Principled Aid in Syria
A Framework for International Agencies

CHATHAM HOUSE
The Royal Institute of International Affairs

Contents

Summary

- As the fighting in Syria winds down, international humanitarian organizations (IHOs) operating from Damascus are hopeful that the Syrian government's interference in their work will decrease. However, the government is attempting to formalize its influence over humanitarian operations.

- Throughout the Syrian conflict, the government has imposed multiple administrative processes on humanitarian organizations to limit their ability to operate independently. This includes restricting the operational environment; undermining organizational independence; imposing local partners; influencing procurement procedures; and preventing direct monitoring and evaluation.

- While some level of coordination with the government might be a pragmatic necessity to ensure the safety of operations in regime-controlled areas, this cooperation should not enable the government to use aid for military or political purposes. Consequently, international humanitarian organizations have an ethical dilemma in how they provide aid in these areas without undermining their principles of humanity, independence, impartiality and neutrality.

- The solution to this dilemma lies in the ability of IHOs to work together to come up with detailed operational guidelines to reduce administrative approvals imposed on them and improve their operational independence. These guidelines should be used to argue for the freedom to choose local partners, to develop transparent mechanisms for procurement and to create independent monitoring and evaluation processes.

1. Introduction

The Syrian government's military gains since December 2016 have fundamentally changed the dynamics of the domestic conflict. One aspect that has been increasingly affected is aid work – humanitarian and non-humanitarian – in government-controlled areas. Consequently, this has intensified the ethical dilemma that international humanitarian organizations (IHOs),[1] including international non-governmental organizations (INGOs) and UN agencies, have faced throughout the conflict: how to provide aid in these areas without undermining their principles of humanity, independence, impartiality and neutrality.

Through the assertion of state sovereignty, the government has restricted the ability of IHOs to operate independently by imposing multiple administrative processes on them to ensure that nothing can happen without its approval. This includes requiring permissions for field visits, needs assessment, operations, monitoring and evaluation.[2] Ben Parker, the Syria country chief for the UN Office for the Coordination of Humanitarian Affairs (OCHA) highlighted the extent of the government's influence over aid work as early as February 2013: 'In government-controlled parts of Syria, what, where and to whom to distribute aid, and even staff recruitment, have to be negotiated and are sometimes dictated.'[3]

IHOs, to varying degrees, have tried to address this dilemma. But doing so individually and discreetly has limited their ability to have a collective policy. Some have agreed to the government's restrictions but tried to push back whenever possible. Some INGOs decided, or had no choice but, to work in non-regime areas only, either through cross-border relief operations or via local partners not regulated by the government.[4]

But since the majority of Syria's territory is now under government control, these measures are no longer sufficient to reach a large percentage of Syrians in need of humanitarian aid. Recent reports state that hundreds of thousands in areas recaptured by government forces in 2018 remain starved of basic aid.[5] Likewise, the IHOs operating in government-held areas face increased pressure from Damascus as it attempts to expand or reinforce its role in shaping aid operations.[6]

The ongoing discussion of this dilemma is equally crucial to INGOs exclusively working in areas outside the control of the government. The debate within and among IHOs and their donors is often framed as a binary question of accepting the government's conditions or continuing to operate solely in areas outside its control.[7] Neither option helps civilians trapped in retaken former rebel areas who

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[1] This paper uses the term international humanitarian organizations to refer to UN agencies and international non-governmental organizations that publicly abide by humanitarian principles to provide aid inside Syria wherever needed, regardless of any political considerations. But due to the existing differences regarding the practices and leverage between them, the paper refers to UN agencies and INGOs where needed to highlight those differences.

[2] Sparrow, A. (2018), 'How UN Humanitarian Aid Has Propped Up Assad', *Foreign Affairs*, 20 September 2018, https://www.foreignaffairs.com/articles/syria/2018-09-20/how-un-humanitarian-aid-has-propped-assad (accessed 20 Sep. 2018).

[3] Parker, B. (2013), 'Humanitarianism Besieged', The Humanitarian Practice Network, November 2013, https://odihpn.org/magazine/humanitarianism-besieged/ (accessed 20 Nov. 2018).

[4] Author interviews via Skype with an international humanitarian worker based in Damascus, 6 December 2018.

[5] Gebeily, M. (2018), 'Syrians in ex-rebel zones struggle after aid groups withdraw', Agence France-Presse, 8 October 2018, https://news.yahoo.com/syrians-ex-rebel-zones–struggle-aid-groups-withdraw-093028978.html (accessed 8 Oct. 2018).

[6] Author interview via Skype with an international UN staff based in Damascus, 18 November 2018.

[7] Author interview via Skype with an international humanitarian worker based in Damascus, 6 December 2018; author interview with a diplomat based in Lebanon, 12 December 2018; author interview with a Western donor based in Brussels, 14 February 2019.

will likely end up without sufficient access to aid. Likewise, adopting a pragmatic approach by moving operations to Damascus is unlikely to result in a decrease in the government's restrictions on aid work or in its ability to use this as a tool to punish or reward various parts of the population.

Some level of coordination with the government, despite it being a controversial party to the conflict, might be a pragmatic necessity to ensure the safety of operations in areas it controls. However, this should not enable an environment where the government is able to starve hundreds of thousands of civilians for military and political purposes.[8] Instead, IHOs should build on their knowledge and successes to develop a collective framework for their operations in government-controlled territory. These operational guidelines should be used to argue for the rights of humanitarian actors to engage principally wherever needed, regardless of any political considerations.

> [Some level of coordination with the government] should not enable an environment where the government is able to starve hundreds of thousands of civilians for military and political purposes.

Towards that end, this paper provides first-hand information on the various mechanisms and practices used by the government to control where and how aid is distributed in Syria. It suggests recommendations on how to provide assistance in government-controlled areas without undermining the principles of humanitarian aid. Finally, it highlights the various responsibilities and roles that concerned IHOs, and their respective donors, can play in supporting the negotiation, adoption and implementation of these recommendations. In doing so, the paper highlights some of the success stories of IHOs operating in Damascus and draws on them to provide practical policies.

The paper uses primary data collected from 35 semi-structured interviews with employees of UN agencies, INGOs, local humanitarians working or previously working in Syria, donor representatives, diplomats and experts in the field. The interviews were conducted by the author either online – over Skype, WhatsApp or emails – or in person between November 2018 and April 2019. The interviewees remain anonymous to allow them to talk freely and mitigate the risks involved in sharing their experiences.

