Protecting Humanitarian Personnel in Conflict Zones: Syria as a Case Study

A Thesis Presented to the Lebanese University in Partial Fulfillment of the Requirements for the Degree of Master in Public Law

Thesis By: Rabih Fayad

Advisor: Professor Sami Salhab

May 2017

Acknowledgement

I would like to express my deepest appreciation and enormous gratitude to my supervisor, Professor Sami Salhab, for his guidance, constructive feedback and support during the writing of this thesis.

I would also like to thank the International Rescue Committee for giving me the opportunity to conduct fieldwork in Syria and the surrounding countries. I also owe my deepest gratitude to all of my colleagues, peers and key informants who showed an interest in my study and took the time out of their busy schedule in order to share their knowledge with me during my work.

With this, I would particularly like to thank Mr. Mike Penrose, Executive Director of UNICEF – UK, for sharing his enormous insight and knowledge on the topic of humanitarian security risk management.

I want to finally thank my wife for her unconditional support and encouragement during this long process.

Rabih Fayad

May 2017

Abstract

Over the course of the last 10 years, the humanitarian sector as a whole has increasingly become a target, as both frequency and brutality in violent attacks on humanitarian staff has increased steeply. The Syrian refugee crisis has been described as 'the greatest humanitarian crisis in a generation'[1]. The devastating conflict that began in 2011 and spread to engulf much of the country in a protracted, complex, and multi-sided war, has to date been characterized by extreme brutality.

During this conflict, adversaries are often overwhelmed and unable to protect civilians from the consequences of war. In such times of complex humanitarian emergencies, it is essential for external actors to be able to provide humanitarian assistance. Such assistance, which consists of aid and action, provides for basic necessities and services in order to save lives, alleviate suffering and protect human dignity.

The Syrian conflict, however, shows that the parties to the conflict sometimes not even recoil from deliberately denying or obstructing humanitarian assistance. The provisions of the 1949 Geneva Conventions and the 1977 Additional Protocols applicable to humanitarian assistance do not explicitly address this issue.

Since either framework or any other international framework can adequately guarantee the safe provision of humanitarian assistance in Syria, this research becomes necessary in order to evaluate the risks posed on aid delivery and to recommend the design of a comprehensive risk management strategy for agencies operating inside Syria.

Although authoritative statistics are scarce, anecdotal evidence suggests that aid workers face life-threatening risks that are exacerbated by the growing number of humanitarian organizations operating in Syria with varying mandates, without common professional security standards and with limited success with inter-agency security coordination.

---

[1] U.S. Permanent Representative to the United Nations Samantha Power in an address to the Third International Humanitarian Pledging Conference for Syria, 31 March 2015. https://blogs.state.gov/stories/2015/03/31/syria-greatesthumanitarian-crisis-generation-demands-response-generation (Consulted on 16 April 2017).

The ability of humanitarian organizations to fulfill their mandates in Syria will depend in part on their individual success in improving internal security risk management practices and in finding ways to coordinate their efforts on building common security standards and security coordination across agencies. To meet this challenge, humanitarian organizations must implement improved security risk management methods and finds ways to coordinate their security operations and planning.

Despite broad acceptance of the need to develop better security risk management and coordination, many humanitarian organizations remain ambivalent about coordinating their security activities and few have instituted robust measures for improving their own security management practices. Further, efforts to improve security management practices are hampered by a critical lack of basic empirical knowledge about the field security environment. In discussions about humanitarian staff safety and security, the least common denominator continues to be cumulative anecdotal evidence provided by the many security personnel working for humanitarian organizations in the field in Syria.

This research reviews the literature on humanitarian organization security management, highlighting common misconceptions about the field security environment, reviews the main structural and procedural issues impeding more effective security management, and illustrates why current initiatives to improve security management practices will remain only partial successes if they do not include a genuine effort to replace anecdotal reporting on the field security environment with systematic collection and analysis of field security data.

It argues that staff security requires a common professional approach based on sound security expertise adapted to meet the operational needs of humanitarian organizations. A comprehensive security risk management model is suggested for creating a cross-cutting framework that will guide INGOs operating inside Syria in the design and implementation of common standards and tools to adequately mitigate prevalent risks. Paradoxically, without the securitization of aid at the operational level, humanitarian workers are left exposed to the same enduring elements of insecurity that persistently threaten the lives of those they endeavor to help.

Table of Contents

Introduction

<u>1. Background</u>

The conflict in Syria and the resulting humanitarian crisis have resounded in one way or another throughout most of the world. Peaceful protests against an authoritarian regime in March 2011 sparked violent retaliation by the government and the arming of a (fragmented) opposition, plunging the country into an infernal civil war, with spillover effects to Turkey, Iraq, Lebanon, Jordan, Palestine, and Israel, as well as Europe and Africa. Estimates vary on the number of Syrians killed since the start of the conflict, but a variety of sources currently puts the figure at over 250,000 people.[2] This includes at least 185,000 civilians, or 75 percent of the total estimated deaths, of which 20,000 are children.

<u>2. Scope of the research</u>

The research discusses the following question:

Do International NGOs currently operating in Syria have the appropriate standards and tools to adequately mitigate prevalent risks to personnel and meet the operational needs of humanitarian organizations?

<u>3. Methodology</u>

My research relies heavily on personal experience, observations and interviews I conducted over a period of several months. My work as the head of humanitarian access and security management with an international NGO afforded me access to many sources and contacts.

In addition to interviews, I draw from those organizations that graciously provided working papers and internal documents on their security risk management strategies and approaches to working with local partners. Some of these internal documents I refrain from quoting directly as the nature of their content is considered highly sensitive. While others bestowed material which I am permitted to utilize anonymously throughout this dissertation.

Since there is little in terms of similar data or previous research available on the topic, I use these primary sources with the utmost integrity. In fact, because of the sensitive nature of the topic and considering humanitarian activities are ongoing in

---

[2] Figures based on Syrian Observatory for Human Rights and OCHA.

Syria, I did face limitations in speaking with experts in the field. Aside from timing and access constraints, it is something that many people are reluctant to discuss for several reasons, some more personal than others. Hence, information can be scarce and I rely on what I have given the time, access, and sensitivity constraints.

While the topic of my thesis centers on the response of humanitarian organizations and the experiences of actors in and around Syria, I touch upon other contexts as anecdotes to further illustrate the challenges of remote management in Syria. The majority of my informants have worked in other insecure environments, managing in remote settings and with local partners in places such as Afghanistan, Iraq, and Somalia. I visit these settings as a linking exercise and to realize the kind of operational, moral, and analytical lenses needed to approach the Syrian response in more holistic and humanistic terms.

4. Structure

Chapter I addresses the foundation of the research and specifies what humanitarian assistance and armed conflicts are and touches upon the concepts of Humanitarian Space and Humanitarian Access.

Chapter II analyzes the causes of the Syrian conflict, the ensuing humanitarian crisis and performs a comprehensive mapping of conflict and humanitarian actors.

Chapter III outlines major challenges to the safety of humanitarian operations, highlights main trends and discusses the various approaches to Humanitarian Security Management.

Based on the previous analysis, Chapter IV formulates a comprehensive risk management strategy to be adopted by INGOs operating in Syria in order to mitigate prevailing threats to humanitarian workers.

Chapter I: Concepts

This chapter provides the foundation on which this thesis later builds on: whether or not obligations concerning the protection of humanitarian workers during armed conflicts exist. Therefore, it firstly outlines the concept and guiding principles of humanitarian assistance (1.), highlights the concepts of non-international armed conflicts (2.), and humanitarian space (3.), before addressing the notion of humanitarian access (4.) to people in need.

Section 1: The concept of Humanitarian Assistance

1.1. What is humanitarian assistance?

Humanitarian assistance belongs to the concept of humanitarian action, which focuses on short-term relief, rehabilitation and reconstruction activities as well as development cooperation.[3]

The category humanitarian assistance encompasses humanitarian aid, humanitarian relief, relief assistance and relief action.[4] A universally applicable definition of humanitarian assistance is absent because its particularities vary depending on the character of the humanitarian crisis.

Still, the following elements are inherent to the concept: humanitarian assistance consists of aid and action that provides for basic necessities and services in order to save lives, alleviate suffering and protect human dignity in times of complex humanitarian emergencies.[5] The cause of such emergencies can be natural or man-made disasters, including armed conflicts.[6]

---

[3] Spieker H, 'The Right to Give and Receive Humanitarian Assistance', in Heintze HJ and Zwitter A (eds). International Law and Humanitarian Assistance (Springer 2011) ["Spieker (2011)"], p 7.
[4] Ibid.
[5] Global Humanitarian Assistance (2016).
[6] Kent G, 'Rights and obligations in international humanitarian assistance' (2014) 23 Disaster Prevention and Management 3 ["Kent (2014)"], p. 215.

Essentially, a humanitarian crisis is an event with consequences so drastic that the population faces grave damage of personal and material nature.[7] Due to the complexity of these situations, the state in which the emergency is occurring, i.e. the affected state, is often overwhelmed, unable or even unwilling to aid and assist the population in need.[8]

That is why external aid and action is of critical importance in order to secure the survival of the victims of humanitarian emergencies as was emphasized by the General Assembly in Resolution 46/182 in 1991 on the *strengthening of the coordination of humanitarian emergency assistance of the United Nations*.[9]

The International Court of Justice ["ICJ"] stated in its 1986 *Military and Paramilitary Activities in and against Nicaragua* judgement that humanitarian assistance shall entail "the provision of food, clothing, medicine, and other humanitarian assistance".[10]

With regards to the term 'other humanitarian assistance', the international consensus has expanded for it to additionally engross relief personnel, transportation to deliver relief supplies and communication. [11]

1.2. The principles of Humanity, Neutrality and Impartiality

The external providers of humanitarian assistance are comprised of third states, international organizations, non-governmental organizations (NGOs) as well as charitable and humanitarian organizations.[12]

---

[7] Kuijt E, Humanitarian assistance and state sovereignty in international law: Towards a comprehensive framework (Intersentia 2015) ["Kuijt (2015)"], p. 98.
[8] Hardcastle & Chua (1998).
[9] UNGA/Res/46/182 (19 December 1991), para. 1.
[10] Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v US) (Judgment) [1986] ICJ Rep 14 ["Nicaragua"], pp. 57, 125; UNGA/Res/2717 (15 December 1970), para. 5(c).
[11] ECOSOC Resolution 1612 (LI) (23 July 1971) UN Doc E/1612 (LI), para. 57.
[12] Article 59 para. 2 GC IV

Since humanitarian assistance hinges on the consent of the affected state to grant access to its territory and population,[13] it is essential that the actors abide by three main principles on which humanitarian assistance is founded: humanity, neutrality and impartiality.[14]

The principle of humanity emphasizes the aim of humanitarian assistance, namely, to save lives, alleviate suffering and maintain and protect human dignity.[15] The principle of neutrality conditions that the providers of humanitarian assistance remain detached in the actual conflict, hence not to favor one particular side involved in the armed conflict.[16]

In accordance with the principle of impartiality, humanitarian assistance must be distributed without discrimination between or within the affected population.[17] Additionally, some international organizations insist that a fourth principle, the one of independence, has emerged which safeguards the autonomy of humanitarian objectives from other objectives, such as political, economic or military.[18]

In case the actors do not follow these principles, their aid and action cease to be of humanitarian character and can no longer be labelled humanitarian assistance with the effect to be contrary international law and possibly an unlawful intervention.[19] Consequently, humanitarian assistance is to be distinguished from the concept of humanitarian intervention.[20] The latter constitutes a coercive interference with the internal affairs of a state with the

---

[13] UNGA/Res/46/182 (19 December 1991), para. 3.

[14] UNGA/Res/46/182 (19 December 1991), para. 2; reaffirmed in UNGA/Res/47/120 (18 December 1992), at 41.

[15] Dungel J, 'A right to humanitarian assistance in internal armed conflicts respecting sovereignty, neutrality and legitimacy: Practical proposals to practical problems' (2004) The Journal of Humanitarian Assistance ["Dungel (2004)"]

[16] Ibid

[17] Ibid

[18] WHS, 'Humanitarian Principles' (2016) https://consultations2.worldhumanitariansummit.org/bitcache/29f94ad84be19198d46f3b26a6b5d10503926487?vid=574062&disposition=inline&op=view (Consulted on 24 December 2016).

[19] Nicaragua, pp. 124-125.

[20] Kent (2014), pp. 216-217

aim to end mass and flagrant violations of human rights of foreign nationals by their government.[21]

The ICJ considered this distinction in the Nicaragua judgement stating that as long as the providers of humanitarian assistance abide by the humanitarian principles it "cannot be regarded as unlawful intervention, or as in any way contrary to international law".[22]

1.3. The concept of armed conflicts

Different legal frameworks regulate humanitarian assistance depending on the circumstances, whether a natural or man-made humanitarian crisis is occurring. This paper focuses on humanitarian assistance during armed conflicts, which belong to the category of man-made humanitarian crises. The concept of armed conflicts needs thus to be clarified.

They were defined by the Appeals Chamber of the International Tribunal for the Former Yugoslavia ["ICTY"] in the *Tadić* case:

> *"[...] an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. [...]"[23]*

Two types of armed conflicts exist in law, namely, international armed conflicts ["IAC"] and non-international armed conflicts ["NIAC"]; and under certain circumstances they hold the potential to evolve into the other type.[24]

---

[21] Harrington E, 'Operation Provide Comfort: A Perspective in International Law' (1995) 8 Connecticut Journal of International Law, p. 635.

[22] Nicaragua, pp.124-125.

[23] *Pictet J (ed.), Commentary to the First Geneva Convention for the Amelioration of the Condition of the Wounded and the Sick in Armed Forces in the Field (ICRC 1952), p. 32; Prosecutor v Tadić, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-AR72, Appeals Chamber (2 October 1995)*

[24] ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?' (2008) ICRC Opinion Paper ["ICRC Opinion Paper (2008)"], p. 1.

In general, armed conflicts are regulated by international humanitarian law. This area of international law provides rules concerning the resort to force (*jus ad bellum*) and the conduct of hostilities (*jus in bello*).[25]

The leading conventions are the 1907 Hague Regulations dealing with inter-state rules with regards to the use of force, also known as the 'Law of the Hague';[26] and the four 1949 Geneva Conventions and the 1977 Additional Protocols focusing on the protection of persons from the effects of armed conflicts, the 'Law of Geneva'.[27]

Even if a state involved in an armed conflict is not party to these international conventions, that state is still bound thereby since most of the provisions have reached the status of customary international humanitarian law.[28] The application of the conventions varies depending on which type of armed conflict exists.

In the following sections, we will review the current legal frameworks applicable to Humanitarian Assistance during Armed Conflicts, with a focus on non-international armed conflicts.

Section 2: Legal provisions applicable to humanitarian assistance during International Armed Conflicts

This section describes the existing legal provisions of international humanitarian law that are relevant for the implementation of humanitarian assistance during IACs; more specifically with regards to situations in which the affected state is overwhelmed or unable to provide humanitarian assistance.

In order to do so, the characteristics of an IAC and the applicable law firstly have to be determined. Then, the law is applied in view of the receivers and the providers of humanitarian assistance. The aim is to deduce the legal duties inherent

---

[25] Fleck D (ed), The Handbook of Humanitarian Law (3rd edn, Oxford University Press 2013) ["Fleck (2013)"], p. 1.
[26] Hague Convention (IV) Respecting the Laws and Customs of War on Land (HC IV) with Annex: Regulations Respecting the Laws and Customs on Land (HagueReg) (18 October 1907) ["Hague Regulation"].
[27] Shaw M, International Law (7th edn, Cambridge University Press 2014) ["Shaw (2014)"], p. 849.
[28] Fleck (2013), pp. 28-29.

to humanitarian assistance during IACs from the law; especially whether or not there is a legal obligation for external parties to offer and provide as well as for parties to the conflict to request and accept offers of humanitarian assistance.

2.1. Characteristics of international armed conflicts

An armed conflict reaches the threshold of an IAC when two or more states resort to armed force according to the commentary of the International Committee of the Red Cross ["ICRC"] to the 1949 Geneva Conventions as well as the ICTY in the Tadić case.[29]

A factual assessment of the situation on the ground determines the actual existence of an IAC and in turn the application of international humanitarian law.[30] In case the existence of an IAC can be determined, the four Geneva Conventions, the 1977 Additional Protocol I ["AP I"] as well as customary international humanitarian law apply.[31]

The same provisions are applicable to situations of the total or partial military occupation of a state's territory, also called belligerent occupation.[32] An occupation is established where the occupying state exercises authority over a certain part of the territory.[33] Two factors demonstrate this authority: firstly, the former state's government is incapable of publicly exercising its authority and, secondly, the occupying power substitutes its own authority instead.[34]

2.2. The receiver of humanitarian assistance

---

[29] Tadić (IT-94-1-AR72), para. 70.
[30] ICRC Opinion Paper (2008), p. 1.
[31] Common Article 2 to the Geneva Conventions; Article 1 para. 4 AP I.
[32] Common Article 2 para. 2 to the Geneva Conventions; Article 43 Hague Regulation
[33] Case concerning Armed Activities in the Territory of the Congo (DRC v Uganda) (Judgement) [2005] ICJ Reports 2005 ["Armed Activities"], pp. 168, 230.
[34] Shaw (2014), p. 855.

The Fourth Geneva Convention ["GC IV"] entails the rules applicable to the protection of the civilian population during IACs.[35]

This convention commences to apply upon the outbreak of the conflict and ceases to apply upon the termination of the conflict.[36] Additional protective measures are included in several articles of AP I. Consequences of war include but are not limited to suffering, loss of life and human dignity – all of which humanitarian assistance aims to prevent.

