

Minimum Standards for participation, in humanitarian inter-agency evacuations, informed by international humanitarian and international human rights law

Humanitarian organizations are bound by the principles of neutrality, impartiality and independence, and guided, in carrying out their functions, by the principle of 'Do No Harm'. In light of its participation in the recent evacuation and efforts to deliver humanitarian assistance to the besieged area in the old city of Homs, UNHCR, as the lead of the Protection and Community Services Working Group, has set out a framework of minimum standards which need to be in place and be respected. These will serve as a basis for inter-agency participation in future evacuations.

In meeting these minimum standards, the following guarantees, the observance of which are obligations falling to the parties under international law, must be obtained through the **full and explicit consent of all relevant parties** to the proposed humanitarian evacuation and related humanitarian assistance, during and subsequent to an evacuation.ⁱ

The safety and protection of humanitarian and medical personnel, as well as convoys, will be respected;ⁱⁱ

Repeated and safe access of neutral humanitarian organizations to affected populations will be provided, both before and after, an evacuation to:ⁱⁱⁱ

- **Assess the needs of the population**, to inform a realistic understanding of the protection and other humanitarian needs, as well as the overall environment and to determine the willingness of individuals to evacuate;
- **Organise the humanitarian response in the context of an evacuation** based on a thorough assessment of the needs of any given population and plan a protection-sensitive response.^{iv}
- **Distribute assistance** on the basis of need;
- **Provide information** on the possibility of an evacuation and potential implications of any decision to stay or leave and on the role of humanitarian actors present during an evacuation.

The protection of civilians is ensured:

- Civilians must be protected against attack and treated humanely at all times.^v
- Civilians should not be arbitrarily deprived of objects indispensable to their survival, including by willfully impeding their access to relief supplies.^{vi}
- Civilians should be able to leave a conflict zone.

The sick and wounded are able to be cared for:^{vii}

- Where persons evacuated are sick or wounded, they should receive the medical care they need, to the fullest extent possible, with the least possible delay.

Children are afforded special protection:^{viii}

- If families are displaced from their home, every effort is made to safeguard family unity, including tracing of family members.^{ix}
- Parties have specific obligations in relation to children who are detained.^x

Those who are detained/*hors de combat* are treated humanely:^{xi}

- States have the right to detain certain persons in relation to the armed conflict [namely those no longer participating in hostilities];
- These persons are entitled to certain protections under international humanitarian and human rights law, including an adequate standard of water, shelter, hygiene, health, fair trial procedures, and that their families are informed of their whereabouts.^{xii}
- Access to such individuals is provided to international humanitarian agencies, such as the ICRC, in order to monitor the treatment and appropriately register each individual.^{xiii}

International humanitarian agencies must have sufficient access to continue to monitor the protection and humanitarian needs of those who remain in the besieged area:

- Civilians who remain must be protected against attack.^{xiv}
- Civilians who remain in the besieged area will be treated in accordance with international law;
- Conditions are secured so that they can continue to receive the objects essential to their survival.^{xv}

**Drafted by UNHCR
23 February 2014**

**Considered and endorsed by the UNCT
Damascus
26 February 2014**

ⁱⁱ **IHL:** *Customary IHL* Rules 31, 32 state that humanitarian relief personnel and objects used for humanitarian relief must be respected and protected; *Customary IHL Rule 54* protects items indispensable to the survival of the civilian population, this includes food-stuffs, therefore convoys carrying humanitarian items should be protected.

ⁱⁱⁱ **Ibid;** **IHL:** *Customary IHL*, Rules 55 and 56 state that parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief to civilians in need, and the parties must ensure the freedom of movement for humanitarian workers to do this work. **IHL:** Freedom of movement, Universal Declaration of Human Rights, Article 14; (ICCPR contains a provision in Article 12, however the right can be restricted); Arab Charter on Human Rights Articles 20 and 21 'citizens shall not be ... restricted to a particular place, or forced to live in any area of the country'.

^{iv} A protection sensitive response is guided by the principle of 'do no harm', aimed at not exposing persons to risk of harm and violations of their rights under international law.

^v **IHL:** Common Article 3; *Customary IHL*, Rule 87 – all provisions set out fundamental guarantees and that civilians and persons *hors de combat* must be treated humanely. Persons who are *hors de combat* are those who are no longer participating in hostilities/playing an active role in the conflict because they have been captured by the enemy; surrendered; or are too injured or ill to take part in hostilities (definition found in Additional Protocol I Article 41).

^{vi} **IHL:** *Customary IHL* Rule 53 prohibits starvation as a form of warfare. **IHL:** Right to food: The Committee on Economic, Social and Cultural Rights and the Commission on Human Rights have made it clear that this right encompasses the right to an adequate supply of drinking water (CteeESCR Gen Comment 15, CHR Resn201/25). *Universal Declaration on Human Rights*, Article 25; *ICESCR*, Article 11; *Convention on the Rights of the Child*, Articles 24(2), 27; *Arab Charter on Human Rights*, Article 13.

^{vii} **IHL:** Common Article 3(2); *Customary IHL*, Rule 110,111,138. This includes former fighters who have been placed *hors de combat* as a result of their injury or illness- if a former fighter has a greater injury than a civilian, they should receive medical attention first. **IHL:** *Universal Declaration on Human Rights*, Article 25; *ICESCR*, Article 7(b), 12; *Convention on the Rights of the Child*, Article 24; *Convention on the Rights of Persons with Disabilities*, Article 25; *Arab Charter on Human Rights*, Article 39.

^{viii} **IHL:** *Customary IHL* Rule 135. **IHL:** *Universal Declaration on Human Rights*, Articles 25,26; *Convention on the Rights of the Child*; *Arab Charter on Human Rights*, Article 38(b), 39 'The youth has the right to have greater opportunity to develop physical and mental abilities'.

^{ix} **IHL:** *Customary IHL* Rule 105, as far as possible family life must be respected; **IHL:** *Universal Declaration on Human Rights*, Article 16(3); *Arab Charter on Human Rights*, Article 38.

^x **IHL:** *Customary IHL*, Rules 120, 135. Children who are detained must be held in separate areas from adults, unless detained with their families. **IHL:** *ICCPR* Article 10(2)(b), 14; *Convention on the Rights of the Child*, Article 37, 40(2)(b)(ii); *Arab Charter on Human Rights*, Article 12.

^{xi} **IHL:** Common Article 3(1)(d); *Customary IHL* Rule 87**IHL:** Arbitrary detention, *Universal Declaration of Human Rights* Articles 9,10,11; *ICCPR*, Articles 7,9,11, *Arab Charter on Human Rights*, Article 8; Conditions of detention, *Universal Declaration of Human Rights* Article 5, *ICCPR*, Articles 7,10; *Arab Charter on Human Rights* Article 15. Prohibition of inhumane or degrading treatment or punishment, *Universal Declaration of Human Rights* Article 5; *ICCPR* Article 7; *Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment*; *Arab Charter on Human Rights*, Article 13.

^{xii} **IHL:** Common Article 3(1)(d); *Customary IHL*, Rules 100, 118, 119, 121, 125; **IHL:** *Universal Declaration on Human Rights*, Articles 9,10,11; *ICCPR*, Articles 9, 10; *Arab Charter on Human Rights*, Articles 8,9,11.

^{xiii} **IHL:** *Customary IHL* 123 the personal details of persons deprived of their liberty must be recorded.

^{xiv} See above, n.v.

^{xv} See above, n.vi.