Additionally, the paper draws on over a dozen confidential internal INGO documents as well as official communications with the government that were shared with the author on the condition of not publishing them. While this paper focuses on humanitarian aid in government-controlled areas, the proposed operational guidelines can be used to guide humanitarian aid elsewhere in the country where various non-state actors are also trying to restrict or dictate aid work in areas they control. Moreover, it can help ensure the independence of the current and future non-humanitarian aid, which is likely to be subject to similar types of restrictions.

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[8] Leenders, R. and Mansour, K. (2018), 'Humanitarianism, State Sovereignty, and Authoritarian Regime Maintenance in the Syrian War', *Political Science Quarterly*, 133:2, https://onlinelibrary.wiley.com/doi/abs/10.1002/polq.12773 (accessed 12 Oct. 2018).

2. Humanitarian Aid: Restrictions and Ramifications

Through a long registration process and extensive negotiations over the required memoranda of understanding, the government has been able to play an active role in overseeing the work of IHOs in Syria. This section presents the various mechanisms and practices the Syrian regime uses to decide where and when aid is delivered as well as to and by whom.

The ethical dilemma in perspective

The Syrian government has been using UN General Assembly Resolution 46/182, which gives the affected state the primary role in managing humanitarian assistance within its territory, as a tool to assert its control over the work of IHOs in Syria.[9] By positioning itself at the centre of aid operations, the government has been able to establish various permission processes for all aspects of humanitarian work (such as field visits, needs assessment, operations, and monitoring and evaluation) that has given it veto power over all stages of operations.[10]

While some IHOs operating in Damascus are still trying to defend their independence and impartiality, others have accepted the imposed restrictions in exchange for access.[11] None of the options that the latter were presented with were easy. From their point of view, by pushing back they might lose access to government-controlled areas, which is not a risk they were willing to take, no matter how small. But, while some level of coordination with the government might be a pragmatic necessity to ensure the safety of operations in areas it controls, such pragmatism should be part of a conflict-sensitive approach. Assessing the impact of aid work in Syria cannot simply be measured by the number of people that have been reached but should also be evaluated based on the harm or unintended consequences caused by the method of delivery. The sole focus on delivering aid through such trade-offs, without clear strategies to mitigate the consequences, has triggered a cascading set of problems for the IHOs operating in Syria and unintentionally allowed the government to turn aid into a weapon for military gains.[12]

Restricting the operational environment

The government has blocked IHOs from carrying out needs assessment directly. Consequently, organizations have been forced to depend largely on data provided by the government, which allowed the latter to determine humanitarian needs in areas under its control without proper verification.[13] An evaluation of OCHA's work in Syria in 2016 concluded that 'one area where the system (and OCHA) did not deliver was in assessing needs. Over five years into the conflict there is still not an accurate

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[9] Ibid.
[10] Ibid.
[11] Author interview with an international humanitarian worker based in Damascus, 5 February 2019; author interview via Skype with an expert on humanitarian work in Syria, 29 January 2019.
[12] Leenders and Mansour (2018), 'Humanitarianism, State Sovereignty, and Authoritarian Regime Maintenance in the Syrian War'.
[13] Author interview with an international humanitarian worker based in Damascus, 3 December 2018; author interview via Skype with an expert on humanitarian work in Syria, 4 February 2019.

picture of needs, meaning much of the aid operation remains guesswork.'[14] The focus of IHOs on delivering aid to those in need, despite the risks of having inaccurate data, has unintentionally allowed the government to exaggerate needs and to influence the priorities, programming and budgets of organizations.[15]

> The fact that UN convoys drove on several occasions through areas deemed insecure by the government in order to deliver aid elsewhere clearly shows that security risks were used, at least in part, as a pretext to manipulate aid distribution.

Likewise, the government has used complex administrative procedures to control where humanitarian aid is distributed. It has systematically denied permission for IHOs to conduct cross-frontline operations delivering aid to territories controlled by non-state actors.[16] For safety reasons, among others, the IHOs operating in government-controlled areas need a permit from the latter to conduct cross-frontline aid delivery. Consequently, the government has portrayed such operations as dangerous in order to stop aid supplies to rebel-held areas. In other cases, it has hampered access to areas outside its control by simply ignoring the approval requests. For example, nearly 75 per cent of all UN aid delivery requests in 2015 were ignored, while only half of the rest resulted in delivery.[17] The fact that UN convoys drove on several occasions through areas deemed insecure by the government in order to deliver aid elsewhere clearly shows that security risks were used, at least in part, as a pretext to manipulate aid distribution.[18]

Imposing local partners

Through a small number of gatekeepers and designated local partners for IHOs, the government has been able to enforce central control over aid operations inside the country. The Syrian Arab Red Crescent (SARC) and the Syria Trust for Development (headed by first lady Asma al-Assad) have become the main mandatory focal points for the vast majority of foreign humanitarians registered with the authorities.[19] They are required to apply through these gatekeepers for permissions from the government for their field visits, operations and programming.[20] INGOs that fail to reach an agreement with one of those mandatory partners will typically not be allowed to operate in government-held territories.[21] The government's control over those gatekeepers leaves no room for doubt about the instrumental role Syrian organizations play in allowing the government to manipulate aid.

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[14] Darcy, J. (2016), 'Syria Coordinated Accountability and Lesson Learning (CALL): Evaluation Synthesis and Gap Analysis', ALNAP, 1 May 2016, https://www.alnap.org/help-library/syria-coordinated-accountability-and-lesson-learning-call-evaluation-synthesis-and-gap (accessed 16 Oct. 2018).

[15] Author interviews via Skype with an international UN staff member based in Damascus, 17 January 2019, and with an expert on humanitarian work in Syria, 13 January 2019. Author interview with an international humanitarian worker based in Damascus, 22 February 2019.

[16] Author interview online with an international UN staff member based in Damascus, 31 January 2019; author interview with an international humanitarian worker based in Damascus, 17 February 2019.

[17] OCHA (2016), 'Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, Statement to the Security Council on Syria', 27 January 2016, https://reliefweb.int/report/syrian-arab-republic/under-secretary-general-humanitarian-affairs-and-emergency-relief-29 (accessed 12 Nov. 2018).

[18] The Syria Campaign (2016), 'Taking sides: The United Nations' loss of impartiality, independence and neutrality in Syria', The Syria Campaign, June 2016, http://takingsides.thesyriacampaign.org/ (accessed 11 Nov. 2018).

[19] Line ministries can reportedly be used as a gatekeeper; however, the majority of international humanitarians are either working through SARC or the Syria Trust.