GC IV emphasizes that the receiver of humanitarian assistance is the civilian population. The civilian population is, contrary to combatants, comprised of persons that are not members of the armed forces.[37] This includes persons that do not actively or no longer participate in the hostilities; civilians hence enjoy protection against attack unless and for such time as they take a direct part in hostilities.[38]

The whole of the population is afforded general protection against certain consequences of war without distinction and in all circumstances.[39] In addition, the protection extends to civilians that are not under the control of their national state but of the occupying power.[40] The civilian population of a belligerent state is entitled to protection from certain consequences of war, which implies the receipt of humanitarian assistance.[41]

Yet, none of the provisions mention a specific right to receive humanitarian assistance, nor do they explicitly refer to the term as such.[42] The provisions may not infer an individual right to invoke the provision of humanitarian assistance but they may still hold a legal obligation for the parties to the conflict.

---

[35] Stoffels R A, 'Legal regulation of humanitarian assistance in armed conflict: Achievements and gaps' (2004) 86 ICRC 855 ["Stoffels (2004)"], p. 519

[36] Articles 2 and 6 GC IV.

[37] Article 50 AP I.

[38] Rule 6 Customary IHL Rules ["CIHL"] in Henckaerts J-M & Doswald-Beck L (eds), Customary International Humanitarian Law, Volume I: Rules (Cambridge University Press 2007) ["Henckaerts & Doswald-Beck (2007)"]; for persons that do not receive this protection see Article 43 AP I.

[39] Articles 13, 27 GC IV and 51 AP I.

[40] Article 4 GC IV.

[41] Plattner D, 'Assistance to the civilian population: the development and present state of international humanitarian law', (1992) ICRC Review 288, p. 249.

[42] Dinstein Y, 'The Right to Humanitarian Assistance' (2000) LIII Naval War College Review 4 ["Dinstein (2000)"], p. 78.

<u>2.3. The provision of humanitarian assistance</u>

Each of the adverse parties involved in IACs or occupations is responsible for the protection of the civilian population in its territory.[43]

When faced with death and suffering, such protection includes the provision of consignments of medical supplies, food and clothing for the population,[44] collective relief,[45] basic needs in occupied territories,[46] and relief actions.[47] Although the term is not explicitly mentioned, this is known as humanitarian assistance.

Section 3: Legal provisions applicable to humanitarian assistance during Non-International Armed Conflicts

This section describes the characteristics of a non-international armed conflict (NIAC) and the applicable humanitarian law for humanitarian assistance in case the affected state is overwhelmed or unable.

The aim is to explore which legal duties can be derived from the law with regard to humanitarian assistance during NIACs; especially whether or not there is a legal obligation for external parties to offer and provide as well as for parties to the conflict to request and accept offers of humanitarian assistance.

<u>3.1. Characteristics of non-international armed conflict</u>

NIACs occur whenever there is resort to protracted armed violence in the territory of a state between governmental authorities and organized armed groups or between such groups within a state or across an international

---

[43] Article 29 GC IV.
[44] Articles 23 and 55 GC IV.
[45] Article 59 GC IV.
[46] Article 69 AP I.
[47] Article 70 AP I.

frontier.[48] The violence must, however, have reached a certain threshold; mere disturbances do not amount to a NIAC.[49]

In order to prove this, two criteria have to be met. Firstly, the violence needs to have reached a minimum level of intensity.[50] Secondly, the non-governmental groups involved in the conflict need to have a certain level of organization indicated by command structure and capacity to sustain military operations.[51]

Once this has been established, Common Article 3 of the Geneva Conventions and the 1977 Additional Protocol II ["AP II"] apply:

> *"In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:*
>
> *(1) Persons taking no active part in the hostilities [...] shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:*
>
> *(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;*
> *(b) Taking of hostages;*
> *(c) Outrages upon personal dignity, in particular humiliating and degrading treatment;*
> *(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.*
>
> *(2) The wounded and sick shall be collected and cared for.*

---

[48] Tadić (IT-94-1-AR72), para.70; see also Common Article 3 to the Geneva Conventions and Article 1 AP II.
[49] ICRC Opinion Paper (2008), p. 3.
[50] Prosecutor v Haradinaj, Balaj, and Brahimaj (Judgement) IT-04-84-T (3 April 2008) ["Haradinaj"], para .49.
[51] Haradinaj, para. 60.

An impartial humanitarian body […] may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavor to bring into force […] all or part of the other provisions of the present Convention […]

NIACs are more scarcely regulated than IACs. In addition to Common Article 3 of the Geneva Conventions, many articles of AP I have been transposed into customary international humanitarian law and can to a certain extent fill the gaps.[52]

3.2. The receiver of humanitarian assistance

The civilian population shall enjoy general protection according to Article 13 AP II. In case a state is not party to this protocol, customary rules of international humanitarian law applies. The ICRC has formulated a comprehensive body of customary international humanitarian rules.

It can be derived therefrom that the people entitled to protection during armed conflicts are the same in both IAC and NIAC, namely, the civilian population.[53] Similar to the regulation of humanitarian assistance in IACs, the civilian population is entitled to protection and hence to receive humanitarian assistance.[54]

In the light of the absence of an explicit provision to receive humanitarian assistance, an individual right to invoke the provision of humanitarian assistance cannot be inferred.[55] Nonetheless, the parties to the conflict can still hold legal obligations with regards to humanitarian assistance.

---

[52] Rules 1, 11 CIHL; Sassòli M, Bedeutung einer Kodifikation für das Allgemeine Völkerrecht: Mit Besonderer Betrachtung der Regeln zum Schutze der Zivilbevölkerung vor den Auswirkungen von Feindseligkeiten (Helbing & Lichtenhahn 1990) ["Sassòli (1990)"], pp. 345-405.
[53] Rules 5 and 6 CIHL
[54] Common Article 3 to the Geneva Conventions
[55] Dinstein (2000), p. 78.

3.3. The provision of humanitarian assistance

During NIACs, humanitarian assistance consists of basic necessities to ensure the survival of the civilian population, including food, medical supplies and relief action without distinction.[56]

The only duty inferred to government forces and armed opposition groups is to authorize humanitarian assistance and to refrain from obstructing the entry and passage of humanitarian assistance.[57] Despite the fact that Article 18 AP II refers to receiving and providing humanitarian assistance, more succinct duties have yet to be developed.

Common Article 3 of the Geneva Conventions and Article 18 para. 1 AP II specifically refer to the ICRC and other relief societies to offer humanitarian assistance. This transposes into a right but not a duty on these providers to offer humanitarian assistance.[58]

Other duties of external providers are to abide by the principles of humanity, neutrality and impartiality.[59] Moreover, the provision of humanitarian assistance depends on the consent of the affected state in order to remain lawful.[60] Consequently, humanitarian assistance during NIACs also hinges on the notion of state consent. To conclude, external providers cannot hold a right of access.

3.4. Obstruction of humanitarian assistance

During NIAC, the parties to the armed conflict are occasionally neither overwhelmed nor unable to provide humanitarian assistance. They are in possession of relief but are simply unwilling to distribute it.[61]

---

[56] Article 18 para. 2 AP II.
[57] Stoffels (2004), p. 522.
[58] Stoffels (2004), p. 521.
[59] Common Article 3 to the Geneva Conventions
[60] Principle of non-intervention see Article 2(7) UN Charter, see also Dinstein (2000), p. 86-87.
[61] Dinstein (2000), p. 77.

Sometimes this behavior extends to the refusal to grant external providers of humanitarian assistances access to the territory. Other times, other belligerents deliberately obstruct humanitarian assistance. Ultimately, the civilian population in need has no chance to receive basic necessities.

The denial or obstruction of humanitarian assistance can lead to starvation, willful killing or murder and inhumane treatment of the civilian population, all of which can amount to international crimes.[62]

The deliberate starvation of the civilian population amounts to an international crime during IACs.[63] During NIACs, this method of warfare is prohibited under Article 14 AP II but it is not mentioned as an international crime in the Rome Statute. Yet, customary international humanitarian law confirms that starvation of the civilian population constitutes an international war crime under the Rome Statute in both IACs and NIACs[64].

In order to avoid the incurrence of responsibility, the parties to the conflict have a duty to accept the offer of external actors to provide humanitarian assistance. This in turn implies a duty to grant access to external providers.

Section 4: The Concept of Humanitarian Space

Despite over 20 years of use, the term of Humanitarian Space remains poorly defined and understood. The term appears to originate in the Cold War conflicts in Central America, where it was reportedly used by the UN High Commissioner for Refugees (UNHCR) to describe a space for humanitarian dialogue with belligerent parties, and to characterize the broader operating environment within which humanitarian agencies were working.[65]

---

[62] Articles 8(2)(c), (d), (e), (f) Rome Statute.
[63] Article 8(2)(b)(xxv) Rome Statute
[64] Henckaerts & Doswald-Beck (2007), p.186.
[65] Brassard-Boudreau C, Shrinking Humanitarian Space? Trends and Prospects on Security and Access 2010, p. 2

4.1. Definition

The notion of Humanitarian space entered into wider usage in the early 1990s, when former Médecins Sans Frontières (MSF) President Rony Brauman spoke of an 'espace humanitaire' in which humanitarians should be 'free to evaluate needs, free to monitor the delivery and use of assistance, free to have dialogue with the people'.[66]

For the sake of this thesis, the humanitarian space is defined as the physical and social arena where a variety of humanitarian actors – donors, international agencies, NGOs, humanitarian workers, aid recipients, suppliers, peacekeepers, and others such as State and Non-State actors – exercise various activities associated with delivering humanitarian assistance to local communities.[67] The independence of humanitarian action from politics is central to this definition, and has informed consequent understandings of the term.

However, humanitarian space is also an operating environment in which the right of populations to receive protection and assistance is upheld, and aid agencies can carry out effective humanitarian action by responding to their needs in an impartial and independent way.

4.2. Characteristics

Whether approached from the viewpoint of humanitarian agencies and their operational preoccupations, or from a broader concern with civilians' protection and access to assistance, Humanitarian Space is essentially about context – the context of humanitarian action and the context of needs to which humanitarian actors are seeking to respond. Although concerns with humanitarian space sometimes evoke a delimited practical, even physical, space within which humanitarian action can be undertaken, it often seems

---

[66] Brassard-Boudreau, Ibid. p. 3.
[67] S. Collinson and M. Duffield, Paradoxes of presence: Risk management and aid culture in challenging environments, 2013, pp. 35.

synonymous with humanitarian action 'writ large', covering everything from general insecurity to administrative delays[68].

Humanitarian space is therefore an unavoidably wide and subjective concept, since different actors with different priorities, interests and viewpoints will inevitably focus on different aspects and attributes of any particular context, and reach different understandings of what they see or experience.

Early uses of the concept emphasized the political aspects of the evolving humanitarian situation associated with the Cold War conflicts in Central America. Later uses of the concept by MSF and other humanitarian agencies revealed a preoccupation with political independence, neutrality and access to populations in need, as agencies sought to expand their operational engagement into the heart of conflict zones after the end of the Cold War.

There are growing concerns across the humanitarian sector since the 1990s with the civil–military aspects of humanitarian space in the face of a rapid expansion in international peacekeeping and stabilization interventions.

In this study, we will aim to focus on the practical aspects of humanitarian space as they relate to delivering aid in conflict zones based on an implicit 'deal' with belligerents: in exchange for non-interference, i.e. following the principles of neutrality, impartiality and independence, belligerents allow humanitarians to operate and respond to needs safely and securely.

4.3. Challenges

Aid workers have increasingly come under attack, with murders and kidnapping showing substantial rises in the past decade, especially in Afghanistan, Iraq, Sudan, Somalia and most recently Syria and Yemen. In response, aid agencies have developed strategies to better protect themselves.

---

[68] Brassard-Boudreau, Ibid. p. 5

This has led to more professionalized risk management strategies, some of which include placing staff in fortified aid compounds, providing armed escorts, imposing curfews and working through remote management.

This ''bunkerisation'' is felt by many to have negatively affected the acceptance of humanitarian agencies as it obstructs their active engagement with communities and other stakeholders.

Whilst some of these measures are necessary, they are driven by standardized top-down policies and procedures across different contexts irrespective of the level or nature of actual risk on the ground, and probably also by the demands of insurance companies that are not concerned about issues of humanitarian space.

Section 5: Humanitarian Access

Humanitarian access to populations in need in conflict zones has become more difficult and complex in many cases in recent years and is viewed by many humanitarian agencies as the most significant current challenge for humanitarian action to overcome in the future.

The notion of 'humanitarian access' is not defined in international law. Here, humanitarian access is understood as a precondition for effective humanitarian assistance, which requires the consent of the state or the entity controlling a territory (a non-state armed group). The term should encompass not only access for goods and services to reach the beneficiaries rapidly but also the maintenance of such access as long as necessary.

5.1. Terminology

Humanitarian access concerns humanitarian actors' ability to reach populations affected by conflicts, as well as an affected population's ability to access humanitarian assistance and services.

Access is therefore a fundamental pre-requisite to effective humanitarian action. Full and unimpeded access is essential to establish operations, move goods and personnel where they are needed, implement distributions, provide services and for affected populations to fully benefit from the assistance and services made available.

Within the scope of this study, "humanitarian access" is understood as referring to both access by humanitarian actors to people in need of assistance and protection and access by those in need to the goods and services essential for their survival and health, in a manner consistent with core humanitarian principles.[69]

5.2. Legal framework

The international legal framework governing the principle of humanitarian access has three principal and interrelated sources: international treaties (written), custom (unwritten), and general principles of law (unwritten).[70] The relationship between conventional and customary principles is multifaceted. Treaties can be a written manifestation of existing customary law or they can give rise to the emergence of a parallel rule of customary law – not necessarily identical and both with an existence of their own. The Charter of the United Nations (UN) and the Geneva Conventions (GC) are important examples of treaties whose provisions have attained customary law status. Those various conventional and customary bodies of norms are outlined below:

5.2.1. International Human Rights Law

Human rights law is the branch of international law that affirms the universal rights and freedoms to which all human beings are entitled. Right-holders are individuals or groups that have certain entitlements (e.g. life,

---

[69] Humanitarian Access in Situations of Armed Conflict, Handbook on the International Normative Framework Version 2, December 2014.
[70] The Statute of the International Court of Justice (ICJ) identifies a third source of international law "the general principles of law recognized by civilized nations" (Article 38 para 1 lit. c). These principles may arise either through national or international law, and many are procedural or evidential principles. One example is the principle of good faith.

health, education, etc.) and protections (e.g. non-discrimination, right not to be subject to torture, etc.). For each right there is a corresponding duty to respect, protect and fulfil that right. The duty-bearers are all States bound by human rights law. Human rights law is based upon customary international law and international treaties, as well as soft-law instruments.

5.2.2. International Humanitarian Law

International humanitarian law is the branch of international law governing armed conflicts and other related situations (occupation). Its aim is to protect persons or property that are or may be affected by an armed conflict and to limit the rights of the parties to a conflict to use means and methods of warfare of their choice. Humanitarian law does not apply to emergency situations other than armed conflicts (namely natural disasters).

The main sources of international humanitarian law are the four 1949 Geneva Conventions and the two 1977 Additional Protocols. Given the nearly universal ratification of the Geneva Conventions, it is widely accepted that the provisions of these treaties have acquired the status of international customary law, and are therefore binding upon all States irrespective of their ratification of the treaties.

5.2.3. International Criminal Law

International law contains rules establishing the criminal responsibility of individuals for acts or omissions that constitute particularly serious violations of international law. Punishable crimes include genocide, crimes against humanity and war crimes. The denial of access to humanitarian assistance in well-specified, particularly serious circumstances could amount to one of these crimes (1948 Convention on the Prevention and Punishment of the Crime of Genocide and 1998 Rome Statute of the International Criminal Court - ICC Statute).

5.2.4. International refugee law and guiding principles on IDPs

As man-made disasters are one of the main causes that force people from their homes, international refugee law, where applicable, can contribute to protect human rights in emergency situations, including right to access to humanitarian assistance. At global level, the protection of refugees is

provided by the 1951 Geneva Convention Relating to the Status of Refugees and by its 1967 Protocol Relating to the Status of Refugees.

Unlike refugees, internally displaced persons (IDPs), i.e. persons displaced but not crossing an international border do not enjoy a special legal status under international law. Nevertheless, apart from domestic law, IDPs, as civilians, are protected by international humanitarian law in situations of armed conflict and remain protected by international human rights law.

5.2.5. *United Nations resolutions*

Principles concerning humanitarian assistance are also embodied in United Nations resolutions. A distinction must be made between binding and non-binding resolutions. Non-binding instruments include resolutions adopted by the UN General Assembly (e.g. Resolutions 43/131 of 1988, 45/100 of 1990 and 46/182 of 1991) and those adopted by the UN Security Council outside Chapter VII of the UN Charter (e.g. Resolution 1296 of 2000, affirming general principles concerning humanitarian crises). Although not legally binding, these resolutions spell out the fundamental principles to be followed by the institutions of the UN system when designing and managing relief programs. Moreover, they provide guidance on application of international principles and may indicate the emergence of norms of customary international law. Finally, UN resolutions may be considered binding on the UN Secretariat, insofar at least that the resolutions are directed to it.

Binding resolutions are those adopted by the United Nations Security Council under Chapter VII of the UN Charter ("Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression"). In recent years, the Security Council has adopted several Chapter VII resolutions on issues concerning humanitarian assistance, thus considering humanitarian crises and mass violations of human rights as a threat to international peace and security.

5.3. Constraints

Many types of constraints affect humanitarians' ability to reach people in need of assistance, particularly in situations of armed conflicts, but can also be problematic in natural disaster contexts. These constraints also affect the ability of affected populations to have full access to humanitarian aid.

They include[71]:

- Bureaucratic restrictions on personnel and humanitarian supplies.
- Impediments related to climate, terrain or lack of infrastructure.
- The diversion of aid, and interference in the delivery of relief and implementation of activities.
- Active fighting and military operations.
- Attacks on humanitarian personnel, goods and facilities.

