechnya and had, in a similar vein, referred to the invasion of Ukraine as a “special military operation”.³⁶ Whilst Israel’s position has generally been met with little open critique from Western allies, including from the UK, Russia’s position has been widely challenged. Silence from States in the face serious and well-founded concerns regarding adherence to IHL standards, risks disregarding the two crucial principles on which this legal regime is built: (i) that it applies irrespective of what caused or motivated the eruption of a conflict, and that (ii) harm should be directed towards the military apparatus, as opposed to the civilian population and objects.

Certainly, there are complexities in practice, with civilian persons and objects losing protection from attack under certain conditions and with some degree of indirect civilian loss of life and harm being permissible. This is always a delicate balance that is difficult for 3rd party assessments, but there is a risk that an erroneous perception is building that the law favours military interests over humanitarian considerations. Any further weakening has the potential to entirely strip the law of its protective value for civilians caught up in the conduct of hostilities. Applying IHL without a meaningful and good faith commitment to the principle of distinction would be catastrophic for civilians in the short, medium and long term in many contexts globally. The failure to adhere strictly to the provisions regulating distinction, we would argue, is far more devastating in terms of civilian harm than any other issues regulated under IHL.

(b) Politicisation of humanitarian norms compliance

A second, related fundamentally important dynamic at play is the **politicisation of humanitarian norms compliance**. Specific framings have been employed by parties to the conflict to justify non-compliance with core, non-negotiable IHL obligations. One such framing rests on arguments that seek to legitimise punishment of a civilian population for the behaviour of armed actors, whilst dehumanising the other party.³⁷ In turn, this manifests itself in justifications used to circumvent core humanitarian assistance obligations. Another framing that contributes to the politicisation of compliance relates to third States’ responses to harm or IHL violations depending on the alleged perpetrator. As the UN Secretary General notes:

States and other actors assert which attacks are lawful or unlawful not on the basis of detailed evidence or formal legal judgements but on the basis of whether the party in question was an adversary or not. Civilian harm arising from the actions of one’s own or partner forces may be assumed to be lawful or treated with doubt or dismissed, while harm arising from the actions of parties that one is opposed to is characterized as unlawful.³⁸

In other words, there is a wide perception that double standards are dominating humanitarian discourse. This development in relation to humanitarian access is particularly troubling because it heightens the risks of such argumentation proliferating to other conflict contexts, with the potential consequence of eroding meaningful – and already restricted – humanitarian space and access. This

³⁶ K. Gorobets, “‘Russian “Special Military Operation” and the Language of Empire’, *Opinio Juris*, 24 May 2022, available at <https://opiniojuris.org/2022/05/24/russian-special-military-operation-and-the-language-of-empire/> where “The narrative of a ‘special military operation’ thus uses the language of policing, not of genuine military confrontation” is highlighted.

³⁷ See for example Times of Israel, “Defense minister announces ‘complete siege’ of Gaza: No power, food or fuel”, 9 October 2023, available at https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/

³⁸ UNSC, Report of the Secretary General, “Protection of Civilians in Armed Conflict”, UN Doc. S/2024/385, 14 May 2024, para. 60.

risks the scenario that humanitarian assistance and access become purely arbitrary and subject to political interests, rather than a non-negotiable obligation on parties to conflict.

Figure 1 - The UK's discourse & conduct in response to the Ukraine/Russia conflict versus the Israel/Occupied Palestinian Territory conflict

The UK positioned itself as a champion of the rules-based order with its response to Ukraine.

In international fora, it has consistently condemned in the strongest terms Russia's aggression and egregious violations of humanitarian norms, and lent its support to the case brought by Ukraine against Russia at the International Court of Justice (ICJ).

Domestically, it has implemented the Ukraine Family Scheme and the Homes for Ukraine Sponsorship Scheme, and facilitated a concerted effort by Universities UK to provide practical and long-term support through twinning partnerships with Ukrainian universities.

In the context of the Israel/OPT conflict, the UK has repeatedly defended Israel for its actions in Gaza and the West Bank *without* condemning violations of humanitarian norms, abstained from the early General Assembly resolutions calling for a ceasefire, called the case brought by South Africa alleging that Israel was committing genocide "not helpful", and cut off UNRWA funding for a period of time. It has also publicly and repeatedly refused to stop weapons export licences for Israel, with the justification that the UK is not "a massive state supplier".

A change in course, can be noted, since summer 2024: the UK has resumed UNRWA funding, withdrew its intention to object to the International Criminal Court's jurisdiction and cancelled some weapons export licences.