[20] Author interview with an international humanitarian worker based in Damascus, 20 February 2019.

[21] Chulov, M. and Beals, E. (2014), 'Aid group Mercy Corps forced to close Damascus operations,' Guardian, 23 May 2014, https://www.theguardian.com/world/2014/may/23/aid-group-mercy-corps-forced-to-close-damascus-operations--syria (accessed 4 Nov. 2018).

On paper, SARC is portrayed as an independent non-governmental organization. However, the extensive formal and informal ties between the government and its leadership allow the former to control SARC's decisions and activities, and thus manipulate aid. This view is expressed by many local humanitarian organizations and IHOs, and is supported by an evaluation commissioned by the UN World Food Programme (WFP) that labelled SARC as a government auxiliary.[22] Nonetheless, around 60 per cent of all UN aid operations in Syria are reportedly channelled through SARC.[23] The government's close ties with the Syria Trust are even clearer, which explains why it was sanctioned by the US and the EU. However, the UN High Commissioner for Refugees (UNHCR) office in Syria has partnered with the trust for several years. It has been reported that UNHCR spent $7.7 million through the trust, between 2012 and 2016, and that the OCHA allocated over $751,000 to it in 2016.[24] Several ministries (including health, education and defence) have received substantial support from UN agencies, among others, despite being sanctioned by the EU.[25]

Moreover, the Ministry of Foreign Affairs restricts IHOs that rely on local partners to a list of designated entities. The personal, financial and political relations between the regime and senior management members of the approved Syrian organizations cast doubt over their independence and impartiality. One of the most controversial organizations is the Bustan Association, which is sanctioned due to its activities and those of its founder Rami Makhlouf (the cousin of President Bashar al-Assad) in supporting pro-government militias that are alleged to have committed war crimes.[26] Nonetheless, prior to 2016, UNICEF transferred $267,933 to Bustan for sanitation, hygiene, education and winter clothes.[27]

Undermining organizational independence

The government has on occasion directly intervened in selecting staff for IHOs. All international humanitarian employees operating through Damascus need visas from the Ministry of Foreign Affairs to work in Syria. While this is a common global practice, the government is using this process as leverage to handpick or punish individuals. Multiple sources stated that the government selects preferred humanitarian staff by giving instructions, either directly or indirectly, about who is welcome and who is not.[28] Thus the government eliminates the staff who might challenge its influence over aid work, and it also uses the visa process as a stick to ensure that remaining aid workers keep in line. While this tactic has been successful in increasing the influence of the government, some IHOs have refused to cooperate despite the consequences.[29]

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[22] WFP office of Evaluation (2015), 'An Evaluation of WFP's Regional Response to the Syrian Crisis, 2011–2014', WFP, April 2015, https://documents.wfp.org/stellent/groups/public/documents/reports/wfp274337.pdf?_ga=2.254698574.770695959.1549471551-988764676.1547651810 (accessed 4 Nov. 2018).

[23] Leenders and Mansour (2018), 'Humanitarianism, State Sovereignty, and Authoritarian Regime Maintenance in the Syrian War'.

[24] Hopkins, N. and Beals, E. (2016), 'How Assad regime controls UN aid intended for Syria's children', *Guardian*, 29 August 2016, https://www.theguardian.com/world/2016/aug/29/how-assad-regime-controls-un-aid-intended-for-syrias-children (accessed 13 Oct. 2018).

[25] The UN is not legally obliged to comply with non-UN sanctions. As such, the UN can still deal with such entities, despite being partially funded by the EU or the US.

[26] US Department of the Treasury (2017), 'Treasury Sanctions Additional Individuals and Entities In Response to Continuing Violent Attacks on Syrian Citizens by the Syrian Government', US Department of the Treasury, 16 May 2017, https://www.treasury.gov/press-center/press-releases/Pages/sm0087.aspx (accessed 14 Oct. 2018).

[27] Hopkins and Beals (2016), 'How Assad regime controls UN aid intended for Syria's children'.

[28] Author interviews online with an international humanitarian worker based in Damascus, January 16, 2019, and with international UN staff based in Damascus, 26 November 2018.

[29] Author interviews online with an international humanitarian worker based in Damascus, 19 January 2019, and with an expert on humanitarian work in Syria, 16 February 2019.

The government-approved staff that are forced on humanitarian organizations fall into two broad categories: those that are there to receive personal benefits such as good salaries and positions of status, and those tasked with infiltrating organizations, to provide inside information or influence internal decisions.[30] Likewise, other figures linked to the government are hired by international agencies to win favour with the authorities.[31] For example, in 2016, the office of the World Health Organization (WHO) in Damascus hired Shukria Mekdad, the wife of Deputy Foreign Minister Faisal Mekdad, despite her lacking relevant experience for the position she occupied. While it is not clear why the WHO hired her, having her present in UN meetings reportedly created 'a climate of fear and self-censorship'.[32] In addition, her recruitment had negative implications for the perception of the organization's independence and impartiality.[33]

> On occasion the government has actually edited the UN-drafted annual humanitarian response plan in order to influence UN funds and operations inside the country.

Moreover, on occasion the government has actually edited the UN-drafted annual humanitarian response plan, in order to influence UN funds and operations inside the country. The OCHA, which oversees this process, has repeatedly allowed the government to change the wording of reports to water down the tone and disguise the Syrian regime's culpability. For example, in an early draft of the 2016 plan 10 references to 'sieges' and 'besieged areas' were removed under pressure from the government, which was the party responsible for the majority of such sieges.[34] Similarly, the government was able to replace the draft's use of the word 'conflict' with 'events' in order to hide that its legitimacy is contested.[35] The government has also been able to edit needs-assessment documents to amplify and/or underreport the scope and severity of needs in accordance with its political goals.[36]

Preventing direct monitoring and evaluation

Restricting the ability of IHOs to monitor and evaluate the impact of their projects increases the influence of the government on aid work. According to the regulations in Syria, IHOs can only conduct monitoring visits if approved by the respective authorities. As such, IHOs cannot carry out unannounced visits to verify that aid has been distributed, reached the targeted beneficiary group, or provided in accordance with humanitarian principles.[37] For example, the WFP can only monitor aid distributions through its main partner SARC after receiving permission from the government for each visit. Therefore, the latter selects when and where the WFP monitors and how its funds are spent.[38]

