**Recommendations of the NGO members of the humanitarian commission Coordination SUD**

**Protect and guarantee a humanitarian space for civilian populations and international solidarity actors**

Today 80 to 90% of victims in conflicts around the world are civilians.

Today, the humanitarian space is impacted by the appearance of new non-state actors, the use of prohibited means and methods of warfare adopted by parties to conflicts (use of starvation and / or rape, systematic attacks on health systems, use of anti-personnel mines, massive use of explosive weapons with wide-area effect), as well as the urbanization of these conflicts. These also put civilian populations at the heart of hostilities causing victims, forced displacements and the destruction of vital infrastructures on the short and long term.

In many countries (Nigeria, Syria, Central African Republic, Niger, Guatemala, etc.), international solidarity actors operating to meet growing needs are increasingly and directly targeted. The civil-military confusion and the doubts relating to the impartiality and neutrality of NGOs generated by the operationalization of the triple nexus contribute to accentuating this phenomenon. This mainly affects local personnel, making access of civilian populations to basic services increasingly complicated.

Finally, international humanitarian law (IHL) is called into question by various sanction regimes and counter-terrorism laws, which are transposed by States in national legislation and in numerous conventions on aid financing. These national laws negatively impact organizations and pose security and legal risks to NGOs and their operations, create cumbersome procedures, increase operating costs, restrict access and reduce the resilience of populations. Ultimately, these provisions jeopardize the provision of aid based on the needs of populations, clearly in contradiction with IHL and the principles of humanity, neutrality, independence and impartiality.

Paramount to the questioning of these principles, we reassert that respect for IHL guarantees the best protection of civilian populations as well as humanitarian and health personnel. It is within this framework that we call on France and other States to respect it, and ensure it is respected. Our recommendations are based on the commitments made within the framework of the Political Declaration on the Protection of Medical Care in Armed Conflicts of 2017, the Humanitarian Strategy of the French Republic 2018-2022 and the Humanitarian Call for Action from 2019.

**The NGOs recommend that France:**

**1. Engage politically at national and international levels:**

* **To clearly and systematically condemn all attacks against international solidarity actors** and their infrastructures, and to ensure that they are the subject of impartial investigations and criminal prosecutions. While we recognize the French denunciation of recent events in Niger and Guatemala, we regret the assimilation of French NGOs with the actions of the French State and we wish to recall **our independence and our neutrality**. This assimilation negatively impacts the perception of our actions and therefore the safety of our teams, and **on too many occasions violence against international solidarity actors, including humanitarian personnel and infrastructures, remains silent**.
* **To put this issue on a long-term footing with the announcement of a work plan and consultations involving all stakeholders.** To this end, France should study the possibility of stimulating the creation of a Joint Commission bringing together French, international and southern NGOs, States and International Organizations. The objective of this commission would be to strengthen the humanitarian space through concrete proposals and to monitor the implementation and effective application of the various measures mentioned in this note (creation of a special rapporteur to the Secretary General of the United Nations, analysis and prevention of negative impacts of counter-terrorism measures on NGO operations, etc.). **We propose that this Joint Commission be officially launched on the occasion of the UNGA and that a first restitution of its work be presented at the 2021 UNGA and / or at the 2021 Paris Peace Forum.**
* **To revitalize the “Humanitarian Call for Action” and the Declaration linked to the initiative of October 31, 2017, in order to continue to promote respect for the obligations arising from IHL. France, in coordination with the EU, donors and in conjunction with its embassies, should play a "driving role"** and encourage non-signatory countries to sign them; initiate substantive work at national level on the implementation of IHL; continue and strengthen the training of state and non-state actors on IHL in order to avoid assimilations and guarantee the independence of NGOs.

* To develop concrete solutions to strengthen the protection of international solidarity actors and allow the implementation of resolution 2175 (2014) of the United Nations Security Council. This would involve **supporting the creation of a Special Rapporteur to the Secretary-General of the United Nations. The Special-Rapporteur would be responsible for precisely and systematically collecting, , information on the incidents** involving humanitarian personnel **, and for reporting and monitoring these incidents with an emphasis on national personnel.** Local humanitarian workers often intervene in areas that international organizations cannot reach. It is essential that they receive specific attention due to the increased risk they face, that crimes against them are condemned and that the perpetrators of these crimes are systematically prosecuted.

**2. Protect international solidarity actors, whatever their nationality**

* When international solidarity actors are under pressure from the authorities, local groups, armed groups and / or when they are forced to flee their area of intervention:
* Consider the **establishment of a global protection mechanism** to ensure psychosocial support, legal aid, financial aid, evacuation and / or resettlement of local international solidarity actors and their families in the event of exposure to specific threats such as death, arbitrary detention and torture.
* Support NGOs in the implementation of international minimum standards on "Duty of Care" in order to promote a more systematic approach to the duty of assistance within all humanitarian and international solidarity organizations (local and international).
* Ensure that the costs of security management (communication equipment, security manager, etc.) and training of local and international staff are covered by donors through an **increase in the related budget lines**. Encourage funding for security management NGOs like the International NGO Safety Organisation.
* **Fight against the criminalization of humanitarian action** and the risks of criminal prosecutions faced by NGOs as a result of counter-terrorism measures and laws enacted by a large number of States and international organizations. These measures criminalize the delivery of aid to populations living in areas under the control of armed groups and prevent a necessary dialogue with these groups in order to access populations in need in a safe manner. **The inclusion of a humanitarian exemption in these laws must be systematized, in accordance with IHL** (see below), and the French State must support French NGOs facing this type of accusation.