2.3. Third party responses: the systemic implications of double standards

If left unchallenged, or when they are selectively challenged, strategic misinterpretation and misuse of IHL and politicisation of humanitarian norms compliance compound to create systemic consequences: they pose a **threat to the political legitimacy of international law itself**. In turn, this feeds back into a further **erosion of normative and institutional protections** around limitations on civilian harm and adequate responses to humanitarian need.

This is so because international law relies upon the will of States to exist and function – through their voluntary acceptance of, and compliance with, treaties and international custom. It relies upon the will of States for it to have any regulatory power or 'bite' – through their willingness to accept the jurisdiction of international courts and mechanisms, to comply with and enforce decisions and judgments, and to condemn and seek accountability for violations. Finally, it relies upon a range of local and international non-State actors including human rights defenders, non-governmental organisations, and the global public, to advocate for compliance, accountability, and enforcement. In essence, international law's functioning is conditioned upon the existence of an active *believing* congregation of States and civil society actors. If actors across the system *lose faith* in international law as a meaningful legal framework, then the system quickly loses its legitimacy. An illegitimate system becomes a weak and chaotic one, devoid of meaning or effectiveness.

Currently, the perception of double standards is one of most important threats to the legitimacy of international law, and to humanitarian norms in particular. Illustrations of a perception of double standards are provided in Figure 2.

Figure 2 – Double standards exposed

<p>“The message the Arab world is hearing is loud and clear: Palestinian lives matter less than Israeli ones. Our lives matter less than other lives. The application of international law is optional. And human rights have boundaries - they stop at borders, they stop at races, and they stop at religions. That is a very, very dangerous message, as the consequences of continued international apathy and inaction will be catastrophic - on us all”.</p> <p>King Abdullah II of Jordan Cairo Summit for Peace, 21 October 2023</p>	<p>“We have noted with interest the language that we sometimes use as we debate on these matters in this house. And it has been intriguing to note the discourse when we speak of Russian aggression and then Israel’s war against Hamas. By implication of our language all innocent Palestinians are members of Hamas and thus deserving of being killed while Russia practises aggression. [...] The current divisions on global breaches that are evident in the Council are impeding our nations from focusing on the victims of human rights in all regions of the world. We need to restrain ourselves from being party to the instrumentalization of the Council and address directly and firmly the current polarisation, selectivity and indeed double standards in relation to how we address together human rights matters.”</p> <p>Grace Naledi Mandisa Pandor, Minister for International Relations of South Africa High-level segment of the UN Human Rights Council, 26 February</p>
<p>“We are now living in a time of deep crisis of the credibility of the institutions that we have, and I think this has been exacerbated by the crisis in Gaza and by the inability of many Western countries - I would argue not Norway - but many of our colleagues who have hesitated to use the same type of language against violations of international humanitarian law, for instance, that we easily apply when they are violated by Russia in Ukraine. When it comes to Gaza we have not been able to see the same type of response. It’s a different case, of course, because the first act was the Hamas attack on Israel. But the way Israel has conducted the war has also been very problematic in light of global norms, and if we don’t call out then it comes back and haunts even the argument on Ukraine.”</p> <p>Espen Bart Eide, Norwegian Minister of Foreign Affairs World Economic Forum, 29 April 2024</p>	

Since 2000, there have been many situations in which serious violations of IHL and IHRL have taken place, and condemnation and accountability (broadly understood to include but not limited to international criminal justice) have not been forthcoming. This means that the rules of international law have started to exist in the *public imagination* as rules that are violated without censure *by some*.

A good example of the consequent harm is found in the ‘war on terror’ which was a previous inflection moment for humanitarian norms and the wider system of international law. As the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted in 2023,

the legacies of exceptionalism, discrimination, securitization, and anti-terror discourse perpetuated by the continuing existence of and justification for Guantánamo have pervaded well beyond its confines with enormous human rights consequences in multiple countries.³⁹

Furthermore, the recent allegations of torture of Palestinian prisoners in Israeli prisons have strong echoes of the treatment of Afghani and Iraqi prisoners in US detention centres, such as the Abu Ghraib prison.⁴⁰ This just goes to illustrate the fact that if norms are not reinforced in these moments of crisis, there is a strong risk that their contestation results in further erosion and possibly decay. Furthermore, in the face of a generalised perception of double standards, the legacy of this damage will last for decades.

3. The UK: why & how to meaningfully reaffirm humanitarian norms

Not all is lost. Fortunately, the very features that make international law vulnerable to the forces that currently threaten it, also mean that its legitimacy can be repaired. Faith in international law can be restored through meaningful and consistent discourse and action that reaffirm international law and humanitarian norms in particular, but courageous leadership is necessary. Here is where the UK leadership can be of crucial importance.