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[30] Author interviews online with an expert on humanitarian work in Syria, 15 February 2019, and with an international humanitarian worker based in Damascus, 11 December 2018.
[31] Author interviews online with international UN staff based in Damascus, 3 February 2019, and with an expert on humanitarian work in Syria, 19 February 2019.
[32] The Syria Campaign (2016), 'Taking sides'.
[33] Author interviews online with a Syrian humanitarian worker based in Damascus, 3 November, 2018, with a Syrian humanitarian worker based in Idlib, 21 February 2019, and with an international UN staff member based in Damascus, 3 February 2019.
[34] Gutman, R. (2016), 'How the U.N. Let Assad Edit the Truth of Syria's War', *Foreign Policy*, 27 January 2016, https://foreignpolicy.com/2016/01/27/syria-madaya-starvation-united-nations-humanitarian-response-plan-assad-edited/ (accessed 15 Oct. 2018).
[35] Leenders and Mansour (2018), 'Humanitarianism, State Sovereignty, and Authoritarian Regime Maintenance in the Syrian War'.
[36] Gutman (2016), 'How the U.N. Let Assad Edit the Truth of Syria's War'.
[37] The Syria Campaign (2016), 'Taking sides'.
[38] Author interview online with an expert on humanitarian work in Syria, 11 February 2019.

By preventing direct evaluation, the government is able to cover up the extent to which it has been able to manipulate the distribution of aid.[39] According to a WFP evaluation, the security situation meant that only one-quarter of the agency's planned visits took place, between July 2013 and March 2014. The report also stated that access to aid beneficiaries for third-party monitoring was also limited.[40] As a result, the majority of IHOs operating in Syria are largely dependent in their monitoring and evaluation on reports provided by their implementing partners, without independent verification mechanisms.[41] A 2016 OCHA report highlighted that the majority of aid work inside Syria was delivered 'with very light independent monitoring based on incomplete or non-existent assessment analysis', and that there was little data on the impact of aid operations.[42] In 2016, a former UN official similarly stated that his agency contracted SARC to deliver hygiene kits worth thousands of dollars on the condition of being present during the distribution – but that SARC reportedly did so alone and in a different area to the intended target location.[43]

Influencing procurement procedures

The government uses its leverage to influence procurement procedures and to pressure IHOs to award contracts to businesses connected to the regime and even to sanctioned individuals. In some cases, the government, through its various entities and designated organizations, is reportedly providing its chosen businesses with essential inside information about the tender procurement process to put them at an advantage.[44] On other occasions, more direct pressure is used to influence the procurement process. Such tactics include threats to file corruption charges, intimidating competing businesses or using approvals and permissions as a punishment tool.[45] Revoking or facilitating work visas for international humanitarian workers is also a tactic that the government frequently uses for this purpose.[46]

> Revoking or facilitating work visas for international humanitarian workers is also a tactic that the government frequently uses.

Business owners who benefit from UN spending in Syria include individuals sanctioned by the US, the EU and the UK due to their direct role in supporting the government and its gross human rights violations. Until 2016, the UN paid around $700,000 to the Syriatel mobile phone network owned by Rami Makhlouf. The UN paid over $12 million in 2014 and 2015 for accommodation in the Four Seasons Hotel in Damascus, which is one-third owned by the Ministry of Tourism.[47] Furthermore, prior to 2016, UNICEF paid the company Transorient, which is owned by an individual sanctioned by the US and the EU, $386,711 for warehousing. The United Nations Relief and Works Agency for

[39] Author interviews with an international humanitarian worker based in Damascus, 18 January 2019, and with an expert on humanitarian work in Syria, 1 March 2019.

[40] WFP office of Evaluation (2015), 'An Evaluation of WFP's Regional Response to the Syrian Crisis, 2011–2014'.

[41] Author interview with an international humanitarian worker based in Damascus, 23 November 2018.

[42] Sida, L., Tormbetta, L. and Panero, V. (2016), 'Evaluation of OCHA Response to the Syria Crisis', OCHA, March 2016, https://www.unocha.org/sites/dms/Documents/OCHA%20Syria%20Evaluation%20Report_FINAL.pdf (accessed 9 Jan. 2019).

[43] The Syria Campaign (2016), 'Taking sides'.

[44] Author interview with an international humanitarian worker based in Damascus, 13 January 2019; author interview via Skype with an international UN staff member based in Damascus, 2 March 2019.

[45] Author interviews online with an expert on humanitarian work in Syria, 11 February 2019; with an international humanitarian worker based in Damascus, 3 December 2018; and with an international UN staff based in Damascus, 26 February 2019.

[46] Sparrow (2018), 'How UN Humanitarian Aid Has Propped Up Assad'.

[47] Hopkins and Beals (2016), 'How Assad regime controls UN aid intended for Syria's children'.

Palestine Refugees in the Near East also awarded a contract of $88,671.72 to provide generators to the Altoun Group, owned by Salim Altoun who has been sanctioned by the EU since 2012 due to his affiliation with the government.[48]

Although government restrictions have been implemented throughout the conflict, the increased number of humanitarian agencies now considering operating in regime-held areas makes addressing this dilemma and its implications now extremely pressing. Towards that end, a new collective operational framework should be developed to regulate and ensure principled aid work in government-controlled areas.

New unprincipled restrictions on aid

As the fighting in Syria winds down, some of the IHOs operating from Damascus argue, or hope, that their ability to limit the government's influence on their work will increase. This assumption is inspired by the relatively improved security situation in areas under the control of the government and the latter's expected desire to provide more aid to stabilize the areas it has recaptured.[49] But instead of easing its restrictions, it seems that the government is attempting to formalize its influence over humanitarian operations.

In June 2018, SARC tried to introduce new procedures for its INGO partners, which were more intrusive than previous arrangements. This was an attempt by SARC to increase its direct interference at various stages of its partners' internal processes as well as to formalize its practices, which was previously achieved through individual agreements and/or compromises.[50] According to these new procedures, INGOs would have to submit an official letter in advance seeking SARC's approval for hiring a new person, and allow SARC to participate in the selection process. INGOs would also have to inform SARC ahead of starting a new project and allow it to examine the project plan and to approve it based on its own assessment (regardless of the INGO assessment). INGOs would be required to submit an official letter requesting SARC approval for announcing the tender and allow it to take part in selecting the winners. The Syria Trust also relayed to its partners the intention to introduce similar new procedures, but these were never communicated officially.