It is important to note that not all constraints on access are deliberately obstructive and may not constitute violations of international law. They can include physical problems such as a lack of roads, or climatic conditions such as snow. In many cases, a combination of access constraints create limit access rather than a single factor.

Achieving and maintaining access usually requires coordinated efforts, such as liaison with the relevant State and non-State actors at all levels, to establish acceptance for humanitarian actors and their work.

In this research we will focus our analysis around the last two elements of constraints, i.e. the safety of humanitarian workers, which have increasingly contributed to limited access to conflict-affected populations in recent years.

---

[71] https://docs.unocha.org/sites/dms/Documents/OOM_HumAccess_English.pdf (Consulted on 14 March 2017).

Concluding observations

This chapter has set out the concepts of humanitarian assistance and non-international armed conflict. For the purpose of this thesis, the most important elements of humanitarian assistance are aid and action pursuing the aim to save lives, alleviate suffering and protect human dignity during a man-made crisis.

An armed conflict falls within the category of a man-made crisis. During NIACs, it is the population that suffers the most and humanitarian assistance becomes of cardinal importance to victims of armed conflicts. Humanitarian assistance is to be achieved with the consent of the affected state and on the basis of the principles of humanity, neutrality and impartiality in order to remain in line with international law.

The current legal framework of international humanitarian law provides insufficient protection from starvation and suffering for the civilian population during NIAC. Similarly, humanitarian professionals working in conflict zones face increasing threats and attacks that endanger their lives, and jeopardize the consistent and effective delivery of emergency relief to populations in need.

The next chapter will discuss the Syrian conflict by outlining the ensuing humanitarian crisis and the responses of the international aid community.

Chapter II: The Syrian Conflict

The year 2010 inaugurated a tumultuous period for a range of countries in the Middle East and Northern Africa region. Protests compelling for democratization culminated in violent clashes between rebels and authoritarian regimes across the area.

The Syrian conflict constitutes an evident case where the international community failed to fulfil its humanitarian responsibilities. Civilian populations suffering from violent conflicts and their consequences were left on their own, because governments and international organizations were unable to respond collectively.

In this chapter we will first review the background to the current conflict (1.), before exploring the ensuing humanitarian crisis (2.) and the actors that are playing an active role in this conflict (3.)

Section 1: The descend into civil war

Although the Syrian conflict developed into a very complex combination of revolution, civil war, and an international war on terrorism, the roots of the conflict can also be found in decades of political oppression coupled with deteriorating socio-economic conditions.

1.1. Early warnings

The devastating civil war that began in Syria in March 2011 is the result of complex interrelated factors. The focus of the conflict is regime change, but the triggers include a broad set of religious and sociopolitical factors, the erosion of the economic health of the country and challenges associated with climate variability and change and the availability and use of freshwater.[72]

---

[72] Peter H. Gleick, Water, Drought, Climate Change, and Conflict in Syria, Pacific Institute, February 2014, p. 1

Apart from purely political triggers, some experts have argued that factors related to drought, including agricultural failure, water shortages, and water mismanagement, have also played an important role in contributing to the deterioration of social structures and spurring violence.[73] In particular, the combination of very severe drought, persistent multiyear crop failures, and the related economic deterioration led to very significant dislocation and migration of rural communities to the cities. These factors further contributed to urban unemployment and economic dislocations and social unrest.[74]

In 2004, a series of anti-government riots swept through the Kurdish areas of Qamishli as well as some neighborhoods of Aleppo and Damascus. The anti-regime campaign was violently suppressed by the security forces; up to 100 people were reported killed during the crackdown.[75]

In the meantime, unemployment rates have increased dramatically. While the government acknowledged a rate of around 8 percent in 2007, the International Labor Organization estimated the reality was more than double that.[76] The International Monetary Fund assessed Syrian unemployment at the end of December 2009 at close to 11 percent.[77] In June 2005, the United Nations Development Program found that 30 percent of Syrians (more than five million) lived in poverty, with 11 percent (almost two million) in extreme poverty.[78]

---

[73] Femia, F., and C. Werrell, Syria: Climate change, drought, and social unrest. Center for Climate and Security. http://climateandsecurity.org/2012/02/29/syria-climate-change-drought-and-social-unrest (Consulted on 15 March 2017).

[74] Ibid.

[75] James Brandon, PKK and Syria's Kurds, Terrorism Monitor, Jamestown Foundation. February 2007, Volume 5, Issue 3.

[76] Nimrod Raphaeli, "Syria's Fragile Economy," The Middle East Review of International Affairs (MEMRI), June 2007, p. 37.

[77] "Syrian Arab Republic—2009 Article IV Consultation Preliminary Conclusions of the IMF Mission," International Monetary Fund, Washington, D.C., Dec. 21, 2009

[78] Heba El Laithy and Khalid Abu-Ismail, "Poverty in Syria 1996-2004, Diagnosis and Pro-Poverty Considerations," United Nations Development Programme, New York, June 2005, p. 1.

1.2. The onset of the conflict

The Syrian conflict went through different phases. The first large-scale protests against the ruling Baath party and President Bashar al-Assad had started in February 2011. On March 18, protests broke out in the southern city of Dara'a where, after Friday midday prayers, masses had taken out to the streets to demonstrate against the arrest of some 15 teenagers who had sprayed anti-regime slogans to the walls, some weeks earlier.

The killing of some protestors grew along with the demonstrations and thousands of civilians were reportedly killed across the country, bringing Syria to the brink of civil war in a matter of weeks.

President Assad's first reaction had been to combine the classical accusation against a "foreign plot" in a speech before the parliament, along with the announcement of some cosmetic reforms, including the lifting of the 48-year old Emergency Law, the ordering of an investigation of police killings and the abolition of state security courts.[79]

Nevertheless, state violence continued as armed forces attacked Dara'a, Homs and other key cities with artillery and tanks while protests could not be extinguished and the death toll grew dramatically.

In mid-June 2011, defected some army officers initiated one of the first attempts to organize an armed opposition[80] and by the end of the year, as the crackdown dragged on, thousands of soldiers defected and began launching attacks against the government, bringing the country to what the United Nations in December called the verge of civil war.[81]

---

[79] The Emergency Law allowed the government to arrest people without charge and extended the state's authority into virtually every aspect of citizens' lives.

[80] Syrian Soldier Hussein Harmoush announces split from Army http://www.youtube.com/watch?v=mLAa9NSC9fo (Consulted on 15 March 2017).

[81] Nada Bakri, U.N. Says Action Needed to Prevent Civil War in Syria, New York Times, December 2011. http://www.nytimes.com/2011/12/03/world/middleeast/un-says-action-needed-to-prevent-civil-war-in-syria.html?hp=&pagewanted=print (Consulted on 15 March 2017).

1.3. International reactions

In a move premonitory of its future deadlock on Syria, the UN Security Council would attempt, on 28 April 2011, a condemnation of the Syrian regime endorsed by France, Great Britain, Germany and Portugal, only to be vetoed by Russia and China, and denied by India and Lebanon.

Neither the immediately subsequent condemnation by the UN High Commissioner for Human Rights, nor the arms embargo, travel ban and freezing of assets of the Syrian leadership imposed by the international community were to bring any results, as the main international instrument had been blocked from the start.

The summer of 2011 was marked by desperate attempts by the international community to put pressure on Assad: on 2 August, the EU expanded their embargo; on 6 August the Gulf Cooperation Council issued a condemnation; envoys from different countries traveled to Damascus on August 9 to convince Assad to end the violence, with the US and the EU prompting him to resign; on 2 September the EU imposed an oil embargo to Syria.

In response to that decision, Russian President Medvedev warned the Western states not to increase pressure on Syria because this was "absolutely not needed".[82] As a result, not only Washington's new attempt to urge the UN Security Council to impose sanctions against Syria failed on 21 September 2011, but another European-sponsored resolution threatening sanctions if Syria did not immediately halt its military crackdown against civilians, was vetoed by Russia and China on 4 October 2011.

In the meantime, the country was descending into civil war, with fighting reaching the outskirts of Damascus and the second biggest city of Aleppo.

---

[82] Ian Black, "Russia refuses more Syria sanctions", The Guardian, 12 September 2011. https://www.theguardian.com/world/2011/sep/12/russia-refuses-more-syria-sanctions (Consulted on 15 March 2017).

1.4. Armed rebellion

As the diplomatic cat and mouse game between the international community and the Syrian regime continued throughout 2011, various opposition groups begun to organize themselves in order to confront the Syrian army and security forces.

Many opposition coalitions were formed in Syria against the regime. An opposition government in exile, the Syrian National Council (SNC), was formed in October 2011 in Turkey. This body included several factions such as the Syrian Muslim Brotherhood (banned in Syria since the 1980s), Kurdish groups, the Damascus Declaration Group (a pro-democracy network), and other dissidents[83].

The SNC called for regime change in Syria and the overthrown of the Syrian regime by a united opposition, rejected dialogue with Assad and asked for international protection of the population in Syria.[84]   It authorized the formation of the Free Syrian Army (FSA) and declared this publicity at the end of July 2012. The FSA is composed of defected Syrian Armed Forces and civilians who have taken up arms against the Syrian regime.[85]

1.5. The hijacked cause

The armed rebellion has evolved significantly since its initial inception. Secular moderates are now outnumbered by Islamists and jihadists, whose tactics have caused widespread concern and triggered rebel infighting.

Capitalizing on the chaos in the region, Islamic State - the extremist group that grew out of al-Qaeda in Iraq - has taken control of huge swathes of

---

[83] Cornell University Library. 2015. "Arab Spring: A Research & Study Guide: Syria."
http://guides.library.cornell.edu/c.php?g=31688&p=200753. (Consulted on 19 February 2017).
[84] International Coalition for the Responsibility to Protect (ICRtoP), 'Crisis in Syria', p.2, available at:
http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-syria#back (Consulted on 19 February 2017).
[85] Gifkins, 'Briefing. The UN Security Council divided: Syria in crises', Global Responsibility to Protect 4 (2012), p.380.

territory across northern and eastern Syria. Its many foreign fighters in Syria are now involved in a "war within a war", battling rebels and jihadists from the al-Qaeda-affiliated Nusra Front, who object to their tactics, as well as Kurdish and government forces.

In the political arena, opposition groups have with time become deeply divided, with rival alliances battling for supremacy. Prominent moderate bodies, such as the National Coalition for Syrian Revolutionary and Opposition Forces, have little influence on the ground and their primacy is rejected by fighting groups, leaving the country without a convincing alternative to the Assad government.

Six years ago, the Syrian conflict appeared to be one side against another— pro-democracy rebels versus Assad. Since then, the opposition has fractured, splintered, and been coopted, with the original fight transforming into a radicalized sectarian war involving local, regional, and global powers with no end in sight.

Syrians involved in the "revolution" for democracy feel that their cause has been hijacked.[86] Extreme sectarianism is unfamiliar to many residents of contemporary Syria[87] and Western support has U-turned from "Assad must go" to "ISIS must be destroyed," sidelining many of the institutions and initiatives that received initial Western support.

While difficult to succinctly characterize the war, one analyst aptly described Syria "today [as] the largest battlefield and generator of Sunni-Shia sectarianism the world has ever seen, with deep implication for the future boundaries of the Middle East and the spread of terrorism".[88]

---

[86] Interviews conducted in Turkey in August 2016 with various Syrians who engaged in the original uprising.
[87] Interviews with Syrian members of humanitarian and civil society organizations (Turkey August 2016).
[88] Tabler, Andrew J. 2015. "Syria in 60 Seconds." Atlantic Monthly (October 29).
http://www.washingtoninstitute.org/policy-analysis/view/syria-in-60-seconds (Consulted on 19 February 2017).

Section 2: The greatest Humanitarian Crisis

The Syria conflict has triggered the world's largest humanitarian crisis since World War II[89]. Civilians bear the brunt of the violence in the Syrian conflict; up to half of the population is either internally displaced or fled to neighboring countries.

3.1. Current situation

The Syrian population is highly vulnerable and 13.5 million of people are in need of humanitarian assistance; of these 5.7 million are facing acute needs due to multiple risks to which they are exposed. In addition, 6.3 million are internally displaced, 4.9 million live in hard-to-reach and besieged areas.

Refugees from Syria are now the biggest refugee population from a single conflict in a generation with over 4.8 million Syrian refugees in neighboring countries and the wider region.

Countries bordering Syria are reaching dangerous saturation points, particularly Lebanon, which hosts around 1.1 million registered Syrian refugees and has, along with Jordan, the largest per capita refugee population in the world. Turkey is currently hosting about 3 million Syrian refugees, the largest number of Syrian refugees in one country in the world.

Civilians inside Syria continue to be the primary victims of the conflict. Rape and sexual violence, enforced disappearances, forcible displacement, recruitment of child soldiers, summary executions and deliberate targeting of civilian places and infrastructure essential for people's survival have become commonplace.

On 17 December 2016, the UNSC unanimously approved Resolution 2332 (2016) renewing Resolution 2165 (2014) for another 12 months; which

---

[89] ECHO Factsheet, Syria crisis, January 2017
https://ec.europa.eu/echo/files/aid/countries/factsheets/syria_en.pdf (Consulted on 11 March 2017).

authorizes UN agencies and their partners to use routes across conflict lines and international border crossings to deliver humanitarian assistance to people in need in Syria.

On 29 December 2016, a ceasefire agreement was reached between the Government of Syria and armed opposition groups (AOGs). The countrywide ceasefire entered into effect on 30 December and should be followed by peace talks. At the time of this thesis, the agreement appears to be holding and resulting in overall significant reduction of violence across the country, despite reports of localized clashes.

3.2. Challenges

The magnitude of humanitarian needs is overwhelming in all parts of Syria. The main priorities are treating the wounded and the sick, providing food aid, water, sanitation and hygiene, health, shelter, fuel for heating and winter items. Prices of basic commodities have been rising and the availability of food stocks in many parts of Syria is at risk.

With over 11 million people having fled their homes both inside Syria and to the neighboring countries, shelter needs are high. Children, women and the elderly are most at risk.

In the area of health, the long-lasting consequences of the conflict include shortages of qualified medical personnel and life-saving medicines and the destruction of health infrastructure, leaving many without access to basic medical care. Medical facilities have been targeted by aerial bombardments, resulting in fatalities and destruction of facilities.

Impeding the delivery of essential medical supplies, equipment and treatment, has been used as a weapon of war while there are continuous reports on the removal of medicines and medical supplies from aid convoys and attacks on medical facilities and personnel.

The cessation of hostilities and the renewal of the UNSC resolution have yet to result in a substantive expansion of access for humanitarian assistance and personnel, that could help mitigate the seriously deteriorated living conditions for populations in both government and opposition-controlled areas.

3.3. Impact

The Syria crisis is notably defined by the immense volume of refugees it has generated in neighboring countries, and more recently, the arrival of half a million Syrians on Europe's shores. The impact of refugees on border countries is considerable, particularly from a demographic perspective.

Unlike other crises, 85 percent of refugees in border countries reside outside of camps,[90] which influences how the humanitarian architecture interfaces (or not) with them.

The current response to the Syrian refugee crisis is also characterized by several adaptive ways of working, which is tied to the middle-income country status of border states and the higher skill and education levels of Syrian refugees as compared to other crisis-affected populations.

The last quarter of 2016 saw a bump in funds—particularly from European donors—to host countries and international organizations working on the refugee response. This funding was provided with the express interest in keeping refugees in the region and away from Europe.[91] Few key informants believed that extra food or blankets would substitute for rights and the opportunity for meaningful livelihood activities in border countries.

As with any crisis, receiving refugees is a highly political affair. None of the border countries is particularly keen on hosting refugees and certainly not

---

[90] Based on personal interviews with UN regional officials. (Jordan, November 2016).
[91] Based on personal interviews with European donors, UN agencies, and INGOs that receive European funds. (Jordan November 2016).

indefinitely. Each country applies various strategies to "manage" the situation and to "benefit" from the presence of refugees.

Section 3: Actor Mapping

The key interest groups connected to the Syria crisis—political, military, economic and humanitarian—number in the dozens. The following section provides a summary of main actors, but do not purport to present a complete analysis of all stakeholders involved in this complex and rapidly changing crisis.

4.1. Conflict Actors

The main armed actors involved in the Syrian civil war today include the Government of Syria military and security forces, the Kurdish People's Protection Units (YPG), Daesh or the Islamic State (ISIS), al-Qaeda–backed Jabhat Al-Nusra (recently known as Jabhat Fateh al-Sham), a range of armed groups with an Islamic agenda (from almost secular to moderate to extreme), and more secular rebel groups under the FSA.[92]

Each armed actor has a different set of interests, but most have a named enemy and seek exclusive control over territory or imposition of a certain type of governance over a population. The Government of Syria has engaged in anti-terrorism rhetoric to justify attacks on the opposition.

Each armed actor also has a different set of sponsors, including local, regional, and global powers. This panoply of divergent interests and sponsors has led many[93] to see the Syria conflict as a reinstatement of the Cold War or a proxy war.

---

[92] The FSA is not a cohesive military entity but rather a set of opposition brigades that operate independently but have sometimes been associated with sets of core principles. Some "FSA" groups receive varying degrees of covert and overt support from the West.

[93] Based on interviews with Syrian representatives of NGOs and CSOs, as well as INGO, UN and donor representatives. (Turkey August 2016).

In terms of international involvement on the ground, Hezbollah and troops from Israel, Iran, and Turkey have also made appearances on Syrian soil.[94] From the air, the US, UK, France, Australia, Bahrain, Canada, Jordan, Saudi Arabia, the UAE, Turkey, Russia, Israel, and the Syrian Air Force have or are currently dropping bombs[95].