The rationale for the UK reaffirming humanitarian norms is threefold. First, as a party to the Geneva Conventions, the UK is required “to respect and to ensure respect” for IHL “in all circumstances”.⁴¹ As such, the UK has undertaken to adopt all measures needed to ensure respect for the Conventions “within its jurisdiction by [its] organs and private individuals” – this is what scholars term “individual-compliance”.⁴² Additionally, the terms “ensure respect” clearly indicate a positive duty for the UK to ensure “state-compliance” by adopting “all measures necessary to ensure respect for the Conventions against other contracting states which fail to comply with them”.⁴³

Second, key UK domestic policies such as the 2024-updated Joint Service Publication *Human Security in Defence* and the 2020 *Approach to Protection of Civilians in Armed Conflict* policy paper indicate a firm commitment of UK governmental actors to humanitarian norms, and specifically those relating to humanitarian assistance.⁴⁴ Importantly, these policies embed a broad understanding of harm and need in armed conflict⁴⁵ that provides a strong basis for the UK government to meaningfully and

³⁹ OHCHR, “Technical Visit to the United States and Guantánamo Detention Facility by the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism”, 14 June 2023, available at <https://www.ohchr.org/sites/default/files/documents/issues/terrorism/sr/2023-06-26-SR-terrorism-technical-visit-US-guantanamo-detention-facility.pdf>.

⁴⁰ B’Tselem, [Welcome to Hell: The Israeli Prison System as a Network of Torture Camps](#), August 2024

⁴¹ Geneva Conventions of 1949, Common Article 1.

⁴² C. Focarelli, “Common Article 1 of the 1949 Geneva Conventions: A Soap Bubble?”, 41 *European Journal of International Law* 1 (2010), 125–171, p. 127.

⁴³ Ibid. See also, L. Boisson de Chazournes and L. Condorelli, “Common Article 1 of the Geneva Conventions revisited: Protecting collective interests”, 82 *International Review of the Red Cross* 837 (2000) 67–87; B. Kessler, The Duty to “Ensure Respect” Under Common Article 1 of the Geneva Conventions: Its Implications on International and Non-International Armed Conflicts’, 44 *German Yearbook of International Law* (2001) 498.

⁴⁴ Note that the Human Security in Defence policy appears to address some of the criticism by scholars and practitioners, according to which “the UK’s policies and procedures on civilian protection, human security, and security assistance must be strengthened to keep up with the realities of partnered military operations.” L. Day, F. Ledwidge, S. Casey-Maslen, M. Goodwin-Hudson, “Avoiding civilian harm in partnered military operations: The UK’s responsibility”, Ceasefire Centre for Civilian Rights, April 2023, p. 5, available at <https://www.ceasefire.org/wp-content/uploads/2023/04/Ceasefire-UK-partnered-military-operations-report.pdf>. Ministry of Defence, JSP 985 Human Security in Defence, Version 2.0, June 2024; UK Approach to Protection of Civilians in Armed Conflict, Policy Paper, August 2020, <https://www.gov.uk/government/publications/uk-paper-on-the-approach-to-protection-of-civilians-in-armed-conflict/uk-approach-to-protection-of-civilians-in-armed-conflict>

⁴⁵ The 2024-updated Joint Service Publication *Human Security in Defence* explains the “moral, legal and strategic imperatives for incorporating Human Security within Defence, and that to do so strengthens our legitimacy and improves the delivery of operational effect.” The policy identifies eight factors that affect human security - ranging from physical and political insecurity to environmental and information threats - and six cross-cutting themes, including civilian protection, conflict-related sexual violence, and cultural property protection. UK armed forces are required to incorporate these

consistently (re)affirm in both discourse and in practice IHL *and* IHRL thus capturing the everyday lived reality of war, including in the context of humanitarian relief operations. Given the UK's existing international influence, this positioning could in turn contribute to shaping fuller protection in armed conflict, at a critical time when politicisation of international norms and double standards are rife (see above, 2.2 and 2.3).

Thirdly, and paraphrasing the UK's Vice Chief of the Defence Staff, General Sharon Nesmith, reaffirming humanitarian norms through discourse and action is "fundamentally the right thing to do".⁴⁶ This moral argument is linked to a more pragmatic one. The key danger of inconsistent positioning on humanitarian norms in one context, robs the UK of any ability to speak with legitimacy in other contexts. Building on its consistent advocacy for accountability for war crimes in Syria, Ukraine, and Sudan, the UK should rely on its position and commitment to justice by actively supporting accountability efforts in other humanitarian crises, including in Israel and the OPT.⁴⁷ Consistency is key in preserving legitimacy in this space – given the socially constructed nature of international law. When consistency is lacking and the perception of double standards prevails, there will inevitably be a general erosion of UK legitimacy and credibility to speak on most humanitarian norms and in many contexts. The international perception of the UK as a global leader in international law may be jeopardised.