While none of the proposed procedures were implemented due to pushback from the INGOs and their donors (see below), such attempts show that the government is trying to further its control of aid work in the country. The government is still systematically restricting aid deliveries to former rebel-held areas, especially in southern Syria, despite the change in control of those territories. The unregulated relief agencies that worked for years through cross-border operations are no longer able to reach these, while the requests of actors operating from Damascus to step in have been largely denied.[51]

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[48] Ibid.

[49] Author interviews via Skype with international UN staff based in Damascus, 26 February 2019, and with an international humanitarian worker based in Damascus, 19 January 2019.

[50] Document shared with the author confidentially; author interview via Skype with an international humanitarian worker based in Damascus 16 November 2018.

[51] Gebeily (2018), 'Syrians in ex-rebel zones struggle after aid groups withdraw'.

3. Developing a Principled Humanitarian Framework

IHOs should work together to come up with detailed operational guidelines to argue for a reduction in the need for administrative approvals and to improve their operational independence. This includes ensuring their ability to choose local partners freely, to develop transparent mechanisms for procurement and to create independent monitoring and evaluation processes.

Since the improved security situation has not automatically resulted in increased access, IHOs are trying to play a more active role in principled engagement. Some INGOs started discussing new joint operating procedures (JOPs) to come up with concrete principled guidance for agencies registered in Damascus.[52] While this is considered a positive step by the INGOs involved, the JOPs are typically broad principles that can be interpreted and implemented flexibly by the respective organizations. There is a risk of turning them into another box that can be ticked to show compliance without much behavioural change. Instead, the focus should be on drawing on those JOPs to come up with detailed operational guidelines on their application to ensure that humanitarian actors provide aid in accordance with humanitarian principles. The framework should be created and agreed upon by IHOs. The following sections highlight key areas to include in the framework.

Reduce administrative approvals

Limiting the bureaucratic permissions required for aid operations and the number of stakeholders involved (gatekeepers, ministries, intelligence agencies) should be a priority. For example, in practice IHOs could demand general or area-based approvals for repeated access instead of the current single approvals for each intervention or movement of goods. To mitigate the government's politically motivated decisions to withhold permissions, IHOs can use Article 3 of the Geneva Convention, whereby states are not allowed to deny approvals for 'arbitrary or capricious' reasons. Towards that end, a joint system must be created to combine information about all the requests that were denied and demand an official explanation in writing from the government.

Doing so will create concrete and reliable evidence about the government's systematic efforts to manipulate aid and could potentially allow IHOs to push back. Since most of the requests are usually denied due to security reasons, IHOs should be allowed to conduct independent security assessments. On this basis humanitarian organizations could challenge the government's use of lack of security as a pretext to determine where aid is distributed. Instances where access is denied, which are not supported by an independent security assessment, could be listed in the reporting system for arbitrary denials.

The government does not deny all access requests through a response, sometimes there is no response at all. This typically happens by simply ignoring the request completely or giving permission after the requested access date, which has the same effect. The reporting system for arbitrary denials should include such instances in its statistics. The OCHA, among others, collected detailed

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[52] Author interview online with an international humanitarian worker based in Damascus, 26 January 2019.

information about the cases where requests for humanitarian access were denied by the government. That information played a crucial part in proving that the government was using arbitrary denial, which violates Article 3 of the Geneva Convention. It was also used to help persuade the UN Security Council to pass Resolutions 2139 and 2165, which provided legal grounds for IHOs to conduct cross-border and cross-frontline relief operations in Syria without government consent.[53]

Improve operational independence

International humanitarians should target a broadening of their ability to conduct systematic, comprehensive and impartial needs assessments through direct and reliable access to the field. One strategy would be to insist on opening more field offices to increase their presence on the ground and to decrease the access restrictions they face. To ease this process, international humanitarians should add a condition to any memorandum of understanding (MoU) with the government permitting them to open field offices by simply notifying the government rather than having to apply for additional approvals. Discussions on such MoUs should be part of wider negotiations to simplify and accelerate the existing registration procedures. This includes demanding a unified MoU in accordance with humanitarian principles to strip the government of its current leverage, which is amplified by negotiating individual agreements. The MoU should be standardized among IHOs to prevent the government from using renegotiations to increase its leverage or influence.

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To mitigate access constraints, IHOs should look to develop new creative ways to collect or crosscheck data. This could be done through social media, online chat applications and phone calls. IHOs should also consider conducting joint assessments or sharing information to crosscheck the data they have. When such data are collected by their partners or a third party, IHOs should state who gathered the information and what measures were used to verify the information to mitigate interference. The involvement of the government in this process should be limited to the consultation level without the ability to change the data or the wording of reports.

Ensure the independence of staff hiring and positioning

IHOs should attempt to resist and prevent the government from playing a role in recruitment. There should be a zero-tolerance policy of any external interference with recruitment processes. This can be made clear by immediately excluding candidates imposed on them through different pressuring mechanisms. Such cases should also be reported officially to the respective ministries, as well as the Ministry of Foreign Affairs, to ensure the evidence of these attempts is recorded. IHOs should refrain from hiring local staff as a tactic to please the government or individuals affiliated with it, as it creates a non-transparent transactional culture, which is ethically problematic and can lead to unintended violations of humanitarian principles.

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[53] Sida, Tormbetta and Panero (2016), 'Evaluation of OCHA Response to the Syria Crisis'.

When hiring local staff, IHOs should conduct due diligence to ensure that the people they are employing are not involved in human rights violations or in the promotion of hate speech. While this might sound like common sense, the author's work with UN agencies in Syria until early 2012 clearly showed that employees on various occasions were openly broadcasting and sharing their violent views, or even practices, and nothing was done to stop that. As the denial or revoking of visas is the main tool used by the government to control non-Syrian aid workers, the international humanitarian organizations should continue to ask for official reasons for every single rejection in writing and compile them in a joint list with which to challenge authorities.

Develop transparent mechanisms for procurement

IHOs should stop sharing procurement files with the government or any other entity affiliated with it (namely SARC and the Syria Trust) to avoid giving individuals affiliated with the regime an unfair advantage in the tender process. They should also create a comprehensive and thorough vetting process to exclude people involved in humanitarian violations. This vetting process should review all existing contractors to eliminate those who supported human rights violations after winning contracts. For example, many of the UN agencies use the mobile operator Syriatel, in which the sanctioned Rami Makhlouf is the majority shareholder, when they could switch to the other mobile operator MTN, which is not on any sanctions list.