In terms of alliances, the Government of Syria largely counts on Hezbollah, Iran, and Russia for support. Syrian Kurdish forces are generally supported by the Kurdistan Worker's Party (PKK) headquartered in Turkey.[96]

A recent estimate of territorial control has not been officially calculated, and dynamics have shifted since the Battle of Aleppo. However, many conflict analysts estimate that the Government of Syria and its allies currently controls about 40 percent of Syria, Kurdish forces 15 percent, ISIS between 20 percent and other armed groups the remaining territory (25 percent).

However, the majority of the Syrian population continues to live in government-controlled areas.[97]

4.2. Humanitarian Actors

4.2.1. Donors

The 2016 United Nations humanitarian appeals[98] for the Syria crisis—including the Syria Response Plan (SRP) for in-Syria/cross-border humanitarian action and the Regional Refugee and Resilience Plan (3RP) for refugee assistance—are the largest the world has seen. Nearly 3.2 billion

---

[94] Interview with the Country Director of a conflict focused international organization (Lebanon July 2016). See also Wallace, Tim, and Et al. 2015. "Who Has Gained Ground in Syria Since Russia Began Its Airstrikes." The New York Times, October 29. https://www.nytimes.com/2015/10/29/world/middleeast/syria-talks-vienna-iran.html (Consulted on 14 March 2017).
[95] US Department of Defense. 2015. "Operation Inherent Resolve: Strikes in Iraq and Syria." https://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve/ (Consulted on 14 March 2017).
[96] Tabler 2015.
[97] Interviews with conflict and security advisors (Lebanon July 2016).
[98] This includes contributions to the appeal and additional contributions including bilateral and Red Cross/Red Crescent systems.

USD was requested for the SRP and 4.55 billion USD for the 3RP. The UN and partners in January 2017 also appealed for nearly $5 billion to help Syrians who fled the country and the communities hosting them.[99]

The largest donors since the onset of the Syria crisis have been the US (30 percent), followed by the UK (12 percent), Germany (10 percent), and the European Union (9 percent). Gulf donors figure prominently in the response to the humanitarian appeal. In 2016, Saudi Arabia, the United Arab Emirates, Qatar, and Kuwait contributed around 500 million USD.[100] Donors such as ECHO, DFID, and the USG have permanent staff presence in border countries.

Turkey is also heavily involved in the Syria response, but OCHA is only reporting about 1 million USD in support to the humanitarian response in 2016. The Turkish government prefers to support its own systems directly (Turkish INGOs and Turkish Red Crescent) rather than the UN and international INGO systems.[101]

4.2.2. LNGOs, INGOs, and the United Nations

Prior to the crisis, several INGOs, UN agencies, and the ICRC—primarily concerned with Iraqi refugees and Palestinians—were present inside Syria. After the start of the crisis, operational space shrunk, particularly for INGOs, as the Government of Syria forced several to make the "choice" between operating across borders from Turkey or inside government-controlled Syria.[102]

During the first years of the crisis and in the absence of a UNSC Resolution allowing for cross-border operations, the UN was the largest humanitarian actor inside Syria, but had limited presence in border countries. The UN's

---

[99] See ''In Helsinki, UN appeals for nearly $5 billion to help Syrian refugees and host communities'' http://www.un.org/apps/news/story.asp?NewsID=56028#.WKrljcs0PIU (Consulted on 14 March 2017).
[100] OCHA, Financial Tracking Service 2017. https://fts.unocha.org/countries/218/summary/2017 (Consulted on 14 March 2017).
[101] Based on interviews with members of Turkish NGOs. (Turkey august 2016).
[102] Based on personal interviews with INGOs and Western donors. (Turkey August 2016).

decision to avoid cross-border engagement without a UNSC resolution was deliberate in order to ensure their access to government-controlled areas.[103]

The Government of Syria regards humanitarian organizations (Syrian or international) assisting in opposition-controlled areas as "aligned with the opposition" or "aligned with terrorists." Deliberate targeting of Syrians involved in relief operations in regime-held areas is a foundational tactic of the Government of Syria.[104]

From the start of the crisis, INGOs, particularly in Turkey, were quickly able to scale up, creating their own coordination mechanism and engaging in large-scale and heavily-funded cross-border operations into opposition-controlled Syria.[105]

Cross-border operations sponsored by INGOs were also initiated from Jordan and Iraq, although to a lesser extent. Lebanon, which stands by principles of non-engagement, has not allowed cross-border operations as such. However, INGOs do support Syrian partners in programming from Lebanon to south and central Syria.[106]

Syrian local organizations predominantly cropped up in response to the crisis and included grassroots organizations from inside the country as well as diaspora-run organizations from the US, UK, Turkey, and the Gulf.

For agencies operating in government-controlled areas, which at present include the UN, ICRC and a handful of international NGOs, the Syrian Arab Red Crescent (SARC) must approve and oversee all operations and acts as the implementing partner for international humanitarian organizations.[107]

---

[103] Based on interviews with representatives of the UN. (Turkey August 2016).

[104] Based on interviews with members of Syrian humanitarian organizations and INGOs that partner with Syrian organizations. (Turkey August 2016).

[105] The majority of programming took place in northern Syria, although some Syrian local organizations were able to penetrate under-siege areas in southern Syria from the Turkish border.

[106] Based on personal interviews with donor and INGO representatives. (Lebanon June 2016).

[107] Based on personal interviews with senior UN staff, humanitarian researchers, and a former Damascus-based UN representative. (Lebanon June 2016).

After the passage of UNSC Resolution 2165 in July 2014, the United Nations ramped up its cross-border operational presence from Jordan, Turkey, and Iraq.[108]

The "Whole of Syria" approach (WoS) was born soon after (August 2014) with the expressed interest in bringing together the disjointed and largely un-coordinated humanitarian operations between UN and INGOs, and within and outside Syria. Leadership under the WoS design is split between the humanitarian coordinator (HC) of Syria and the regional humanitarian coordinator (RHC) based in Amman, Jordan.

Less is known about Gulf-supported NGOs. Like Turkey, Gulf countries tend to fund their own national NGOs and Red Crescent organizations, which in turn fund Syrian organizations (the exception being Qatar's direct funding of the Humanitarian Pooled Fund of OCHA Turkey). According to local sources, there are two Saudi NGOs, three Qatari NGOs, and three Kuwaiti NGOs active inside Syria.

For countries surrounding Syria, UNHCR is the coordinating agency for the refugee response. Many INGOs active in cross-border operations also engage in programming for refugees in host countries.

Due to concerns about confidentiality and security risks for Syrian partners, many INGOs (and the UN at times) have firewalled programs (host country versus cross-border) within a single host country, or between bases of operation (e.g., Damascus versus Turkey or Turkey versus Lebanon).[109] This prevents information about Syrian partners being known more broadly in the organization or region.

---

[108] Prior to UNSC Resolution 2165, UN agencies played a more "behind the scenes" technical support role for cross-border operations. OCHA was officially present in Turkey under "responsibility to protect" (R2P) since March 2013.

[109] Firewall in this sense refers to the decision to cut off communications between programs or locations, including ability to access information electronically.

UNRWA is the *only* agency concerned with Palestinian refugees inside Syria, providing humanitarian assistance and health and education services to this population. UNRWA is operational in Syria, Jordan, and Lebanon and has its own separate funding appeal for the Syria crisis.

Concluding observations

This chapter has analyzed the scale of the current Syrian conflict and highlighted how the magnitude of humanitarian needs constitute the largest crisis of our time. Of the 22 million Syrians present in the country before the conflict, 4.3 million have registered as refugees and 13.5 million have been identified as "in need." Six and a half million have been internally displaced and between 400,000 and 640,000 are besieged. More than two out of three Syrians live in extreme poverty.

Refugee flows have enormous impacts on neighboring countries, including sizeable demographic shifts and the risk of destabilization. The UN Security Council has remained mostly blocked, and Syria has become a proxy war for global powers. In this context, humanitarian action has being used as a substitute for real political action and the next chapter will discuss the challenges faced by the many humanitarian actors that are actively delivering aid to the Syrian people.

We will notably discuss the safety of aid delivery and how the various humanitarian actors, particularly INGOs, situate and mitigate the array of risks posed to humanitarian access and the safety and security of aid workers across Syria.

Chapter III: The Safety of Aid Delivery

Humanitarian professionals working in complex environments face increasing threats and attacks that endanger their lives, violate international humanitarian law, and jeopardize the consistent and effective delivery of emergency relief to populations in need.

In light of these issues, this chapter explores the challenges related to the safety of aid workers in insecure environments in general and in Syria in particular (1.), highlights the often overlooked disparities in the risks faced by different groups of humanitarian professionals (2.), and analyzes the various approaches adopted in humanitarian access and security management — namely, acceptance, protection, and deterrence (3.).

Section 1: Attacks on aid workers

Over the past decade, violent attacks on aid workers have become increasingly common, underscoring a disturbing and emerging trend. Those who were traditionally considered off-limits as targets during crises and conflicts now must consider the implications and serious dangers of their assistance. This global trend is no exception in the Syrian conflict as a number of these attacks have made headlines.

1.1. Global trends

Given that aid workers often operate in complex and insecure settings, some security risks are inherent to humanitarian action. Military attacks against humanitarian workers and facilities have repeatedly been in the news in the past months; from Afghanistan, to Syria, to South Sudan, among others.

Recent available statistics highlight a worrisome trend: a rise in the deliberate targeting of humanitarian workers. In 2000 there were roughly 91 registered cases of personnel being injured, killed or kidnapped.

That number has more than quadrupled ever since—an increase that cannot be explained simply by pointing out the rise in the total numbers of personnel employed in the humanitarian field. In 2015 alone, 287 aid workers were victims of "major attacks," with over a 100 casualties.[110]

Since data on aid worker security incidents began to be systematically collected in the late 1990s, security risks have grown steadily, compounded by the growth of humanitarian operations in protracted conflict areas, the changing nature of modern war in which civilians frequently fall victim to targeted or indiscriminate attacks, the growth and proliferation of non-state armed groups, and the spread of violent extremist ideologies that oppose fundamental tenets of the international legal order and the humanitarian system.

Field humanitarian workers, both local and foreign, are increasingly targeted because of who they are and what they have come to do. This reveals something disturbing: the gradual erosion of the "humanitarian space"—the perhaps fictional yet vital notion of a "safe space" that should allow those providing emergency assistance and relief to operate amid ongoing conflicts.

These factors combine to put humanitarian workers at risk of deliberate or indiscriminate attack. Such violence against humanitarian workers not only endangers lives and violates international law but also jeopardizes the consistent and effective delivery of aid to those in need by leading to restrictions on humanitarian access and proximity to vulnerable populations or countenancing the withdrawal of aid entirely.

---

[110] Aid Worker Security Report 2016: Figures at a glance
https://aidworkersecurity.org/sites/default/files/HO_AidWorkerSecPreview_1015_G.PDF_.pdf (Consulted on 16 March 2017).

1.2. The Syrian context

Syria is perhaps the most vivid contemporary example of what happens when warring parties treat humanitarian access as a weapon of war and begin to see humanitarian staff as legitimate targets.[111]

It is a profoundly disheartening and tragic landscape: one where the delivery of basic assistance is granted or denied according to war logics, leaving large numbers of civilians under siege and lacking food and water. For instance, doctors and healthcare professionals hoping to mitigate the impact of the war are seen as enemies and—in plain disregard for even the most basic international humanitarian law standards—are targeted, time and time again.[112]

One of the most recent attacks occurred on 19 September 2016 when 21 civilians and one Syrian Arab Red Crescent (SARC) staff member were killed, as they were unloading trucks carrying vital humanitarian aid in eastern Aleppo[113]. On 12 May 2016, government forces prevented a UN humanitarian aid delivery, due to be the first since 2012, from entering Daraya[114].

Syrian regime forces have repeatedly been accused of bombing hospitals and other medical facilities, barring or restricting the inclusion of medical supplies in humanitarian aid deliveries to besieged and hard-to-reach areas, and disrupting or preventing healthcare provision by detaining medical workers and volunteers. In June 2016, the NGO Physicians for Human Rights accused government forces and their allies of responsibility for more

---

[111] Benedetta Berti, Why Humanitarian Aid Workers Are Under Attack, The National Interest, September 25, 2016 http://nationalinterest.org/feature/why-humanitarian-aid-workers-are-under-attack-17822 (Consulted on 20 March 2017).

[112] Ibid.

[113] ICRC Press Release, 'Syria: Attack on humanitarian convoy is an attack on humanity', 20 September 2016 https://www.icrc.org/en/document/syria-attack-humanitarian-convoy-attack-humanity (Consulted on 20 March 2016).

[114] Amnesty International, Syria 2016/2017, https://www.amnesty.org/en/countries/middle-east-and-north-africa/syria/report-syria/ (Consulated on 20 March 2017).

than 90% of 400 attacks against medical facilities and 768 deaths of medical personnel since March 2011.[115]

Section 2: Disparities in Humanitarian Workers Security

Insufficient attention has thus far been paid to disparities in humanitarian worker security and their implications for operational security and effectiveness. Regardless of the factors that drive security risks, humanitarian organizations have both a legal and an ethical duty of care for their staff, especially those deployed to the field.[116]

This duty of care applies to all staff members, yet significant disparities exist within and across agencies in terms of the protection of aid workers from violence.

2.1. Disparities between National and International Staff

In terms of protection inequalities between humanitarian workers, those based on status as international versus national staff are well documented and yet often insufficiently accounted for in security management.[117]

On the one hand, international staff members are found to receive greater attention in terms of security training, security measures and resources, media, and operational decision-making.[118] This is due in part to the differential status of international staff compared to national staff in general — they tend to have higher living standards, pay scales, and the possibility of emergency evacuation in case of serious security threats — as well as a

---

[115] Ibid.

[116] Larisa Fast, Aid in Danger: The Perils and Promise of Humanitarianism (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2014, 2014), p. 143–144.

[117] Leslie Leach and Cedric Hofstetter, "Safer Access," Magazine of the International Red Cross and Red Crescent Movement, March 2004, http://www.redcross.int/EN/mag/magazine2004_3/20-21.html (Consulted on 16 March 2017).

[118] Abby Stoddard, Adele Harmer, and Katherine Haver, "Providing Aid in Insecure Environments: Trends in Policy and Operations" (Humanitarian Policy Group, Overseas Development Institute, 2006) https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/269.pdf (Consulted on 16 March 2017).

perception of heightened security risks for internationals as compared to national staff.

In part, the greater attention paid to the security of international staff may be justified by a higher per capita rate of attack; although international staff make up less than 10%, on average, of aid workers, they suffered 13% of attacks in 2015.[119]

There are many reasons for this disparity, foremost the prevalence of national staff in the field, and as a consequence, their frequent positioning on the frontlines of operations (e.g., locally or nationally hired drivers, guards, and community mobilisers).[120] In absolute numbers, national staff members make up the vast majority (over 90%) of humanitarian workers in the field, and accordingly, it is they who suffer the vast majority of attacks perpetrated against aid workers.

For instance in 2013, 87% of attacks affected national staff, with the most common types of attacks being shootings, kidnappings, and bodily assault.[121] Humanitarian organizations sometimes rely on national staff out of necessity (e.g., in response to difficulties in securing access for international staff, including after expulsion of international aid workers by host states), or as a result of specific operational decision-making (e.g., financial reasons, or the evacuation of international staff from particularly dangerous areas).

Furthermore, national staffers are often presumed to be more familiar with the local context, more able to blend in or move more freely, or more connected to local networks of influence and protection mechanisms (e.g., through communal, family, or tribal ties).[122]

---

[119] Ibid.

[120] Ibid.

[121] Ibid.

[122] Karoline R. Eckroth, "The Protection of Aid Workers: Principled Protection and Humanitarian Security in Darfur," NUPI Working Paper 770, Security in Practice (The Norwegian Institute of International Affairs, 2010), https://brage.bibsys.no/xmlui/bitstream/id/322550/SIP-02-10-WP-770-Eckroth.pdf (Consulted on 16 March 2017).

Yet, organizations have systematically underestimated the security threats faced by national staff based on the assumption — sometimes founded, sometimes not — that nationals are better equipped to protect themselves by virtue of their local connections and understanding, or better aware of local threats. At the extreme, as one report notes, organizations may rely on the false assumption "that a national staffer will be able to work securely anywhere in the country because he or she does not stand out as being visibly foreign."[123]

This report concludes, "In truth, of course, locals may perceive nationals from another region or province to be just as much of an outsider, and their association with certain ethnic or religious groups, clan affiliation or economic privilege may even put them at additional risk."[124]

Many national staff members have expressed that their security is under-prioritized at the organizational level.[125] Others have accused agencies of valuing expatriate lives over national staff, and therefore affording them greater security protections.[126] This issue of prioritization is reflected by the discrepancies that exist between nationals and internationals in terms of access to training and security-related resources, despite nationals' higher exposure to risk. In recent years, many organizations have improved the security trainings and resources available to both international and national staff, yet the required investments in time and money continue to pose a challenge for various organizations, in particular, smaller NGOs and local partners.[127]

2.2. Lack of Information on Gender-Related Disparities

---

[123] Abby Stoddard, Adele Harmer, and Katherine Haver, "Aid Worker Security Report 2011," p. 9.
[124] Ibid.
[125] Claude Bruderlein and Pierre Gassmann, "Managing Security Risks in Hazardous Missions: The Challenges of Securing United Nations Access to Vulnerable Groups," *Harvard Human Rights Journal* 19 (2006), http://hpcrresearch.org/sites/default/files/publications/bruderlein.pdf. (Consulted on 16 March 2017).
[126] Ibid.
[127] Stoddard, Harmer, and Haver, Ibid, p. 12.