**3. Guarantee the establishment of mechanisms to fight impunity in the event of attacks against international solidarity actors and their infrastructures:**

* **Consider targeted sanctions, arms embargoes, and referral to appropriate judicial mechanisms** in cases where national governments are unable or unwilling to prosecute the perpetrators of crimes against international solidarity actors including humanitarian and health personnel:
* Trigger an impartial and independent investigation, at national or international level, for any violation of the Geneva Conventions. In this context, France must accept the authority of the "*International Humanitarian Fact-Finding Commission*" established by Article 90 of Additional Protocol I to the Geneva Conventions.
* Extend its universal jurisdiction to judge international crimes (crimes against humanity, genocide and war crimes) and in particular with regard to the perpetrators of serious violations of IHL who are guilty of war crimes.
* **Ensure that humanitarian aid is guaranteed besides all political or security agenda, and is deployed only according to the needs of the populations.** In the context of complex conflicts, the mere rumour of humanitarian staff coordinating with political agendas can lead to confusion between the roles and mandates of different actors. The mandates of humanitarian personnel must be distinguished from any other security actor. The teams, as well as the populations, are therefore endangered. It also presents particular risks for national and local organizations and their staff operating in conflict zones. Funding for humanitarian aid must not be influenced by donors’ political agendas, and must be based solely on humanitarian needs and not on a stabilization or de-radicalization policy, for example.

**4. Mitigate the impact of counter-terrorism measures**

Protecting international solidarity actors includes ensuring that the counter-terrorism measures and sanction regimes do not impact access to populations in need, and guarantee respect for IHL in the measures and operations taken to fight against terrorism. The NGOs recommend that France:

*At multilateral and European level:*

* **Systematically support the integration of humanitarian exemptions in any new sanctions regime and in each of the resolutions issued by the Security Council.** France must also request that the impact of sanctions regimes and their consequences on populations and humanitarian action be systematically analysed in Security Council discussions. France must **systematically support the integration of humanitarian exemptions into all texts and sanction regimes issued by the European Union** and sensitize Member States to the impact of counter-terrorism regimes and measures on humanitarian aid.
* Facilitate the participation and consultation of NGOs in the mechanisms for monitoring the implementing sanctions, in particular via the sanctions monitoring committees.
* **Strengthen its commitment via the Financial Action Task Force (FATF)** by ensuring that no measure taken has an impact on humanitarian operations, the protection of humanitarian principles and the populations' access to aid. France must also support and facilitate the participation and contributions of NGOs within the FATF.
* **Pursue progress towards a “humanitarian specificity” in order to guarantee the respect for IHL and humanitarian principles**, for example by ensuring that restrictive measures do not apply to the final beneficiaries of grants, and by supporting the harmonization of these measures among all EU financial instruments.

*At national level:*

* **Fully transpose European law into its national legislation and include the humanitarian exemption contained in Directive 2017/541 on the financing of terrorism.**
* Invest its diplomatic capital through its posts and embassies, in conjunction with EU Member States and NGOs, in order to **facilitate dialogues with the authorities on certain counter-terrorism measures that may have a negative impact on humanitarian operations.**
* **Engage, in conjunction with the EU, in an enhanced dialogue with the United States on issues relating to the impact of the extraterritoriality of its national laws on humanitarian aid aiming to promote exemptions.** France must work on national measures that can preserve humanitarian action in the face of these impacts.
* **Publicly commit to protecting the action of NGOs** and international solidarity organizations against any form of harassment, sanction, penalty and criminalization induced by sanction regimes and counter-terrorism measures. Affirm and **guarantee that France will not engage in legal proceedings against NGOs in this context.**
* **Reaffirm that France will not set up, under any circumstances, any “screening” measures within the framework of international solidarity actions, targeting the recipients of the action** or requiring the collection and / or transmission of information or data concerning them, in connection with the humanitarian principles. France must commit to supporting these arrangements within the Good Humanitarian Donorship (GHD) and with the EU, and condition its funding on the basis of the preceding elements.
* **Facilitate the modalities of bank transfers from NGOs and their local partners**, as well as the import / export of "restricted" equipment (e.g. dual-use) through specific mechanisms and State guarantees (French Bank or other).
* **Facilitate the dialogue between humanitarian NGOs, banks, the Treasury and the Ministry of Europe and Foreign Affairs** and ensure that this quadripartite dialogue takes place on a regular basis and, at least, twice a year at the level of Directorate General. In addition, France must disseminate information to various private stakeholders (banks, companies, etc.) on the existence of exemptions and their application, and ensure that they are made aware of the impact of the measures and restrictions imposed on the actions of NGO. France must also **develop binding measures, including legislative ones, towards the banking sector** in order to avoid any over-compliance action. Finally, France should attach to French institutional funding a notification of humanitarian exemption from sanctions (on a reinforced model, and mutually discussed, of the "general license n ° 11" - American model), in order to facilitate the work and the interaction of NGOs with private stakeholders.