IHOs should also be aware of the legal means that can be used to manipulate procurement procedures and take measures to counter them. For example, a government technical department or adviser can ask for a specific water pump model, which may not sound suspicious as they are experts and have a vested interest in the project's success. However, since such projects are typically known in advance, influential figures can use their connections to pressure the department to request specific models that they have a monopoly on or only they can supply in time for the intended project. Accordingly, those individuals can manipulate the system through semi-legal means to win contracts. To mitigate this risk, when organizing tenders IHOs should examine why particular models or specifications are requested and if there are other options available. To increase competition and make humanitarian tenders less attractive to sanctioned individuals, international humanitarian organizations could divide large-scale procurements and contracts into smaller contracts to allow medium-sized businesses that are not controlled by sanctioned individuals to apply. Moreover, they should increase their transparency and accountability by disclosing all information on all contractors hired by them or their partners and make it accessible to the public. Doing so helps IHOs create public channels to report any wrongdoings and, thus, complements their vetting system.

Choose local partners freely

The selection of local partners should be done independently, based on competence rather than their political stance or loyalty. To determine the eligibility of local partners, international humanitarian organizations should set clear criteria and vetting processes to ensure that their partners have the required skills and operate in accordance with humanitarian principles. Sound due diligence is essential to identify and exclude entities that are involved in human rights violations either directly or through their senior members. IHOs should stay clear of all entities and individuals sanctioned

by the EU and the US. While the UN is not legally obliged to comply with non-UN sanctions, its agencies should still avoid dealing with such entities due to their controversial role in supporting human rights violators.

While reducing the number of partners makes coordination easier, IHOs are advised to diversify their local partners to limit the influence of any single associate. But, since steering away from the government-approved list might put undesignated local partners at risk of being arrested or prosecuted, IHOs should come up with clear mechanisms to protect their local partners from any unfounded persecution related to their aid work. Such measures should include advocating for modifying the law that regulates the work and registration of local NGOs.[54] Doing so could increase the number of potential local partners and allow the organizations that were operating outside government-controlled areas to regularize their status. Similarly, international humanitarian organizations should ensure the safety of their own staff, especially local employees. Several of these were detained by the government in the past due to their work, but the respective organizations did not put in place clear measures to help them.[55]

Create independent monitoring and evaluation processes

To establish independent monitoring and evaluation processes, international humanitarian organizations need full access to all relevant data, activities and locations. They should be able to comprehensively assess if aid is delivered to targeted groups, cases of abuse, aid impact, and access denial requests (specifically their locations, the reasons behind them and how ramifications could be mitigated). To enable regular and reliable monitoring, IHOs should endeavour to increase their presence on the ground during and after aid distributions or projects. This may be possible if they negotiate the freedom to conduct frequent field visits for which they are only required to notify the government rather than apply for approval. Again, rejected requests for monitoring and evaluation should be compiled and the government should be asked to give its reasons in writing.

A more comprehensive and transparent monitoring system should be created and made public to document the reach of aid to identify the areas and populations that are experiencing discrimination. When IHOs are unable to directly monitor and evaluate their projects, they should use third-party monitoring to validate the data submitted by their implementing partners. This could be done by other INGOs or reliable entities that have the relevant knowledge and connections. Participation by locals in such processes is crucial to ensure their direct and independent feedback and engagement across all stages of humanitarian operations targeting them.

To improve their monitoring and evaluation processes, IHOs need to be more open and willing to rapidly share the information they have with each other about where they are operating, who their beneficiaries are, and the restrictions imposed on them.

Admittedly, implementing a framework such as the one described above is not an easy task, but it is not impossible either. The success stories of the IHOs working inside government-controlled areas in Syria indicate that more can be done to ensure coherent and principled engagement.

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[54] This piece of legislation, Law No 93, was issued over 50 years ago and is no longer applicable to the current situation. For more information read Human Rights Watch (2007), 'No Room to Breathe: State Repression of Human Rights Activism in Syria', Human Rights Watch, 16 October 2007, https://www.hrw.org/report/2007/10/16/no-room-breathe-state-repression-human-rights-activism-syria (accessed 16 Jan. 2019).
[55] Author interviews via Skype with international UN staff based in Damascus, 26 November 2018, and with a Syrian humanitarian worker based in Damascus, 11 February 2019.

4. Encouraging Principled Humanitarian Engagement

These operational guidelines can only be implemented if IHOs are able to build an alliance to increase their coordination and to collectively pressure the government of Syria. The support of the donors funding aid work in the country is equally essential for assisting the efforts of IHOs to develop such a framework.

The leverage of humanitarians

The circumstances under which most IHOs work with the Syrian government makes them reluctant to take a tougher stance.[56] They fear retaliation in the form of reduced access, the revocation of visas or the closing of operations. While such fears are understandable, IHOs should not allow the government to have the power to veto their work or to manipulate it. IHOs, particularly UN agencies, have enough leverage to increase their negotiating power without fearing reprisals from the government. An estimated 11.7 million people are in need across the country, 7.2 million of which live in government-held areas.[57] The government is trying to stabilize the areas under its control, but it does not have the resources to do this alone.

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Humanitarian aid is reducing the government's expenditure on basic goods and helping it to mitigate the discontent caused by the lack of basic services and goods.[58] Similarly, aid work has maintained a massive flow of money into the crippled economy, keeping it afloat. An unpublished report by the Syrian Center for Policy Research estimated that in 2017 the international community's total UN and non-UN humanitarian expenditure in Syria was equivalent to 35 per cent of the country's GDP.[59] If humanitarians push back against restrictions and interference, the government is unlikely to risk terminating all aid work, which could starve people and trigger popular unrest. While starvation has been systematically used as a weapon by the government, the tactic was used as part of a military strategy to capture targeted territories and not as a strategy to maintain control.[60] By contrast, terminating aid would come with high risks for the regime and without much reward, if any. Additionally, the government cares significantly about the legitimacy it gains from dealing with IHOs. Aid workers even argue that this legitimacy might have more weight as leverage than the actual humanitarian assistance.[61]

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[56] Author interviews via WhatsApp with an expert on humanitarian work in Syria, 19 January 2019, and with international UN staff based in Damascus, 26 January 2019.

[57] Strategic Steering Group (2019), 'Humanitarian Needs Overview', Relief Web, March 2019, https://reliefweb.int/report/syrian-arab-republic/2018-humanitarian-response-monitoring-report-january-june-2018 (accessed 1 Apr. 2019).

[58] Author interviews via WhatsApp with an expert on humanitarian work in Syria, 19 January 2019, and with a diplomat based in Turkey, 19 December 2018.