Serious gaps also remain in both knowledge and practice on gender-related disparities in aid worker security. Indeed, very little research has been conducted on the possible gendered nature of attacks on humanitarian workers, including the different vulnerabilities or resiliencies of male and female aid workers, the disparate impact of threats or attacks on male or female aid workers on operational decision-making, or particular vulnerabilities of humanitarian practitioners who work on gender-related issues.[128]

Moreover, gender information related to security incidents is invariably underreported. Gender information is not available for 56% of victims documented in the Humanitarian Outcomes' Aid Worker Security Database (AWSD), for instance, since most security incident reports submitted from the field do not report on the victims' sex or professional portfolio, though field workers are encouraged to provide this information.[129]

Though limited, existing literature provides some indication of gender-related disparities in aid worker security. Analyzing available data on 615 security incidents affecting 1,361 staff members between 2008 to 2010, Christina Wille and Larissa Fast found notable differences in the types of violence experienced by male and female aid workers: women were more vulnerable to threats and petty crime (such as burglary and theft), particularly in urban areas and places of residence or work, whereas men were disproportionately killed or injured, particularly in rural areas or when traveling on the road (the numbers are skewed by vehicle accidents, where the majority of drivers are men).[130]

---

[128] Rachel Irwin, "Violence Against Healthcare Workers in Complex Security Environments," SIPRI Background Paper (Stockholm International Peace Research Institute, November 2014), http://books.sipri.org/product_info?c_product_id=484#. (Consulted on 16 March 2017).
[129] Abby Stoddard, Adele Harmer, and Kathleen Ryou, "Aid Worker Security Report 2014"; "The Aid Worker Security Database (AWSD)". Gender information is available in the database for 1,473 victims (42%) of attacks from 1997 to 2014, of which 1,265 (86%) are reported as male and 208(14%) as female.
[130] Christina Wille and Larissa Fast, "Aid, Gender and Security: The Gendered Nature of Security Events Affecting Aid Workers and Aid Delivery" (Insecurity Insight, 2011), http://www.insecurityinsight.org/files/Security%20Facts%202%20Gender.pdf. (Consulted on 16 March 2017).

Gaul et al. also found that male and female aid workers face unique risks: men face a higher likelihood of violent confrontation, whereas women face a higher likelihood of sexual assault or harassment.[131] Moreover, Wille and Fast suggest that security incidents affecting men had a greater impact on operational decisions and aid delivery.

This difference might be due to the greater proportion of men who work in the field, more serious risks facing men, or the fact that the victimization of men is simply taken more seriously in operational decision-making.

2.3. Legal Protection Fragmented along Organizational Lines

Significant disparities in aid worker security also arise along organizational lines, creating notable gaps in the protection of aid workers under international law. Indeed, the patchwork of international humanitarian law (IHL) relating to the security of humanitarian personnel in situations of armed conflict produces a hierarchy of legal protections that privileges certain categories of aid workers above others, while leaving the majority of aid workers with largely civilian protection.[132]

The overall situation facing humanitarian organizations is, as noted by one publication of the International Committee of the Red Cross (ICRC), that "the personnel of humanitarian organizations are protected in an unequal manner and that the rules intended to guarantee their security are very widely scattered, thus leading to a lack of clarity about the exact scope of such protection."[133]

---

[131] Alexis Gaul et al., "NGO Security: Does Gender Matter?," Capstone Seminar in International Development (Save the Children; The George Washington University, May 8, 2006), http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjuqKOLi9bTAhVEbBoKHd NtDh8QFgghMAA&url=http%3A%2F%2Fwww.alnap.org%2Fpool%2Ffiles%2Fngo-security-does-gender-matter-2006-40200.pdf&usg=AFQjCNHrabb9yEqOZLZsrBq9zb1kEAiAkw (Consulted on 16 March 2017).

[132] Larisa Fast, Aid in Danger, p. 197–207.

[133] International Committee of the Red Cross (ICRC), "Respect for and Protection of the Personnel of Humanitarian Organizations," January 19, 1998, https://www.icrc.org/eng/resources/documents/misc/57jp85.htm. (Consulted on 17 March 2017).

This fragmentation of humanitarian security under IHL has further encumbered efforts at persuading states and non-state actors to recognize and abide by the law protecting humanitarian actors, as well as to bring justice to the perpetrators of attacks.

The first, strongest tier of international legal protection for humanitarian workers applies only to "UN and associated personnel," who under the 1994 Convention on the Safety of UN and Associated Personnel, "shall not be made the object of attack or of any action that prevents them from discharging their mandate"[Art. 7(1)].[134] The Convention further defines crimes against UN and associated personnel [Art. 9], and obliges states parties to "take all appropriate measures to ensure the safety and security of United Nations and associated personnel" [Art. 7(2)].

Following the 2003 attack on the UN headquarters in Baghdad, Iraq, the UN Security Council (UNSC) unanimously adopted Resolution 1502 (2003), reaffirming that attacks knowingly and intentionally directed against humanitarian or peacekeeping personnel "constitute war crimes," thus reinforcing the obligations of states under IHL to promote their safety, security, and freedom of movement.[135]

The 2005 Optional Protocol to the Convention then expanded of the scope of "operations" covered by the Convention to include a wider set of UN operations and associated personnel, namely those focused on: "(a) delivering humanitarian, political or development assistance in peacebuilding, or (b) delivering emergency humanitarian assistance."[136] Moreover, and following attacks on aid convoys in Syria, the UNSC aadopted resolution 2286 (2016) demanding an end to impunity for those

---

[134] UN General Assembly, *Convention on the Safety of United Nations and Associated Personnel*, 1994, http://www.un.org/law/cod/safety.htm. (Consulted on 17 March 2017).

[135] United Nations, "Security Council Resolution 1502 (2003)" (Security Council, August 26, 2003), http://www.iccnow.org/documents/SCRes1502.pdf. (Consulted on 17 March 2017).

[136] UN General Assembly, Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel, 2005, https://www.ifrc.org/docs/idrl/I263EN.pdf. (Consulted on 18 March 2017).

responsible and respect for international law on the part of all warring parties.[137]

The second tier of protection derives from the four Geneva Conventions of 1949, which confer special rights and protections — through the use of the distinctive Red Cross/Red Crescent emblem — on medical services of armed forces, civilian hospitals in wartime, and affiliates of the International Red Cross and Red Crescent Movement (including national societies, the International Federation of Red Cross and Red Crescent Societies (IFRC), and the ICRC).

Such persons and objects are solely entitled to use the Red Cross/Red Crescent emblem, a recognized and protected symbol under IHL. Deliberate attacks against a person or object carrying the distinctive emblem constitute war crimes under international law. IHL strictly limits the use of the distinctive emblem to these protected persons and objects, as outlined in the Conventions [GC I, art. 44]; strictly prohibits its use by other individuals or organizations [GC I, art. 53]; and requires states to prevent and repress its misuse [GC I, art. 54].

Additional Protocol I to the Geneva Conventions further prohibits any improper or perfidious use of the emblem [AP I, art. 37 and 38]. Perfidious uses include misusing the distinctive emblem to deceive the enemy, which is considered a grave breach of the Convention and Additional Protocol [AP I, art. 85(3)(f)].

The third tier of protection encompasses all other humanitarian personnel. Additional Protocol I requires that, in international armed conflicts, the party receiving relief supplies shall, to the fullest extent practicable, protect and facilitate relief operations [AP I, art. 70]. Personnel participating in relief actions shall also be respected and protected to the fullest extent practically

---

[137] United Nations, "Security Council Resolution 2286 (2016)" (Security Council, May 3, 2016), https://www.un.org/press/en/2016/sc12347.doc.htm (Consulted on 17 March 2017).

possible, though under no circumstances may relief personnel exceed the terms of their mission [AP I, art. 71].

Additional Protocol II, applicable in situations of non-international armed conflict, contains no such protections. However, the Rome Statute of the International Criminal Court (ICC) does define intentional attacks against humanitarian personnel and assets as war crimes in both international [Art. 8(2)(b)(iii) and (xxiv)] and non-international armed conflicts [Art. 8(2)(e)(ii) and (iii)]. As non-combatants, humanitarian professionals also benefit from general civilian protection under IHL.

As this overview of relevant international legal provisions indicates, the law itself enforces disparities between aid workers along individual and organizational lines, creating a hierarchy of protection that privileges UN and associated personnel, and to a lesser extent Red Cross/Red Crescent personnel, above others. "In doing so," writes Fast, these laws "highlight the tension between protecting aid workers and the populations they assist and codify the internal hierarchies that characterize the aid system, both within agencies (between national and international staff) and within the system itself (between different aid actors)."[138]

Security incident statistics seem in many ways congruent with these tiered legal protections, yet the lack of disaggregated data between the Red Cross/Red Crescent and NGOs make their relative vulnerabilities difficult to determine. For instance, Humanitarian Outcomes reports that local NGOs and national Red Cross/Red Crescent Societies suffered the most attacks in 2013 (43% of attacks), followed by international NGOs (28%), UN agencies (24%), and the ICRC (3%).[139]

However, without data on the general distribution of aid workers across agencies in the field, it is difficult to determine whether these numbers amount to disproportionate *rates* of attack. More disaggregated data is thus needed to determine whether a significant correlation exists between the

---

[138] Fast, Aid in Danger, p. 199.
[139] Abby Stoddard, Adele Harmer, and Kathleen Ryou, "Aid Worker Security Report 2014."

protections afforded to different types of humanitarian organizations in the law, and the number and kinds of attacks perpetrated against them, holding other factors constant (such as operating locations, types of work carried out, types of security strategy adhered to, or organizational appetite for risk).[140]

Furthermore, this fragmentation of humanitarian security under IHL has further encumbered efforts at implementing and enforcing protections for aid workers from attack. For one, there is often a lack of clarity or understanding of the scope and application of these various legal provisions. Second, as Larissa Fast underlines, "[these] legal instruments put responsibility for the protection of aid workers in the hands of states, which in many contexts is inadequate. State compliance in relation to prosecuting perpetrators or even in complying with responsibility under the various conventions can break down, especially in violent contexts."[141]

Indeed, many of the most insecure operating environments for humanitarians — including Syria — are characterized by armed insurgencies and state fragility or collapse. Thus, while awareness of the need for more effective security management in response to attacks against humanitarian workers is growing, very few perpetrators of attacks against humanitarian personnel or facilities have been prosecuted, whether as a result of unclear legal status, lack of state capacity during or after an armed conflict, lack of investigation or reporting at the time of the incident, or a lack of political will or outside pressure.[142]

As a consequence, there remains a great need to address the prevailing culture of impunity for perpetrators and to deter future attacks through enhanced implementation, application, and enforcement of the law, as well as the creation of additional legal protections to fill existing gaps in the law.

---

[140] Humanitarian Outcomes' 2012 Aid Worker Security Report
https://aidworkersecurity.org/sites/default/files/AidWorkerSecurityReport2012.pdf (Consulted on 17 March 2017).
[141] Fast, Aid in Danger, p. 198.
[142] Lindsay Suttenberg, "Curing the Humanitarian Crisis: Resolution 1502," Wash. U. Global Stud. L. Rev. 4, no. 1 (2005), p. 187–204.

Section 3: Approaches to Humanitarian Security Management

Humanitarian organizations have attempted to cope with these legal and operational protection gaps in a variety of ways, foremost being security management approaches. As articulated by the Office for the Coordination of Humanitarian Affairs (OCHA) in its landmark 2011 report, To Stay and Deliver, a policy of risk management, as opposed to risk aversion, "focuses on 'how to stay' as opposed to 'when to leave'— has been adopted in the UN system and by many organizations."[143]

These organizational approaches to humanitarian security management are most commonly characterized as falling along the so-‐‐called "security triangle," which balances elements of acceptance, deterrence, and protection.[144] In reality, agencies typically adopt a combination of elements of each strategy, balancing organizational policy, values, and capacity against local conditions.

3.1. Acceptance

Acceptance is commonly referred to as the "foundation" or "cornerstone" of humanitarian security management strategies.[145] Acceptance-based approaches seek to soften or remove threats by gaining consent for — and conversely, reducing opposition to — a humanitarian agency's presence and work.

Many once presumed acceptance for the work of humanitarians — and by extension, immunity from attack — as long as they wore a distinct emblem

---

[143] Egeland, Harmer, and Stoddard, Ibid.

[144] Humanitarian Policy Group (HPN), "Operational Security Management in Violent Environments (Revised Edition) -‐‐ Humanitarian Practice Network," Good Practice Review No. 8 (London: HPN, Overseas Development Institute, December 2010), http://www.odihpn.org/index.php?option=com_k2&view=item&layout=item&id=3159. (Consulted on 17 March 2017).

[145] Abby Stoddard and Adele Harmer, "Supporting Security for Humanitarian Action: A Review of Critical Issues for the Humanitarian Community" (Humanitarian Outcomes, March 2010), https://www.humanitarianoutcomes.org/sites/default/files/resources/SupportingSecurityforHumanitarianAction March20101.pdf; Larissa Fast and Michael O'Neill, "A Closer Look at Acceptance," *Humanitarian Exchange Magazine*, no. 47 (June 2010), http://odihpn.org/magazine/a-closer-look-at-acceptance/ (Consulted on 17 March 2017).

or acted in accordance with the core humanitarian principles. However, acceptance as an effective operational and security strategy is much more complex and demanding today, as evidenced by the extreme difficulties of humanitarian action without consent or access in Syria, for instance.

Acceptance is both a requirement for humanitarian access under international law and a practical and operational necessity for humanitarian workers. At the state level, IHL requires acceptance in the form of state consent to the presence of outside humanitarian assistance on its territory, though states may not refuse consent on an "arbitrary" basis.[146] In turn, states have the primary responsibility for ensuring the security of humanitarian personnel.[147]

However, while state consent establishes the legal basis for humanitarian access under international law, it does not necessarily guarantee the acceptance of humanitarian actors by all stakeholders on the ground, or their security from attack. Building acceptance among diverse local stakeholders and populations is integral to effective programming and security management yet can be a complex and challenging process, depending on factors such as relationships, adherence to the principles, performance, and local perceptions.

First, acceptance is not a "soft" or "passive" strategy but rather an active and demanding one requiring continuous efforts to manage relationships and perceptions over time. As Larissa Fast writes, "levels of acceptance are always dynamic, not static," especially in rapidly changing circumstances or operating environments.[148] Aid workers must obtain and maintain the acceptance of local communities and key stakeholders, including not only

---

[146] Felix Schwendimann, "The Legal Framework of Humanitarian Access in Armed Conflict," *International Review of the Red Cross* 93, no. 884 (December 2011): 999, https https://www.icrc.org/fre/assets/files/review/2011/irrc-884-schwendimann.pdf (Consulted on 17 March 2017).

[147] Jean-Marie Henckaerts and Louise Doswald---Beck, eds., *Customary International Humanitarian Law, Vol I., Rules* (Cambridge University Press & ICRC, 2005), chap. 17; Cedric Ryngaert, "Humanitarian Assistance and the Conundrum of Consent: A Legal Perspective," *Amsterdam LF* 5 (2013), http://amsterdamlawforum.org/article/viewFile/298/483. (Consulted on 17 March 2017).

[148] Larissa Fast et al., "The Promise of Acceptance as an NGO Security Management Approach," *Disasters* 39, no. 2 (April 1, 2015), p. 219

beneficiaries but also armed actors who might exhibit hostility toward humanitarian actors.[149]

Building acceptance also requires knowledge and awareness of local conditions in order to produce accurate and up-to-date risk and security assessments. Both of these tasks can be difficult in fluid and dynamic conflict settings, where agencies, conflict parties, or operating areas shift with great frequency.[150]

In this regard, local or national staff may have an advantage in gaining acceptance compared to internationals through their connections to local communities, existing relationships, or informal networks of communication, yet as discussed in the previous section, they may also be at a disadvantage in cases where their identity or communal association is met with hostility. Similarly, gender, working portfolio, or organizational affiliation can each serve as assets or liabilities in terms of building acceptance, depending on the circumstances.

Second, acceptance depends on humanitarian actors demonstrating results and reliability. As OCHA's 2011 study concludes, "the fundamental prerequisite to acceptance is competence in humanitarian delivery and the capacity to fulfil commitments and demonstrate tangible results for beneficiaries."[151] In fact, Larissa Fast found that "field staff and communities tend to see acceptance as a programming strategy, with less recognition of its possible security implications."[152]

Yet the security implications of acceptance are manifold: "a community's willingness to share information and to intervene to prevent or mitigate [a security] incident was enhanced by such factors as trust, respectful

---

[149] Egeland, Harmer, and Stoddard, *Ibid.*
[150] Egeland, Harmer, and Stoddard, Ibid.
[151] Ibid.
[152] Fast et al., "The Promise of Acceptance as an NGO Security Management Approach," p. 211

relationships, programs that met community needs, transparency and […] an openness to informal communication."[153]

Third, acceptance depends upon aid workers demonstrating adherence to the fundamental humanitarian principles, despite internal and external challenges to principled humanitarian action. Here, perceptions play a large role. "[T]he ability of an organization to demonstrate and maintain independence," writes Fast, "is evidence that the organization is not tainted by non-humanitarian agendas or by serving as a puppet for other political actors."[154]

Yet exactly this has occurred in a number of recent conflicts, including in Syria. Not only are aid workers operating in increasingly dangerous settings, with violent actors motivated to attack them and fragile states unable or unwilling to respond, but they are also operating in extremely political contexts (such as Syria), where the politicization or instrumentalization of aid has undermined their perceived neutrality, impartiality and independence, with dangerous consequences.

In that case, the presence of humanitarians alone, or their provision of aid to particular groups, led some actors to see them as parties to the conflict and thus legitimate targets of attacks. While humanitarian agencies may strive for neutrality, acknowledges Mary Anderson, "the impact of their aid is not neutral regarding whether conflict worsens or abates."[155]

Yet practitioners continue to debate the practical meaning and implications of principled humanitarian action for operational security. As Peter Walker and Larry Minear note, "although the International Red Cross and Red Crescent Movement often treats the Fundamental Principles as revealed wisdom, they are, in reality, the distillation of practical operational experience over a very long period of time and not a priori or normative in

---

[153] Ibid.

[154] Fast, Aid in Danger, p. 107.