3.1. Recommendations

On the basis of the arguments above, we provide the following recommendations:

Consistency in discourse and action on commitment by:

- **Continuing to affirm the UK's commitment to international law while proactively addressing civilian harm and humanitarian need beyond IHL obligations.** Building on its *Human Security in Defence* approach and the *Approach to Protection of Civilians in Armed Conflict*, the UK can further integrate broader harm + need considerations into its defence and foreign policy, reinforcing both legitimacy and operational effectiveness.
- **Ensuring consistent and comprehensive support for humanitarian norms and the international institutions which are entrusted to their enforcement, monitoring and implementation,** including through adequate funding for humanitarian engagement with non-State armed groups and with influential local actors.⁴⁸

considerations into all aspects of their work, from strategy planning to education and training, and operational and tactical actions, including in partnered operations. Ministry of Defence, JSP 985 Human Security in Defence, Version 2.0, June 2024, pp. i, 8-9 and chapters 3, 4, 5, 6, and 7.

⁴⁶ General Nesmith made this observation in relation to the imperative for the UK to adopt human security in defence. Ministry of Defence, JSP 985 Human Security in Defence, Version 2.0, June 2024, p. i.

⁴⁷ A positive recent example of the UK making public statement has been its response to the possible US plan to displace Palestinians from Gaza, See Reuters, "UK will oppose any effort to displace Palestinians, minister says", 6 February 2025, available at <https://www.reuters.com/world/middle-east/uk-will-oppose-any-effort-displace-palestinians-minister-says-2025-02-06/>

⁴⁸ For an example of local actors that may influence State and non-State armed actors' behaviour in armed conflict, see I. Cismas, M. Furlan, P. Parisi, C. Rush, E. Heffes and H. El Jamali, Considerations and Guidance on the Humanitarian Engagement with Religious Leaders, 2023, available at https://static1.squarespace.com/static/5e624fe7ac1bea36a064929c/t/63c532089f167c409eb8649e/1673867787947/Religious+Leaders+%26+Humanitarian+Norms_Considerations+and+Guidance.pdf.

- **Providing increased support for local actors – civil society and community-based organisations – that seek to address harm + need at the grassroots level**, including through funding for humanitarian assistance programmes led by these actors.

Consistency in discourse and action on compliance by:

- **Consistently reiterating in public and private fora support for humanitarian norms in every context, including but not restricted to the following:** protection of civilians and civilian objects from direct and disproportionate attacks; prohibition of the use of indiscriminate weapons; prohibition of attacks on hospitals, medical personnel and humanitarian workers; prohibition of arbitrary denial of humanitarian access, and the requirement to facilitate rapid and unimpeded humanitarian access. When undertaking public and private advocacy efforts, **regularly refer to the applicable law.**
- **Condemning misinterpretation and suspected violations of IHL and IHRL (or side-stepping of their application) in every context equally and end politicisation of the law.**
- **Calling for independent investigations:** Advocate for, and support independent, transparent UN investigations into alleged violations of IHL and IHRL in all contexts, with the aim of establishing the facts, determining accountability, and ensuring that entities and individuals responsible are brought to justice. Work with international partners to hold alleged perpetrators accountable.
- **Using the UK's membership of the UN Security Council** as an opportunity to exert moral leadership, for example by demanding compliance with humanitarian norms by all parties to armed conflicts.
- **Immediately suspending all arms sales** without exception to States alleged to have contributed to violations of international law and impose a two-way arms embargo so as to retain the credibility of the UK's claim to uphold international law and universal human rights.

Consistency in strengthening and reaffirming UK commitment to international courts and institutions by:

- **Publicly reiterating the UK's commitment to international courts and institutions** entrusted with the enforcement of international law (i.e. International Court of Justice, International Criminal Court, UN human rights bodies and procedures) preserving their integrity from any political interference and pressure and condemning any attempts to put pressure on them, their organs or officers.
- **Publicly acknowledging the findings** of these institutions and supporting implementation of their orders, judgments and resolutions at all levels of government.
- **Ensuring full cooperation by providing financial and practical** support as per the UK obligations under international law. Practical support means: supporting any collection of evidence; providing expertise when required; using diplomatic and public channels to promote global compliance and avoid actions that may undermine their legitimacy, and

refrain from displays of public support for individuals being investigated by international courts or other statements that may undermine their legitimacy.

- **Upholding these courts and institutions' integrity** against political interference and condemning any attempts to put pressure on their organs or staff.
- **Using diplomatic channels** and public platforms to encourage and where appropriate demand third parties also cooperate with these institutions. Refrain from displays of public support for individuals being investigated by international courts or other statements that may undermine their legitimacy.