[59] Sparrow, A. (2018), 'How UN Humanitarian Aid Has Propped Up Assad'.

[60] Martinez, J. and Eng, B. (2016), 'The unintended consequences of emergency food aid: neutrality, sovereignty and politics in the Syrian civil war, 2012–15', *International Affairs*, 92: 1, https://www.chathamhouse.org/sites/default/files/publications/ia/INTA92_1_08_MartinezEng.pdf (accessed 12 Nov. 2018).

[61] Author interview via WhatsApp with an international humanitarian worker based in Damascus, 12 March 2019.

A carrot or a stick?

IHOs can, theoretically, use their leverage either as a threat or as an incentive to sway the government to abide by international humanitarian law and principles. By offering to move their aid operations from neighbouring countries to Syria, IHOs could incentivize the government to respect humanitarian principles.[62] The latter has strongly opposed cross-border operations as these provide aid to areas outside the regime's control and challenge the government's power and authority (as consent is not needed). Thus, while continuing to pressure IHOs operating in areas it controls to refrain from cross-border activity, the government started allowing more humanitarian access to limit the need for cross-border operations.[63]

Several IHOs have argued that they should push the government to improve the conditions for aid work in Syria in exchange for the relocation of all aid operations targeted at Syrians to the country rather than its neighbours.[64] While this argument might be appealing to some, critics contend that the government knows that there is a high possibility that the UN Security Council Resolution 2139 might not be renewed, which would force humanitarian operations to move to Damascus anyway. As a result, the government has little incentive to compromise. There is also little evidence that it responds better to incentives than to threats.[65] The fact that the government only allowed humanitarian organizations more access when they informed the government that cross-border operations were to begin proves that threats have been effective to some extent.

Alternatively, IHOs can make the ultimate threat to suspend or cancel activities if they are not allowed to implement them independently and impartially. For the most part, they are reluctant to use this threat in negotiations with the government,[66] as it might result in the government deciding to expel them or terminate their operations. That said, the sizable budgets of UN agencies gives them more leverage to make less risky threats such as the partial or temporary suspension of activities. The aim of such tactics would not be to antagonize the government but rather to show it that IHOs do not tolerate interference in their work.

Using positive experiences

Much can be learned from the IHOs that have successfully negotiated with the government. While discussions were time-consuming, these humanitarian organizations have largely achieved their goals through patience, persistence and by taking a tough stance. These INGOs were clear from the beginning as to their non-negotiable principles and standards and refused to compromise. During negotiations they voiced their preference to cancel or postpone projects if they were not permitted to implement them on their own terms.

In many cases, the government or its affiliates withdrew the restrictions or conditions they imposed and allowed the IHOs to implement their project as planned. On other occasions, the government refused to budge, which led to the termination or cancellation of some projects. But, even in those cases, both the credibility of the humanitarian organizations and their negotiating

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power increased. Having flexible funds allowed humanitarian organizations to sustain negotiations with the government over a long time without having to worry about using funds before a specific donor deadline.[67]

IHOs have also pointed out the importance of developing a deeper understanding of national and local dynamics to increase their ability to maintain principled engagement. Some humanitarians said that the operating environment outside Damascus is less restrictive as local authorities impose fewer stipulations, which allows better access. This has allowed them to explore opportunities at the local level to limit the impact of government restrictions.[68] Similarly, IHOs highlighted the fact that some government affiliates are more restrictive than others. SARC reportedly interferes more in the work of its international partners than the Syria Trust or technical line ministers. However, limited and unreliable windows of opportunity at the local level should not be viewed, despite their important value in the short-term, as alternatives to developing formal and reliable principled engagement at the national level.

The importance of unity

Humanitarian organizations should form a strong alliance to increase their leverage and mitigate the risks involved in taking tougher stances during discussions with the government. This alliance could create a joint team to undertake negotiations on behalf of its members to pool their leverage and make it harder for the government to expel them. The team could also be in charge of developing common operational procedures and standards. This could happen by creating a new platform or simply broadening the role of one of the existing joint coordination structures for IHOs in Damascus, which are used largely for information sharing.

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For example, the Damascus-based INGOs forum[69] was in charge of coordinating the advocacy efforts among the organizations affected by SARC's new proposed restrictions. The INGOs worked together to highlight the risks involved and what their joint response should be. Through online communications and in-person meetings, the INGOs stood their ground and explained why they could not implement the new imposed procedures.[70] Subsequently, SARC sent a new memorandum in January 2019 with the new restrictions removed. However, that pressure group is not recognized formally by the government. As a result, it has not been able to drive combined advocacy in the country. In addition, the forum only represents INGOs working in Damascus and does not include UN agencies or other local humanitarian actors, whose support for the success of the alliance's described mission is crucial.

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[67] Author interviews online with an international humanitarian worker based in Damascus, 11 February 2019, and with an international humanitarian worker based in Damascus, 23 January 2019.
[68] Ibid.
[69] A platform created by INGOs based in Damascus to coordinate their efforts, exchange information and develop joint advocacy positions and policy towards their humanitarian operations inside Syria. However, this platform is not officially recognized by the Syrian government, which limits its efforts and impact.
[70] Author interview via WhatsApp with an international humanitarian worker based in Damascus, 11 February 2019.

Donors can do more to help

Donors also have a responsibility to ensure that humanitarian principles are not compromised. The majority of humanitarian funding for Syria is provided by the US and EU member states and institutions.[71] These donors have the leverage to play a crucial role in supporting the efforts of IHOs by advocating or negotiating lifting the restrictions on their work. To avoid normalizing relations with the government, which many countries are rightly avoiding, such efforts can be conducted either through meetings with SARC or other third parties that are able to visit or operate in Syria. The UN taskforce on humanitarian access in Syria, based in Geneva is also a potential space for such discussions and negotiations. These could also include discussing protection measures for local NGOs, including a new NGO law that allows them to operate in accordance with humanitarian principles. Multiple sources have highlighted the important and positive role some donors played in helping the INGOs based in Damascus push back against restrictions.[72]

To hold IHOs accountable and increase their transparency, donors can support establishing an independent mechanism or improve the work of the existing systems to monitor how aid work is conducted inside Syria. The entity should be led by independent experts with active participation from international and national humanitarians operating in Syria and local beneficiaries. Since donor countries are also the driving force behind sanctions against the government, they have an obvious interest in ensuring that the humanitarian organizations they fund do not undermine these sanctions. Therefore, donors should demand that IHOs steer away from dealing with any sanctioned entity or individual, regardless of whether those sanctions are issued by the UN, the US or the EU. This includes taking measures to close the loopholes that allow sanctioned entities to benefit from Western donors without being named publicly. For example, donors should compel IHOs to disclose the names of all their partners and other entities benefiting from funding, including contractors.