[155] Mary B. Anderson, Do No Harm: How Aid Can Support Peace—or War (Lynne Rienner Publishers, 1999), p. 1.

origin."[156] Larissa Fast reinforces this sentiment: "[p]rinciples matter, not as magical shields providing protection, but rather as guides for action."[157]

Indeed, while humanitarian actors strive to adhere to the principles at the field level, they tend to do so in an agile and pragmatic way. As Red Cross affiliates Sorcha O'Callaghan and Leslie Leach note from experience in Lebanon, "while the Principles can serve as a framework for action and decision-making, they must be accompanied by other operational [security] measures," since "despite employing various operational strategies and applying the Fundamental Principles fully, unpredictable operational factors can affect safety and access drastically [… such as] the decisions and actions of armed actors."[158]

While principled humanitarian action cannot prevent all attacks, emphasizes Larissa Fast, "Carefully cultivated relationships may provide insulation from attack and may function as safeguards when certain types of attacks do occur."[159] Thus, as OCHA's study suggests, "generally the more active and diligent the organization was in its acceptance efforts, and the greater its capacity to communicate and negotiate with all parties, the better access and security it was able to obtain."[160]

Finally, it must be acknowledged that even if "full" acceptance were attainable — and it rarely is — that is still no guarantee against attack. One must disentangle whether an organization has acceptance and whether that acceptance translates into the prevention or mitigation of attacks.[161]

---

[156] Peter Walker and Larry Minear, "One for All and All for One: Support and Assistance Models for an Effective IFRC" (Feinstein International Famine Center, Tufts University, Boston, August 2004) p. 32.

[157] Fast, Aid in Danger, p. 241.

[158] Violence against Health Care (II): The Way Forward," *International Review of the Red Cross*, no. 889 (2013): 305, https://www.google.co.uk/#q=Violence+against+Health+Care+(II):+The+Way+Forward,%E2%80%9D+International +Review+of+the+Red+Cross,+no.+889+(2013&spf=73 (Consulted on 18 March 2017).

[159] Fast, Aid in Danger, p. 244.

[160] Egeland, Harmer, and Stoddard, Ibid, p. 18.

[161] Larissa A. Fast et al., "In Acceptance We Trust? Conceptualizing Acceptance as a Viable Approach to NGO Security Management," Disasters 37, no. 2 (April 1, 2013), p. 222–43.

In some cases, it may not, as aid operations in conflict zones will always entail some inherent risk. It may be extremely difficult, if not impossible, for instance, to gain the acceptance of "spoiler" parties, including extremist, terrorist, or criminal groups who may be motivated to attack humanitarians.[162] Thus, as OCHA suggests, "in the most dangerous environments (including highly criminalized environments) it is unlikely that any organization can ever rely on acceptance---based security alone."[163]

3.2. Protection and Deterrence

When acceptance-based approaches appear insufficient in light of persistent or increasing security threats, humanitarian organizations have experimented with "harder" security approaches based on protection and deterrence. Protection-based approaches, rather than seeking to mitigate the threat itself, aim to reduce the vulnerability of aid workers to existing threats through the use of protective devices and procedures, such as bulletproof vests, armored vehicles, security walls, gates, and checkpoints to protect property and premises by "hardening" the target.

Additional protective measures have included taking steps to reduce the profile or visibility of the target, such as using national — as opposed to international — staff, traveling in unbranded or private vehicles, or reducing movement; such a "low-profile" policy was adopted by many humanitarian NGOs in Syria, for instance.

In contrast, deterrence-based approaches seek to deter attacks by posing a counter-threat. These measures, more common among UN agencies, generally refer to the use of armed guards or escorts but may also include the threat or use of military or diplomatic force by states or the enhanced implementation and enforcement of legal protections for civilians and aid workers through criminal prosecutions of those who perpetrate attacks.

---

[162] Fast, Aid in Danger, p. 192.
[163] Egeland, Harmer, and Stoddard, Ibid, p. 19.

In many ways, the devastating attack on the UN headquarters in Baghdad, Iraq in 2003 shifted thinking about the security of humanitarian workers and prompted an increased adoption of protection and deterrence-based approaches. While the UN mission was both political and humanitarian, the bombing served to shatter any remaining assumptions in the field that aid workers were immune from attack simply by virtue of their humanitarian nature, adherence to the principles, or distinct emblem.

The Independent Panel appointed by the UN Secretary-General to investigate the incident lamented that the UN's view of itself "as a benevolent agency, supported and respected by all parties" resulted in an illusory sense of security and a vulnerability to attack.[164] The Panel further concluded that the UN's security management system was dysfunctional and in need of drastic reform; it found a lack of accountability for security management, a lack of compliance with security regulations, and a lack of awareness of security conditions and requirements.[165]

Thereafter, the newly created UN Department of Safety and Security (UNDSS) imposed tighter security restrictions on UN staff worldwide, including the adoption of many protection and deterrence-based elements of security management.

In the ensuing years, many humanitarian organizations in other insecure areas withdrew behind protective barriers (e.g., fortified compounds or armored vehicles) or employed deterrent measures (e.g., armed guards or military escorts) to ward off further attacks. While these high-profile protective and deterrent measures may have protected some humanitarian workers from attack in the short term, in many cases they not only severely limited humanitarians' ability to deliver aid to populations in need but also jeopardized their perceived neutrality, raising new security concerns.

---

[164] Report of the Independent Panel on the Safety and Security of the UN Personnel in Iraq," October 20, 2003, http://www.un.org/News/dh/iraq/safety-security-un-personnel-iraq.pdf (Consulted on 18 March 2017).

[165] Ibid.

As some international aid compounds came to resemble military bunkers, notes Masood Karokhail of the Liaison Office in Afghanistan, "The perception of humanitarian organizations as 'neutral' […] greatly diminished, and that had proven costly for Afghan lives;"[166] since 2001, Afghanistan has been one of the deadliest countries for humanitarian workers.[167]

In Somalia, writes Ken Menkhaus, security assessments undertaken by UNDSS raised questions about humanitarians' neutrality in the context of Western-led counterterrorism operations and led Somali militants to target humanitarian actors; "Ironically, the very monitoring and analysis functions that were intended to improve security for humanitarian actors now made them vulnerable to charges of spying for the West," thereby exacerbating security risks.[168]

Tensions with the principle of independence are also commonly cited as arising from protective and deterrent security measures. Operational independence requires that humanitarian action remains autonomous from political, economic, or military objectives.[169] This includes independence from the objectives of governments, local actors, or parties to an armed conflict, as well as donor countries or agencies. Deterrent measures such as the use of armed guards or military escorts, however, can create the reality or impression of affiliation with government or military forces.

Thus, "humanitarian agencies generally shun the use of armed escorts or armed protection for their warehouses and other property, so as to avoid

---

[166] Increased Attacks on Aid Workers Due to Lack of Respect for International Humanitarian Law, Deputy Secretary---General Tells Security Council," August 19, 2014, http://www.un.org/press/en/2014/sc11524.doc.htm. (Consulted on 18 March 2017).

[167] Ibid.

[168] Ken Menkhaus, "Stabilization in Practice: The Somali Case," in Stabilization Operations, Security and Development: States of Fragility, ed. Robert Muggah (Routledge, 2013), p. 129.

[169] OCHA on Message: Humanitarian Principles," *Office for the Coordination of Humanitarian Affairs (OCHA)*, April 2010, https://docs.unocha.org/sites/dms/Documents/OOM_HumPrinciple_English.pdf. (Consulted on 18 March 2017).

affiliation with one side or the other in a conflict."[170] Not only do armed guards make neutral humanitarian action impossible, but they can be extremely dangerous, since "an armed escort can become an active belligerent in a conflict overnight."[171] While such measures may be necessary in some circumstances, protective or deterrent strategies may thus prove counterproductive by reducing acceptance.

The demonstrated dangers of protective and deterrent measures in places like Syria — where humanitarian agencies struggle to maintain their actual and perceived neutrality and independence from the plethora of political and military actors — have led most agencies to consider these measures only as temporary or last resorts.

These negative experiences have led to a re-emergence of acceptance-based security approaches in the field; in Afghanistan, for instance, aid organizations such as the United Nations Children's Fund (UNICEF), World Health Organization, and OCHA have moved to reduce the "bunkerization" of aid compounds in order to increase community acceptance and avoid backlash.

Furthermore, many of these cases illustrate the role of individual staff attributes such as those discussed above — e.g., nationality, gender, or organizational affiliation — in shaping perceptions of neutrality, impartiality, and independence, and thereby influencing the potential for protective or deterrent measures to succeed or backfire.

---

[170] Mali: Negotiating Humanitarian Access in the North," *Global Policy Forum (GPF)*, May 1, 2012, https://www.globalpolicy.org/ngos/role-of-ngos-in-the-international-arena/51687-mali-negotiating-humanitarian-access-in-the-north.html?itemid=id (Consulted on 18 March 2017).
[171] Ibid.

Concluding Observations

The legal and operational protection gap for humanitarian workers poses a serious threat to staff security, aid delivery, and the protection of vulnerable populations in complex and insecure settings. While security management approaches for humanitarian workers have improved considerably in recent years, much work remains to be done to improve the security of humanitarians in the face of growing violence in the field and to fill the prevailing legal protection gaps.

More efforts are needed to fill the current legal gap in protection for aid workers under international law. By granting most humanitarian aid workers with little more than civilian protection — with the exception of Red Cross/Red Crescent, UN staff or medical personnel — IHL has proven insufficient at protecting aid workers in insecure settings or preventing, deterring or punishing their attacks.

By the very nature of the work of many of the INGOs inside Syria, there is a clear need for comprehensive and cross-cutting risk-based programmatic approaches to be adopted that is consistent and that ensures the safety of staff, principled and unhindered access to beneficiaries, and delivery of services. It is also incumbent on the international organizations that principles governing the relationship with parties of the conflict in Syria are fully described and the operational limitations of this interaction are clearly stated.

The fourth and last chapter of this thesis will aim to suggest a comprehensive model that incorporates core humanitarian values into risk management practices in order to inform the design of a stronger framework for the protection of humanitarian aid delivery inside Syria but also elsewhere.

Chapter IV: Towards a Comprehensive Risk Management Strategy for Syria

The vast majority of INGOs currently operating in Syria INGOs continue to professionalize their approach to humanitarian security management and have been developing and refining their policy instruments at a stepped up rate from prior years. However, significant gaps continue to exist and strengthening the protection of aid workers goes far beyond the simple application of security measures. This thesis will therefore conclude with a proposal for the development of a comprehensive risk management strategy, which aims to offer maximum protection of aid delivery in Syria. To achieve this objective, we will first provide an overview of the risk management principles (1.), before offering highlights of the proposed strategy (2.) and describing its tools (3.)

Section 1: Risk management principles

Different organizations have individualized ways of defining and categorizing risk types, corresponding to their strategic objectives and management approaches. In the interest of clarifying terminology in this study, we settled on the definitions provided by the International Organization for Standardization (ISO) 31,000 risk management framework[172]. The reason this particularly risk management framework has been chosen is because it has been gaining interest within the humanitarian community as it brings together a logical and systematic framework and accompanying vocabulary to address the complexities of risk management in an integrated enterprise-wide management system[173].

1.1. Key terminology

Threat and Risk are defined as follows:

Threat: Any factors (actions, circumstances, or events) which have the potential or possibility to cause harm, loss, or damage to the NGO, including its personnel, assets, and operations.

Risk: The combination of the impact and likelihood for harm, loss, or damage to NGOs from the exposure to threats. Risks are categorized in levels from Very Low to Very High for their prioritization.

Security Risk Management: is an analytical procedure that assists in assessing the operational context of the NGO; and identifies the risk level of undesirable events that may affect personnel, assets, and operations; providing guidance on the implementation of solutions in the form of specific mitigation strategies and measures with the aim of lowering the risk levels for the NGO by reducing the impact and likelihood of an undesirable event.

---

[172] ISO 31000, Risk management, Principles and guidelines, (Geneva: ISO, 2009). http://www.iso.org/iso/catalogue_detail.htm?csnumber=43170 (Consulted on 14 April 2017).
[173] ISO Guide 73 (2009), Risk management – Vocabulary http://www.iso.org/iso/catalogue_detail.htm?csnumber=44651 (Consulted on 14 April 2017).

Security Risk Assessment: is the process of identifying those threats which could affect personnel, assets or operations and the NGOs vulnerability to them, assessing risks to the NGO in terms of likelihood and impact, prioritizing those risks and identifying mitigations strategies and measures.

The risk assessment process is comprised of 8 steps described below:

Step 1. Risk Identification
Step 2. Risk Description
Step 3. Risk Estimation
Step 4. Risk Evaluation
Step 5. Risk Reporting
Step 6. Risk Treatment
Step 7. Residual Risk Reporting
Step 8. Risk Monitoring and Review

This process is further described in the figure below:

RISK ASSESSMENT

RISK ANALYSIS

Identification:
Scan the environment using context analysis and SWOT analysis.

Description:
Detail the risks including existing controls and their effectiveness. List all available mitigation measures along with costs and benefits for each

Estimation:
Allocate for severity and likelihood using the risk analysis matrix.

RISK EVALUATION

Evaluation
Prioritize Risks – Risk Ratings: Red, Green, White.

Reporting
Risk Register

Implement Mitigation Plan

Residual Risk Reporting

Monitor and Review

In this process, the impact and likelihood of each specific threat identified in is processed through a risk analysis table resulting in the selection of the corresponding current risk level as follows:

RISK ANALYSIS TABLE	IMPACT				
	Negligible	Minor	Moderate	Severe	Critical
L I K E L I H O O D Very Likely	Low	Medium	High	Very High	Very High
Likely	Low	Medium	High	High	Very High
Moderately Likely	Very Low	Low	Medium	High	High
Unlikely	Very Low	Low	Low	Medium	Medium
Very Unlikely	Very Low	Very Low	Very Low	Low	Low

The functioning of the Security Risk Assessment within the overall Security Risk Management process is illustrated in the graph below:

Preparation Phase (Security Risk Assessment-SRA)

The "Realities"
The "Problems"
The "Solutions"

Execution Phase

Programme Assessment

| Location | Activity |

Threat Assessment

| Specific Threats | Situation |

Vulnerability Assessment

| NGO Strengths | NGO Weaknesses |

Impact ↔ Likelihood

Risk Analysis

Risk Level (current)

Adjust Activity
Change Location

Reduce Weaknesses
Increase Strengths

Control/Mitigation Measures

| Avoid | Transfer | | Reduce Likelihood | Reduce Impact |

| Wrong Place Wrong Time | Risk Level (residual) |

Decision Making

| Risk Acceptability Mitigation Procedures | Establish Priorities | | | Approval of Funding and Resources |

Establish Priorities:
| Image and Strategy | Time Frame | Cost of Control |

Prepare and Implement Control Measures

| Security Policies and Procedures | Contingency Plans |

Review and Update

1.2. Categories of risks

ISO categorizes risk into seven areas. The first two, security and safety, refer to physical risks for staff, security meaning the risk of deliberate violence, and safety meaning the risk of accident or illness. Fiduciary risk refers to the possibility that resources will not be used as intended, and encompasses corruption, fraud, embezzlement, theft, and diversion of assets. It differs from financial risk in the sense of insufficiency or unexpected deficits (this is covered by operational risk).

The legal/compliance category relates to the possibility of being found in violation of laws, regulations or requirements. These could be in the form of host-government laws, international sanctions or other codes, or internal restrictions and standards pertaining to human resources and staff behavior. The information risk area, sometimes called information security, refers to the chance of data breach/theft, loss, or inappropriate sharing such as leaks of confidential information or inappropriate or dangerous sharing of information on social media.

Reputational risk is anything in the public sphere that could damage the name, image, and credibility of an organization. Finally, the operational category encompasses risks that could result in the organization's inability to fulfill its mission or meet its objectives. This includes financial risk (e.g., the defunding or disallowing of costs by a donor, or lack of diversity in funding), government obstruction, human error, capacity/skills deficits, and the potential to do harm[174].

In this thesis, we will focus the categories related to safety, security and humanitarian access only.

1.3. The risk management approach

Organizational risk management frameworks seek to integrate all major areas of risk within a unified conceptual and planning platform. Sometimes referred to as "enterprise risk management" or ERM, this approach has its roots in the private sector and has only recently been taken up by aid

organizations. The most well developed risk management frameworks include:

- a risk register tool for analyzing and prioritizing risks and planning mitigation measures;
- decision-making and implementation procedures flowing directly from that assessment and planning;
- a systematic follow-up or audit process to ensure good implementation and understanding; and, to incorporate learning; and
- a means for weighing criticality, or the degree to which the action is urgent or life-saving, in order to guide decision-making on acceptable levels of risk (sometimes called "program criticality").

A risk register is a way to build a comprehensive picture of the most serious risks facing an organization at any given time. It should be built from the ground up, with each country office and each functional area of the organization (e.g., program, legal, communications) conducting an exercise to identify and rank the risks they face in all categories. These in turn inform the organization-wide risk register, which is compiled at the central level at least once per year.

Using the same logic as for a security risk assessment, completing a risk register involves ranking risks in all categories by their perceived degree of likelihood as well as the level of impact they would have on the organization if realized. Once the risks are identified and prioritized, the process involves developing strategies to mitigate them, including outlining ways that procedures and practices may need to be adjusted.

The risk register also provides a valuable tool for benchmarking progress against these plans throughout the year, including through "risk audits" or other follow-up measures.

Section 2: Suggested best practices

This section describes those risk mitigation strategy practices that are suggested to be employed by INGOs for operations in Syria. The suggested best practices are divided into:

1. Acceptance-based approaches

2. Negotiated humanitarian access
3. Remote management guidelines
4. Conflict sensitivity
5. Low-profile approaches
6. Protective and deterrent measures
7. Coordination

2.1. Acceptance-based approaches

Actively building and cultivating good relations and consent as part of a security risk management strategy with local communities, parties to conflict, and other relevant stakeholders and obtaining acceptance and consent for the agency's presence and programs. Organizations must work to seek acceptance-based security for its staff and activities in a variety of ways that range from passive acceptance (i.e. eschewing any association with political or military actors or other international entities), to an active acceptance posture involving proactive outreach strategies and direct negotiation to receive access and security guarantees. Where an agency is working with local partners ensuring acceptance must be a consideration in partner selection, program development and monitoring efforts.

Agencies must acknowledge that the more proactive its acceptance efforts are, the greater their capacity to communicate and negotiate with all parties. This, in turn, ensures better access and security in humanitarian spaces through more efficient programming.

Critical acceptance strategies some agencies have employed in Syria and have proven to work include:

Institutional investments in communications and outreach: Strategies and resources must be dedicated to crafting messages and public image for communities and key actors in programming locations.

Outreach teams: The employment of outreach or liaison teams with precise terms of reference devoted exclusively to liaising with government officials, military representatives, village councils, religious leaders, community elders, and non-state actors. These teams apply a 'travel and talk' strategy which leverages team members' background and experience to provide an analytical function as well as a practical liaison role.

Ongoing, local consultations: Regular, frequent meetings, timely communication or bilateral conversations are held with key actors and members of the public to communicate the agency's mission, values, past and current work, and objectives, as well as to receive constructive feedback on current priorities.

Measuring the success of acceptance: Concrete examples of success in achieving acceptance include communities protecting the organization by mediating or intervening with belligerents on its behalf, and by warning staff of potential threats in time to mitigate risks. Also useful have been perception surveys which serve as a field-expedient practical indicator. These surveys are initiated by the agency to monitor how it is perceived in each community where projects are ongoing. Such surveys can be a useful tool in learning more about the local population and in gauging the agency's levels of acceptance.

Positive associations and strategic partnerships: In seeking acceptance, the agency must constantly stress its neutrality in all political-military affairs while at the same time emphasizing constructive relations with known and trusted actors. Acceptance is enhanced when the agency receives the endorsement of trusted local entities. Examples include local and international NGOs with a positive and credible track record in the area.

Community co-ownership: Agencies may achieve high levels of acceptance when the local community co-owns certain projects. This drives an enduring commitment by the community to protect their project(s).

Local broadcasting and published materials: Acceptance can also be generated through the distribution of flyers in local languages. Messages are written simply and clearly, explaining what the agency does. This includes public advertisements whenever possible, tendering for goods and services, involvement of community members in disseminating messages, etc.

De-Westernizing, diversifying: By building local capacities through training of local partners and national staff, INGOs also reduce the perception that they are affiliated with a Western government or policy.

2.2. Negotiated humanitarian access

Even if an organization or its partners are accepted by a local community, there are no guarantees that external actors may not seek to influence the local

environment or interfere in assistance. Therefore, effectively negotiating can reduce risks to access by reaching agreements with key parties. These approaches must be carried out in collaboration with local partners.

Identifying an appropriate interlocutor or intermediary to open negotiations: The agency first consults with trusted local contacts and other parties, following a context analysis, to identify a suitable individual with local connections who may be able to appropriately liaise with armed groups and/or related entities. In the majority of cases it has proved that local village councils are the appropriate body to facilitate access in the communities but there may also be higher level political (such as staffing) and security constraints (such as checkpoints) that need to be addressed. The next step will be [for local staff normally, who should be well-briefed on underlying principles and their application] to meet with these leaders or their representatives to discuss proposed programming and operating conditions [humanitarian and safety] in a local context. Once agreement is reached, the organization expands its contact with interlocutors in community areas where they seek to establish or re-establish a presence.

Increasing regular communications with authorities at the local level: Consistent contact and communications with de facto authorities are important not only for effectively negotiations, but also because of fluid security conditions where flexibility is paramount.

Identifying and exploiting opportunities and temporary windows for access: This includes rapid response mechanisms that are geared towards quick in-and-out operations, making use of temporary lulls or other opportunity events. Humanitarian standards should be maintained to not undermine broader efforts.

Making individuals with contextualized security and humanitarian expertise part of advance teams, assessments, and design processes: This approach is critical for quick and effective risk assessment and analysis.

Joint Operating Principles: Coordinated 'ground rules' seek to ensure that negotiations on access and other issues such as paying registration fees and taxes, can be done in a timely manner and are informed by common principles. Pursuant to a recent position paper prepared by INGOs in Syria called the Joint

Operating Protocols (JOP)[175], agencies should act in a collective manner when responding to staff threats. This includes the sharing of information regarding security threats and incidents and access negotiations.

Any threat or compulsion to compromise on the JOP would (in theory) result in the suspension or closure of a program or an aspect of it. It is normally better to agree operating conditions in advance of starting activities to reduce the risk of having to suspend or stop programming later. In order to ensure the integrity and sustainability of the negotiation position of INGOs who adhere to humanitarian principles and the JOPs, foreign agencies must advocate with donors and UN agencies that they only work with actors who adhere to Humanitarian principles and the JOPs.

2.3. Remote Management

Remote management is defined as a set of adapted procedures put in place by INGOs because access to field sites is limited – for security, practical or logistical reasons. Remote management is used when decision-makers are physically separated from the programs about which they are making decisions. Depending on that proximity, the local environment, and program maturity, remote management falls into several categories[176], as outlined below.

Category	Decision Making	Project Implementation
Remote Control	Majority of decisions made by staff who are located apart from programs. Limited delegation of authority.	Local staff
Remote Delegation[177]	Partial or temporary delegation of authority to local staff remaining at project sites while other decision-makers are located apart from programs.	Local staff, partners
Remote Support	A strategy to transfer decision making and authority gradually to local actors, while financial and strategic oversight is retained remotely.	Local partners, authorities, or communities
Remote Partnership	Local actors maintain significant decision making authority	Local partners

---

[175] Protocol for Engagement of Parties to the Conflict in the Delivery of Humanitarian Assistance in Northern Syria, Turkey Humanitarian Forum, December, 2014.

[176] Hansen, G. (2008) Operational Modalities in Iraq. Amman: NGO Coordination Committee in Iraq. Retrieved from: http://www.alnap.org/pool/files/erd-3646-full.pdf (Consulted on 15 April 2017).

[177] This term has been changed from remote management to remote delegation in order to avoid confusion.

In Syria, the majority of INGOs employ a combination of all of these modalities which are not static and instead evolve over time depending on internal capacity and the context. Because of the many disadvantages of remote management, it is a strategy used as a last resort. Instead, agencies must actively pursue opportunities for more locally-managed programs either through placement of decision-makers closer to programs (as situation allows), through recruitment of local staff with managerial competencies, or through capacity building of existing local staff.

2.4. Low-profile approaches

International agencies may also choose to adopt low-profile measures that range from low to virtually no visibility and which include:

- Simple de-branding measures: All logos, signs, flags, and other identifying markings are removed from vehicles, offices, residences, staff clothing, and program materials.
- Comprehensive blending strategies: locally rented vehicles are used for transport rather than stereotypical white four-wheel-drive vehicles.
- Extreme low visibility approach: Local staffers work out of their own homes and remain decentralized - information on the presence of the agency in the area is removed from all publications.
- Co-location with local or accepted organizations, who operate and are seen to operate according to the same humanitarian principles.

2.5. Conflict sensitivity

The interventions of INGOs in Syria must be underpinned by robust conflict (and conflict sensitivity) analysis, which helps sensitize all staff to the complex context. Relevant project staff should be trained in ''do no harm approach'' and the use of various conflict sensitive analysis (CSA) techniques to better understand local-level contexts, anticipating its impact on programs, and encouraging impactful programs that avoid doing harm and – where possible – actually helps reduce tensions. Conflict is not meant to refer to exclusively armed or violent conflict, rather it encompasses all disagreements, differing interests, and competition for limited resources.

It is not enough for foreign agencies to analyze and understand the conflict dynamics and risks and should therefore ensure they are sufficiently agile to adapt to changes in context, needs and the feedback of beneficiaries.

2.6. Protective and deterrent measures

Protective measures are procedures to reduce vulnerability to a threat, but that do not affect the threat itself. In security terms this is called 'hardening the target.' Discreet protective measures add a layer of protection while minimizing the negative aspects of protection. Some features of protective hardening—such as using facilities set back from the road, and erecting concrete planters as opposed to simple blast barriers—can serve the purpose without having a militarized appearance.

Deterrent approaches are defined as those that pose a counter-threat in order to deter the threat. They are primarily understood to mean the threat or use of force. A familiar mechanism that agencies use in the face of certain threats or after security incidents is to temporarily suspend aid programs, or at least threaten to do so. In reality, the threat of suspension is the strongest leverage an agency can use with the authorities, and is carefully and selectively employed so as not to appear as an empty threat. The actual suspension of work is a dramatic and definitive measure that is not easily reversed.

2.7. Inter-agency coordination

NGO security coordination platforms, such as the International NGO Safety Organization (INSO)[178], are highly useful, providing a range of security services such as incident reporting, security trends analysis, and training. The INSO network has been particularly important to national and international actors alike, for information gathering and sharing between organizations and across regions of the country. It is a broader coordination tool but it also plays a security coordination role by comprehensive incident tracking and mapping for trend analysis.

---

[178] http://www.ngosafety.org/

The above practices are not mutually exclusive, and in fact are typically used in combination, with varying degrees of emphasis depending on the operational setting. INGOs are encouraged to apply two specific strategies for risk mitigation: (1) highly localized operations staffed exclusively with inhabitants from the immediate area, and ensuring partners have acceptance and local knowledge, and (2) a low operational signature. The first measure enhances acceptance and familiarity within the local community, and the second protects against opportunistic groups targeting staff during various stages of work.

Section 3: The tools

There are a number of tools that can be used to identify and analyze risk. No single tool will be sufficient to address all issues, so rather than relying on one or two tools, a combination of tools is often more effective. When using the tools there needs to be not only knowledge of the tools and the organization, but also the imagination of those people using the tools. They will need to be able to think "out of the box". This section will list some of the tools that can be used - this is not a comprehensive list as new tools are frequently being developed.

3.1. Risk assessment

INGOs must develop a risk assessment tool that local teams can use to assess the country/region risk profile and implement the risk management process. This tool should be designed around risk identification and analysis techniques and methods as follows:

Risk Identification Techniques	Risk Analysis Methods
Brainstorming	Threat analysis
Questionnaires	Survey
Benchmarks	Research & development
Scenario analysis	Impact analysis
Risk assessment	SWOT analysis (Strengths, Weaknesses, Opportunities, Threats)
Incident investigation	PEST analysis (Political, Economic, Social, Technological)

3.2. Training and education

Training is essential to ensure that all staff understand what risk management is, how the organization plans to manage risks and what their responsibilities for managing risks are. It is important for Senior Management Teams to ensure that all staff have the skills and knowledge required in order to carry out those risk management responsibilities. Education on risk management can often be tackled through existing training programs or communication channels. Examples of this include:

- Management skills training often address key components of risk management such as physical, technological and financial risk.
- Professional development training in each functional area will examine particular professional risks.
- A wide range of health, safety and security issues are introduced to staff in induction courses.
- Team briefings can be used to communicate managerial expectations of staff in terms of the implementation of the risk management strategy.

The training necessary to make certain that all staff have the required skills to manage risk will need to be identified. As far as possible, it should be tailored to meet the needs and responsibilities of each individual involved. The training does not need to be in the form of expensive courses.

General training on project management, information security and communicating with staff will assist in making sure that the risk management work is embarked on vigorously. The agency should identify members of staff with experience in specific areas that are capable of conducting or contributing to in-house risk management training. These could include in-house training staff, health, safety and security experts.

3.3. Risk appetite and acceptable risk

Risk appetite can be defined as 'the amount and type of risk that an organization is willing to take in order to meet their strategic objectives[179]. With regards to appetite and threshold of risks, the key principle agencies

---

[179] The Institute of Risk Management https://www.theirm.org/knowledge-and-resources/thought-leadership/risk-appetite-and-tolerance/ (Consulted on 15 April 2017).

must adopt is to balance risk and program opportunity and humanitarian needs, which requires a systematic approach to determining program opportunities, particularly for high risk activities.

Determining program criticality and acceptable risks of different activities will empower program teams to work closely with security/access management staff in designing programs that can deliver results in high-threat environments.

For risk levels identified as Medium, High, or Very High, acceptable risk is a relative term which requires judgment, not just the application of rules. The determination of "acceptable risk" is a critical responsibility of senior program decision makers locally in consultation with the field management personnel in addition to senior management. The relationship between program criticality and risks must be considered in the determination of acceptable risk. Agencies must constantly strive to balance these two critical functions in order to create and manage a culture of risk management.

In determining the threshold for acceptable risk in any given situation agencies must consider the following questions as framework to determine program criticality:

- Would the consequences of not implementing the program or initiative be so serious that the agency is prepared to accept a High to Very High risk to staff lives?
- Has everything possible been done to find alternative methods of achieving the program or initiative objectives?
- Has every possible prevention measure including the transfer of resources been applied to minimize the value risk so as to reduce the current risk level to Medium or lower?
- Is there an adequate system to manage the residual risk in order to ensure that it does not increase beyond the current level?

Only if the answer to all of the above questions is "Yes" should the program or initiative be implemented. Among other things, risk appetite plays an important part in supporting risk assessments, monitoring and control activities. It does this by helping staff to understand the relative significance of the risks faced by the agency and thereby better prioritize risk monitoring and control activities.

Concluding observations

Intrinsic vulnerabilities of the humanitarian community in Syria require that INGOs programs differentiate between different threats and contexts across the country. Syria's internal conflict involves numerous armed state and non-state groups each pursuing different agendas through violent action. There are complex linkages between these groups and large geographical areas of Syria lack effective and consistent forms of law enforcement or government control.

Other threats exist that could potentially pose equal or greater challenges for humanitarian access and security including transnational and local organized crime, and other sensitivities emanating from both communities and humanitarian work. While these threats may yet prove even more severe than the ones currently preoccupying the humanitarian community, they have not exacted a comparable toll in lives, but they have contributed to disrupting humanitarian work and comprised access.

Despite the array of risks that INGOs face in Syria, they remain committed to supporting the delivery of services, both directly and in partnership, while employing best practices in managing risks and continuing to maintain an independent humanitarian space. Over the years, most INGOs have acquired a depth and breadth of technical skills in Syria that enable them to go beyond emergency-focused activities. However, they continue to lack the capacity for the implementation of more technical and complex programs. For these reasons, INGOs operating inside Syria must work to foster community acceptance, which will contribute to continued principled access including the ability to operate independently from non-state actors' influence in Syria, leading to a reduction of many risks pertaining to humanitarian work in the country.

Most negotiating parties, including Russia, Turkey, the United States, Iran and the Syrian government have expressed support for some sort of safe zones during recent peace talks in Astana. If properly planned, these safe zones could

help INGOs get access to new conflict areas where people are in most need of humanitarian assistance.

General Conclusion

The legal and operational protection gap for humanitarian workers in Syria poses a serious threat to staff security, aid delivery, and the protection of vulnerable populations. While security management approaches for humanitarian workers have improved considerably in recent years, much work remains to be done to improve the security of humanitarians in the face of growing violence in the field and to fill the prevailing legal protection gaps.

First, significant disparities, in terms of vulnerabilities, remain within the humanitarian community, yet the consequences of these disparities are insufficiently understood. Further data collection and analysis are needed to better understand the determinants of security risk, the disparate impacts on international versus national or local staff, staff of different organizations, and men and women, and the effectiveness of various security mitigation strategies.

It is difficult to know empirically, for instance, whether a particular security mitigation strategy, or operational tactic thwarted a potential attack. In this context, further work is also needed to understand the role that nationality, gender, organizational affiliation and other individual staff attributes play in contributing to the effectiveness of acceptance, protection, and deterrence-based security approaches.

For example, are some security approaches better suited to some types of staff or organizations? How does the implementation of these approaches differ depending on the identities of staff or the local context? This improved understanding is crucial to the tailoring of security management strategies to the differential needs, vulnerabilities, and resiliencies of staff.

Second, more exploration is also needed into the potential of new technologies — such as SMS, social media, crisis mapping, remote sensing, or big data

analysis — to improve security assessments, communication, reporting, response, and recovery from security incidents, as well as the identification and prosecution of perpetrators of attacks.

Furthermore, as the humanitarian sector expands and diversifies, more information is also needed about the impact on security of new humanitarian actors that are not part of the formal humanitarian system, such as volunteer groups, private companies, or security contractors.

Third, significant efforts are needed to fill the current legal gap in protection for aid workers under international law. By granting most humanitarian aid workers with little more than civilian protection — with the exception of Red Cross/Red Crescent, UN staff or medical personnel — IHL has proven insufficient at protecting aid workers in insecure settings or preventing, deterring or punishing their attacks.

As a result, mediation is needed at the State level to fight impunity and to improve respect for IHL, and at the international level to build consensus around the creation of enhanced legal protection for aid workers. This could include the creation of a new protected legal status for humanitarian aid workers under IHL, complemented by new mechanisms or protocols — e.g., through the UN Security Council — for monitoring, investigating, and punishing attacks against aid workers, as well as new tools and avenues for advocacy.

As humanitarian organizations develop new approaches to operating in the face of security threats and attacks, there is a need for improved dialogue across agencies about the dilemmas of principled humanitarian action in complex and insecure environments. Such cross-agency discussion is needed to address shared operational challenges resulting from security threats and attacks and to contribute to greater understanding and more effective responses to these security challenges. This includes the joint development of enhanced tools and methods for context analysis and understanding networks of influence, which could ultimately support acceptance strategies and local relationships that would protect staff members.