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Donors need to actively engage with IHOs to help them set detailed and comprehensive operational guidelines that all entities receiving their funds can use. Their involvement can help support the work of the organizations or agencies advocating for this and pressure the more reluctant ones to join. It can help develop mutual accountability mechanisms that would allow IHOs to hold their donors accountable and mitigate their ability to politicize aid work, which has long been a concern.[73] This could happen through the creation of a Syria advisory board, composed of representatives of donors, UN agencies, and local and international NGOs, to provide leadership and operational guidelines; to promote cooperation and to steer them towards clear goals and actions.

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[71] For details on humanitarian funding, donors, recipients and programmes, see Financial Tracking service, https://fts.unocha.org.
[72] Author interviews via WhatsApp with a diplomat based in Lebanon, 19 January 2019, and with a Western donor involved in the negotiations, 3 February 2019.
[73] The majority of the Damascus-based international humanitarians interviewed for this paper complained about the existing donor restriction on operating in government-controlled areas as well as the sudden termination of funding to former rebel areas as soon as they were captured by government forces. See Hemsley, M. and Achilles, K. (2019), 'Aid in Limbo: Why Syrians deserve support to rebuild their lives', Oxfam and DRC, 12 March, https://policy-practice.oxfam.org.uk/publications/aid-in-limbo-why-syrians-deserve-support-to-rebuild-their-lives-620630 (accessed 1 Apr. 2019).

5. Conclusion: Lessons Learned for the Future of Non-Humanitarian Aid

Decisions over aid work are usually determined by questions of access, safety and logistics. However, the pragmatism typically needed to ensure these matters are addressed, in government-controlled areas or elsewhere, should be part of a conflict-sensitive approach to ensure that no harm is done. This includes conducting a comprehensive analysis to understand the risk of exacerbating conflicts, reinforcing negative state practices or undermining long-term solutions. Pragmatic trade-offs should not enable an environment where the government or non-state actors are able to manipulate humanitarian aid and use it as a tool to punish their opponents and reward their supporters. Failing to prevent this damages the reputation of humanitarian work and actors in Syria and in other conflicts. Moreover, it encourages other actors to learn from and copy the behaviour of the government to ensure a similar level of control over humanitarian operations in their respective areas.

The importance of abiding by humanitarian principles in Syria is becoming more crucial as humanitarians are shifting away from emergency aid to non-humanitarian work. The EU and the US, among others, repeatedly refuse to support Syria's reconstruction without a political transition. But this political position has not prevented reconstruction. IHOs have started restoring infrastructure (sewage, water, electricity, roads etc.) under different terms such as early recovery, stabilization and community resistance aid. For example, the UN has included early recovery and livelihood efforts in its 2018 humanitarian response plan and allocated $173.6 million to that cluster.[74] For many Western donors, the current blurred boundaries between these different terms means that their funding of humanitarian aid in Syria could contribute to various small-scale reconstruction activities, which undermines their official policies.

This is particularly problematic for them since the government has systematically used aid work and non-humanitarian funds as tools to punish its opponents and reward its supporters. Thus, the majority of Western donors automatically terminated their funds in areas as soon as the government captured them, which added to the suffering of civilians there.[75] On the other hand, IHOs operating in government-controlled areas acknowledge the validity of the concerns around reconstruction but argue that 'political strategies and slogans are overshadowing necessary, technical discussions on transitioning from solely emergency responses to dignified, sustainable, cost-effective support for fragile communities.'[76] In other words, instead of terminating all non-humanitarian aid, donors should fund early recovery and community-level resilience work, which focuses on protecting civilians and restoring their agency and dignity. But despite their strong argument, those IHOs that take this line have not proposed a clear plan to ensure that the government does not dictate where and how that non-humanitarian money is spent. Thus, developing a principled framework for aid and non-humanitarian work can help address the policy concerns of donors and still allow IHOs to fulfil their duty to assist civilians in government areas.

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[74] For details on humanitarian funding, donors, recipients, and programmes, see Financial Tracking Service, https://fts.unocha.org/appeals/663/summary.
[75] Author interview via Skype with international UN staff based in Damascus, 26 February 2019.
[76] Hemsley and Achilles. (2019), 'Aid in Limbo'.

The Syria case shows the importance of reassessing the way that IHOs deal with a sovereign state. The government has been able to dictate the terms of cooperation to IHOs, despite it being a party to the Syrian conflict. It has systematically committed mass human rights violations including using chemical weapons and starvation as a weapon to force hundreds of thousands of civilians to submit.[77] This led to extensive international condemnation of the government but did not change the international humanitarian approach, which has been to deal with it as a sovereign actor rather than as a warring party. Consequently, the government has been able to constrain their work by deciding what they can and cannot do. The government has been able to use cooperation with IHOs to ensure its survival and shore up its legitimacy.

UN agencies and INGOs should use their experience in Syria to develop a new approach to dealing with states in domestic conflicts, especially when the state is party to the conflict. The operational guidelines proposed here can help start the debate on how to make that happen. Doing so would turn the events in Syria from a bad precedent into a learning experience that can be used in other areas of the world.

[77] Human Rights Watch (2017), 'World Report', Human Rights Watch, 8 November 2017, https://www.hrw.org/world-report/2018/country-chapters/syria (accessed 16 Jan. 2019).

About the Author

Haid Haid is a Syrian columnist and a senior consulting research fellow of the Middle East and North Africa Programme. He is also a research fellow at the International Centre for the Study of Radicalisation (ICSR), King's College London and a PhD candidate at the Department of War Studies, King's College London where he focuses on Jihadi governance. Haid's main research interests include security policies, governance, conflict resolution, and non-state actors. Previously, he was a programme manager on Syria and Iraq at the Heinrich Böll Stiftung-Middle East Office in Beirut. He also worked as a senior community services-protection assistant at UNHCR, Damascus office. Haid holds a BA in Sociology, a post-graduate diploma in counselling, an MA in social development and an MA in conflict resolution from King's College, London.

Acknowledgments

Independent thinking since 1920

Cover image: A United Nations and Syrian Arab Red Crescent (SARC) convoy delivers aid packages in the rebel-held town of Nashabiyah in eastern Ghouta for the first time in five years on 30 July 2017.

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