Furthermore, such a dialogue can contribute to mobilizing the professional sector around the enhanced development and strengthened implementation of

legal protections for aid workers. Given the fundamental challenge posed by security threats and attacks to humanitarian action, improved understanding, operational practice, and legal protection for aid workers is crucial to ensuring the consistent and effective delivery of aid to those who need it most.

Lastly, it should be emphasized that security is not a zero-sum proposition. However, the widespread practice by INGOs operating in Syria of moving to 'remote management' in times of heightened insecurity is currently ad hoc and unplanned. This creates both physical and ethical hazards. Risks to national staff are frequently underestimated – both by international agencies and by nationals themselves. The relative lack of security training and equipment provided to nationals reinforces false assumptions about their inherent security. Therefore, it seems safe to say that international agencies bear some degree of responsibility for the increase in violence against national aid workers. The solution is not for UN agency and international staff in general to take on more risk, but for aid providers, donors and governments to focus efforts on improving the operational security environment for national aid workers.

Finally, and in order to conclude this research by attempting to answer the question we have asked at the beginning, it is safer to say that International NGOs currently operating in Syria do not have the appropriate standards and tools to adequately mitigate prevalent risks to their personnel and meet the operational needs of humanitarian operations.

For this, we recommend INGOs to work on improving their understanding of what works in security management, including the effectiveness of security training, as a critical step to positive developments in the sector. Additionally, further analysis of data on gender-based violence against aid workers should be carried out in order to determine their impact of the safety of aid operations. International organizations and academic institutes have done considerable work over the past decade on researching and reporting violence against women. This could prove useful to aid organizations in investigating and establishing a means to report this particular type of violence, while respecting ethical and privacy issues and questions of safety.

Bibliography

<u>Conventions, Treaties and Resolutions</u>

1. The UN Charter
2. The Geneva Conventions
3. UNGA, Convention on the Safety of United Nations and Associated Personnel, 1994
4. UNGA, Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel, 2005
5. UNGA/Res/2717 (1970)
6. UNGA/Res/46/182 (1991)
7. UNGA/Res/47/120 (1992)
8. UNSC/Res/1502 (2003)
9. UNSC/Res/ 2286 (2016)
10. ECOSOC Resolution 1612 (LI) (23 July 1971) UN Doc E/1612 (LI), para. 57
11. Article 59 para. 2 GC IV
12. Pictet J (ed.), Commentary to the First Geneva Convention for the Amelioration of the Condition of the Wounded and the Sick in Armed Forces in the Field (ICRC 1952)
13. Hague Convention (IV) Respecting the Laws and Customs of War on Land (HC IV) with Annex: Regulations Respecting the Laws and Customs on Land (HagueReg) (18 October 1907)
14. Protocol for Engagement of Parties to the Conflict in the Delivery of Humanitarian Assistance in Northern Syria, Turkey Humanitarian Forum, December, 2014.

<u>Cases</u>

15. Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v US) (Judgment) [1986] ICJ Rep 14 ["Nicaragua"]
16. Prosecutor v Tadić, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-AR72, Appeals Chamber (2 October 1995)

17. Case concerning Armed Activities in the Territory of the Congo (DRC v Uganda) (Judgement) [2005] ICJ Reports 2005 ["Armed Activities"]
18. Rule 6 Customary IHL Rules ["CIHL"] in Henckaerts J-M & Doswald-Beck L (eds), Customary International Humanitarian Law, Volume I: Rules (Cambridge University Press 2007) ["Henckaerts & Doswald-Beck (2007)"]
19. Prosecutor v Haradinaj, Balaj, and Brahimaj (Judgement) IT-04-84-T (3 April 2008) ["Haradinaj"]
20. Rules 1, 11 CIHL; Sassòli M, Bedeutung einer Kodifikation für das Allgemeine Völkerrecht: Mit Besonderer Betrachtung der Regeln zum Schutze der Zivilbevölkerung vor den Auswirkungen von Feindseligkeiten (Helbing & Lichtenhahn 1990) ["Sassòli (1990)"]

Books

21. Spieker H, 'The Right to Give and Receive Humanitarian Assistance', in Heintze HJ and Zwitter A (eds). International Law and Humanitarian Assistance (Springer 2011)
22. Kent G, 'Rights and obligations in international humanitarian assistance' (2014) 23 Disaster Prevention and Management 3 ["Kent (2014)"]
23. Kuijt E, Humanitarian assistance and state sovereignty in international law: Towards a comprehensive framework (Intersentia 2015) ["Kuijt (2015)"]
24. Brassard-Boudreau C, Shrinking Humanitarian Space? Trends and Prospects on Security and Access 2010
25. S. Collinson and M. Duffield, Paradoxes of presence: Risk management and aid culture in challenging environments, 2013
26. Rogan, Eugene (2011): The Arabs- A History. New York: Basic Books
27. Panagiotis Geros, Doing Fieldwork within Fear and Silences, in Taking Sides: Ethics, Politics, and Fieldwork in Anthropology, Berghahn Books, 2008
28. Robert A. Pape, "When Duty Calls: A Pragmatic Standard of Humanitarian Intervention", International Security, Vol.37, No.1 (Summer 2012)
29. "Syrian Arab Republic—2009 Article IV Consultation Preliminary Conclusions of the IMF Mission," International Monetary Fund, Washington, D.C., Dec. 21, 2009
30. Heba El Laithy and Khalid Abu-Ismail, "Poverty in Syria 1996-2004, Diagnosis and Pro-Poverty Considerations," United Nations Development Programme, New York, June 2005
31. Gifkins, 'Briefing. The UN Security Council divided: Syria in crises', Global Responsibility to Protect 4 (2012)
32. Larisa Fast, Aid in Danger: The Perils and Promise of Humanitarianism (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2014, 2014)
33. Lindsay Suttenberg, "Curing the Humanitarian Crisis: Resolution 1502," Wash. U. Global Stud. L. Rev. 4, no. 1 (2005)
34. Jean-Marie Henckaerts and Louise Doswald---Beck, eds., Customary International Humanitarian Law, Vol I., Rules (Cambridge University Press & ICRC, 2005)
35. Larissa Fast et al., "The Promise of Acceptance as an NGO Security Management Approach," Disasters 39, no. 2 (April 1, 2015)
36. Mary B. Anderson, Do No Harm: How Aid Can Support Peace—or War (Lynne Rienner Publishers, 1999)

37. Peter Walker and Larry Minear, "One for All and All for One: Support and Assistance Models for an Effective IFRC" (Feinstein International Famine Center, Tufts University, Boston, August 2004)
38. Larissa A. Fast et al., "In Acceptance We Trust? Conceptualizing Acceptance as a Viable Approach to NGO Security Management," Disasters 37, no. 2 (April 1, 2013)
39. Ken Menkhaus, "Stabilization in Practice: The Somali Case," in Stabilization Operations, Security and Development: States of Fragility, ed. Robert Muggah (Routledge, 2013)
40. ISO 31000, Risk management, Principles and guidelines, (Geneva: ISO, 2009)
41. ISO Guide 73 (2009), Risk management – Vocabulary

Journals

42. Dungel J, 'A right to humanitarian assistance in internal armed conflicts respecting sovereignty, neutrality and legitimacy: Practical proposals to practical problems' (2004) The Journal of Humanitarian Assistance ["Dungel (2004)"]
43. Harrington E, 'Operation Provide Comfort: A Perspective in International Law' (1995) 8 Connecticut Journal of International Law
44. James Brandon, PKK and Syria's Kurds, Terrorism Monitor, Jamestown Foundation. February 2007, Volume 5, Issue 3.
45. Nimrod Raphaeli, "Syria's Fragile Economy," The Middle East Review of International Affairs (MEMRI), June 2007
46. ICRC, 'How is the Term "Armed Conflict" Defined in International Humanitarian Law?' (2008) ICRC Opinion Paper
47. Fleck D (ed), The Handbook of Humanitarian Law (3rd edn, Oxford University Press 2013)
48. Shaw M, International Law (7th edn, Cambridge University Press 2014) ["Shaw (2014)"]
49. Stoffels R A, 'Legal regulation of humanitarian assistance in armed conflict: Achievements and gaps' (2004) 86 ICRC 855 ["Stoffels (2004)"]
50. Plattner D, 'Assistance to the civilian population: the development and present state of international humanitarian law', (1992) ICRC Review 288
51. Dinstein Y, 'The Right to Humanitarian Assistance' (2000) LIII Naval War College Review 4 ["Dinstein (2000)"]
52. Peter H. Gleick, Water, Drought, Climate Change, and Conflict in Syria, Pacific Institute, February 2014

Articles/Websites

53. U.S. Permanent Representative to the United Nations Samantha Power in an address to the Third International Humanitarian Pledging Conference for Syria, 31 March 2015. https://blogs.state.gov/stories/2015/03/31/syria-greatesthumanitarian-crisis-generation-demands-response-generation

54. WHS, 'Humanitarian Principles' (2016) https://consultations2.worldhumanitariansummit.org/bitcache/29f94ad84be19198d46f3b26a6b5d10503926487?vid=574062&disposition=inline&op=view

55. Jan Egeland, Adele Harmer, and Abby Stoddard, "To Stay and Deliver: Good Practice for Humanitarians in Complex Security Environments," Policy and Studies Series (Office for the Coordination of Humanitarian Affairs (OCHA), 2011) https://docs.unocha.org/sites/dms/Documents/Stay_and_Deliver.pdf.

56. What is Humanitarian Access (OCHA) https://docs.unocha.org/sites/dms/Documents/OOM_HumAccess_English.pdf

57. William R. Polk, Understanding Syria: From Pre-Civil War to Post-Assad, The Atlantic, December 2013. https://www.theatlantic.com/international/archive/2013/12/understanding-syria-from-pre-civil-war-to-post-assad/281989/

58. Pew Research Center, Religious Composition by Country, April 2016. http://www.pewforum.org/2015/04/02/religious-projection-table/2050/number/Middle_East-North_Africa/

59. The Damascus Spring, Carnegie Middle East Center, April, 2012, http://carnegie-mec.org/diwan/48516?lang=en

60. Evan Osnos, Reform hinges on Syria's Leader, Chicago Tribune, April 2005. http://www.chicagotribune.com/news/nationworld/chi-0504220340apr22-story.html

61. Femia, F., and C. Werrell, Syria: Climate change, drought, and social unrest. Center for Climate and Security. http://climateandsecurity.org/2012/02/29/syria-climate-change-drought-and-social-unrest

62. Nada Bakri, U.N. Says Action Needed to Prevent Civil War in Syria, New York Times, December 2011. http://www.nytimes.com/2011/12/03/world/middleeast/un-says-action-needed-to-prevent-civil-war-in-syria.html?hp=&pagewanted=print

63. Ian Black, "Russia refuses more Syria sanctions", The Guardian, 12 September 2011. https://www.theguardian.com/world/2011/sep/12/russia-refuses-more-syria-sanctions

64. Cornell University Library. 2015. "Arab Spring: A Research & Study Guide: Syria." http://guides.library.cornell.edu/c.php?g=31688&p=200753

65. International Coalition for the Responsibility to Protect (ICRtoP), 'Crisis in Syria' http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-syria#back

66. Tabler, Andrew J. 2015. "Syria in 60 Seconds." Atlantic Monthly http://www.washingtoninstitute.org/policy-analysis/view/syria-in-60-seconds

67. ECHO Factsheet, Syria crisis, January 2017 https://ec.europa.eu/echo/files/aid/countries/factsheets/syria_en.pdf

68. "Who Has Gained Ground in Syria Since Russia Began Its Airstrikes." The New York Times, October 29. https://www.nytimes.com/2015/10/29/world/middleeast/syria-talks-vienna-iran.html

69. US Department of Defense. 2015. "Operation Inherent Resolve: Strikes in Iraq and Syria." https://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve/

70. UN appeals for nearly $5 billion to help Syrian refugees and host communities

71. http://www.un.org/apps/news/story.asp?NewsID=56028#.WKrljcs0PIU

72. OCHA, Financial Tracking Service 2017. https://fts.unocha.org/countries/218/summary/2017

73. Aid Worker Security Report 2016: Figures at a glance

74. https://aidworkersecurity.org/sites/default/files/HO_AidWorkerSecPreview_1015_G.PDF_.pdf

75. Benedetta Berti, Why Humanitarian Aid Workers Are Under Attack, The National Interest, September 25, 2016

76. http://nationalinterest.org/feature/why-humanitarian-aid-workers-are-under-attack-17822

77. ICRC Press Release, 'Syria: Attack on humanitarian convoy is an attack on humanity', 20 September 2016 https://www.icrc.org/en/document/syria-attack-humanitarian-convoy-attack-humanity

78. Amnesty International, Syria 2016/2017, https://www.amnesty.org/en/countries/middle-east-and-north-africa/syria/report-syria/

79. Leslie Leach and Cedric Hofstetter, "Safer Access," Magazine of the International Red Cross and Red Crescent Movement, March 2004, http://www.redcross.int/EN/mag/magazine2004_3/20-21.html

80. Abby Stoddard, Adele Harmer, and Katherine Haver, "Providing Aid in Insecure Environments: Trends in Policy and Operations" (Humanitarian Policy Group, Overseas Development Institute, 2006) https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/269.pdf

81. Karoline R. Eckroth, "The Protection of Aid Workers: Principled Protection and Humanitarian Security in Darfur," NUPI Working Paper 770, Security in Practice (The Norwegian Institute of International Affairs, 2010), https://brage.bibsys.no/xmlui/bitstream/id/322550/SIP-02-10-WP-770-Eckroth.pdf

82. Claude Bruderlein and Pierre Gassmann, "Managing Security Risks in Hazardous Missions: The Challenges of Securing United Nations Access to Vulnerable Groups," Harvard Human Rights Journal 19 (2006), http://hpcrresearch.org/sites/default/files/publications/bruderlein.pdf.

83. Rachel Irwin, "Violence Against Healthcare Workers in Complex Security Environments," SIPRI Background Paper (Stockholm International Peace Research Institute, November 2014), http://books.sipri.org/product_info?c_product_id=484#.

84. Christina Wille and Larissa Fast, "Aid, Gender and Security: The Gendered Nature of Security Events Affecting Aid Workers and Aid Delivery" (Insecurity Insight, 2011), http://www.insecurityinsight.org/files/Security%20Facts%202%20Gender.pdf.

85. Alexis Gaul et al., "NGO Security: Does Gender Matter?," Capstone Seminar in International Development (Save the Children; The George Washington University, May 8, 2006), http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwjuqKOLi9bTAhVEbBoKHdNtDh8QFgghMAA&url=http%3A%2F%2Fwww.alnap.org%2Fpool%2Ffiles%2Fngo-security-does-gender-matter-2006-40200.pdf&usg=AFQjCNHrabb9yEqOZLZsrBq9zb1kEAiAkw

86. International Committee of the Red Cross (ICRC), "Respect for and Protection of the Personnel of Humanitarian Organizations," January 19, 1998, https://www.icrc.org/eng/resources/documents/misc/57jp85.htm.

87. Humanitarian Outcomes' 2012 Aid Worker Security Report https://aidworkersecurity.org/sites/default/files/AidWorkerSecurityReport2012.pdf

88. Humanitarian Policy Group (HPN), "Operational Security Management in Violent Environments (Revised Edition) --- Humanitarian Practice Network," Good Practice Review No. 8 (London: HPN, Overseas Development Institute, December 2010), http://www.odihpn.org/index.php?option=com_k2&view=item&layout=item&id=3159.

89. Abby Stoddard and Adele Harmer, "Supporting Security for Humanitarian Action: A Review of Critical Issues for the Humanitarian Community" (Humanitarian Outcomes, March 2010),

https://www.humanitarianoutcomes.org/sites/default/files/resources/SupportingSecurityforHumanitarianActionMarch20101.pdf

90. Larissa Fast and Michael O'Neill, "A Closer Look at Acceptance," Humanitarian Exchange Magazine, no. 47 (June 2010), http://odihpn.org/magazine/a-closer-look-at-acceptance/

91. Felix Schwendimann, "The Legal Framework of Humanitarian Access in Armed Conflict," International Review of the Red Cross 93, no. 884 (December 2011): 999, https://www.icrc.org/fre/assets/files/review/2011/irrc-884-schwendimann.pdf

92. Cedric Ryngaert, "Humanitarian Assistance and the Conundrum of Consent: A Legal Perspective," Amsterdam LF 5 (2013), http://amsterdamlawforum.org/article/viewFile/298/483.

93. Violence against Health Care (II): The Way Forward," International Review of the Red Cross, no. 889 (2013): 305, https://www.google.co.uk/#q=Violence+against+Health+Care+(II):+The+Way+Forward,%E2%80%9D+International+Review+of+the+Red+Cross,+no.+889+(2013&spf=73

94. Report of the Independent Panel on the Safety and Security of the UN Personnel in Iraq," October 20, 2003, http://www.un.org/News/dh/iraq/safety-security-un-personnel-iraq.pdf

95. Increased Attacks on Aid Workers Due to Lack of Respect for International Humanitarian Law, Deputy Secretary---General Tells Security Council," August 19, 2014, http://www.un.org/press/en/2014/sc11524.doc.htm.

96. OCHA on Message: Humanitarian Principles," Office for the Coordination of Humanitarian Affairs (OCHA), April 2010, https://docs.unocha.org/sites/dms/Documents/OOM_HumPrinciple_English.pdf

97. Mali: Negotiating Humanitarian Access in the North," Global Policy Forum (GPF), May 1, 2012, https://www.globalpolicy.org/ngos/role-of-ngos-in-the-international-arena/51687-mali-negotiating-humanitarian-access-in-the-north.html?itemid=id

98. Hansen, G. (2008) Operational Modalities in Iraq. Amman: NGO Coordination Committee in Iraq. Retrieved from: http://www.alnap.org/pool/files/erd-3646-full.pdf

99. The Institute of Risk Management https://www.theirm.org/knowledge-and-resources/thought-leadership/risk-appetite-and-tolerance/